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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SPRING STREET COURTHOUSE

ANTWON JONES, on behalf of himself, and all other similarly situated,

Plaintiff,

v.

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Defendant.

CASE NO. BC577267

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

v.

PRICEWATERHOUSECOOPERS LLP, PAUL BUTLER, JAMES M. CURTIN, PHILLIP P. DANIELE, DAVID GARCIA, TREVOR LAROCQUE, RAYMOND M. TULLOCH and NASIR KHAN,

Defendants.

CASE NO. BC574690

DEFENDANT PRICEWATERHOUSECOOPERS LLP'S BRIEF REGARDING PRIVILEGE, WAIVER, AND THE FRAUD EXCEPTION IN RESPONSE TO THE COURT'S REQUEST OF FEBRUARY 21, 2019

[Decl. Of Daniel J. Thomasch; Appendix; Decl. of Daniel E. Eaton filed concurrently herewith]

ASSIGNED FOR ALL PURPOSES TO:
HON. ELIHU M. BERLE
DEPARTMENT 6

HEARING:
Date: March 4, 2019
Time: 9:00 a.m.
Dept: 6

Action Filed: March 6, 2015
Trial Date: January 6, 2020

DEBRA MACIAS, et. al.; Individually and On Behalf of All Other Similarly Situated,

Plaintiff,

v.

LOS ANGELES DEPARTMENT OF WATER AND POWER,

Defendant.

CASE NO. BC594049

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INTRODUCTION[1]

On an LADWP privilege log dated September 29, 2017, counsel for PwC noticed an incongruous entry claiming attorney work product, but identifying no attorney, over a document identified as "Jones v. PwC – Initial Complaint – FINAL DOC." *See* Declaration of Daniel J. Thomasch (Mar. 1, 2019), filed concurrently herewith ("Thomasch Dec.") ¶ 50. When PwC moved to compel production of that "initial" complaint, Special Counsel Paul Paradis, represented in a December 4, 2017 hearing that he had prepared it "for the City," not on behalf of the named plaintiff Antwon Jones. *See id.* Over the ensuing 14 months, representatives of the City of Los Angeles, the Office of the City Attorney, and the Los Angeles Department of Water and Power (collectively, the "City"), in submissions to the Court and oral testimony, have characterized the Jones v. PwC complaint as a "thought experiment" that "was never intended to be filed," and repeated that story about the Jones v. PwC complaint over and over. *Id.* ¶ 2. In the face of continuous obstruction, it has taken over more than one year of motions by PwC, hearings, and depositions to prove that such representations about the Jones v. PwC complaint in the City's files were both inaccurate and an attempt to cover up a larger fraud. What has been exposed through discovery is a deceptive scheme of stunning scope in connection with the inception, filing, and settlement of the *Jones* class action against LADWP. The scheme had many facets, but at its crux was the undisputed fact that Special Counsel (Paradis Law Group, PLLC and Kiesel Law LLP), with the City's knowledge and assent, concurrently represented the adverse parties Antwon Jones and LADWP—a position that enabled the development of a collusive lawsuit filed with the expectation of a friendly settlement. The settlement of that lawsuit became the foundation for damages LADWP is seeking "as part of its ongoing litigation against [PwC]." *Id.* ¶ 70. Although Jones's counsel (Paradis, Kiesel, and Landskroner) have not provided testimony to date, the recent depositions of Jones and James Clark (the Chief Deputy City Attorney) lay bare a multi-year fraud by the City, through its Special Counsel's authorized actions, affecting Jones, the Court, the public, and PwC.

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[1] This brief is supported by the declarations of Daniel J. Thomasch and Daniel E. Eaton, filed concurrently herewith.

From the City's vantage point, and that of its Special Counsel Paradis, the primary motive for secretly dealing on both sides of the *Jones* case is readily apparent. The purpose of engineering a quick settlement of ratepayer claims, with broad preclusive effect, was to avoid serious inquiry into the City's own failures in rolling out the CC&B billing system that would be unearthed through protracted litigation with truly adverse plaintiffs. In order to get a friendly vehicle for settlement, Paradis created a website seeking complaints in order to locate a plaintiff, who he found in the person of Antwon Jones. *Id.* ¶ 4. Thereafter, a complaint was drafted in Jones's name nominally against the LADWP, but prepared for the purposes of settlement, not litigation. That complaint was filed and presented as the work of an attorney with no connection to LADWP. With full knowledge that Paradis (at least until recently) was representing Jones in regard to ratepayer litigation, the City then welcomed the *Jones* lawsuit to the exclusion of all others—as evidenced by the fact that it did not object to the *Jones* complaint on grounds of administrative exhaustion the way it had done with other putative ratepayer-plaintiffs. Presumably, as pre-planned, one day after the *Jones* complaint was filed, Jones's counsel sought to initiate settlement discussions which the City eagerly entered into. Through the entirety of the settlement negotiations and approval process, and continuing thereafter in this litigation, the City and counsel of record for Jones hid the fact that Jones had been represented by Paradis throughout the pre-filing period and that Landskroner was selected by Paradis, with the City's advance knowledge, to publicly handle the *Jones* case.

I. FACTUAL BACKGROUND

A. The Fraud Perpetrated on Antwon Jones.

The record currently reflects that no later than January 1, 2015, Paradis and Kiesel were serving as Special Counsel to the City with regard to all disputes arising out of the performance of the CISCON contract and CC&B billing issues. *See id.* ¶ 12 (Special Counsel "Agreement shall commence on January 1, 2015"). Indeed, Clark testified that Paradis had been working in a similar legal capacity for the City before that date—by mid-December 2014. *Id.* ¶ 8.

It was around that same time that Paradis found disgruntled ratepayer Antwon Jones. Jones submitted a complaint about his LADWP bill to a website he thought to be affiliated with a governmental agency, checking a box consenting to be contacted by counsel. *Id.* ¶¶ 3-4. As Clark

testified, the website that drew Jones's attention had been created by Paul Paradis, and it was Paradis who contacted Jones and was retained by him as counsel on December 8, 2014. *Id.* ¶¶ 4-6. While Clark did not think the City's interests were adverse to Jones at that time, Jones explained in a sworn declaration submitted to this Court on May 5, 2017 that he had retained counsel to "***conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles*** to recover for the amounts that I had been overcharged by the LADWP for electricity." *Id.* ¶ 6.

Paradis was overseeing remediation work on the CC&B system at LADWP when Jones retained him. *Id.* ¶ 7. Apparently, within days of that retention by Jones, Paradis expanded his role for LADWP in mid-December 2014 to serve as "Special Counsel" to the City. *Id.* ¶ 8.

By mid-March 2015, Jones instructed Paradis to file suit against the City. *Id.* ¶ 20. Paradis, as Special Counsel to the City could not, of course, appear on a complaint against the City. On March 26, 2015, Paradis introduced Jack Landskroner as an expert in municipal lawsuits who should be added to Jones's legal team. *Id.* ¶¶ 14-15. Jones testified that he understood he was ***adding*** an attorney to his case—not switching attorneys—and never received any notification that Paradis would no longer be serving as his attorney in connection with his claims against LADWP. *Id.* ¶¶ 14-28, 37-40. According to his testimony, although Jones began communicating with Landskroner beginning on March 26, 2015,[2] he understood that Paradis was remaining involved as his counsel. *Id.* ¶¶ 14-15, 21. As Jones made clear at his deposition on February 12, 2019, he did not know that Paradis did not sign the complaint when the complaint was filed—indeed, he was unaware of that fact prior to being subpoenaed in this case. *Id.* ¶ 21.

Jones's actions following the filing of the complaint are entirely consistent with his understanding that Paradis remained his lawyer in his suit against LADWP: For example, Jones emailed ***both*** Paradis and Landskroner to complain that his power had been shut off in an apparent act of retaliation by LADWP to the April 1 filing of the case. *Id.* ¶ 23. Jones further testified that

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[2] Jones did not testify that Landskroner began representing him that early and the record has not been developed to identify specifically when Landskroner formed an attorney-client relationship with Jones.

Paradis has never sought to formally disengage from his representation of Jones's interests against LADWP. *Id.* ¶¶ 15-28, 37-40.

Thus, from mid-December 2014 onwards, Paradis was simultaneously representing two clients—Jones and the City—in regards to disputes arising from LADWP's rollout of the CC&B system, notwithstanding that Jones and the City had conflicting interests. Yet, according to Jones's deposition testimony, Paradis did not once disclose his affiliation with the City to Jones—not when Paradis first offered up his services as a class-action attorney, nor when he apparently performed a pre-suit investigation in early 2015, nor when he introduced Jones to Landskroner, nor even when Jones asked for Paradis's help to get LADWP to turn his power back on after the complaint was filed. *Id.* ¶¶ 7, 13, 21, 23, 37-40, 63. To the contrary, Jones was kept in the dark that Paradis was providing CC&B remediation management services, and testified that he would ***not have consented*** to be represented by an attorney who was concurrently representing the City. *Id.* ¶¶ 37-40.

Indeed, even Paradis's justification to Jones for adding Landskroner to the case—that he had more specialized knowledge than Paradis—was fundamentally misleading. Clark made clear that Landskroner was brought in at Paradis's recommendation to the City. *Id.* ¶ 16. Paradis had been co-counsel with Landskroner previously and Landskroner had been seen as an "advantage" to the City and "in moving towards settlement," and because he was not likely to be "the most zealous advocate available for Mr. Jones to pursue claims." *Id.* ¶¶ 16-18. The City had no interest in having Jones referred to other plaintiffs' class action lawyers—Messrs. Blood and Himmelfarb—who already had ratepayer cases pending on the same subject matter, as they were viewed by the City as "unreasonable" attorneys who would be difficult to deal with as class counsel. *Id.* ¶¶ 18-19. Consistent with what most advantaged the City's interest, six days before the filing of the *Jones* complaint, Paradis made the introduction of Landskroner to Jones.

What makes this total lack of disclosure about conflicted interests astonishing is that Paradis apparently attempted to influence Jones away from his initial inclination to sue the City in favor of a possible action against PwC, without disclosing that he (Paradis) was actively representing the City at the very time. Although Paradis kept Jones in the dark about his representation of the City, Paradis fully informed the City about his representation of Jones. On January 24, 2015, a draft complaint

captioned "Jones v. PwC"—displaying Paradis, Tufaro, and Kiesel as Jones's attorneys—was circulated within the City Attorney's Office, having been provided by Paradis. *Id.* ¶ 33. Just two weeks earlier, on January 9, 2015, "Mr. Paradis, as Mr. Jones's counsel, [had] prepared a Complaint that was styled Jones versus PricewaterhouseCoopers . . . . [and] provided [it] to Mr. Jones." *Id.* ¶¶ 11, 32. Because of privilege objections raised at Jones's deposition, we do not know whether these two draft "Jones v. PwC" complaints are in fact identical, but we do know that they exist in ***both*** the City's files and Jones's files, which is tangible evidence of concurrent conflicting representation. *See id.* ¶ 32. Further evidence that Special Counsel was putting the interest of the City over his other client, Jones, is found in Clark's deposition testimony. Clark stated that the City's outside counsel (Liner LLP) wrote a memorandum recommending against filing the Jones v. PwC complaint after it had been circulated for discussion ***because it "wasn't going to accomplish [the City's] goals***." *See id.* ¶ 33. The fact that the City obtained such an opinion belies Special Counsel's statement in open court that the Jones v. PwC complaint was never intended for filing. *Id.* ¶ 33. The conflict of interest could not be clearer: Paradis's draft complaint on behalf of his client Jones was provided to the City to evaluate it for filing based on whether it served the City's interests, not Jones's interests.

Nor did Paradis make any effort to withdraw or disclose potential conflicts to Jones after it became clear—upon the filing of the *Jones* case—that Jones and LADWP had become adverse parties to commence litigation. Instead, Special Counsel continued to play both sides of the caption. Mr. Clark testified that to the best of his recollection, at the June 2015 mediation of Jones's claims, the participants included Paradis—who had never terminated his relationship with plaintiff Jones but who was representing defendant LADWP "against" Jones, to the extent that there was any actual adversity between the parties. *Id.* ¶¶ 24-25. And at subsequent hearings to approve the *Jones* settlement, Paradis stated that he had investigated, ***on behalf of the City***, objections raised by other plaintiffs' attorneys, while his co-counsel Kiesel urged ratification because the terms were fair to the Class. *Id.* ¶ 25.

B. <u>The Fraud Perpetrated on the Court</u>.

Unlike Jones, the Court was not merely left in the dark; rather, it has been actively misled regarding the development, conduct, and resolution of the *Jones* case. In particular, the Court was

persuaded to bless a settlement without being told necessary qualifying facts about the relationship between counsel for the adverse parties.

In petitioning the Court to approve the Jones settlement, Landskroner represented that "[t]he Parties' negotiations, although contentious, were undertaken in good faith and ***at arms' length***." *Id.* ¶ 42 (emphasis added). Landskroner repeatedly touted transparency and independence in the parties' discussions, underscoring that the settlement was the product of "two full hard fought days of mediation in June 2015" and was "presumptively fair because it was reached following protracted, and at times contentious, arms-length negotiations." *Id.* ¶¶ 42-46. Landskroner added that "[t]he fact that mediation was overseen by a neutral third party is proof of the noncollusive nature of the negotiations." *Id.*

We now know that every one of those representations was misleading because Landskroner suppressed facts which materially qualified those stated regarding the independence of the parties and the adversarial nature of negotiations. It was not disclosed that Paradis—Special Counsel to the City in the simultaneously pending LADWP case over CC&B billing issues—represented the plaintiff Jones for over four months in the run-up to the filing of the complaint (and was Jones's sole attorney for the majority of that time). *Supra* pp. 2-5. It was not disclosed that a lawyer for the City (Special Counsel Paradis) ***introduced the putative Class Counsel*** (Landskroner) to the ratepayer plaintiff—that too, a scant one week before the plaintiff's lengthy complaint was filed. *Supra* pp. 2-5. And it was not disclosed that Landskroner began settlement overtures the day after the filing of the complaint, without Jones knowing until two months later that such discussions had begun. *Id.* ¶ 22. For its part, the City Attorney's Office knew or—at a minimum—was on notice of all those material qualifiers, but did not fulfil its duty of candor to the Court by correcting the misimpression that Landskroner created regarding "hard fought" settlement talks. *Supra* pp. 5-6. As for the conclusory representation that the mediator's oversight sufficed to guarantee arms-length dealing, there is no evidence that the ***mediator*** was told anything about relationships between Paradis, Landskroner, and Jones either. In fact, as lawyers for the other ratepayer plaintiffs had long suspected, the *Jones* complaint and friendly opposing counsel enabled the City to arrive at a settlement of all ratepayer litigation that worked to its own interests. When the Court was asked to approve the settlement over

objections of collusion, it did not have any of this information available to it. But such information would have had immense relevance to the Court's evaluation of whether Landskroner was an independent and adequate counsel to appropriately represent Jones and a Class that was releasing broad claims against the City.

Tellingly, the only response Landskroner had to allegations of collusion between counsel for the City and counsel for Jones was itself misleading. In a February 2017 response to settlement objections, Landskroner swore that any "suggestion that the attorneys from the Landskroner Firm have an inappropriate relationship with any of the attorneys from … the Office of the City Attorney of Los Angeles is false" because "[p]rior to the Jones Action, … the Landskroner Firm had never worked on any matter with … the Office of the City Attorney of Los Angeles (defense counsel, here) either as co-counsel or as opposing counsel." *Id.* ¶¶ 41-46. Landskroner failed to tell the Court that Special Counsel Paradis had previously represented Jones while representing the City, a fact well known to Landskroner, and brought Landskroner into the case based on Paradis's prior relationship with Landskroner. *Id.* ¶¶ 16, 46.

C. The Fraud Perpetrated On the Public.

The *Jones* settlement was formulated collusively and not through adversarial negotiation, which enabled the parties to the scheme to include extraordinary elements for their respective benefit. Landskroner, without taking or defending a single deposition, garnered the majority of $19 million in total fees divided among counsel—a significant portion of which appears attributable to work apparently performed before he was even introduced to Jones. The City shoehorned in a remediation component never sought by the Class, and used the Court's approval of that component to rush through contracts without competitive bidding. Ultimately, Special Counsel Paradis's law firm and a company formed by Paradis during the course of the *Jones* case were awarded no-bid contracts totaling some $36 million to provide project management services in connection with the remediation required by the *Jones* settlement.

In his declaration supporting the $19 million aggregate fee request, Landskroner stated that "[p]rior to and after the filing of the initial complaint, ***Class Counsel conducted an extensive and very lengthy investigation*** into the matters alleged in the initial complaint, which included, among

other things, interviewing current and former LADWP employees and working closely with investigators." *Id.* ¶¶ 63-69 (emphasis added).[3] Landskroner boasted that the "outstanding results provided by the Settlement" were achieved because "Class Counsel was able to leverage the information learned in connection with Class Counsel's pre-suit investigation." *Id.* Landskroner repeated the same representations in the Settlement Agreement presented to the Court, stating that "prior to filing the Complaint in the Action, Class Counsel initiated an extensive and very lengthy investigation." *Id.*

Based on the information revealed in the Jones deposition, however, the timing of that "extensive and very lengthy [pre-suit] investigation" by Class Counsel Landskroner does not make sense. Jones testified that the first time he was introduced to Landskroner by Paradis was March 26, 2015, and further testified that he had no other attorneys before that date for his potential suit against LADWP. *Id.* ¶ 14. Thus, when Jones declared—also in support of the fee request—that his "counsel" conducted pre-suit work like investigating the claims, hiring experts, and preparing a draft complaint, we now know that Jones thought his declaration was referring to Paradis but, of course, there was no way for the Court to know that given Paradis's status as Special Counsel to the City.[4] Yet Landskroner passed off all that pre-March 26 activity as his own, demanding more than $500,000 (using a multiplier) for ***355.75 hours of work he did before he had ever met his client.*** *Id.* ¶ 67. Landskroner and Special Counsel all knew that Landskroner was seeking fees for work performed during the time period in which Jones was, to his knowledge, represented only by Paradis. None spoke up. The Jones deposition has now made clear that Landskroner's claim to have performed work on the case before March 26, 2015 at is at best a half-truth that needs further examination so that the Court can assess whether the claimed fees the City has paid were actually warranted.

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[3] The declaration defined "Class Counsel" as the Landskroner Firm.

[4] Jones's deposition makes clear that the many references to "counsel," "my counsel," "plaintiff's counsel," and "Class Counsel" were actually referring to different individuals, alternatively, Paradis and Landskroner. PwC attributes no intent to mislead to Jones, who did not realize that clarity would be needed, because he did not know that the Court viewed Paradis as representing the City, not Jones. PwC believes that the declaration was drafted by Landskroner.

But the fraud on the public extends further. The only relief sought by the *Jones* complaint was refunds of overcharges and imposition of a monitor to identify affected ratepayers while overseeing the refund process. Yet the City inserted into the settlement a substantial remediation component for which there was no discernible reason or request by plaintiffs. *Id.* ¶ 59. The City then presented that remediation order, bearing the Court's imprimatur, to the LADWP Board of Commissioners as requiring immediate approval and implementation of no-bid contracts. *See* June 6, 2017 LADWP Board Video at Item No. 22, available at http://ladwp.granicus.com/View Publisher.php?view_id=2&&_afrLoop=1591461222824299 (David Wright presentation urging authorization of remediation expenses and contracts to comply with court-ordered settlement deadlines). A company founded by Special Counsel Paradis (Aventador Utility Solutions, LLC) was then awarded a ***$30 million contract on a no-bid basis*** (this in addition to the $6 million the Paradis Firm had already received for remediation-related services). *Id.* ¶ 61.

II. RESPONSES TO SPECIFIC ISSUES THE COURT RAISED

The significant evidence of fraud committed in connection with the investigation, filing, and settlement of the *Jones* case entitles PwC to discovery into every aspect of the conduct of that litigation by the City Attorney's Office and (directly or indirectly) by Special Counsel Paradis, Kiesel, and Tufaro. The facts adduced to date also throw into serious question all aspects of the integrity of the *Jones* settlement (which the City is using to seek damages against PwC), including the legitimacy of the pre-and post-filing work claimed to have been personally performed by Plaintiff's Counsel for the benefit of the Class. We anticipate that attorneys for the City (including Special Counsel) and Jones will claim privilege over all such information under the attorney-client privilege, the work-product privilege, or both. Those assertions of privilege cannot withstand scrutiny based on the record here.

The Court has inquired into whether, in light of the record, the City and Special Counsel may assert and maintain privileges over information concerning the *Jones* matter. As we explain below, for at least two independent reasons, any attorney-client privilege and work product protection that might once have attached to such information has been punctured by (1) the doctrine of waiver, and (2) the crime fraud exception. Whether waiver and/or crime fraud exception applies depend on two

predicate issues of fundamental importance on which the parties take diametrically opposed positions. First, whether during the mid-December 2014 to March 26, 2015 period—a time when the City concedes that Special Counsel represented both Jones and the City—those parties had adverse interests. The City's contention that Special Counsel were not representing a party that was adverse to Jones (their past and, PwC contends, current client) during this time is contradicted by sworn testimony. Second, whether after March 26, 2015—a time when the City disputes concurrent representation—such adversity persisted with regard to Special Counsel's representation. The City's contention that it was not adverse to Jones during this time is again contradicted by sworn testimony and Special Counsel's own conduct.

Finally, apart from privilege, the record of deception uncovered thus far empowers the Court to consider a wide range of remedies, including, *inter alia*, setting aside the *Jones* settlement, authorizing discovery into attorney's fees and expenses that were claimed by the Landskroner Firm as part of that settlement, and precluding elements of that settlement from being used against PwC (*e.g.*, the remediation costs and attorneys' fees that are part of the collusive *Jones* litigation and settlement).

A. Both the City and Special Counsel Have Waived All Attorney-Client Privileges and Attorney Work Product Protection Over All Information Regarding The *Jones* Matter.

i. Applicable Legal Standard

The attorney-client privilege protects from disclosure (i) "communications" that (ii) reflect "information transmitted between a client and his or her lawyer in the course of that relationship ***and in confidence***." Cal. Evid. Code § 952 (emphasis added). Only communications "made for the purpose of seeking or delivering the attorney's legal advice or representation" fall within the privilege. *Los Angeles Cnty. Bd. of Supervisors v. Super. Ct.*, 2 Cal. 5th 282, 293 (2016). Thus, an attorney-client communication—or a document reflecting such a communication—will only qualify as privileged if it was "made for the purpose of the legal consultation, rather than some unrelated or ancillary purpose," and treated in such a manner as to shield it from disclosure to third persons. *Id.* at 297. Similarly, "[t]he work product rule in California creates . . . an absolute privilege against disclosure of writings containing the attorney's impressions, conclusions, opinions or legal theories,"

Wellpoint Health Networks, Inc. v. Super. Ct., 59 Cal. App. 4th 110, 120 (1997), ***unless*** there is evidence of "the attorney's voluntary disclosure or consent to disclosure of the writing to a person other than the client who has no interest in maintaining the confidentiality of the contents of the writing," *BP Alaska Expl., Inc. v. Super. Ct.*, 199 Cal. App. 3d 1240, 1261 (1988). For work product, it is the attorney that must "prove the preliminary facts to show that the privilege applies." *Citizens for Ceres v. Super. Ct.*, 217 Cal. App. 4th 889, 911 (2013). And non-opinion work product is afforded only "qualified protection" that gives way where "denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice." *Id.* at 911 (quoting Cal. Code Civ. Proc. § 2018.030). California courts recognize that "evidentiary privileges should be narrowly construed because they prevent the admission of relevant and otherwise admissible evidence." *McKesson HBOC, Inc. v. Super. Ct.*, 115 Cal. App. 4th 1229, 1236 (2004).

Because a reasonable expectation of confidentiality is the touchstone for invoking attorney-client privilege, the privilege "is waived with respect to a communication protected by the privilege if any holder of the [attorney-client] privilege, without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone." Cal. Evid. Code § 912. While not expressly defined by statute, waiver of work product protection is "generally found under the same set of circumstances as waiver of attorney-client privilege." *McKesson HBOC, Inc.*, 111 Cal. App. 4th at 1239. Thus, waiver of both attorney-client privilege and attorney work product protection occurs where there is "voluntary disclosure or consent to disclosure" to a "person other than the client who has no interest in maintaining the confidentiality of the contents" of the work product. *See id.* at 1236-39; *accord BP Alaska*, 199 Cal. App. 3d at 1261; *Raytheon Co. v. Super. Ct.*, 208 Cal. App. 3d 683, 689 (1989) (work product protection is waived if the disclosure is "wholly inconsistent with the purpose of the privilege, which is to safeguard the attorney's work product and trial preparation."). Applying these principles, there is no privilege over information regarding the *Jones* case known to, prepared by, or shared with Special Counsel during (i) the pre-March 26, 2015 and (ii) the post-March 26, 2015 periods.

ii. The Record Proves That All Privileges Have Been Waived.

The City concedes that Special Counsel simultaneously represented both Jones and the City from mid-December 2014 to March 26, 2015. Nonetheless, the City contends that it may maintain privilege over information concerning the *Jones* matter despite this dual representation. In the City's view, there was no concurrent representation of ***adverse*** interests during this time because before March 26, 2015, Jones and the City were on the same side.[5] And after March 26, 2015, when adversity became evident because "Jones wanted to pursue an action against the City," the City claims that Special Counsel's attorney-client relationship with Jones "end[ed]." Thomasch Dec. ¶ 55. According to the City, those "facts" establish that there was no conflicted representation that might result in waiver because appropriate confidentiality was maintained. Every aspect of that narrative is contradicted by the record and the law.

With regard to the mid-December 2014 to March 26, 2015 period—a time when Special Counsel was admittedly representing both Jones and the City—the City claims that it made a determination that Jones was not adverse to its interests. That unilateral "determination" is flatly contradicted by Jones's testimony. In a May 2017 sworn statement submitted to the Court in connection with the requested final approval of the settlement, Jones said that he retained Special Counsel in December 2014 so that "counsel [could] conduct an investigation to determine whether [he] had any claims that could be brought ***against the LADWP and the City of Los Angeles***." Thomasch Dec. ¶ 6. At his deposition, Jones confirmed that it was always his intention to pursue

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[5] The record refutes any contention that the *Jones* and *PwC* cases involve unrelated subject matter. The Court classified all ratepayer cases and the PwC case as "related" because they "arise[] from the same or substantially identical questions of law or fact." And LADWP has never dropped its contention that PwC is responsible for the consequences of all deficiencies in the implementation of the CC&B System, including the ongoing remediation costs incurred as a result of the *Jones* settlement. *Id.* ¶¶ 70-72. Indeed, in mirror-image press releases issued on August 17, 2015, the day the Court gave preliminary approval to the initial settlement agreement, both sides announced that the Court-approved agreement laid the groundwork for recovery of cost of the *Jones* settlement through the City's pending litigation against PwC. LADWP announced that: "The City and LADWP continue to pursue claims against Pricewaterhouse Coopers [sic] (PWC) to recover damages, including costs associated with the class action settlement and system remediation, attorney's fees, and related claims . . ." *Id.* Landskroner's firm announced: "In March, Los Angeles City Attorney Mike Feuer filed a lawsuit against PwC. . . If successful, all of the costs incurred by LADWP in settling this case could be recovered from PwC." *Id.* ¶ 72.

litigation against the City for his billing overcharges, whether or not he pursued additional defendants. *Id.* ¶ 10. That the City and Special Counsel claim to have believed that Jones was aligned with the City is immaterial (not to mention improbable). Adversity of interest between the City and Jones existed as a matter of fact.[6] Indeed, with regard to whether a conflict existed, Clark testified that he had not seen the Jones declaration, had not read the Jones deposition transcript, and had no basis to assess the credibility of Jones's testimony. Thomasch Dec. ¶ 37. Clark acknowledges that the facts set forth therein about the circumstances of Paradis's attorney-client relationship with Jones are different from what he understood from Paradis. *Id.* Thus, each time the City and Special Counsel shared information regarding the *Jones* case during this period—which we know they did repeatedly, *supra* pp. 4-5—they were effectively doing so with counsel for their adversary, which constitutes waiver.

With regard to the post-March 26, 2015 period, the City claims there was no adverse interest that might implicate waiver because Special Counsel had ended their representation of Jones. Again, that contention is flatly contradicted by Jones's testimony, where Jones stated that Paradis never disengaged from their attorney-client relationship, or informed him that Paradis could no longer represent him in connection with the potential billing-error claims against the City that Jones had wanted to bring since late 2014. Thomasch Dec. ¶¶ 37-40. The Rules of Professional Conduct required Paradis to obtain knowing assent from Jones about the termination of his representation, Cal. R. Prof. Conduct 3-700 (1992), and Jones testified that no such consent was ever requested, much less given. Thomasch Dec. ¶¶ 37-40; *see* Declaration of Daniel E. Eaton (Mar. 1, 2019) ¶¶ 40-44 ("Eaton Dec.") As far as Jones knew (until receiving notice of his deposition in December 2018), Paradis was continuing to represent his interests in connection with his claims against the City. Yet Special Counsel attended at least one mediation on behalf of the City, and represented interests

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[6] Special Counsel and the City have suggested that the common-interest exception would shield communications and materials regarding the *Jones* matter. That is incorrect. The interests of Jones and the City cannot fairly be said to have "aligned on the same side" because at least until June 29, 2015, when a preliminary settlement was agreed, they were unambiguously adverse to each other in the *Jones* litigation. *See McKesson HBOC, Inc.*, 111 Cal. App. 4th at 1237-40. Mr. Clark admitted as much when he testified that the City did not have any "privilege[s]" with Jones. Thomasch Dec. ¶ 35.

directly adverse to Jones. Thus, even under the City's own version of the events, information about the *Jones* matter is discoverable.

On these facts, all privileges are waived and there is no argument to the contrary. There is ***no*** circumstance in which an attorney can simultaneously represent two clients, adverse to each other in related litigation, without destroying the duties of confidentiality and undivided loyalty owed to either client. *See Flatt v. Super. Ct.*, 9 Cal. 4th 275, 289 (1994) ("One of the principal obligations which bind an attorney is that of fidelity, the maintaining inviolate the confidence reposed in him by those who employ him, and at every peril to himself to preserve the secrets of his client . . . *By virtue of this rule an attorney is precluded from assuming any relation which would prevent him from devoting his entire energies to his client's interests.*") (quoting *Anderson v. Eaton*, 211 Cal. 113 (1930)); *accord Cal Pak Delivery, Inc. v. United Parcel Serv., Inc.*, 52 Cal. App. 4th 1, 11 (1997); *see* Eaton Dec. ¶¶ 23-33.

Even had Special Counsel made a pretense of obtaining conflict waivers (which we now know they did not), the conflict arose from concurrent representation of adversaries with regard to functionally indistinguishable subject matter and cannot be waived. "In cases where an attorney concurrently represents two clients with conflicting interests, the automatic disqualification rule applies." *Great Lakes Constr., Inc. v. Burman*, 186 Cal. App. 4th 1347, 1356 (2010). *Accord Blue Water Sunset, LLC v. Markowitz*, 192 Cal. App. 4th 477, 489 (2011); *City & Cty. of San Francisco v. Cobra Sols., Inc.*, 38 Cal. 4th 839, 846 (2006). *See* Eaton Dec. ¶ 31. Nor, even if the attorney-client relationship terminated unknown to Jones, could the City permit Special Counsel to have access to information about the *Jones* matter because it involved adversity to a former client.

Moreover, there is ample authority holding that, where, as here, many ethics violations have been committed by an attorney, courts retain discretion to find waiver of work-product protections that the attorney might otherwise claim. *See e.g., United States v. Christensen,* 828 F.3d 763, 805–06 (9th Cir. 2015) (work product privilege did not prevent disclosure of illegal wiretap recordings procured by attorney); *Moreno v. Autozone, Inc.,* No. C-05-4432 CRB (EMC), 2008 WL 906510, at *4 (N.D. Cal. Apr. 1, 2008) (holding that witness statements obtained in violation of ethics rule prohibiting contact with represented parties were subject to disclosure); *see also Moody v. I.R.S.,* 654

F.2d 795, 800–01 (D.C. Cir. 1981) ("[A]t least in some circumstances, a lawyer's unprofessional behavior may vitiate the work product privilege."). *Cf. Cal Pak Delivery, Inc. v. United Parcel Service, Inc.*, 52 Cal. App. 4th 1, 17 (1997) (observing limits of work product protection "where the ethical breach . . . involve[s] the acquisition of privileged or confidential information by counsel [through] dual representation"). While the most glaring ethics violation committed by Special Counsel is the conflicted representation of Jones and the City, as discussed below, it is also apparent that Special Counsel further breached their duty of undivided loyalty to Jones by recommending that he retain Landskroner as counsel, an attorney who the City thought would best serve its own interests rather than those of Jones or the ratepayers. *See* Eaton Dec. ¶¶ 23-33; Thomasch Dec. ¶¶ 14-19. In addition, Special Counsel breached their duty of candor with the Court by employing at least the following artifices to mislead the tribunal: (1) strategically not entering formal appearances in the *Jones v. LADWP* matter or signing that complaint; (2) presenting Landskroner as lead counsel when he had been recruited to the case only six days before the filing of the *Jones* suit; (3) failing to disclose to the Court that the City's Special Counsel recruited Landskroner specifically because he and Landskroner had a prior representation and Landskroner could be counted on to be more "reasonable" than other plaintiffs' attorneys in dealing with the City; (4) advocating for the approval of a settlement to dispose of a case they designed from start to finish; and (5) apparently permitting pre-suit investigation work performed by Special Counsel to be claimed as part of Class Counsel fee for Landskroner. *See* Cal. Bus. & Prof. Code § 6068(d) (attorneys cannot "mislead the judge . . . by an artifice or false statement of fact or law"). Eaton Dec. ¶¶ 34-39. Thus, anything prepared by or at the behest of Special Counsel or the City concerning the *Jones* case should be open to full discovery.

The waiver occasioned by Special Counsel's status as an attorney for both Jones and the City applies equally to (i) attorney-client communications, and (ii) work product created by Special Counsel, over which only counsel could assert privilege. Special Counsel's dual representation of Jones and the City destroyed any expectation of confidentiality or privacy the City and Special Counsel could claim over information concerning the *Jones* matter. It was physically impossible for the City to maintain confidentiality over its communications about the *Jones* case when those communications were with Jones's attorneys, Paradis, Tufaro, and Kiesel, themselves. The mere fact

that before April 1, 2015, Jones had not yet ***filed*** a complaint against the City does not eliminate the inherent adversity existing (and expressed) between Jones and the entity that injured him by sending him an overstated bill. *See McKesson HBOC*, 115 Cal. App. 4th at 1240 (finding waiver where plaintiff disclosed work product to the government in a government investigation because the government could always prosecute it later). And the instant that Special Counsel created work product for Jones, it was effectively shared with the City because it was known to ***counsel for the City*** (and vice versa by virtue of the concurrent representation), and any privilege that could have attached to that work product is waived.

Finally, any suggestion by the City that it should not be penalized with waiver because no injury to Jones resulted from the dual representation would deserve short shrift. Because Special Counsel represented the City ***at the very same time*** that Jones thought Special Counsel was investigating "claims that could be brought against the LADWP and the City" on his behalf, Jones was denied representation by an attorney who was single-mindedly representing his best interests. *See Flatt*, 9 Cal. 4th at 282 ("An attorney's duty of loyalty to a client is not one that is capable of being divided."). Eaton Dec. ¶¶ 23-33. From the moment he retained Paradis in December 2014 to examine possible claims against LADWP, Jones was entitled to an attorney who would disinterestedly evaluate the ***full*** range of possible claims for the benefit of Jones, not the City. Having been deprived of such representation, it is of no moment that Jones benefited in some fashion from the ultimate settlement.

In short, Special Counsel for the City in connection with billing issues at LADWP knowingly and concurrently represented adverse parties Jones and the City in the *Jones* litigation from mid-December 2014 to the present. Even though the City knew of Special Counsel's dual conflicted representation, it shared information concerning the *Jones* case with Special Counsel. In light of these revelations, any attorney-client privilege and attorney work product protection that might once have attached to information shared amongst City and Special Counsel regarding the *Jones* litigation, at any stage of that litigation pre- or post-filing, has been waived. In addition, Special Counsel waived all putative privileges or protections with regard to any information known to or prepared by them in connection with the *Jones* case—regardless of whether the information was shared with the

City—because Special Counsel's simultaneous representation of adverse parties in related cases (which apparently continues to this day) obviates any colorable claim that information they prepared for one client (Jones) would remain confidential from the other client (the City). PwC is entitled to inquire into all aspects of that case, unhindered by assertions of privilege or attorney work product.

B. To The Extent That Any Attorney-Client Privilege Held By The City Relating To The *Jones* Matter Was Not Waived, It Is Vitiated By The Crime Fraud Exception.

The Court inquired as to whether the crime fraud exception applies to waive attorney-client privileges that might be asserted by the City.[7] The answer is yes. The undisputed evidence shows that the City, through its complicity with Special Counsel, deceived the Court and Jones (at a minimum) by cooking up a scheme to engineer a collusive settlement with broad preclusive effect. *See supra* pp. 2-6. The crime fraud exception, codified by statute, was designed to prevent wrongdoers like the City and Special Counsel from hiding behind the attorney-client privilege to keep evidence of their fraud secret. *See* Cal. Evid. Code § 956. As a consequence of that rule, all attorney-client privileges held by the City concerning the *Jones* pre-suit investigation, complaint, settlement, and approval—***regardless*** of whether such information was shared with Special Counsel—have been vitiated. This permits discovery into communications amongst the City, including City Attorneys, LADWP, and the Board of Commissioners, relating to the *Jones* action.

There is no viable claim of attorney-client privilege where a client used the services of an attorney to assist with the commission of a contemplated or ongoing crime or fraud. *See* Cal. Evid. Code § 956; *Clark v. United States*, 289 U.S. 1, 15 (1933) ("A client who consults an attorney for advice that will serve him in the commission of a fraud will have no help from the law."). The crime fraud exception applies irrespective of whether the attorney or client instigated the fraudulent activity, so long as the client eventually "takes an active part" in the deception. *See People v. Sup. Ct. (Bauman & Rose)*, 37 Cal. App. 4th 1757, 1768 n. 4 (1995). In order to pierce the attorney-client

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[7] The Court also asked the parties to brief the applicability of "the fraud exception" to attorney work product privilege. Under California law, the crime fraud exception does not apply for work product. *See BP Alaska Expl., Inc.*, 199 Cal. App. 3d at 1251. As explained herein however, there are many other reasons that work product protections are not available to Special Counsel and Landskroner in the *Jones* action.

privilege, the party seeking discovery need only make out a *prima facie* case of attempted fraud, *i.e.*, "a false representation of a material fact, knowledge of its falsity, intent to deceive and the right to rely." *BP Alaska Expl.*, 199 Cal. App. 3d at 1262-63. It is sufficient if there appears to be a reasonable relationship between the subject matter of the fraud and the attorney-client communications. *See id.* at 1268; *see also People v. Sup. Ct. (Bauman & Rose)*, 37 Cal. App. 4th at 1769.[8]

The record here suggests far more than a *prima facie* case of fraud. PwC has amassed overwhelming evidence of the collusion between the City and Special Counsel to present the *Jones* case as a genuinely adversarial proceeding that produced an arms-length settlement in the interest of the class—while effectively minimizing negative press about the City's role in the billing rollout and extracting a broad preclusive release for all ratepayer claims. *See supra* pp. 2-7. This scheme constituted fraud on Jones and fraud on the Court. *Cf. Russell v. Dopp*, 36 Cal. App. 4th 765, 780 (1995) (fraud committed on the client and on the Court where plaintiff's lawyer failed to disclose that he was unlicensed to practice law). The facts show that Paradis fraudulently induced Jones into believing that he could rely on Paradis's counsel and undivided loyalty while pursuing litigation against the City. And as discussed *infra* pp. 1-7, 14-15, the City and Special Counsel deliberately made material misrepresentations and omissions to mislead the Court into believing that the *Jones* case was genuinely adverse, in violation of California Business and Professions Code § 6068(d). Cal. Bus. & Prof. Code § 6068(d) (attorneys cannot "mislead the judge . . . by an artifice or false statement of fact or law"). *See, e.g., State Farm Fire & Cas. Co. v. Super. Ct.*, 54 Cal. App. 4th 625, 647 (1997), *as modified* (May 1, 1997) (fraud on the Court triggers crime-fraud exception). Eaton Dec. ¶¶ 45-48. In some of the more egregious examples, the City deputized Paradis to investigate claims of collusion regarding the *Jones* settlement all the while knowing that he had represented Jones, and sent Kiesel to Court as its representative to urge approval of the settlement. Thomasch Dec. ¶ 25.

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[8] To the extent that there is a question of the applicability of the crime fraud exception to certain material, *in camera* review is appropriate. *BP Alaska Expl., Inc.*, 199 Cal. App. 3d at 1270.

The available evidence also calls into question the truthfulness of representations concerning who did what work in the fee application submitted to the Court, on which the Court relied. *See supra* pp. 7-9. Although PwC will not discover the full facts unless and until it is permitted to depose Landskroner and Paradis, it is improbable that the Landskroner Firm conducted "an extensive and very lengthy [pre-suit] investigation" justifying hundreds of thousands of dollars in fees when Landskroner was only introduced to Jones—his client—***six days before the complaint was filed***. *Id.* at ¶ 63. Six days hardly seems enough time for Landskroner to have interviewed current and former LADWP employees and hired experts while also drafting a 50-page complaint for a client to whom he had just been introduced. *See id.* More likely, it was Special Counsel for the City—with full access to LADWP employees and data as a result of his remediation and subsequent legal work beginning in mid-December 2014—who conducted this pre-suit investigation on behalf of his client Jones, and permitted or instructed Class Counsel to later pass the work off as his own. The vast divergence between the amount attributable to pre-suit work and the six days Landskroner was actually on the case strongly suggests that there is more to the story than what was told to the Court. To be sure, PwC does not know the full facts but requires this information to ensure that it is not wrongfully subjected to a claim that it should pay for attorneys' fees obtained as part and parcel of a collusive deal.

The Court specifically asked in Question (f) "[w]hether representation of two adverse parties, without knowing consent of parties, constitutes fraud within 'the fraud exception.'" The answer is a resounding yes. As discussed above, the City and Special Counsel never told Jones or the Court that during the preparation, filing, and settlement of the *Jones* suit, Special Counsel was also representing the City. The failure to disclose this conflict is fraud. In any event, even if Jones had been informed and consented to Special Counsel's dual representation, his consent would make no difference. The conflict arising from Special Counsel's simultaneous representation of parties with adverse interests is not waivable. *See supra* pp. 12-15. *See also* Eaton Dec. ¶ 31.

A straightforward application of the crime fraud exception to these facts entitles PwC to explore the full scope of the fraudulent scheme and fill in the gaps in the Court's knowledge of the extent of the collusion. That includes the right to inquire into all communications amongst the City,

including the City Attorney's Office, Board of Commissioners, and the City Council, about every facet of the *Jones* complaint, negotiation, and settlement, including Landskroner's pre- and post-filing investigations in *Jones* (to the extent privilege over such communications has not already been waived by the inclusion of Special Counsel, *see supra* pp. 12-17). Such inquiry should include documents, depositions, and information in any form regarding the *Jones* complaint, negotiation, and settlement, without privilege objections.

C. Fraud on the Court Is A Separate Basis To Examine Or Reopen The *Jones* Settlement.

The Court asked us to brief the issue of "whether failure to disclose to the Court, of any alleged conflicts in representation of adverse parties before the Court, constitutes fraud on the Court." A fraud on the Court occurs when a party fails to keep "the court [] fully informed as to all facts that might influence the decision to be made [because] [t]here is an affirmative duty to furnish such information." *Potter v. Moran*, 239 Cal. App. 2d 873, 877 (1966). *See Morales v. Field, Degoff, Huppert & Macgowan,* 99 Cal. App. 3d 307, 314 (1979) (fraud on the court where attorney failed to disclose he represented potentially adverse interests); *see also Rice v. Rice,* 93 Cal. App. 2d 646, 651 (1949) (fraud on the court where defendant omitted in divorce proceedings that he had conveyed property); *Russell*, 36 Cal. App. 4th, at 777–78 (fraud on the court where the attorney did not disclose that he was unlicensed to practice law). It is of no moment whether the attorney's deception actually injured the client, *Potter v. Moran*, 239 Cal. App. 2d at 878-81, and in any event, the suggestion that Jones was not injured is not entitled to weight because there is no telling what settlement terms a non-conflicted lawyer may have extracted.

With regard to Question (g) therefore, the only inquiry is whether this Court would have wanted to know, at any time—when the parties first appeared in the *Jones* case, when they petitioned for approval of the settlement, when Class Counsel submitted their fee request, and when the *Jones* settlement was used as a basis for seeking damages against PwC—about the complex web of pre-existing and ongoing relationships between counsel for the City and counsel for the putative Jones class. In the circumstances here, the Court should deem the information withheld from it highly

material because it went directly to the heart of the settlement's fairness to those that it was meant to primarily benefit, *i.e.*, Jones and the class of ratepayers he represented.

The affirmative misrepresentations and omissions made by the City and Special Counsel regarding Special Counsel's dual representation of Jones and the City thus constitutes fraud on the Court. As discussed *supra* pp. 1-7, 17-20, the City and Special Counsel knowingly and deliberately misled the Court with respect to the circumstances surrounding Special Counsel's dual representation, including the creation of the Jones v. PwC complaint, to conceal their fraud. They represented that the draft Jones v. PwC pleading was drafted "for the City" for the purpose of considering the City's damages claims. Thomasch Dec. ¶ 51. And when asked point-blank by the Court who his client was at that time the pleading was created, Paradis said "the City." *Id.* The City also perpetuated the fraud by telling the Court that the draft complaint named Jones as the plaintiff simply because Jones was one of "several people who had been complaining to the Department and had been in touch with the Department." *Id.* It is now known that Jones was selected as a plaintiff because he was Paradis's client, *id.* ¶¶ 3-6, and that the City directed Special Counsel to draft a complaint for Jones against PwC (hidden from Jones) so that ratepayers might recover damages from PwC rather than LADWP. *Id.* ¶¶ 31-34.

In the ordinary course, fraud on the court justifies setting aside a judgment tainted by such fraud to protect the integrity of the litigation process. *See Russell*, 36 Cal. App. 4th at 777–78. Under that rule, the deception identified herein—the failure of Special Counsel and the City to disclose the existence of a conflicted representation in the *Jones* matter—would allow the Court to set aside the *Jones* settlement in its entirety. At a minimum, however, the Court is empowered to permit incremental steps short of vacating the judgment at this time to get at the truth. That includes authorizing discovery into the many issues that there is still incomplete information about, such as the extent of the City's collaboration on the development and the conduct of the *Jones* case and the circumstances of the alleged pre-suit investigation.[9] Whether the Court decides to vacate the *Jones*

[9] PwC has been exceedingly prejudiced by the delay of over one year due the City's wrongful conduct and specious claims of privilege. PwC will make an omnibus motion for sanctions in other respects at a later date, including sanctions arising out of this misconduct, as the Court indicated was its preference.

settlement or to fashion a lesser, but equally appropriate remedy, it is crucial that PwC not continue to be adversely affected in its defense as a result of the tainted settlement in *Jones*.

D. Mr. Jones's Privilege Objections Are Meritless.

Three discrete issues remain as a result of privilege objections reasserted at Jones's deposition.

i. Draft Jones v. PwC Pleading

Jones has asserted attorney-client privilege over the copy of the draft Jones v. PwC complaint contained in his files on the basis that the complaint was sent as part of an attorney-client communication (as an attachment to a January 9, 2015 email from Paradis). As this Court has made clear, "the [Jones v. PwC] complaint is not subject to the attorney/client communication" privilege. Thomasch Dec. ¶ 76. The Court's ruling is unimpeachable. The complaint, by itself, is not a "communication[] between attorney and client made for the purpose of seeking or delivering the attorney's legal advice or representation." *Los Angeles Cty. Bd. of Supervisors*, 2 Cal. 5th at 293.[10] It does not become so merely because it was once attached to an email. *See, e.g.*, *Laguna Beach Cty. Water Dist. v. Super. Ct.*, 124 Cal. App. 4th 1453, 1458 (2004) ("Documents that are not originally protected [by the attorney-client and work product privileges] do not become so merely by being provided to or transmitted by an attorney.").

ii. Identity of the Person(s) Paying Legal Fees For Jones

At the Jones deposition, his counsel instructed him not to answer questions concerning the identity of the person or person(s) paying his legal fees in the *Jones* matter on the basis of attorney-client privilege. *See* Thomasch Dec. ¶ 77. Counsel's objections were improper. The identity of a fee payer is generally "not protected by the ambit of privilege." *Willis v. Super. Ct.*, 112 Cal. App. 3d 277, 291 (1980). *See also In re Michaelson*, 511 F.2d 882, 888-89 (9th Cir. 1975); *Los Angeles. Cty. Bd. of Supervisors v. Super. Ct.*, 2 Cal. 5th 282, 295 (2016). "[C]ourts have the right to inquire into fee arrangements . . . to protect against suspected conflicts of interest" because "there is a real and

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[10] The only possible claim of privilege that can be asserted over the draft pleading is attorney work product, and that privilege can be asserted only by Paradis (the drafter). *See Citizens for Ceres*, 217 Cal. App. 4th at 911. But it is our understanding that no one is asserting attorney work product protection over the document.

present danger that the attorney may in actuality be representing not the interests of his client, but those of his compensator." *In re Michaelson*, 511 F.2d at 888-89. Although an exception to this rule exists where "disclosure of such information would implicate that client in the very criminal activity for which legal service was sought," *Willis*, 112 Cal. App. 3d at 291, neither Jones nor his counsel has asserted that such special circumstances exist here. Thus, the Court should direct Jones to disclose the identity of the individuals paying his legal fees.

iii. Privilege Log

Through counsel, Jones objected to providing retention agreements and to answering questions about that category of documents. *See* Thomasch Dec. ¶ 78. Those objections are overbroad. Although the California Code privileges written fee contracts, the facts PwC sought to elicit concerning the dates and identities of the parties to those agreements are not privileged. *State Farm Fire & Casualty Co.*, 54 Cal. App. 4th at 640 (attorney-client privilege does not "protect independent facts related to a communication; that a communication took place, and the time, date and participants in the communication"). At the minimum, Jones is required to provide a privilege log identifying the date of any retention agreements and the identities of any counterparties therein to PwC. *See* Cal. Civ. Proc. Code § 2031.240. There is no exception exempting third parties who as here, have been duly subpoenaed. Absent such a log, there is no way for the Court to make an informed ruling on the privilege issues.

III. CONCLUSION

For the foregoing reasons, PwC respectfully requests that the Court order that (i) all privileges and work product protection held by the City or any of its attorneys (including Special Counsel) be deemed waived regarding the *Jones* case; (ii) all privileges and work product protection held by Class Counsel (including Landskroner and his firm) concerning the basis of his fee requests in the *Jones v. LADWP* case, including the pre- and post-suit investigation described therein, be deemed waived; (iii) both the City and Jones should produce the version of the draft Jones v. PwC pleadings in their respective files; (iv) PwC be permitted to question any individual affiliated with the City and Special Counsel relating to the *Jones* matter; and (v) any and all other relief in favor of PwC that the Court deems is just and fair in light of the misconduct described herein.

DATED: March 1, 2019

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SPRING STREET COURTHOUSE

ANTWON JONES, on behalf of himself, and all others similarly situated,

Plaintiff,

v.

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Defendant.

CASE NO. BC577267

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

v.

PRICEWATERHOUSECOOPERS LLP, PAUL BUTLER, JAMES M. CURTIN, PHILLIP P. DANIELE, DAVID GARCIA, TREVOR LAROCQUE, RAYMOND M. TULLOCH and NASIR KHAN,

CASE NO. BC574690

DECLARATION OF DANIEL J. THOMASCH IN SUPPORT OF DEFENDANT PWC'S SUBMISSION REGARDING PRIVILEGE, WAIVER, AND THE FRAUD EXCEPTION IN RESPONSE TO THE COURT'S REQUEST OF FEBRUARY 21, 2019

ASSIGNED FOR ALL PURPOSES TO:
HON. ELIHU M. BERLE
DEPARTMENT 6

HEARING:
Date: March 4, 2019
Time: 9:00 a.m.
Dept: 6

Action Filed: March 6, 2015
Trial Date: January 6, 2020

Defendants.

DEBRA MACIAS, *et. al.*; Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

v.

LOS ANGELES DEPARTMENT OF WATER AND POWER,

Defendant.

I, Daniel J. Thomasch, hereby declare under penalty of perjury that the following is true and correct:

1. I am an attorney at law duly licensed to practice before the courts of the State of New York and am admitted *pro hac vice* to practice before this Court. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, and the lead attorney representing Defendant PricewaterhouseCoopers LLP ("PwC") in this action. I submit this Declaration in support of PwC's March 1, 2019 Court-ordered submission. I am personally familiar with the matters stated herein, and if called as a witness could and would testify competently thereto.

2. On September 13, 2018, I took the Court-ordered deposition of the City of Los Angeles by its Person Most Qualified to testify about matters relating to the draft *Jones v. PwC* Complaint. The City's PMQ witness was Mr. Thomas Peters, Chief of the Civil Litigation Branch of the L.A. City's Attorney's Office. A complete copy of the transcript of Mr. Peters's deposition is attached hereto as Exhibit 1 ("Peters Dep.").[1] On February 13, 2019, I took the Court-ordered deposition of Mr. Antwon Jones, named plaintiff in the action captioned *Jones v. City of Los Angeles*, No. BC577267 (filed Apr. 1, 2015). A complete copy of the transcript of Mr. Jones's deposition is attached hereto as Exhibit 2 ("Jones Dep.").[2] On February 26, 2019, I took another Court-ordered deposition of the City of Los Angeles by its Person Most Qualified (PMQ) to testify about matters relating to the *Jones v. PwC* Complaint. The City's second PMQ Witness was Mr. James Clark, Chief Deputy City Attorney for the City of Los Angeles. A complete copy of the transcript of Mr. Clark's deposition is attached hereto as Exhibit 3 ("Clark Dep."). Many of the facts set forth below are taken from the transcripts of the Jones and Clark depositions.

Dual Representation of Antwon Jones and LADWP Starting in December 2014

3. In August 2014, Mr. Antwon Jones, a resident of the City of Los Angeles and an LADWP customer, registered a complaint with a website for consumer complaints about an LADWP bill that overcharged him for the electricity he used. *See* Ex. 2 (Jones Dep.) at 37:4-40:23; *see also*,

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[1] Counsel represents that all exhibits, attached hereto and referenced herein, are true and correct copies.

[2] Mr. Jones's counsel has de-designated the confidentiality of all parts of the deposition transcript except for Exhibit 6, Bates Nos. AJ000001–AJ000048, which are Mr. Jones's utility bills.

Declaration of Antwon Jones in Support of Plaintiff's Motion for Final Approval and Application for an Award of Attorneys' Fees, Costs and Service Awards dated May 5, 2017, attached hereto as Exhibit 4 ("Jones Decl."). Mr. Jones wrote in his online complaint that: "I want to start a class action lawsuit ASAP. They can't get away with this." Ex. 2 (Jones Dep.) at 55:12-19. Mr. Jones testified that he was referring to LADWP in regard to the phrase, "They can't get away with this." *Id.* at 55:12-19. Mr. Jones testified that he thought the website was affiliated with a governmental agency; he also testified that when registering his complaint, he checked the box indicating that he wanted to be contacted by counsel. *Id.* at 47:2-6.[3]

4. Mr. Clark testified that Mr. Paradis found Mr. Jones by setting up the website where Mr. Jones submitted a complaint about his LADWP bill. Ex. 3 (Clark Dep.) at 46:11-47:12; 51:1-17.

5. In early December 2014, Mr. Paul Paradis contacted Mr. Jones in response to his online complaint. Ex. 2 (Jones Dep.) at 44:5-47:6. At that time, Mr. Jones was considering a lawsuit against LADWP. Ex. 2 at 57:5-8; 56:13-22.

6. On December 8, 2014, Mr. Jones retained Mr. Paradis as his counsel in connection with a potential lawsuit against LADWP. *See* Letter from J. Isaacs to D. Thomasch dated February 12, 2019 attached hereto as Exhibit 5; *see also* Ex. 2 (Jones Dep.) at 119:14-19. As Mr. Jones stated in a sworn declaration submitted to this Court on May 5, 2017, "I retained counsel and requested that counsel conduct an investigation ***to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles*** to recover for the amounts that I had been overcharged by the LADWP for electricity." Ex. 4 at ¶ 5 (emphasis added)

7. At the time Mr. Jones retained Mr. Paradis to be his counsel, Mr. Paradis was doing remediation work for LADWP, *see* Ex. 3 (Clark Dep.) at 69:13-71-8, but Mr. Paradis made no disclosure to Jones of his having any then-existing affiliation with LADWP or the City of Los Angeles. Ex. 2 (Jones Dep.) at 48:20-49:19.

[3] Although later in his deposition Mr. Jones sated that he could not be "a hundred percent sure" as to whether the deposition exhibit reflecting the online comments from Antwon of Van Nuys were his, he never qualified his agreement with the substance of the statement in the exhibit. Ex. 2 (Jones Dep.) at 115:24-116:3.

8. In mid-December 2014, Mr. Paradis began working in a legal capacity for LADWP. Ex. 3 (Clark Dep.) at 175:25-176:4.

9. Mr. Jones's counsel represented in his February 12, 2019 letter to me that Mr. Jones retained Mr. Kiesel as co-counsel with Mr. Paradis. *See* Ex. 5.

10. Mr. Jones testified that from the time of his retention of Mr. Paradis on December 8, 2014 to the filing of the Complaint against LADWP, he was always intent on suing LADWP if he were to bring a legal action. Ex. 2 (Jones Dep.) at 100:7-101:3.

11. On January 9, 2015, Mr. Jones received a draft of a *Jones v. PwC* Complaint. Ex. 2 (Jones Dep.) at 153:2-19. The draft *Jones v. PwC* Complaint identifies Mr. Paradis and Mr. Kiesel as counsel for Mr. Jones. *Id.* at 149:21-152:3. Prior to being contacted by Mr. Paradis, Mr. Jones had not considered bringing a lawsuit against PwC. *Id.* at 55:20-56:12. Mr. Jones did not direct the filing of the *Jones v. PwC* draft complaint, and indicated that the decision not to file this complaint was based on "advice of counsel." *Id.* at 122:13-23.

12. By January 9, 2015, when Mr. Paradis provided Mr. Jones with a copy of the draft *Jones v. PwC* Complaint, Mr. Paradis and Mr. Kiesel were serving as Special Counsel to the City of Los Angeles pursuant to a formal agreement with LADWP. *See* Ex. 6, April 21, 2015 Engagement and Contingency Fee Agreement No. 47335-5 between the City of Los Angeles, acting on behalf of LADWP, and Kiesel Law LLP and Paradis Law Group, PLLC (collectively "Special Counsel") available at http://clkrep.lacity.org/onlinedocs/2015/15-0488_misc_04-27-2015.pdf, attached hereto as Exhibit __ (Special Counsel "Agreement shall commence on January 1, 2015."). The fact that Mr. Paradis and Mr. Kiesel were serving as Special Counsel to the City was not disclosed to Mr. Jones by either Mr. Paradis or Mr. Kiesel. Ex. 2 (Jones Dep.) at 133:3-134:5; 207:3-208:11.

13. Mr. Jones understood that Mr. Paradis had conducted an investigation of potential claims to be brought against LADWP and the City, and he thereafter instructed Mr. Paradis to draft a Complaint to be filed against LADWP. Ex. 2 (Jones Dep.) at 64:23-65:1.

14. Mr. Jones's current counsel, Jeff Isaacs, represented in his letter to me that on "March 26, 2015, Mr. Paradis introduced Mr. Jones to Mr. Landskroner by email, and Mr. Landskroner

and his law firm, Landskroner Grieco Merriman, LLC, began representing Mr. Jones in his dispute with LADWP, together with Mr. Paradis and his law firm on or about that date." Ex. 5.

15. Mr. Jones testified that Mr. Paradis told Mr. Jones that he was bringing in Mr. Landskroner because he "had more knowledge or who had some knowledge of the case, because it was a similar situation" Ex. 2 (Jones Dep.) at 75:21-76:2. Mr. Paradis never told him that Mr. Landskroner would be replacing Mr. Paradis as counsel. *See id.* at 75:17-78:15; 79:25-80:2.

16. Mr. Clark testified that he recalls Mr. Paradis recommending Mr. Landskroner to represent Mr. Jones in his lawsuit against the City. Ex. 3 (Clark Dep.) at 105:3-15. Mr. Paradis "knew Jack Landskroner from a prior – at least one prior case which they'd been co-counsel and on the same side . . . that was seen as one of the advantages because of Mr. Paradis knew and had worked with Mr. Landskroner." *Id.* at 186:12-187:11.

17. The City understood in March 2015, that when Mr. Landskroner began representing Mr. Jones, Mr. Landskroner would file the lawsuit and immediately attempt to accomplish the City's goal of obtaining a settlement release. Ex. 3 (Clark Dep.) at 111:4-112:8.

18. Mr. Clark agreed at his deposition that Mr. Landskroner "was seen as an advantage in moving towards settlement of the case that was going to be filed." Ex. 3 (Clark Dep.) at 187: 14-18. Mr. Paradis chose Mr. Landskroner as counsel to be adverse to the City because Mr. Landskroner would be "a more reasonable person to deal with," *Id.* at 106:12-14, and Mr. Landskroner was not "someone who would be the most zealous advocate available for Mr. Jones to pursue claims." *Id.* at 108:3-7.

19. Mr. Paradis opted not to recommend either Mr. Blood or Mr. Himmelfarb, attorneys representing the other, already filed, class actions because "they were being unreasonable" and were not "willing to do what DWP wanted." Ex. 3 (Clark Dep.) at 106:2-14; 107:2-18.

20. By mid-March 2015, Mr. Jones instructed Mr. Paradis to file suit against the City. Ex. 2 (Jones Dep.) at 64:11-65:1. On April 1, 2015, the action, captioned, *Jones v. City of Los Angeles*, Case No. BC577267 (the "Jones Action") was filed as a class action in this Court. Ex. 4 (Jones Decl.) at ¶ 8.

The Complaint was signed by Mr. Landskroner and Mr. Libman as attorneys for plaintiff. *See* Ex. 2 (Jones Dep.) at 76:3-22.

21. Mr. Jones testified that at the time of the filing of his Complaint against LADWP on April 1, 2015, he believed that Mr. Paradis was continuing to represent him. Ex. 2 (Jones Dep.) at 78:13-79:9; 79:25-80:2; 98:1-8. He believed that Mr. Paradis filed the Complaint. *Id.* at 78:13-20. Mr. Jones did not know at the time that Mr. Landskroner and Mr. Libman, not Mr. Paradis and Mr. Landskroner, were identified as his counsel on the Jones v. LADWP Complaint. *Id.* at 76:10-22; 78:20.

22. The day after the filing of Mr. Jones's Complaint against LADWP, Mr. Landskroner sent a settlement proposal to LADWP. Ex. 2 (Jones Dep.) at 87:9-88:25. Mr. Jones did not learn that Mr. Landskroner had reached out to LADWP regarding a potential settlement until a couple of months after Mr. Landskroner did so. *Id.* at 89:16-22; 92:1-4. When Mr. Jones found out about the settlement offer to LADWP, it was his belief that the offer had been made by both Mr. Landskroner and Mr. Paradis. *Id.* at 95:18-22; 96:18-22.

23. Mr. Jones testified that shortly after the filing of his Complaint against LADWP, the City turned his power off. Ex. 2 (Jones Dep.) at 222:10-12. Believing that Mr. Paradis continued to be his counsel, Mr. Jones emailed both Mr. Paradis and Mr. Landskroner to complain that his power had been shut off in what he believed to be an act of retaliation by LADWP to the filing of his case. *Id.* at 224:4-225:12.

24. The parties to the *Jones v. LADWP* action participated in multiple mediation sessions. Mr. Paradis participated in at least one mediation session on behalf of LADWP. Ex. 3 (Clark Dep.) at 122:20-22. Mr. Jones did not attend any of the mediation sessions. *Id.* at 129:21-130:1. At the time of the mediation, however, Mr. Jones considered Mr. Paradis to be his counsel. Ex. 2 (Jones Dep.) at 75:21-76:2; 98:1-8.

25. On September 11, 2015, Mr. Paradis made an appearance at and spoke on behalf of LADWP at the hearing for preliminary approval of the *Jones v. LADWP* settlement. *See* Sept. 11, 2015 Hr'g Tr. in *Bransford v. City of Los Angeles*, No. BC565618, at 6:16-22, attached hereto as Exhibit 7.

At the time of the preliminary approval hearing, Mr. Jones considered Mr. Paradis to be his counsel. On November 3, 2015, Mr. Kiesel made an appearance at and spoke on behalf of LADWP at the continued hearing for preliminary approval of the *Jones v. LADWP* settlement. Nov. 3, 2015 Hr'g Tr. in *Jones v. City of Los* Angeles, No. BC577267, at 30:13–32:6, 50:13–18 attached hereto as Exhibit 17.

26. On July 20, 2017, the Court granted final approval of the settlement.

27. At all times prior to at least the final approval of the settlement in July of 2017, Mr. Jones believed that both Mr. Paradis and Mr. Landskroner were serving as his counsel. Ex. 2 (Jones Dep.) at 98:1-8.

28. Mr. Jones never received any written communication from Mr. Paradis indicating that Mr. Paradis was no longer his attorney. Ex. 2 (Jones Dep.) at 95:23-97:8; 123:12-19. At all times prior to receiving a deposition subpoena in December 2018, Mr. Jones thought that Mr. Paradis was still his counsel. *Id.* at 207:1-208:6.

29. Mr. Clark testified at his deposition that it would cause him concern to know that Mr. Jones testified under oath that he believed that Mr. Paradis continued to represent him after April 1, 2015 (the filing of the Jones v. LADWP Complaint). Ex. 3 (Clark Dep.) at 100:18-25.

City's Awareness of Dual Representation

30. The City was aware that Mr. Paradis, Ms. Tufaro and Mr. Kiesel were representing it at the same time they were representing Mr. Jones. *See* Ex. 8 (Signature Page of Draft Jones v. PwC Complaint); Ex. 3 (Clark Dep.) at 25:20-26:8; 30:1-31:25; 33:25-34:13; 84:10-13. Attached hereto as Exhibit 8 is a true and correct copy of a February 12, 2019 letter from Paul Paradis, attaching the case caption and signature page of the draft Jones v. PwC complaint dated "January __, 2015."

31. Mr. Clark testified that in December 2014, Mr. Peters directed Mr. Paradis to prepare the draft *Jones v. PwC* Complaint for the possibility of Mr. Jones suing PwC directly. Ex. 3 (Clark Dep.) at 41:1-13; 41:23-42:13.

32. On January 9, 2015, Mr. Jones received a draft Jones v. PwC Complaint from his counsel, Mr. Paradis. Ex. 2 (Jones Dep.) at 153:2-19. The City also possesses a draft Jones v. PwC complaint that was prepared by Mr. Paradis as the City's counsel. Both complaints identify

Mr. Paradis, Ms. Tufaro and Mr. Kiesel as counsel for Mr. Jones. *See* Ex. 8; Ex. 2 (Jones Dep.) at 148:20-151:20. Mr. Jones testified that the cover page of the draft Jones v. PwC Complaint that Mr. Jones received looks "similar" to the cover page of the draft Jones v. PwC Complaint that was produced by LADWP. Ex. 2 (Jones Dep.) at 150:16-22.

33. The draft *Jones v. PwC* Complaint was circulated among LADWP officials on January 24, 2015. Ex. 3 (Clark Dep.) at 82:14-20. Among the attorneys who were provided with a copy of the draft *Jones v. PwC* Complaint was Ms. Maribeth Annaguey, then at the Liner LLP law firm. *Id.* at 32:1-6. Ms. Annaguey prepared a memorandum after reviewing the draft complaint that recommended against filing the same. *Id.* at 32:7-19. Most of the other LADWP lawyers recommended against filing on two grounds: "it was not legally viable" and "wasn't going to accomplish [LADWP's] goals." *Id.* at 53:13-54:6.

34. City officials including Mr. Peters, Mr. Levine, and additional in house LADWP attorneys decided Mr. Jones should not file the *Jones v. PwC* Complaint after receiving the Liner memorandum. Ex. 3 (Clark Dep.) at 32:7-19; 53:13-54:6; Ex. 1 (Peters Dep.) at 36:22-38:12 ("It was never intended to be filed.").

35. The City was aware of the relationship between its Special Counsel and Mr. Jones and did not believe that relationship created any "privilege" between the City and Jones. Ex. 3 (Clark Dep.) at 98:15-23.

36. Mr. Clark testified that he would change his view that there was no conflict of interest from the simultaneous representation if he "were to accept for the purposes of analysis the truthfulness of Mr. Jones' sworn testimony that he retained Mr. Paradis for the purpose of investigating a claim against LADWP and the City of Los Angeles and instructed Mr. Paradis to prepare a complaint against those entities." Ex. 3 (Clark Dep.) 179:23-183:11. Mr. Clark further testified that he has "no basis . . . to reach a conclusion about the accuracy or truthfulness of Mr. Jones's testimony." *Id.* at 183:12-16.

The Dual Representation Was Unknown to and Unauthorized By Mr. Jones

37. During his deposition, Mr. Jones repeatedly testified that he did not know that Mr. Paradis, Mr. Kiesel, or any attorney associated with him also represented the City. Ex. 2 (Jones

Dep.) at 48:20-49:4; 69:10-20; 133:3-134:5; 209:6-17. According to Mr. Jones's testimony, he never would have hired an attorney who also represented the City. *Id.* at 133:3-134:5.

38. Mr. Jones testified that he believed that all of his communications with his attorneys, Mr. Paradis and Mr. Landskroner, would be maintained in confidence, and he never authorized them to share his confidences with the City. Ex. 2 (Jones Dep.) at 126:4-127:24.

39. Mr. Jones testified that in January 2015, he was unaware that LADWP officials were discussing "possible ways in which the City/LADWP might pursue its damage claim against PwC." Ex. 2 (Jones Dep.) at 210:10-211:3. Likewise, Mr. Jones was unaware that during that same time, LADWP officials requested that Mr. Paradis prepare a draft complaint alleging claims that could by brought by Mr. Jones against PwC. *Id.* at 210:10-212:2.

40. Mr. Jones testified that he did not give the City permission to use his name as a potential plaintiff to further the City's interest. Ex. 2 at 212:3-11. Mr. Jones never authorized Mr. Paradis or Mr. Kiesel to provide a copy of his the draft Jones v. PwC complaint to the City. *Id.* at 152:8-15. Mr. Jones did not give the City permission to have a draft complaint on his behalf or with his name circulated among LADWP Officials and City Attorneys. *Id.* at 212:12-213:4.

Concealment From The Court in Connection with the Jones Settlement

41. The dual representation of Mr. Jones and LADWP by Mr. Paradis, Ms. Tufaro and Mr. Kiesel was not disclosed to the Court in connection with the Jones Settlement.

42. Mr. Landskroner represented to the Court that "[t]he Parties' negotiations, although contentious, were undertaken in good faith and at arms' length." Ex. __ (May 5, 2017 Declaration) at ¶ 15.

43. On February 3, 2017 the Bransford and Fontaine Plaintiffs filed an Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness in the *Jones v. LADWP* case. The *Bransford* and *Fontaine* Plaintiffs argued that the parties to the Jones case engaged in collusive conduct in connection with the Jones Settlement.

44. In connection with responding to allegations made by the *Bransford* and *Fontaine* Plaintiffs, Mr. Landskroner submitted a declaration in support of Mr. Jones's and the City's Joint

Opposition to *Bransford* and *Fontaine* Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness. Excerpts of the Declaration of Jack Landskroner in Support of Joint Opposition to *Bransford* and *Fontaine* Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness, filed February 7, 2017, are attached hereto as Exhibit 9 ("Feb. 7, 2017 Landskroner Decl."). Ms. Annaguey, of Liner LLP, also filed a declaration, from which excerpts are attached hereto as Exhibit 10 ("Annaguey Decl."), in support of Joint Opposition to Bransford and Fontaine Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness.

45. Mr. Landskroner states in his declaration that "[p]rior to the Jones Action . . . the Landskroner Firm had never worked on any matter with Liner LLP (the "Liner Firm") or the Office of the City Attorney of Los Angeles (defense counsel, here) either as co-counsel or as opposing counsel. Excerpts from Mr. Landskroner's Declaration In Support of Plaintiff's Motion for Final Approval are attached hereto as Exhibit 13. Accordingly, the suggestion that the attorneys from the Landskroner Firm have an inappropriate relationship with any of the attorneys from the Liner Firm or the Office of the City Attorney of Los Angeles is false." Ex. 13 (Feb. 7, 2017 Landskroner Decl.) at 2, ¶¶ 10-11.

46. Mr Landskroner did not disclose in his declaration that he worked with the City's Special Counsel, Mr. Paradis, jointly representing Mr. Jones for some period prior to the filing of the *Jones v. LADWP* case or that they were previously co-counsel in *Reed v. NationstarMortgage LLC*, No. 14-cv-01701 (N.D. Ohio filed Aug. 4, 2014) and *Wright v. Nationstar Mortgage LLC*, No. 14-cv-10457 (N.D. Ill. filed Dec. 30, 2014.

47. Ms. Annaguey states in her declaration that "[t]he Office of the City Attorney of Los Angeles and Liner LLP are the attorneys of record for defendant the City of Los Angeles in the action entitled *Jones v. City of Los Angeles*, Case No. BC577267." Ex. 10 (Annaguey Decl.) at 2. She also states that "the Bransford Objectors seek discovery into the relationships between and among counsel in the *Jones* Action and *PwC* Action, whether as co-counsel or opposing counsel. Such information is a matter of public record obtainable by a search of legal filings." *Id.* at 2.

48. Ms. Annaguey did not disclose in her declaration that Mr. Landskroner worked with the City's Special Counsel, Mr. Paradis, representing Mr. Jones prior to the filing of the *Jones v. LADWP* case or that they were previously co-counsel in *Reed v. NationstarMortgage LLC*, No. 14-cv-01701 (N.D. Ohio filed Aug. 4, 2014) and *Wright v. Nationstar Mortgage LLC*, No. 14-cv-10457 (N.D. Ill. filed Dec. 30, 2014. Ex. H.

49. Mr. Clark testified that as of March 2015, the City knew that Mr. Paradis and Mr. Landskroner had "at least one prior case which they'd been co-counsel and on the same side . . .." Ex. 3 (Clark Dep.) at 186:12-187:11.

Concealment from the Court in the *LADWP v. PwC* Action

50. On December 4, 2017, the parties to the *LADWP v. PwC* case appeared before this Court in connection with Defendant PwC's Second Motion to Compel Production of Documents Improperly Withheld as Privileged dated November 3, 2017. A true and correct of the December 4, 2017 Hearing Transcript is attached hereto as Exhibit 11 ("Dec. 4, 2017 Hr'g Tr."). PwC's motion sought, among other things, the production of a document identified on LADWP's privilege log dated September 29, 2017 as the "*Jones v. PwC* – Initial Complaint – FINAL DOC."

51. At the December 4, 2017 hearing, the Court asked Mr. Paradis a series of questions regarding the preparation of the draft *Jones v. PwC* Complaint which LADWP was withholding on the basis of privilege. In response, Mr. Paradis did not disclose that Mr. Jones was his client and that he prepared the draft Complaint for Mr. Jones.

> The Court: "But explain to me the process. You're telling me that you, as the attorney for the City, are drafting a Complaint for Plaintiff that's not the City.
>
> Mr. Paradis: Correct. We were asked – Actually, we drafted it for the City, for the City . . . .
>
> The Court: Who are you representing in that case?
>
> Mr. Paradis: We represented the City, Your Honor . . .

See Ex. 11 at 18:20-27. The Court further inquired, "Is there a reason why Mr. Jones's name is on it? Now, I understand you put 'John Doe' or 'XYZ' as a fictional, potential plaintiff. How did it end up with Antwon Jones as the Plaintiff?" Ex. 11 at 20:5-9. Mr. Paradis did not directly answer

the question, stating, "[W]ithout disclosing privileged communication, there were several people who had been complaining to the Department … and Mr. Jones's name was one of them." *Id.* at 20:10-14. At no point during this exchange did Mr. Paradis inform the Court that Mr. Paradis selected Mr. Jones as the named Plaintiff because Mr. Jones had retained Mr. Paradis, Ms. Tufaro and Mr. Kiesel as his counsel. *Id.* at 18:20-20:14.

52. At the December 4, 2017 hearing, Mr. Paradis also stated unequivocally regarding the *Jones v. PwC* Complaint that "[i]t was never provided to anyone other than the City." Ex. 11 at 19:19-20. Mr. Paradis continued: "It was not to be filed on behalf of the ratepayers." *Id.* at 19:27-28. Mr. Paradis did not reveal that he did share a similar, if not identical, complaint, with his client, Mr. Jones, on January 9, 2015.

53. The Court reserved decision on PwC's motion, but ordered LADWP to produce a PMQ witness for examination regarding the draft *Jones v. PwC* Complaint.

54. *See* On September 13, 2018, Mr. Peters appeared for his deposition as LADWP's PMQ witness. Mr. Peters was instructed by his counsel, Mr. Paradis, not to answer my questions that sought the basis for the decision to put Mr. Jones's name in the caption of the *Jones v. PwC* Complaint as opposed to one of the other LADWP customers who complained about a bill. Ex. 1 (Peters Dep.) at 52:18-24; 53:19-54:1. Although I had not completed my questioning, Mr. Paradis terminated the deposition shortly after I started questioning Mr. Peters about Mr. Paradis's professional relationship with Mr. Landskroner, one of the topics in the deposition notice. *Id.* at 99:22-24. Before the deposition terminated, Mr. Peters testified that the Jones v. PwC Complaint had been prepared as a "thought experiment" to see "what a Complaint by a ratepayer against PricewaterhouseCoopers would look like. . . ." *Id.* 72:18–73:17; *see also id.* 38:5–12; .

55. At the December 12, 2018 hearing regarding the PMQ Deposition, Mr. Kiesel acknowledged for the first time to the Court that Special Counsel had represented Mr. Jones, but did not identify who that Special Counsel was and the time period for that representation. "I will represent that Special Counsel did have a relationship with Mr. Jones that was not adverse to the City of Los Angeles until Mr. Jones wanted to pursue an action against the City and that was the end of the

relationship." *See* Dec. 12, 2018 Hr'g Tr., attached hereto as Exhibit 12, at 42:19-24. Even though Mr. Kiesel stated at the hearing that a conflict eventually arose from the dual representation, Mr. Kiesel did not inform the Court that the conflict was never disclosed to Mr. Jones.

Benefits to the City and its Counsel from the Settlement of the *Jones v. LADWP* Complaint

56. The City did not defend itself by claiming that Jones had failed to exhaust his administrative remedies. *Compare with* April 30, 2015, Joint Statement in *Fontaine v. City of Los Angeles*, No. BC571664 (Los Angeles Superior Court filed Feb. 5, 2015), in which LADWP says "[Fontaine's] failure to pursue her administrative remedy (and failure to allege otherwise) is fatal to her claims and to the class allegations" because "the Complaint is devoid of any factual allegation to the contrary." *Id.* at 2-3.

57. The *Jones v. LADWP* Complaint sought a refund of 100% of all overcharges incurred by LADWP customers. Ex. 3 (Clark Dep.) at 56:21-25. Mr. Clark acknowledged at this deposition that the City could have refunded the all customers with overcharges without being sued. *Id.* at 53:17-55:11.

58. Mr. Clark acknowledged at his deposition that one goal of the *Jones v. LADWP* case was to obtain a release broad enough to cover the claims of the *Bransford*, *Fontaine*, and *Kimhi* plaintiffs. Ex. 3 (Clark Dep.) at 56:11-57:9.

59. The City added to the settlement a $20 million commitment to remediation measures, even though the original Complaint contained no such requested relief. *See Jones v. City of Los Angeles*, No. BC577267 (filed Apr. 1, 2015) Complaint; *see also* May 5, 2017 Decl. of Jack Landskroner in Support of Plaintiff's Motion for Final Approval ("May 2017 Landskroner Dec."), attached hereto as Ex. 13, at ¶ 41.

60. Mr. Clark testified that the City committed itself to certain performance metrics as part of the remediation component of the settlement despite the *Jones v. LADWP* never requesting that relief. Ex. 3 (Clark Dep.) at 146:11-147:4. That relief was not part of the prayer for relief in the Jones Complaint, which only calls for "refunds for all accounts due refunds" and "appointment of an independent audit firm to assess the accuracy and/or functionality of the CC&B System." *See*

Complaint *Jones v. City of Los Angeles,* No. BC577267 (filed Apr. 1, 2015); *see also* Amended Complaint (filed Aug. 17, 2015).

61. Mr. Paradis's two-partner law firm and a limited liability company he formed during the *Jones* remediation, respectively, have received separate, no-bid contracts for project management services pursuant to the remediation component totaling over $36 million. *See* Oct. 19, 2015 Board Letter Approval Agreement No. 47361-6 for Project Management Services-Customer Information System Remediation with Paradis Law Group, PLLC, attached hereto as Exhibit 18; excerpts of June 7, 2016 Minutes of Board of Water and Power, Item No. 16, authorizing extension of Agreement No. 47361-6 (Amendment No. 1), attached hereto as Exhibit 19; excerpts of June 6, 2017 Minutes of Board of Water and Power, Item No. 22, authorizing Agreement No. 47442-7 for Project Management and Consulting Services related to the Jones Settlement and Customer Care and Billing System Remediation with Aventador Utility Solutions, LLC, attached hereto as Exhibit 20; and Mar. 29, 2017 Secretary of State Statement of Information for Aventador Utility Solutions, LLC, showing Paul O. Paradis as "OPERATING MGR," attached hereto as Exhibit 21.

62. The City in its settlement also obtained broad releases that swept aside claims from all pending lawsuits with only minor exceptions. *See* Nov. 10, 2016 Revised Class Action Settlement Agreement and Limited Release, *Jones v. City of Los Angeles*, No. BC577267 (filed Apr. 1, 2015).

Landskroner Fee Application

63. On September 11, 2015, Mr. Landskroner informed the Court at the Preliminary Approval Hearing that "The foundation of Plaintiffs' claims were based not only on an extensive investigation to the claims of the D.W.P. customers here in Los Angeles but included extensive investigation into a prior failure of the same C.C. and B. installation at the Department of Water in Cleveland, Ohio, by PricewaterhouseCoopers. It's not a coincidence that I'm from Cleveland, and I spent a considerable amount of time investigating that particular incident, which largely mirrored the problems that were faced by the Los Angeles Department of Water and Power. The information gained in this investigation was invaluable to assisting in the understanding of the C.C. and B. system defects and the wide-scale impact upon customers, not just in Cleveland, but in Los Angeles. Our

investigation included interviews with confidential witnesses, review of documents, consultation with and retention of nontestifying experts, all of which helped to provide the understanding that was necessary to recognize the functionality problems of the C.C. and B. systems, its defects, and how L.A.D.W.P. customers were harmed." Ex. 7 (Sept. 11, 2015 Hr'g Tr.) at 7:10-8:3.

64. Mr. Landskroner further stated that "[t]his settlement was unquestionably reached through arm's length negotiations." Ex. 7 (Sept. 11, 2015 Hr'g Tr.) at 16:20-21.

65. Attached hereto as Exhibit 13 is a true and correct copy of excerpts of the May 5, 2017 Declaration of Jack Landskroner in Support of Plaintiff's Motion for Final Approval ("May Landskroner Decl."), which in turn attaches as Landskroner Exhibit 2 a Second Declaration of Jack Landskroner in Support of Plaintiff's Application for an Award of Attorneys' Fees, Costs and Service Awards ("Second Decl."), which in turn attaches Landskroner Exhibits A–C ("Landskroner Time"). Exhibit 13 also attaches as Landskroner Exhibit 3 the Declaration of Michael J. Libman in Support of Law Offices of Michael J. Libman's Application for an Award of Attorneys' Fees, Costs and Service Awards ("Libman Decl."), which in turn attaches Libman Exhibits A–C ("Libman Time").

66. The May 2015 Landskroner Declaration states that "The Settlement provides that Class Counsel may make an application to the Court an award of attorneys' fees in an amount *not to exceed* $19,000,000 at the time of Final Approval, from which all Court-approved plaintiffs' attorneys' fees applications shall be paid." Ex. 13 (May 5, 2017 Landskroner Decl.) at ¶ 93 (emphasis added). Landskroner Time Exhibit B of the Second Declaration consists of "monthly time reports of the work performed and the lodestar incurred by each attorney and professional staff who performed services in this litigation for LGM." *Id.* at Exhibit 2 ¶ 7.

67. Mr. Landskroner submitted to the Court that he billed the following amounts: 48.50 hours in November 2014; 30.00 hours in December 2014; 121.50 hours in January 2015; and 155.75 hours in February 2015. Ex. 13 (May 2017 Landskroner Decl.) at Ex. 2. In total, giving effect to the approved multiplier, Mr. Landskroner billed more than $500,000 for 355.75 hours he personally worked **before** he was introduced to his client Mr. Jones on March 26, 2015. *Id.* at Exhibit 2 at Exhibit B.

68. Mr. Landskroner further submitted that his firm, Landskroner Grieco Merriman LLC, for the work of its other attorneys and paralegals, combined billed the following amounts: 153.00 hours in November 2014; 115.75 hours in December 2014; 161.25 hours in January 2015; 164.25 hours in February 2015. Ex. 13 (May 2017 Landskroner Decl.) at Ex. 2. In total, Mr. Landskroner claimed the rest of his firm worked 594.25 hours before Mr. Landskroner was introduced to Mr. Jones on March 26, 2015.

69. Mr. Landskroner also submitted to the Court that Mr. Libman, his local counsel, should be awarded fees for billing the following amounts: 31.75 hours in November 2013; 25.5 hours in December 2013; 43.5 hours in January 2014; 23.25 hours in February 2014; 12 hours in March 2014; 23.5 hours in April 2014; 19.25 hours in May 2014; 11.75 hours in June 2014; 9.5 hours in July 2014; 17 hours in August 2014; 22.75 hours in September 2014; 26.25 hours in October 2014; 21.5 hours in November, 2014; 23.5 hours in December, 2014; 13.75 hours in January 2015; and 18 hours in February 2015. In total, Mr. Libman as Liaison Counsel for the Jones Class Action billed 342.75 hours before Class Counsel Mr. Landskroner was introduced to Mr. Jones on March 26, 2015. Ex. 13 (May 2017 Landskroner Decl.) at Exhibit 3 at Exhibit B.

LADWP Seeks Jones Settlement Damages From PwC

70. LADWP issued a press release on August 17, 2015 announcing the settlement with *Jones* and that LADWP is "continuing [its] legal action to seek recovery of all costs associated with the proposed settlement as part of an ongoing litigation against Pricewaterhouse Coopers [sic]." August 17, 2015 LADWP Press Release titled "Statement by LADWP General Manager Marcie Edwards Regarding Settlement of Customer Billing Class Action Litigation", attached hereto as Exhibit 14.

71. Around the same time, LADWP also announced that "The City and LADWP continue to pursue claims against Pricewaterhouse Coopers [sic] (PWC) to recover damages, including costs associated with the class action settlement and system remediation, attorney's fees, and related claims . . ." *See* August 2015 LADWP Announcement titled "Customer Information and Billing System Class Action Litigation Settlement and Summary" at 1, attached hereto as Exhibit 15.

72. Mr. Landskroner issued a similar press release on the same day. "Under terms of the settlement, LADWP addresses the errors created by the PwC billing system." *See* press release titled "Landskroner Grieco Merriman, LLC, Settles Overbilling Class Action Lawsuit on Behalf of 1.6 Million LADWP Customers" dated August 17, 2015, attached hereto as Exhibit 16. As to the *LADWP v. PwC* case, Landskroner noted, "[i]n March, Los Angeles City Attorney Mike Feuer filed a lawsuit against PwC . . . [i]f successful, all of the costs incurred by LADWP in settling this case could be recovered from PwC." *Id.*

Obstruction of Discovery by LADWP

73. In preparation for his PMQ deposition, Mr. Clark conducted an investigation to familiarize himself with relevant facts. Ex. 3 (Clark Dep.) at 24:22-25:11. He spoke with Mr. Wright, Mr. Tom, Ms. Dorny, Mr. Solomon, "all lawyers with the City Attorney's office at DWP", Ms. Annaguey, Mr. Paradis, Ms. Tufaro, Mr. Kiesel, and Mr. Peters. *Id.*

74. Mr. Clark took four to five pages of notes during the course of his investigation. Ex. 3 (Clark Dep.) at 36:5-23.

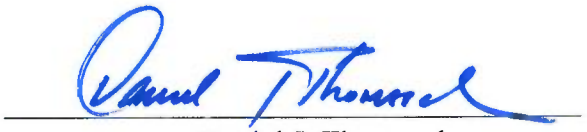
75. Of his own accord, approximately five days before his scheduled deposition, Mr. Clark discarded the notes he made. Ex. 3 (Clark Dep.) at 36:5-14. There are no other copies of those notes. *Id.* at 36:5-14.

76. During the February 13, 2019 hearing during the Jones Deposition, the Court made clear that "the [Jones v PwC] Complaint is not subject to the attorney/client communication" privilege. A true and correct copy of that the transcript of that hearing is attached hereto as Exhibit 21; *see* Ex. 21 at 17:11-12.

77. At the Jones Deposition, Mr. Jones's counsel instructed him not to answer questions concerning the identity of the person or person(s) paying his legal fees in the *Jones* matter on the basis of attorney-client privilege. Ex. 2 (Jones Dep.) at 169:23-171:9.

78. Through counsel, Mr. Jones objected to providing retention agreements and to answering questions about that category of documents. Ex. 2 (Jones Dep.) at 169:23-171:9.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is being executed on March 1, 2019.



Daniel J. Thomasch

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SPRING STREET COURTHOUSE

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP, PAUL BUTLER, JAMES M. CURTIN, PHILLIP P. DANIELE, DAVID GARCIA, TREVOR LAROCQUE, RAYMOND M. TULLOCH and NASIR KHAN,

Defendants.

PRICEWATERHOUSECOOPERS LLP,

Cross-Complainant,

v.

NASIR KHAN,

Cross-Defendant.

CASE NO. BC574690

APPENDIX OF EXHIBITS TO THE DECLARATION OF DANIEL J. THOMASCH IN SUPPORT OF DEFENDANT PWC'S SUBMISSION REGARDING PRIVILEGE ISSUES

VOLUME 1 OF 2

ASSIGNED FOR ALL PURPOSES TO:
HON. ELIHU M. BERLE

HEARING:
Date: March 4, 2019
Time: 9:00 a.m.
Dept: 6

Action Filed: March 6, 2015
Trial Date: January 6, 2020

APPENDIX OF EXHIBITS

Exhibit No.	Description
1	Sept. 13, 2018 Deposition Transcript of Thomas Peters
2	Feb. 13, 2019 Deposition Transcript of Antwon Jones
3	Feb. 26, 2019 Deposition Transcript of James Clark
4	May 5, 2017 Decl. of Antwon Jones ISO Plaintiff's Motion for Final Approval and Application for an Award of Attorneys' Fees, Costs and Service Awards
5	Feb. 12, 2019 Letter from Jeffrey Isaacs to Daniel Thomasch
6	Apr. 21, 2015 Engagement and Contingency Fee Agreement between City of Los Angeles, acting on behalf of LADWP, and Kiesel Law LLP (Agreement No 47334-5) and Paradis Law Group, PLLC (Agreement No. 47335-5)
7	Sept. 11, 2015 Hr'g Tr. in *Bransford v. City of Los Angeles*, No. BC565618
8	Feb. 12, 2019 Letter from Paul Paradis to Daniel Thomasch attaching caption and signature pages of Jones v. PwC Complaint.
9	Excerpts of Feb. 7, 2017 Decl. of Jack Landskroner ISO Joint Opposition to *Bransford* and *Fontaine* Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness
10	Excerpts of Feb. 7, 2017 Decl. of Maribeth Annaguey ISO Joint Opposition to *Bransford* and *Fontaine* Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness
11	Dec. 4, 2017 Hr'g Tr.
12	Dec. 12, 2018 Hr'g Tr.
13	Excerpts of May 5, 2017 Decl. of Jack Landskroner ISO Plaintiff's Motion for Final Approval
14	Aug. 17, 2015 "Statement by LADWP General Manager Marcie Edwards Regarding Settlement of Customer Billing Class Action Litigation"
15	Aug. 2015 "Customer Information and Billing System Class Action Litigation Settlement Summary"
16	Aug. 17, 2015 "Landskroner Grieco Merriman, LLC, Settles Overbilling Class Action Lawsuit on Behalf of 1.6 Million LADWP Customers."

Exhibit No.	Description
17	Nov. 3, 2015 Hr'g Tr. *Jones v. City of Los Angeles*, No. BC577267
18	Oct. 19, 2015 Board Letter Approval Agreement No. 47361-6 for Project Management Services-Customer Information System Remediation with Paradis Law Group, PLLC
19	Excerpts of June 7, 2016 Minutes of Regular Meeting of the Board of Water and Power Commissioners, Item No. 16
20	Excerpts of June 6, 2017 Minutes of Regular Meeting of the Board of Water and Power Commissioners, Item No. 22
21	Mar. 29, 2017 Secretary of State Statement of Information re Aventador Utility Solutions, LLC
22	Feb. 13, 2019 Hr'g Tr.

Exhibit 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

vs.

PRICE WATERHOUSE COOPERS, LLP, PAUL BUTLER, JAMES M. CURTIN, PHILLIP P. DANIELE, DAVID GARCIA, TREVOR LAROCQUE, RAYMOND M. TULLOCH and NASIR KHAN,

Defendants.

AND RELATED CROSS-ACTION

Case No. BC574690

Pages 1 to 102

Volume I

DEPOSITION OF THOMAS PETERS

TAKEN ON

THURSDAY, SEPTEMBER 13, 2018

Reported by: PHILIP D. NORRIS

CSR NO. 4980

Deposition of Thomas Peters, taken on behalf of Defendant PricewaterhouseCoopers, et al., at 333 South Grand Avenue, Los Angeles, California, on Thursday, September 13, 2018, at 10:07 a.m., before Philip D. Norris, CSR No. 4980, pursuant to Notice.

APPEARANCES:

FOR THE PLAINTIFF:

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LUPE R. LAGUNA, ESQ.

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Los Angeles, California 90071

(213) 430-7592

ALSO PRESENT:

FRITZ SPERBERG (Videographer)

ALAN HIMMELFARB, ESQ.

I N D E X

WITNESS	EXAMINATION	PAGE
THOMAS PETERS	(By Mr. Thomasch)	6

E X H I B I T S

NO.	PAGE	DESCRIPTION
Exhibit 1	10	Defendant PricewaterhouseCoopers Notice of Deposition, etc., 16 pages
Exhibit 2	27	Declaration of Paul O. Paradis, etc., four pages
Exhibit 3	28	Declaration of Thomas H. Peters, Esq., etc., five pages
Exhibit 4	80	Spreadsheets, two pages
Exhibit 5	83	Spreadsheets, two pages
Exhibit 6	95	Declaration of Jack Landskroner, etc., 46 pages

LOS ANGELES, CALIFORNIA; THURS., SEPTEMBER 13, 2018

10:07 A.M.

THE VIDEOGRAPHER: Good morning. This marks the beginning of Volume I in the recorded deposition of the City of Los Angeles, by the person most qualified, Thomas Peters, in the matter entitled "The City of Los Angeles Department of Water and Power Versus PricewaterhouseCoopers," filed in the Superior Court of the State of California, for the County of Los Angeles. This is Case No. BC574690.

Today's date is September 13th, 2018, and the time is now 10:07 a.m. The videographer today is Fritz Sperberg of Epiq Legal Solutions at 20750 Ventura Boulevard, Woodland Hills, California. This video deposition is taking place at 333 South Grand Avenue in Los Angeles, and was noticed by Daniel Thomasch of Gibson Dunn & Crutcher.

Counsel, please identify yourselves and state whom you represent.

MR. THOMASCH: Daniel Thomasch, Gibson Dunn & Crutcher, representing PricewaterhouseCoopers.

MR. SANTIAGO: James Santiago, Gibson Dunn

& Crutcher, representing PricewaterhouseCoopers.

MS. CARTER: Maggie Carter of O'Melveny & Myers representing Trevor Larocque.

MR. LAGUNA: Lupe Laguna with O'Melveny & Myers representing Trevor Larocque.

MR. HIMMELFARB: Alan Himmelfarb representing Daniel Morski and the Macias plaintiffs.

MS. TUFARO: Gina Tufaro from Paradis Law Group on behalf of plaintiff.

MR. PARADIS: Paul Paradis, Paradis Law Group, on behalf of the City of Los Angeles.

THE VIDEOGRAPHER: The court reporter today is Philip Norris of Epiq.

Would the reporter please swear in the witness.

THOMAS PETERS,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. THOMASCH:

Q. Good morning, Mr. Peters.

A. Good morning, Mr. Thomasch.
Q. As mentioned, my name is Dan Thomasch. I represent PricewaterhouseCoopers in this case. I understand you're an attorney admitted to practice in California; is that correct?
A. Yes.
Q. By whom are you employed by?
A. I'm employed by the City of Los Angeles.
Q. And your position?
A. I'm the chief of the civil litigation branch.
Q. What is your office address?
A. 200 North Main, Los Angeles 90012.
Q. And your email address?
A. I should add Suite 700.
My email address, thom.peters@lacity.org.
Q. When did you join the City Attorney's office?
A. February of 2014.
Q. And prior to that, where did you work?
A. How far back would you like me to go?
Q. Quickly from law school.
A. Reverse chronological?
Q. Yes, that would be great.
A. Before I was at the City I was a partner in

the law firm of Kiesel Boucher & Larson, which evolved to become Kiesel Law, from 2011 until my departure for the City.

Before that I was with a firm as a partner named Ringler, R-i-n-g-l-e-r, Kearney, K-e-a-r-n-e-y, & Alvarez, A-l-v-a-r-e-z, from 2006, I believe, to 2011.

Prior to that, I was with the Robins Kaplan firm from 2004 until 2006.

Prior to that, I was with Larry Feldman's firm, which was Fogel Feldman Ostrov, O-s-t-r-o-v, Ringler & Klevens, K-l-e-v-e-n-s, from 1994 till 2004. And I graduated in 1992 and spent my first two years of practice at a firm called Breidenbach, B-r-i-e-d-e-n-b-a-c-h (sic), Swainston, S-w-a-i-n-s-t-o-n, Crispo, C-r-i-s-p-o, & Way, W-a-y. That was '92 to '94.

Q. And '92 was your year of graduation from Duke Law School?

A. It was yes, sir.

Q. At the City Attorney's office have you always been in the same position?

A. Yes, I have.

Q. Have you ever been deposed before?

A. I have.

Q. You have?
A. Yes, sir.
Q. Have you been deposed as a person most qualified?
A. I have not.
Q. Have you ever taken a PMQ deposition?
A. Many.
Q. So I'm going to assume that you understand the lay of the land and -- and have no need for instruction other than I'll let you know that if you need a break, you let me know, and we'll try to take a break probably. Okay?
A. All of that's fair.
Q. All right. When were you asked to serve as LADWP's PMQ witness?
A. I couldn't give you a date, but it's been within the last couple of months.
Q. Can you be more specific than that?
A. You know, I'd really be guessing, but it was sometime in this calendar year to be sure.
Q. Who asked you to serve as LADWP's PMQ witness?
A. I don't know that anybody asked me to serve. I think the inquiry was whether I would qualify as such, and that conversation would have

been with Mr. Paradis. And perhaps Sid Dowdis (phonetic). I told him there was more nobody more qualified on the topics under discussion than I.

Q. All right. Let me mark the deposition notice. Ask the reporter to mark as Exhibit 1 a deposition notice of the City of Los Angeles Most Qualified to Testify Regarding the Jones v PwC Complaint, the notice bearing the date of April 13, 2018.

(The document referred to was marked by the reporter as Exhibit 1 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Showing you what's been marked as Exhibit 1. You see that the deposition was originally noticed for May 3rd, 2018 on the first page?

A. That's what I'm reading, yes, sir.

Q. Does that help you recall whether you were first asked or discussed serving as a witness prior to or after May 3rd of 2018?

A. Yes. It caverns it in the -- in the spring at some point, yes.

Q. So sometime before this date?

A. "This date" being May 3rd?

Q. Yes.

A. Yes, it was.
Q. And you understand that the deposition didn't go forward on that date because of L.A.'s refusal to produce a witness?
A. I can't or don't know why it didn't go that day.
Q. Do you know that there was motion practice over whether this deposition would go forward?
A. Yes, sir.
Q. And you understand that after it was ordered that the deposition go forward there was an agreement to have this deposition on August 30? Were you aware of that?
A. Forgive me, I don't remember the dates. I don't -- I do know it's been moved around. The dates and times have been adjusted at least once and maybe more than once.
Q. At the request of plaintiff's counsel; correct?
A. May well have been. I wasn't party to those negotiations.
Q. All right. I'll ask you to turn to page A-9, towards the back of the document. Do you see the section entitled "Requests For Production" that spans pages -- that is on page A-9?

A. I do.
Q. Did you review the document request in advance of today's deposition?
A. I have seen this document in its entirety at some point the spring or the summer. I have sat -- I didn't review it specifically in anticipation of appearing here today, if that's the question.
Q. Okay. Just look down to Request For Production 5 for the moment. There's reference in that request to the Jones v PwC draft Complaint. Do you know what that document is?
A. In general terms, yes, sir, I do.
Q. Do you have that document available to you today to refer to if need be?
A. I do not.
Q. Let's look at Request No. 1:
"A copy of the caption, signature and service pages of the Jones v PwC draft Complaint."
Do you see that?
A. I do see that.
Q. Did you bring that with you today?
A. I did not.
Q. Why not?

A. Well, as I understand it, sir, entire document's been superseded by an order of Judge Berle, which I have reviewed.

Q. So you didn't think that this document had any effect?

A. It's been superseded by an order. What effect it has is --

Q. Who informed you of that?

A. Well, I've read the order.

Q. And the order says that it supersedes this?

A. The order sup -- my position is that the order does supersede it. I believe that's the court's position as well. It sets the limits of the inquiry today.

Q. Are you aware that after this deposition was first ordered counsel for the plaintiffs took the position that it was not necessary to go forward because of information that had been provided that fully satisfied the court's order?

MR. PARADIS: Objection to form.

With respect to the question, I'd instruct you that if you learned any information through discussions with your counsel, you cannot disclose that information, but if you have independent knowledge, then you must answer the question.

THE WITNESS: And that is my problem. I think that I cannot respond to that, sir, without violating the attorney/client privilege.

BY MR. THOMASCH:

Q. Do you have access to, at your office or otherwise, not -- not as you sit here today, but do you have access to a copy of the caption, signature and service page of the Jones v PwC draft Complaint?

A. I would, yes.

Q. Request No. 2:

"All written agreements or understandings between LADWP and Antwon Jones and/or Jones' counsel prior to April 1, 2005."

Do you see that?

A. I do.

Q. Do you recognize April 1, 2005 (sic) as the date reflected on the privilege log for the entry of the Jones v LA -- Jones v P -- I'm sorry, April 1, 2005 (sic) as the date of the Jones v LADWP Complaint?

A. No, that's not the date of it.

Q. What is the date of the Jones v LADWP Complaint?

A. I believe it's April 2015, not 2005.

Q. All right. Let me start over again. I've

clearly misspoken. Request For Production No. 2 is:

"All written agreements or understandings between LADWP and Antwon Jones and/or Jones' counsel prior to April 1, 2015."

Do you see that?

A. Yes, I do see that.

Q. And do you recognize April 1, 2015 as the date of the Jones v LADWP Complaint?

A. I -- I do not independently recall April 1 as the time that -- that Mr. Jones' class action was filed. It may well have been. It is my recollection at some time in the year 2015, if memory serves, Mr. Jones filed a class action Complaint against the City of Los Angeles, a punitive class action Complaint.

Q. Did you bring any documents with you responsive to Request For Production No. 2?

A. No, sir, I did not.

Q. Do you know whether the City possesses any documents responsive to Request No. 2?

MR. PARADIS: Objection to form. Same instruction, same objection.

THE WITNESS: I don't know how I could respond to that without violating the attorney/client privilege, sir.

BY MR. THOMASCH:

Q. I'm not asking you anything about advice you received from anyone. I'm asking you whether you are aware of whether or not the City possesses written agreements or understandings between it and Antwon Jones or Mr. Jones' counsel that are dated prior to April 1, 2015.

MR. PARADIS: Same objection. If he obtained any information through discussions with counsel, that would be privileged.

MR. THOMASCH: Not in a person most qualified deposition, Counsel.

MR. PARADIS: Okay. That's our position.

MR. THOMASCH: All right. Let's just be clear that you're taking a position that the person most qualified to testify about information can't testify about information because the person most qualified doesn't know the information except through counsel and that makes it privileged. That is a completely illegal -- completely wrong position, and it leads us back to yet a third hearing on this very subject in front of the judge.

MR. PARADIS: Dan, if we -- you want to testify, we'll swear you in. Ask your next question.

BY MR. THOMASCH:

Q. So am I correct, sir, that you have no personal knowledge, without regard to source, that you yourself don't know whether or not there are any written agreements or understandings between LADWP and Antwon Jones or Jones' counsel prior to April 1, 2015?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I will follow the advice given by counsel.

BY MR. THOMASCH:

Q. You're declining to answer?

A. I don't know how I can without disclosing information I learned through the attorney/client privilege.

Q. Did you yourself do any investigation to determine whether or not the City possessed any written agreements or understandings between it and Antwon Jones and/or Mr. Jones' counsel prior to April 1, 2015?

A. I did no investigation to do that.

Q. And apart from anything you may have learned from counsel, you have no knowledge of that, that fact, either way, whether there are or not

agreements?

A. That is true.

Q. Request For Production No. 3 reads:

"All documents transmitted prior to April 1, 2015 to LADWP (including, but not limited to, Richard Brown, Deborah Dorny, Eskel Solomon or Richard Tom) Paradis Law Group, Kiesel Law, Liner, LLP, or the Los Angeles City Attorney's office, by Antwon Jones, Jones' counsel, or otherwise on behalf of Antwon Jones individually and/or the Jones putative class, including, but not limited to, any communications sent to Eskel Solomon that were later forwarded within LADWP or among its counsel."

Do you see that?

A. I do see that.

Q. Did you bring with you any documents responsive to Request For Production No. 3?

A. Brought nothing in response to this request for production.

Q. Did you do any investigation to determine whether LADWP possesses any documents that would be responsive to Request For Production No. 3?

A. I did not.

Q. Do you know whether LADWP possesses any documents responsive to Request For Production No. 3?

MR. PARADIS: Same objections, same instruction.

THE WITNESS: Anything I would have known about this would have been learned within the context of the attorney/client relationship, so with respect, I decline to answer.

BY MR. THOMASCH:

Q. Request For Production No. 4:

"All documents transmitted prior to April 1, 2015 to Antwon Jones or Jones' counsel by or on behalf of LADWP (including, but not limited to, Richard Brown, Deborah Dorny, Eskel Solomon or Richard Tom) Paradis Law Group, Kiesel Law, Liner, LLP, or the Los Angeles City Attorney's office."

Do you see that request, sir?

A. Yes, sir.

Q. Did you bring any documents in response to Request No. 4?

A. No, sir.

Q. Did you make any investigation as to whether LADWP or the City of Los Angeles possesses

any documents responsive to Request For Production No. 4?

MR. PARADIS: Objection to form. You mean personally?

MR. THOMASCH: As the person most qualified, did he perform any investigation to determine whether or not responsive documents exist.

MR. PARADIS: Same objection, same instruction.

THE WITNESS: No, sir.

BY MR. THOMASCH:

Q. You did no investigation?

A. No, sir.

Q. Do you happen to know whether the City possesses any documents responsive to Request For Production No. 4?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: Any information I would have on this topic, sir, would have been obtained within the context of the attorney/client privileged communications that I've had with counsel. Again, with respect, I can't answer your question.

BY MR. THOMASCH:

Q. Request For Production No. 5:

"Documents sufficient to identify all LADWP customers 'who had been complaining to the Department' and 'had been in touch with the Department' prior to the preparation of the Jones v PwC draft Complaint (see Transcript of Proceedings, December 4, 2017, at page 20)."

Do you see that?

A. Yes, sir, I do.

Q. Did you bring with you any documents today that are responsive to Request For Production No. 5?

A. I did not bring anything with me today.

Q. Did you do any investigation to determine whether the City possesses any documents responsive to Request No. 5?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I did not.

BY MR. THOMASCH:

Q. Notwithstanding your lack of investigation, do you happen to have knowledge as to whether or not the City possesses documents responsive to Request No. 5?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm sorry, sir, your question

is?
BY MR. THOMASCH:
Q. Do you happen to know -- withdrawn.
Do you know whether the City possesses documents responsive to Request No. 5?
MR. PARADIS: Objection.
If you know independent of discussions with counsel, then you can answer the question.
THE WITNESS: That's just it, I -- if I may. The answer's yes. You'd like me to elaborate, I'm happy to do so.
BY MR. THOMASCH:
Q. Please do.
A. So there had been a number of complaints that made their way even into the L.A. Times that occurred after the roll out of the DWP customer care and billing system. I have read some of those complaints.
Q. Okay. This asks for documents that would identify those customers who had complained to the Department prior to the time when the Jones v PwC draft Complaint was prepared.
A. Any document that would identify "all" such customers who had complained would be protected by the work-product privilege, would be my position.

Q. Do they exist?
A. I believe that such a document may exist. But I can't tell you it literally encompasses "all."
Q. Request For Production No. 6 reads:
"Documents sufficient to identify all LADWP customers who, prior to April 1, 2015, had 'voiced their outrage over electricity and water bills' as identified on pages 12-23 of the April 1, 2015 Jones Class Action Complaint and pages 14-24 of the August 17 Amended Jones Class Action Complaint."
Do you see that, sir?
A. I do see that.
Q. Did you bring with you any documents responsive to Request For Production No. 6?
A. No, sir.
Q. Did you do any investigation to determine whether the City possesses any documents responsive to Request No. 6?
MR. PARADIS: Same objection, same instruction.
MR. THOMASCH: No, I'm asking him whether he gave -- whether he performed an instruction (sic). That is not something that can possibly be privileged. Did he perform an investigation or did

he not perform an investigation?

MR. PARADIS: And the investigation may have included discussions with counsel, so it --

MR. THOMASCH: It doesn't matter.

MR. PARADIS: Dan, I really could care less what you think. Okay? Ask your question, oppose my objection.

MR. THOMASCH: That's fine. My question --

MR. PARADIS: It's going to be a long day if you don't do it that way, or a short day.

MR. THOMASCH: It will be all your choice, sir.

MR. PARADIS: No problem.

BY MR. THOMASCH:

Q. My question to you is: Did you, as the individual identified by the City of Los Angeles as the person most qualified, perform any investigation to determine whether the City possesses documents relevant and responsive to Request For Production No. 6?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: No.

BY MR. THOMASCH:

Q. "No," you did not perform an investigation?

A. No.
Q. Is that correct?
MR. PARADIS: Asked and answered twice now.
THE WITNESS: I'm sorry.
BY MR. THOMASCH:
Q. Did you say "no," you did not perform an investigation?
A. Yes, comma, I said, "No."
THE REPORTER: If you could keep your voice up, Mr. Peters.
BY MR. THOMASCH:
Q. Did you ask anyone else to look for any of the documents requested in Requests No. 1 through 6?
MR. PARADIS: Same objection, same instruction.
THE WITNESS: I'm going to say no.
BY MR. THOMASCH:
Q. In order to prepare for today's deposition, did you review the draft Jones v PwC Complaint?
A. No.
Q. Have you ever reviewed it?
A. Yes.
Q. When did you last do so?
A. It would have been within maybe months, but more likely weeks, of its creation.

Q. Which was in early 2015; correct?
A. That sounds right. If it was late 2014, I couldn't quarrel with that. But in that era.
Q. So you haven't reviewed the draft Jones v PwC Complaint in more than three years; is that correct?
A. That's fair.
Q. Have you reviewed any or all of the privilege log entries regarding the draft Jones v PwC Complaint?
A. No.
Q. Have you ever seen those privilege log entries?
A. No.
Q. Did you review briefing on the November 3, 2017 motion to compel?
MR. PARADIS: Objection, form.
To the extent that would cause you to disclose attorney/client privilege communications, I direct you not to do so. If you can answer otherwise, then go ahead.
BY MR. THOMASCH:
Q. And I'm just asking, to be clear, whether you reviewed a document that was publicly filed in the court system.

A. I'm not remembering doing that.
Q. Have you reviewed the Declaration of Paul Paradis, dated November 15, 2017?
A. No, I have not.
Q. I'll ask the reporter to mark as Exhibit 2 of this date the Declaration of Paul O. Paradis in Support of Plaintiff's Opposition to Defendant's Second Motion to Compel, dated November 15, 2017.
(The document referred to was marked by the reporter as Exhibit 2 for identification and is attached hereto.)
MR. PARADIS: Thank you.
BY MR. THOMASCH:
Q. Show you what's been marked as Exhibit 2 of this date, and just ask you to flip through it. It's 12 paragraphs long. I don't need you to read it closely at the moment, but I would like to see if it refreshes your recollection as to whether you have ever reviewed this declaration in the past.
A. Okay.
Q. Do you recall whether you have reviewed this previously?
A. I've not. I've not seen this before.
Q. Do you see up in the upper right-hand corner, to the right of Mr. Feuer's name, the

notation "No fee - Government Code"?

A. I do.

Q. What's that?

A. There is a statutory provision in California law that exempts public entities from having to pay filing fees.

Q. And so is that a -- put on all documents that come out of your office?

A. Yes, sir. It's for the convenience of the clerk so that they don't scratch their head and say, Can I have my $50 from the City? If I don't get it, I won't file it. So there may even be -- forgive me, I don't remember -- there may even be a local rule on the topic, but that's just standard practice in the office.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 3 of this date a Declaration of Thomas H. Peters, Esq., in Support of Plaintiff's Motion to Quash PricewaterhouseCoopers, LLP's Notice of Deposition of Person Most Qualified to Testify Regarding the Jones v PwC Complaint, executed on April 26, 2018.

(The document referred to was marked by the reporter as Exhibit 3 for identification and is attached hereto.)

MR. THOMASCH: Hold on a second.

Thank you.

MR. PARADIS: Thank you.

BY MR. THOMASCH:

Q. Please take a moment to look at Exhibit 3 of this date, and let me know whether you recognize this document.

A. I do recognize the document.

Q. What is it?

A. This is a declaration that I crafted with the assistance of counsel and executed in April of this year.

Q. What did you understand the purpose of this declaration to be?

A. Well, the title, I will just regurgitate to you, was in support of plaintiff's motion to quash the Notice of Deposition that brings me here today.

Q. Do you know what happened to that motion?

A. I have an understanding, having read the court's order caverning the scope of inquiry today, that the deposition was ordered to occur subject to the limitations the court articulated, and hence I am here.

Q. Did you review this in preparation for your deposition today?

A. Yes.
Q. Did you read a transcript of the December 4, 2017 hearing in which the court first indicated that PwC had a right to take this deposition?
A. If such a transcript exists, I -- I don't know, but I didn't review it if it does exist.
Q. You didn't review it?
A. Correct.
Q. Did you read the January 11, 2018 order compelling plaintiff to produce documents improperly held as privileged?
A. I'm unaware of such an order.
Q. Did you read a transcript of the June 21, 2018 hearing on PwC's motion for compliance?
A. No, sir.
Q. Other than the Declaration of Thomas Peters dated April 26, 2018, did you review any other documents in preparation for this deposition as the City of Los Angeles' person most qualified?
A. I read the court's order that we've talked about a little bit already, and I'm not recalling reviewing anything else in anticipation of answering your questions here.
Q. Well, what date was the court's order?
A. I'm looking at the order and it has an E

service date of January 17, 2018.

Q. Did you speak with lawyers representing the City of Los Angeles in this action in preparation for today's deposition?

A. I was prepared, yes, by counsel.

Q. Who?

A. Mr. Paradis and Ms. Tufaro and Mr. Kiesel.

Q. When did that preparation occur?

A. Yesterday we spoke.

Q. For how long?

A. Less than two hours.

Q. Have you spoken with anyone else, other than counsel or members of your family, with respect to the fact that you would be deposed in this matter?

A. In terms of substance, sir? I mean, my secretary knows I'm here, and I think Mike knows I'm here, and the chief of staff knows I'm here. But substantively I don't believe so.

Q. Anyone other than individuals in your office?

A. No, sir.

Q. Have you ever spoken with Mr. Antwon Jones?

A. I never have.

Q. Have you ever spoken with

Mr. Jack Landskroner?

A. I have.

Q. When was the last time you spoke with Mr. Landskroner?

A. That borders into the realm of guessing. I can tell you circumstances which would allow us if we had to unravel.

Q. Sure.

A. I -- I have been present during mediations involving the resolution of a number of class actions related to the custom and care of the billing system that have been brought by Mr. Jones as a class rep and others against the City of Los Angeles. In the context of those mediations with retired federal district judge Tevrizian I have met and spoken with Mr. Landskroner on a couple of occasions, I think.

Q. Any since you were noticed for this deposition or the City was noticed for this deposition?

A. No.

Q. Let's go to the deposition -- earlier deposition notice, marked as Exhibit 1, to the first page. The second paragraph there's an indication of the matters on which the deponent will be examined.

Do you see that?

A. Can you give me the line number, counsel?

Q. Yes. Line 12 to 13.

A. I do see that.

Q. All right. And then what follows that introductory language over the next pages, next two pages, are six -- I'm sorry, seven topics.

Do you see that?

A. Yes, sir, I do.

Q. The first matter on which the deponent will be examined, in line 17 to 19, reads, quote:

"A description of the pleading entitled 'Jones v PwC - initial Complaint - final.doc,' dated January 24, 2015, as identified in row No. 71 of Plaintiff's Revised Privilege Log, served September 29, 2017 (the Jones v PwC draft Complaint)."

Do you see that?

A. Yes, sir.

Q. What, if anything, did you do to prepare for this deposition in order to allow you to respond on behalf of plaintiff in regard to this topic?

A. Again, Counsel, I have been prepared to respond to your questions on the topics articulated in the order we discussed. I can tell you there's

nobody more qualified than I to discuss those matters, if that is part of your question.

Q. I'm asking you -- my question is limited to: What did you do to prepare yourself, if anything, to answer this question?

A. I did nothing to prepare myself in -- beyond the preparation I brought naturally to this undertaking.

Q. And you did not review the document itself?

A. No, sir, I did not.

Q. Does the document have a cover page that includes a caption?

MR. PARADIS: Objection to form.

Any information you learned through discussions with counsel you cannot disclose. If you have independent knowledge, you can disclose it.

THE WITNESS: It occurs to me, in answer to your previous question, that I have reviewed that document, but not in anticipation. I think I'd said earlier in the deposition I have read the Jones' draft Complaint that I directed be prepared, but not recently.

BY MR. THOMASCH:

Q. Does the Jones draft Complaint contain a cover page that includes a caption?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: Remembering what I saw, I believe it did, from long ago.

BY MR. THOMASCH:

Q. Are there one or more than one plaintiffs identified in the caption?

MR. PARADIS: Same objection, same instruction. It's way outside the bounds, sir.

THE WITNESS: Based on my memory, one and only one.

BY MR. THOMASCH:

Q. Is that one Mr. Antwon Jones?

A. I believe so, but I'm not certain.

Q. Does the draft Complaint indicate that the matter is being brought as a putative class action on its face?

MR. PARADIS: Same objection, same instruction.

What you learned through discussions with counsel you cannot disclose. If you have information independent from those discussions, you can disclose it.

THE WITNESS: My independent recollection is I -- I believe so, but I don't -- I don't

actually recall specifically, but...
BY MR. THOMASCH:
Q. Is the City Attorney's office authorized to file consumer class actions?
A. No.
Q. Do you know how the consumer class was defined in the Complaint?
MR. PARADIS: Same objection, same instruction.
THE WITNESS: I do not recall.
BY MR. THOMASCH:
Q. Does the draft Complaint contain a request for injunctive relief on behalf of either an individual plaintiff or putative class of plaintiffs?
MR. PARADIS: Same instruction, same objection.
THE WITNESS: Beyond what I understand based on attorney/client communication, I don't recall.
BY MR. THOMASCH:
Q. Please identify all attorneys identified on the face of the draft Complaint or on the signature page.
MR. PARADIS: Same instruction, same

objection.

THE WITNESS: I'm not recalling.

BY MR. THOMASCH:

Q. And you didn't check?

A. I've not looked at that, as I've said, in a number of years.

Q. Do the words "No fee - Government Code" or "No fee - Government Code 6103" appear on the draft?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I don't believe so, but I don't recall.

BY MR. THOMASCH:

Q. Do you know whether there was a related case designation identified on the face of the Complaint?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I don't recall.

BY MR. THOMASCH:

Q. Who is identified on the document as counsel for plaintiffs?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I don't know if anybody was.

I'm not remembering.
BY MR. THOMASCH:
Q. You don't know either way?
A. I don't know either way.
Q. So there may be counsel for plaintiffs identified on the document, but you didn't review it and you don't recall?
A. I haven't seen it in years. It was never intended to be filed, so I don't know if those -- that level of particularity was included in it. I directed it to be created as a -- as a thought experiment.
Q. I trust that it follows that you don't know what address was listed for counsel for plaintiff, if there was counsel for plaintiff?
MR. PARADIS: Same objection, same instruction.
THE WITNESS: You're accurate.
BY MR. THOMASCH:
Q. Request -- matter on which deponent will be examined, No. 2 reads, quote:
"All circumstances surrounding the preparation of the Jones v PwC draft Complaint."
Do you see that?

A. Yes, sir.
Q. What was your personal role, if any, in connection with the preparation of the Jones draft Complaint?
A. It was my idea.
Q. And when did that idea come to you?
A. It would have -- it would have occurred to me late in 2014 probably. Might not have occurred to me till sort of the January of 2015 time period, but around the holidays of 2014 and 2015.
Q. Was there a particular trigger for that idea?
A. The trigger -- I mean, yes.
Q. What was it?
A. Trigger was my thinking whether there would be a way for ratepayers to get compensation directly from the entity that I believed was responsible for the problems that were being reported in the L.A. Times and being brought to the attention of the Department that were arising as a result of malfunctioning or nonfunctioning of the customer care and billing system.
Q. And if there was, how were you going to accomplish that?
MR. PARADIS: Objection to form.

If you were required to disclose any -- any attorney/client privilege communication, I direct you not to do so. If you can answer otherwise, please go ahead.

THE WITNESS: Well, not only attorney/client, but I think it's work product, so with respect, I can't answer your question.

BY MR. THOMASCH:

Q. Did anyone other than you authorize the preparation of the draft Complaint?

A. No.

Q. Did you actually make the instruction to someone to draft the Complaint?

A. I did.

Q. Who did you instruct?

A. Mr. Paradis.

Q. Did you instruct him that it should be in the form of a Complaint?

MR. PARADIS: Objection to form. Again, that's attorney/client privilege communication.

THE WITNESS: It is attorney/client privilege. Forgive me.

BY MR. THOMASCH:

Q. On whose computer was the document drafted?

MR. PARADIS: Same objection, same

instruction.
BY MR. THOMASCH:
Q. When was the first draft of the Jones versus PwC draft Complaint begun?
MR. PARADIS: Same objection, same instruction.
THE WITNESS: I believe there was only one draft. That was in -- in late '14, early '15. I think early '15.
BY MR. THOMASCH:
Q. When was it completed?
MR. PARADIS: Same objection, same instruction.
THE WITNESS: Actually, the same question.
BY MR. THOMASCH:
Q. I asked first when it was begun and then when it was completed.
A. I haven't told you there was only one draft. It's all -- I see your point. It was all in early '15, if memory serves me.
Q. Where's that draft now?
A. I don't know if there actually is a physical copy of it in existence, but it's -- I imagine it's stored in the City's computers.
Q. Does your computer have a copy of it?

A. I don't know. Probably.
Q. After the draft was completed, who was involved in any decision as to what to do with the document?
MR. PARADIS: Same -- same objection, same instruction.
MR. THOMASCH: Not asking for any disclosure or discussion, simply names of people who were involved.
THE WITNESS: So I think the -- with respect, I can't answer the question. I think it's work product, as well as attorney/client.
BY MR. THOMASCH:
Q. Let's look at your declaration, if you would, marked as Exhibit 3, I believe.
A. Yes, sir.
Q. Direct your attention to paragraph 14. Do you see in paragraph 14 where you indicate that the draft document was circulated to and among several senior ranking LADWP officials and City Attorneys, including Richard Brown, the then general counsel for LADWP, and Richard Tom, the assistant general counsel for LADWP?
A. Yes, sir.
Q. What other senior ranking LADWP officials

was it circulated to?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: Candidly, I'm not remembering who else it was -- literally the Complaint, the draft, was actually provided to, as I sit here today. But there were others.

BY MR. THOMASCH:

Q. It says "City Attorneys, including Richard Brown and Richard Tom." What other City Attorneys received a copy of the draft?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'll follow -- I will follow counsel's direction.

MR. THOMASCH: So, Counsel, just to be clear, your position is that Mr. Brown and Mr. Tom, you've waived the privilege as to them, but you retain the privilege as to other City Attorneys?

MR. PARADIS: No. My position is that if he has independent knowledge other -- apart from what he learned through discussions with his counsel, he has to answer your question, but if he does not, and he only learned that information through discussions with counsel, then he cannot

disclose that information.

MR. THOMASCH: I didn't ask him anything about a conversation with counsel.

Q. I asked you if you know what City Attorneys, the names of the City Attorneys.

A. I'm remembering one I know of independently.

Q. Who was that?

A. Mr. Clark, Jim Clark, chief deputy.

Q. How about Mr. Solomon?

A. I believe so. Yes.

Q. In paragraph 15 it says:

"After the draft Complaint had been circulated, the LADWP officials met with these City Attorneys, including me and outside counsel, to discuss the draft Jones v PwC Complaint."

Do you see that?

A. I do.

Q. So that's what I was asking you about before. Who was in that meeting?

A. I know Mel Levine, the president of the board.

Q. Who else? Do you recall?

A. There were others and memory is just not

serving me. It was primarily for the benefit of Mr. Levine. It is possible that Marcy Edwards, then general manager, was there. I believe she was. And I'm just not -- forgive me -- remembering who else, but it was primarily for the benefit of Mr. Levine.

Q. Does the City -- does the City possess any documents that would reflect who was at that meeting?

A. Not to my knowledge.

Q. Did you take any notes of that meeting?

A. I don't believe so.

Q. Did anyone else that you observed take notes?

A. I'm not remembering seeing anybody take any notes.

Q. Would you take a look at Mr. Paradis' declaration, marked as Exhibit 2?

A. I have it.

Q. If you'd take a look at paragraph 6, which I'll read for the record.

"At the same time the City was evaluating and planning its legal strategy as a defendant in these customer class actions, the City was also discussing and evaluating the possibility of pursuing claims against PwC, either directly

or indirectly, to recover the millions of dollars in damages incurred by the City as a result of PwC's failed billing system implementation."

Do you see that?

A. I do see that.

Q. Does that correspond with your recollection of the reasons for preparing the draft Complaint?

MR. PARADIS: Objection, form.

You can answer that question yes or no without disclosing any attorney/client privileged communication.

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. So when you answered earlier, you indicated that that -- what triggered your thoughts was that the ratepayers could get compensated directly for the problems that you thought had been caused by PwC?

A. Exactly.

Q. Did you envision a means by which the draft Complaint would cause the recovery of millions of dollars in damages incurred by the City, recovery by the City?

MR. PARADIS: Objection to form. Same

instruction, same objection.

THE WITNESS: I think we're drifting back into work product, attorney/client privilege, but I will tell you that I directed the preparation of that Complaint for purposes of forming my legal advice to the City relative to recouping or preventing the loss of damages suffered by ratepayers, yes.

Q. Do you recognize that those are two different things, recouping money by the City or having the ratepayers paid directly by a third party?

A. You can't get paid twice. You get it from one or the other. You don't get paid -- you don't get it from both. And if it ain't coming from the City, then it's coming probably from your client.

Q. Was the idea that if the --

A. I got it.

Q. -- if the ratepayers were paid first, then they wouldn't sue the City?

A. My ideas -- I feel, sir, I've gone as far as I can within the bounds of the attorney/client privilege and work-product privilege to privileges that I don't hold today and thus cannot waive.

Q. What is your understanding of, directly or

indirectly, as that's used in paragraph 6 of the Paradis declaration?

MR. PARADIS: Clearly attorney/client privilege communication.

Go ahead, though.

THE WITNESS: Yeah, to the extent I know what was in my lawyer's mind when he drafted this, that I would take the position protected by attorney/client privilege. Forgive me.

MR. THOMASCH: Let me just try it this way:

Q. In choosing to have a Complaint drafted in the name of a private party, not the City, was the intention to explore a means by which the City would recover money indirectly or was it to prevent the City from being sued by having ratepayers recover money from a third party?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: Unfortunately, I can't answer your question without running afoul of the privilege. I'm sorry.

BY MR. THOMASCH:

Q. That would be reflected by the contents of the draft Complaint; correct?

MR. PARADIS: Objection to form. Same

objection, same instruction.

THE WITNESS: The word, quote, "that" in the question, I guess I don't know the reference.

BY MR. THOMASCH:

Q. What is the -- what was the requested relief in the draft Complaint as written?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm afraid it does invade the privilege, sir.

BY MR. THOMASCH:

Q. That would be shown if the document in -- by review of the document itself; correct?

A. Reading the document would reveal what's in the document, no question about that. Will agree with that.

Q. Do you understand that the court has not made a ruling that the document is privileged?

A. The document -- I know that the court has not made a ruling the document is not privileged, and my position strongly held is that it certainly is privileged. It was at my direction for purposes of legal advice to my client.

Q. But it was a draft Complaint in the name of someone who is not your client; correct, sir?

A. True. True.
Q. Are there any circumstances that you're aware of in which the City's -- City Attorney's office may file a lawsuit on behalf of a private party?
A. No, not that I know of.
Q. If the City Attorney's office felt that the City and the recipient of City services had interest in common vis-à-vis a third party, would it be permissible for attorneys from the City Attorney's office to draft pleadings and provide that work to a private attorney to use as he or she saw fit?
MR. PARADIS: Objection to form. Same objection, same instruction.
THE WITNESS: As an academic matter I haven't explored it in detail in terms of the sharing. I'm not prepared to opine legally on -- on that today.
BY MR. THOMASCH:
Q. Have you ever been involved in a situation in which the City did work and then turned it over to a non-City Attorney for that attorney's use?
A. We have had, in the context of people cases, 17200 cases, where the City Attorney is acting on behalf of the People of the State of

California. We've had joint prosecution agreements with other law enforcement agencies, yes.

So if that answers your question.

Q. And the Jones v PwC draft Complaint was not a 17200 action, was it?

A. No.

MR. PARADIS: Objection to form. Same objection, same instruction.

THE WITNESS: He's right, actually. It's -- I'm sorry, that's covered by the attorney/client privilege, work-product privileges.

BY MR. THOMASCH:

Q. What investigation, if any, did you perform or direct others to perform to determine, quote, "The process by which LADWP identified Mr. Jones as the putative named plaintiff in the draft Complaint"?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm afraid I can't respond without violating the attorney/client privilege.

BY MR. THOMASCH:

Q. I'm asking you, sir, did you perform an investigation, not asking you for the -- the fruits of the investigation, I'm asking you: Did you

perform an investigation to determine the process by which LADWP identified Mr. Jones as the putative named plaintiff in the draft Complaint?

MR. PARADIS: Same objection, same instruction. You can answer that question yes or no.

THE WITNESS: No.

BY MR. THOMASCH:

Q. Who made the decision to identify Mr. Jones as the named plaintiff in the draft Jones versus PwC Complaint?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm afraid I can't respond to that without violating the attorney/client privilege.

BY MR. THOMASCH:

Q. What was the basis for the decision to put Mr. Jones' name in the caption?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm afraid I can't answer that without violating both the attorney/client, work-product privileges.

///

BY MR. THOMASCH:

Q. Prior to January 2015, had Mr. Jones ever complained to the City about his LADWP bill?

MR. PARADIS: Objection to form.

If you have information independent from what you learned through discussions with counsel, you must answer. But if you learned information only through discussions with counsel, you cannot disclose that information.

THE WITNESS: I do happen to recall learning at some point, independent of counsel, that, if I'm remembering correctly, Mr. Jones is one of the many people who had complained to the City.

BY MR. THOMASCH:

Q. And there are others who you had identified, the City had identified, who had complained; correct?

A. Yes, sir.

Q. Why was Mr. Jones, as opposed to one of the others, selected as the named plaintiff in the Jones v PwC draft Complaint?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm afraid the attorney/client, work-product privileges would both

be violated if I were to answer that question.
BY MR. THOMASCH:
Q. In or before January 2015, did you know what Mr. Jones' then current address was?
MR. PARADIS: Same objection, same instruction. If you --
MR. THOMASCH: And by "you" I mean anyone working in your office on behalf of the City.
MR. PARADIS: Same objection, same instruction.
THE WITNESS: I don't know that I ever knew Mr. Jones' address.
BY MR. THOMASCH:
Q. Do you know how long he had been living in his then current apartment, regardless of what his address was?
MR. PARADIS: Same objection, same instruction.
THE WITNESS: If I ever saw that he was in an apartment or home or someplace else, I've forgotten, so I don't know.
BY MR. THOMASCH:
Q. Did that have a role in the identification of Mr. Jones as the named plaintiff?
MR. PARADIS: Same objection, same

instruction.

THE WITNESS: I can't respond to that without violating the privileges.

BY MR. THOMASCH:

Q. In January of 2015, did you know whether Mr. Jones was represented by counsel?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'm going to follow the instruction.

BY MR. THOMASCH:

Q. How and when did the City first learn that Mr. Jones was represented by counsel?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I'll follow the instruction.

BY MR. THOMASCH:

Q. Do you know the answer to whether the City knew in 2000 -- January 2015 whether Mr. Jones was represented by counsel?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I will follow the instruction.

///

BY MR. THOMASCH:

Q. I'm not asking you what advice you had, I just want to know whether you know the answer.

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I don't believe that I can answer that without violating the attorney/client and work-product privileges.

BY MR. THOMASCH:

Q. Do you know when the City first learned that Mr. Jones was represented by counsel?

MR. PARADIS: Same objection, same instruction, asked and answered.

Go ahead.

THE WITNESS: Can you ask that one more time for me? Forgive me.

MR. THOMASCH: Yes.

Q. All I'm asking is whether you know, yes or no, do you know when the City first learned that Mr. Jones was represented by counsel?

A. Approximately.

Q. When was that?

MR. PARADIS: Objection to form. Same instruction.

THE WITNESS: I'm afraid I can't disclose

that without violating the privileges.
BY MR. THOMASCH:
Q. Did you personally speak with either Mr. Jones or Mr. Landskroner before Mr. Landskroner began to represent Mr. Jones?
MR. PARADIS: I'm sorry, can I hear that back, please?
BY MR. THOMASCH:
Q. Did you personally speak with Mr. Jones or Mr. Landskroner before Mr. Landskroner began to represent Mr. Jones?
A. I believe I had met Mr. Landskroner years before when I was a plaintiff's attorney in some context, but I never spoke about the Jones matter or Mr. Jones with Mr. Landskroner until the mediations with PwC.
Q. Did you ever speak with Mr. Landskroner before the mediation about the LADWP billing system in any respect?
A. I'm not remembering any pre-mediation negotiation or even conversation with Mr. Landskroner. I think -- if I might, I can tell you that I never had any conversations before Mr. Landskroner filed a Complaint on behalf of Mr. Jones as class rep. I didn't know it was

coming, if that's your question.

Q. When you say you didn't know it was coming, you mean you didn't know that the Jones v LADWP Complaint was coming before it actually came?

A. That is fair to say.

Q. Did anyone else in your office know or expect it to be coming?

A. Not to my knowledge.

Q. Do you have any knowledge as to how Mr. Jones came to retain counsel from Cleveland, Ohio?

A. No idea.

Q. To your knowledge, did anyone affiliated with the City, including special counsel, recommend to Mr. Jones that he retain counsel from Cleveland, Ohio?

A. I have no idea.

Q. Do you know whether anyone affiliated with the City, including special counsel, put Mr. Landskroner in touch with Mr. Jones?

A. I have no idea.

Q. Have you ever made any inquiry into how is it that Mr. Jones, a Los Angeles ratepayer, Mr. Landskroner, a Cleveland attorney, came together?

A. I'm sorry, can you -- can I hear that again?

Q. Sure. Have you ever made any inquiry as to how it came to be that Mr. Jones, a Los Angeles DWP ratepayer, and Mr. Landskroner, a Cleveland, Ohio attorney, came into an attorney/client relationship with each other?

A. I have not.

Q. Do you know whether Mr. Jones was sent any inaccurate bills by LADWP after September 3, 2013?

MR. PARADIS: Objection to form.

To the extent you have independent knowledge other than what you might have learned through discussions with counsel, you have to answer, but you can't disclose whatever you learned through discussions with counsel.

THE WITNESS: I don't.

BY MR. THOMASCH:

Q. Did Mr. Jones ever seek reimbursement from LADWP for any overcharges, apart from his litigation against the City?

MR. PARADIS: Same instruction, same objection.

THE WITNESS: I do believe he did.

///

BY MR. THOMASCH:

Q. And what came of that?

A. I do not know.

Q. In January of 2015, at the time that the draft Jones v DWP Complaint was circulated within the City Attorney's office, do you know whether Mr. Jones or his attorney knew that his name was on that Complaint?

MR. PARADIS: Objection to form.

Dan, I think you misspoke. You said "Jones versus DWP Complaint."

MR. THOMASCH: All right. Let me withdraw the question.

Q. As of January 2015, do you know whether anyone had informed Mr. Jones or Mr. Jones' counsel that Mr. Jones' name was on a draft Complaint prepared at your direction?

MR. PARADIS: Objection, form.

To the extent it would require you to disclose attorney/client privilege communications, I direct you not to do so. If you have independent knowledge.

THE WITNESS: Anything that I know about that would have been learned through confidential attorney/client communications.

BY MR. THOMASCH:

Q. So you yourself personally did not communicate with Mr. Jones or Mr. Jones' attorney about the fact that the City was preparing a draft Complaint in his name?

A. Never.

Q. Did you give any thought to the propriety of doing -- preparing something in his name without checking with him or his attorney?

MR. PARADIS: Objection to form. Same objection, same instruction.

THE WITNESS: There is no impropriety.

BY MR. THOMASCH:

Q. If the Complaint wasn't intended to be filed, why was there a plaintiff's name on it?

MR. PARADIS: Objection to form. Clearly attorney/client privileged communication.

THE WITNESS: I have to agree with counsel.

BY MR. THOMASCH:

Q. Topic No. 4 on the matters on which the deponent will be examined reads:

"LADWP's reasons for preparing the Jones v PwC draft Complaint."

A. Let me catch up to you for one second.

Q. It's on page 2.

A. Yeah. Got it.
Q. Exhibit 1.
A. Yes, sir.
I'm sorry, was there a question?
Q. No. I was directing you to -- to that.
A. I have it in front of me. Thank you.
Q. What was the reason for preparing the Jones v PwC draft Complaint?
MR. PARADIS: Objection to form. Same objection, same instruction.
THE WITNESS: It was to help me to prepare -- I mean, to help me think about and provide legal advice to my client.
BY MR. THOMASCH:
Q. Was it for filing by anyone?
A. No.
Q. Then why was it drafted in the form of a Complaint?
A. I think you're already bringing me into areas that are in the attorney/client, work-product privilege. I can't answer that question. Sorry.
Q. At the time that you recommended -- withdrawn.
At the time you directed Mr. Paradis to prepare the Jones v PwC draft Complaint, had you

seen the LADWP/PwC CISCON contract?

MR. PARADIS: Objection to form. That's attorney/client privilege communication.

MR. THOMASCH: I'm not asking about any communication whatsoever.

Q. I'm asking you, sir, whether you'd ever seen the contract between PwC and LADWP at a point in time prior to when you directed the preparation of the draft Complaint.

MR. PARADIS: I'm sorry, can I hear the question back?

MR. THOMASCH: I'll repeat the question.

Q. Prior to your instruction to Mr. Paradis in January of 2015 to prepare the draft Jones v PwC Complaint, had you seen a copy of the contract between PwC and the City of Los Angeles that we call the CISCON contract for the implementation of a new billing system?

A. Probably. I'm not remembering it with specificity.

Q. Were you aware of the existence of a contractual limitation of liability provision in that contract at that time before instructing Mr. Paradis to prepare the draft Complaint?

MR. PARADIS: Objection to form.

If you had independent knowledge, you can answer that. If you had knowledge only through discussions with your counsel, you cannot disclose that.

THE WITNESS: I'm not remembering what I knew then, but I will tell you I probably have reviewed that contract at or about and possibly -- probably before I had to look at the -- the draft Complaint.

BY MR. THOMASCH:

Q. Has anyone affiliated with the City, including special counsel in this litigation, ever provided a copy of the draft Jones versus PwC Complaint to Mr. Jones' counsel or Mr. Jones?

A. No, not with my knowledge. I would never consent to that.

Q. Did you do any inquiry to determine whether or not anyone other than you has done that?

A. No.

Q. Have you ever asked special counsel whether they provided a copy of the Jones v PwC Complaint to Jones -- Jones' counsel?

A. I have made that inquiry and been assured that that has not happened.

Q. Have you made that inquiry of Richard Tom?

A. Well, I'm certain that he hasn't, but I don't recall actually asking him. He wouldn't have authority to do that.

Q. He doesn't report to you, does he?

A. He is in this matter, yes, but as a general -- as a general matter, no. But within the context of the -- of the PwC litigation, yes.

Q. Have you asked Mr. Eskel Solomon whether he has ever provided a copy of the draft Jones v PwC Complaint to Mr. Jones or any counsel representing Mr. Jones?

A. He would not have authority to do that. It would put his job at risk if he did that.

Q. But you have not asked him?

A. I have not asked him.

Q. And does Mr. Solomon report to you?

A. To the extent he's involved in the subject lawsuit, yes. But as a general matter, no.

Q. Is he in the City Attorney's office?

A. Yes, sir.

Q. But Mr. Tom is not; correct?

A. Mr. Tom is in the City Attorney's office as well.

Q. Does he -- did he then hold a position with DWP?

A. May I elaborate?
Q. Yes, please.
A. Speed things up. The Department of Water and Power, like the other two proprietary departments of the City, are staffed in terms of legal counsel by City Attorneys, who ultimately report to my boss, Mr. Feuer, yet they are, in the instance of DWP, physically housed in DWP offices for the purposes of proximity to the "client." But their chain of command is a City Attorney chain of command, not a DWP chain of command. They would be all employees of the City but answerable not to the general manager of DWP, but to the City Attorney himself or herself.
Q. Did Mr. Landskroner or anyone else affiliated with any lawyer representing Mr. Jones, to your knowledge, provide the City or special counsel to the City with any draft Complaint naming Mr. Jones as a plaintiff and PwC as a defendant?
A. Don't believe so, no.
Q. At any time?
A. A draft Complaint?
Q. Yes. A -- to my knowledge, and I represent PwC, Mr. Jones has not sued PwC, so I don't know of any actual filed Complaint. But have you -- are you

aware of Mr. Landskroner or any other attorney for Mr. Jones providing the City or the City's special counsel with a draft Complaint that would show Mr. Jones as the plaintiff and PwC as the defendant?

A. No, sir. Nor would it ever.

Q. Were you ever shown by Mr. Landskroner or any other counsel for Mr. Jones a draft Complaint showing Mr. Jones as a plaintiff and the City of Los Angeles as a defendant?

A. No.

Q. Matter No. 5, I'll ask you to read to yourself, but it begins, "All pre April 1, 2015 communications about the Jones v PwC draft Complaint involving anyone unaffiliated with the City of Los Angeles and/or LADWP, including," and then there are three groups of communications, all relating to communications prior to April 1, 2015. Would you take a moment to look through that, please?

MR. PARADIS: Dan, if you're at a good point to take a break, this would be --

THE WITNESS: I'll answer your questions and a few more, but I would, in the next five or so minutes, if that's all right, Counsel.

MR. THOMASCH: Why don't we take a break and during the break maybe you can take a look

through that, and then we'll come back.

THE VIDEOGRAPHER: Off the record. The time is 11:20.

(Brief recess.)

THE VIDEOGRAPHER: We're back on the record at 11:47.

BY MR. THOMASCH:

Q. Mr. Peters, have you had a chance to read through Matter No. 5 on the Matters For Examination in the PMQ notice?

A. Yes, I have.

Q. Did you perform any investigation to provide you with information with respect to the matters set forth in Matter No. 5?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I didn't need to. No is the answer.

BY MR. THOMASCH:

Q. Prior to the drafting of the Jones v PwC Complaint, did anyone affiliated with the City Attorney's office speak with anyone unaffiliated with the City about a plan to draft a consumer class action complaint without regard to who would be the named plaintiff?

A. Not to my knowledge.
Q. And have you done any investigation to see whether or not anyone else in your office had such a conversation?
A. I would -- I would be told if they had, and if I wasn't told and such had occurred, people would be jeopardizing their jobs.
Q. In the declaration -- in your declaration that we were looking at a moment ago, paragraph 14, you talk about a meeting -- it's actually paragraph 15 that mentions the meeting -- after the draft was circulated.
Do you see that?
A. Yes, sir, I do.
Q. Where was that meeting held?
A. In the DWP building.
Q. And --
Let's go off the record for a moment.
THE VIDEOGRAPHER: Off the record. The time is 11:49.
(Pause in the proceedings.)
THE VIDEOGRAPHER: Back on the record at 11:50.
(Whereupon the record was read as follows:
"Q. Where was that meeting held?

"A. In the DWP building.")

BY MR. THOMASCH:

Q. Did anyone participate in the meeting by telephone?

A. No.

Q. Did anyone at that meeting indicate whether or not counsel for Mr. Jones was aware that Mr. Jones was the named plaintiff on the draft Complaint?

A. Assuming Mr. Jones had counsel, there was no such discussion.

Q. Paragraph 16 indicates that:

"Following these discussions" --

That's the meeting at LADWP; correct?

A. Yes.

Q. -- "following that meeting, the City/LADWP chose to pursue claims against PwC by filing this action. Since that choice was made, no further action has been taken based on the legal theories set forth in Document No. 71."

Do you see that?

A. I do.

Q. Did anyone after the meeting inform counsel for Mr. Jones that the City was not going to pursue the legal theories set forth in Document No. 71?

A. I know of no conversations concerning that topic.

Q. Was there any email exchange with counsel for Mr. Jones?

A. Not -- not to my knowledge, assuming that he even had counsel at that point. But no, I don't know of any such communications.

Q. Have you ever inquired of special counsel as to whether he informed Mr. Jones' counsel about that decision?

A. Sorry, which decision was that?

Q. There was a decision made at the meeting that you were not going to proceed with the legal theories set forth in the draft Complaint; correct?

A. I didn't say that.

Q. Well, I'm looking at paragraph 16. Paragraph 16 says:

"Since that choice was made, no further action has been taken based on the legal theories."

Correct?

A. Correct.

Q. So that was not a decision made at the meeting?

MR. PARADIS: You can -- you can answer

generally.

THE WITNESS: I'm -- I mean, I, honestly, I'm not -- I miss -- I'm sure it's my problem. I'm not tracking what it is you're asking.

MR. THOMASCH: I'm sure the question's not clear. Let me try it again.

Q. There was a meeting. The meeting was to discuss a draft Jones v PwC consumer class action that had been drafted by special counsel for the City; correct?

A. Amongst other things that topic did come up, yes.

Q. And there is reference to the discussion in paragraph 15, and then paragraph 16 says that:

"Following these discussions, the City chose to pursue claims against PwC by filing this action."

Was there any decision or choice as to what to do with respect to the Jones v PwC Complaint?

A. The matter was discussed, no action was taken. I gave legal advice based, in part, upon what we had learned from the thought experiment of seeing what a Complaint by a ratepayer against PricewaterhouseCoopers would look like, discussing its viability, advisability, what it means in

mediation potentially. By this time we had multiple class actions brought against the City, and as a consequence of those discussions, what emerged was the lawsuit that we're meeting each other in the context of today and nothing else.

Q. If you had actual lawsuits already pending against you, why did you find the need to have a hypothetical lawsuit drafted?

MR. PARADIS: Objection to form.

To the extent it would require you to disclose attorney/client privilege communication, I direct you not to do so. If you have independent knowledge, go ahead.

THE WITNESS: The, just to be clear, Counsel, the draft was not a lawsuit against the City, it was a draft of a lawsuit of Jones against PwC.

BY MR. THOMASCH:

Q. With different theories than the theories that had been asserted against LADWP; correct?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I wish I could get into it, but I can't because of the --

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BY MR. THOMASCH:

Q. Well, your document says:

"Since that choice was made, no further action has been taken based on the legal theories set forth in Document No. 71."

Do you see that?

A. I do.

Q. All right. So the legal theories set forth in Document No. 71 have not been pursued in the course of the subsequent litigation filed by the City against PwC; correct?

A. Fair to say, yes, sir.

Q. Was any decision made at that meeting that although the City would not take further action with regard to the legal theories set forth in Document No. 71, the City would attempt to have some third party pursue those theories?

THE WITNESS: No.

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I think you're actually right, but I've already answered.

BY MR. THOMASCH:

Q. So looking at Exhibit 1, the notice, paragraph 5A --

A. Yes, sir.
Q. -- which specifically relates to written or oral communications by or among LADWP, the City Attorney's office, Kiesel Law, Liner, LLP, or Paradis on one hand and Mr. Jones or his attorneys, agents or representatives on the other, did you do any investigation to see whether there had been any such communications prior to April 1, 2015?
A. No.
Q. Do you know, as you sit here, whether or not there had been any such communications prior to April 1, 2015?
A. I'm unaware of any such communications.
Q. Did you yourself personally make the choice that it would be Mr. Jones who would be the plaintiff?
A. I did not.
Q. Did you ask that the draft Complaint have a specific plaintiff identified?
MR. PARADIS: Objection to form.
THE WITNESS: I'm afraid that gets into matters covered by the attorney/client, work-product privileges. I'm sorry.
BY MR. THOMASCH:
Q. Okay. Take a look at Topic B. This is

again about communications prior to April 1, 2015 between entities representing the City and entities representing Mr. Jones, regardless of whether they were in the capacity of Jones' counsel.

A. Just a moment.

Okay. I've read it.

Q. So do you see that in -- in 5A the inquiries related to folks on the side of the City, with Mr. Jones' attorneys acting on his behalf, whereas 5B is whether or not there were discussions with the Landskroner firm or the Law Offices of Mr. Libman, regardless of whether or not they were acting on behalf of Mr. Jones? Do you see that difference?

A. I do see the difference.

Q. Did you do any investigation to determine whether the City is aware of any communications that is responsive to Topic 5B?

A. I did not.

Q. Do you know of whether there were any such communications that would be within the description set forth in Matter 5B?

A. Any communications on that topic I would have learned about in attorney/client communications with counsel.

Q. All right. Would you agree with me that if special counsel had a conversation with Mr. Landskroner prior to April 1, 2015, that would not be a privileged matter?

MR. PARADIS: Objection, form, calls for a legal conclusion.

THE REPORTER: I didn't hear the answer.

THE WITNESS: I said, "I think it's an incomplete hypothetical."

BY MR. THOMASCH:

Q. Okay. Is there any set of circumstances that you're aware of in which you would say a conversation between Mr. Paradis and Mr. Landskroner, prior to April 1, 2015, was privileged, and the privilege belonged to the City?

A. As a hypothetical, if there was any sort of understanding that there would be a joint prosecution, one could imagine certainly that there would be privilege attached. I must confess, I did not prepare to opine on that legal matter, but that's what immediately comes to mind.

Q. Was -- was special counsel in this case authorized to have privileged communications with lawyers representing private parties who may have adverse interest to the City?

MR. PARADIS: Objection to form, calls for disclosure of attorney/client communications.

THE WITNESS: Yeah, what I've authorized my lawyers to do and not to do, I'm afraid, is covered by the privilege.

BY MR. THOMASCH:

Q. Looking at Topic 5C, are you aware of any oral or written understandings prior to April 1, 2015 between LADWP, the Los Angeles City Attorney's office, Kiesel Law, Liner, LLP or Paradis Law Group on one hand and Mr. Jones and/or his attorneys, agents or representatives, including, but not limited to, attorneys employed by the firms of Landskroner, G-r-i-e-c-o & Merriman, M-e-r-r-i-m-a-n, and the Law Offices of Michael Libman?

A. I'm unaware --

Did you ask whether I was aware?

Q. Yes. Are you aware of any oral or written understandings between those entities?

A. Got it. I'm not aware of any.

Q. Did you do any investigation or ask anyone whether or not such understandings exist?

MR. PARADIS: Objection to form, to the extent it calls for disclosure of attorney/client

privileged communication.

THE WITNESS: Subject to that --

MR. THOMASCH: Well, it can only disclose attorney/client communications if you had the conversation.

THE WITNESS: Well, I think whether or not I had the conversation's arguably covered under the NECHT line of cases. It's possible. But I did no investigation, to make it simple.

BY MR. THOMASCH:

Q. Let's look at Matter No. 6, which reads, quote:

"The identities of all senders and all recipients of all emails that included or later included at any point in the thread the Jones v PwC draft Complaint as an attachment."

Did I read that correctly, sir?

A. I believe so.

Q. All right. Did you do any investigation with respect to Topic No. 6 in order to prepare for today's deposition?

A. I did no investigation.

Q. Did you review any materials or speak with anyone to provide you with information to testify today in regard to Matter No. 6?

A. No.

Q. Okay. I'll ask the reporter to mark as an exhibit two pages that I will represent are taken from the January 20, 2017 privilege log served by the City, which reference documents in lines 382 through 389 on the first page and 550 through 558 on the second. Exhibit 4, please.

(The document referred to was marked by the reporter as Exhibit 4 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Mr. Peters, I'll represent to you two things: One, the entire privilege log from January 20, 2017 is much longer than two pages, and it also is much harder to read, 8 1/2 x 11 inch paper.

A. This is sufficiently hard to read.

Q. This is difficult enough, but it was the best we could do under the circumstances.

A. Got it.

Q. Now, are you aware that there was an original privilege log served on or about January 20, 2017?

MR. PARADIS: Objection to form to the extent it would require you to discuss attorney/client privileged communications. If you

have independent knowledge, go ahead.

THE WITNESS: I'm aware that a privilege log was constructed in this case.

BY MR. THOMASCH:

Q. Did you approve the privilege log?

A. I entrusted counsel. I didn't review it.

Q. You didn't review it?

A. No, sir.

Q. All right. I want to direct your attention to Document 384 in the left-hand column.

A. Okay.

Q. And you see it -- in column F it says: "FW: Jones versus PricewaterhouseCoopers, LLP (consumer class action)."

A. Okay.

Q. And then Document 385 in the left-hand column is "Jones v PwC initial Complaint"; do you see that?

A. Yes.

Q. And let me actually -- I'm going to switch, because I think the more appropriate numbering scheme is -- is column A. In column A the forwarded email is Document 383.

A. Just a moment.

Q. So column A is the second column.

A. I got it. I'm just putting it on a piece of paper there to make it easier. Yes.

Q. So 383 is actually the forwarded document bearing "Jones v PricewaterhouseCoopers, LLP consumer class action."

A. That's what it says in column F.

Q. And the date being January 24, 2015.

Do you see that?

A. I see that in G.

Q. And then 384, if we use the numbering scheme in column A, 384 is the Jones v PwC initial Complaint final doc bearing the 1/24/2015 date.

A. I see that.

Q. Do you see that?

A. Yes, sir.

Q. All right. Is it your understanding from that, that this privilege log was claiming the Jones Complaint to be an attachment to the email referenced in 383 and claimed privilege separately as to both the email and the attachment?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: That -- that's what it appears from this document, yes, sir.

///

BY MR. THOMASCH:

Q. Okay. What privileges -- what privilege is asserted with respect to the cover email?

A. It appears to be attorney work-product doctrine.

Q. Any other?

A. What I'm reading in column L is attorney work-product doctrine.

Q. Okay. And that is the same and only privilege asserted for the attached document; correct?

A. It appears to be.

Q. That's "yes"?

A. I don't know independently, but that's what I'm reading from -- from Deposition Exhibit 4.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 5 of this date a similar two-page document, this time excerpted from the September 29, 2017 revised log. And again, blown up into a slightly more legible format.

(The document referred to was marked by the reporter as Exhibit 5 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. As counsel in the case, were you aware that

the City served a revised privilege log on or about September 29, 2017?

MR. PARADIS: Same objection, same instruction.

THE WITNESS: I was aware of it, yes.

BY MR. THOMASCH:

Q. Did you have an understanding from court proceedings as to why a revised log was required?

MR. PARADIS: You can answer that yes or no.

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. What was your understanding?

MR. PARADIS: Objection, form. Same instruction, same objection.

THE WITNESS: What I knew is what counsel told me. That's all I knew.

BY MR. THOMASCH:

Q. You didn't read the underlying court rulings?

A. No, sir, I did not.

Q. All right. I'll direct your attention now to the most left-hand column, left-most column, down to the bottom two entries on the first page, which reflect Documents 70 and 71; do you see those?

A. I do.
Q. And do you see that the second column is the row number from the privilege log served on January 20, 2017?
A. I think so.
Q. Well, do you see that as the heading of the second column on Exhibit 5?
A. Yes, I do read that.
Q. Now, you can compare, but it shows that Exhibit 70 on the revised log is what had previously been Exhibit 383 on the earlier log; correct?
A. Appears to be.
Q. And that's the forwarded email; correct?
A. That's what it appears to be. Sure does.
Q. And 71 on the new log from September 29, 2017 corresponds to 384, which is the attached Complaint, the Jones v PwC initial Complaint; is that correct?
A. That's what it says, yes, sir.
Q. All right. Am I correct that the Jones Complaint is identified as work-product privilege exclusively on the September 29, 2017 log?
A. Bear with me. So the bottom two say for -- what was 383, it says "attorney/client work product," and for what was 384, now 71, it says

"work product."

Q. So is it your understanding that the -- and you can see the description is in the second right -- second from the far right column --

A. I do see that.

Q. -- that Exhibit 70 was an email communication, and do you understand Exhibit 71 to have been an attachment that accompanied that communication?

A. That is what I deduce.

Q. Now, looking at 70, which is the email, you see that the email subject is "FW: Jones v PricewaterhouseCoopers, LLP (consumer class action)"? Do you see that?

A. In the column that says "Email Subject"?

Q. Yes.

A. Yes, sir, that's what it says.

Q. The "FW" indicates that the email identified as 70 was an email that had been received by Mr. Solomon and was then forwarded by him to the recipients that are identified in a column to the right; is that correct?

A. I -- I would conclude that, but I'm not certain of it. That is certainly what it appears to me to be.

Q. Who was the sender and who were the recipients of the underlying email Mr. Solomon then forwarded on as Document 70?

A. I have no independent knowledge of this. Reading from this miniscule document, which I'm struggling, I must confess, to -- to see clearly, it appears that No. 70 is an email from Mr. Solomon to Sharon Grove, Timothy Spinn, Nance Walker Bonnelli, Matt Lampe, with a cc to Deborah Dorny, Richard Tom, Richard Brown.

Q. Right. You note that the document has miniscule print. I will remind you it's a document that was prepared by your counsel. We blew it up to try to make it easier for you. I'm sorry if it's still too small.

A. I appreciate that. I'm able to read it. It's just not the easiest thing probably for you either.

Q. And I'm focusing on the fact that the email subject shows "FW." You understand that to mean that it was a forwarded email, don't you, sir?

A. It appears to me that -- that Eskel is forwarding something to the other people identified. That's what it appears to me to be.

Q. And what I want to know is: Who was the

email from that was sent to Mr. Solomon so that he could then forward it on as Document 70?

A. I don't know. And I'm not even sure that that's what this means.

Q. Have you spoken to Mr. Solomon about that?

A. I've not.

Q. Have you ever spoken to Mr. Solomon about this chain of emails?

A. No.

Q. How did the draft Complaint come to you? How did you receive it?

A. I don't have a recollection. You mean was it handed to me or emailed to me?

Q. Yes, I mean exactly that.

A. I don't -- I don't remember.

Q. Who do you understand to have drafted the draft Complaint?

MR. PARADIS: Objection to form, asked and answered twice now. Come on, Dan.

THE WITNESS: It was Mr. Paradis and perhaps lawyers working with him.

BY MR. THOMASCH:

Q. Do you have any understanding as to why there is no privilege log entry that reflects Mr. Paradis as a sender of the document?

A. I guess he didn't send the document, at least in email form. I don't know what this -- candidly, I feel uncomfortable about this, Counsel, because I don't really know what I'm looking at. Is this just emails?

Q. You did understand, before you came here today, was this deposition was about a claim of privilege over a document, which is Document No. 71 on this log?

A. I -- I understood it to be about the topics set forth in paragraph 2 of the court's order, which, broadly speaking, one can fairly read to encompass certainly the Jones/PwC Complaint and the circumstances under which I directed it to be prepared for my purposes of giving advice to my client. That's what I understood I'm here to do.

Q. You're named counsel in the action; right?

A. I am.

Q. You understood that PwC sought Exhibit 71 and the City raised an objection that it was privileged and logged the document on a privilege log; correct?

A. That has all happened, yes.

Q. And you understand that PwC has in court twice challenged whether or not the document is, in

fact, privileged?

A. Yes.

Q. And that today's deposition was because the court reserved decision on whether the document was privileged and asked the City, directed the City to produce a PMQ on this topic; do you understand that?

A. This topic, yes, the topic's defined in the order, that's correct.

Q. And you didn't think that reviewing the privilege log would be an appropriate investigation for you as a PMQ witness?

MR. PARADIS: Objection. Dan, knock it off and stop being harassing.

MR. THOMASCH: I'm not harassing, I'm trying to clarify.

MR. PARADIS: You are -- you are harassing. Don't be rude either or condescending. All right?

MR. THOMASCH: Paul, I'm neither rude nor condescending.

MR. PARADIS: You're always both.

But go ahead.

MR. THOMASCH: You know that's actually totally an inappropriate remark. We're on tape. We're on film. We can have this -- if you want -- if you think I'm -- if you think that I'm doing

something improper--

MR. PARADIS: Ask your question.

MR. THOMASCH: -- bring it to the court's attention. I want to be clear, because we will be back in court for the third time on this issue about -- if not more than the third time, and I want to make sure that we understand what investigation was and was not done.

Q. So in this deposition there was no investigation done with respect to the privilege log. That is the basis for the claim of privilege; correct?

MR. PARADIS: If you want to testify, we'll swear you in. Ask your question.

BY MR. THOMASCH:

Q. Is that a correct statement?

A. There were a lot of statements made. I'm reading the privilege log for the first time here today before you, sir. I did not read it prior to your handing it to me.

Q. Do you know whether any recipient of Document 70, which attaches the Jones Complaint, forwarded it on to anyone else inside or outside of LADWP?

A. I have no information that that ever

happened.

Q. Do you know whether the Jones v PwC Complaint was forwarded by any of the recipients or cc's to Document 70 as an attachment to a different email?

A. Not to my knowledge.

Q. In other words, having received the -- the Complaint, the draft Complaint, marked as Exhibit 71, or line 71 on the privilege log, do you know whether any of those individuals then further disseminated it?

A. From the privilege log it doesn't appear to happen. I have no knowledge that it did, indeed, happen.

Q. I'm asking about your knowledge.

A. To my knowledge, no.

Q. You don't know either way; is that what I understand?

MR. PARADIS: Objection to form, misstates his testimony.

BY MR. THOMASCH:

Q. Is that correct?

A. I had no information that would suggest that it happened. I did not direct anybody to do so, and that's all I can tell you.

Q. Okay. Do you understand that you are not identified in the log?

A. I see that.

Q. Did you ever receive any email with respect to the Jones v PwC initial Complaint?

A. I don't know. I will tell you I did see the Complaint. Whether it was handed to me or emailed to me, I don't recall.

Q. Did you ever make any attempt to determine whether or not, by looking back at your computer records, whether you had received this by email?

A. I did not.

Q. Looking at the Exhibit 1, the Notice of Deposition --

A. Bear with me. Yes, sir.

Q. -- Topic No. 7 reads:

"LADWP's knowledge as of February 7, 2017" --

I'm sorry, I jumped the gun on you. Do you have it there, 7?

A. I do.

Q. Let me read it again:

"LADWP's knowledge as of February 7, 2017, of the professional relationship between (i) Paul Paradis and/or Paradis Law Group, PLLC and

(ii) Jack Landskroner and/or Landskroner Grieco Merriman, LLC, including, but not limited to, LADWP's knowledge, if any, of plaintiff's co-defendant -- co-counsel relationship in either or both of Reed versus Nationstar Mortgage, LLC, No. 14-cv-01701, (N.D. Ohio filed August 4, 2014) and/or Wright v Nationstar Mortgage, LLC, No. 14-cv 10457 (N.D. Ill, Illinois, filed December 30th, 2014), and its knowledge, if any, of contingency fee arrangements involving those counsel in either or both actions."

Do you see that?

A. I do see that.

Q. Did you do any investigation to provide you with information as to the City's knowledge with respect to Matter No. 7?

A. I did not.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 6 of this date a pleading in an action captioned Sharon Bransford and others versus City of Los Angeles, and Does 1 through 50, titled "Declaration of Jack Landskroner in Support" -- it actually says "is Support" -- "of Joint Opposition to Bransford and Fontaine Plaintiffs' Ex Parte

Application to Lift Discovery Stay to Allow Limited Discovery Re: Procedural Fairness," executed February 7, 2017.

(The document referred to was marked by the reporter as Exhibit 6 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Do you recognize the action that this document was filed in?

A. I believe so, yes.

Q. And this is an action against the City of Los Angeles. It identifies Mr. Landskroner in the top left; do you see that?

A. I do.

Q. And also identifies lawyers from the City of Los Angeles, including the City Attorney, and from Liner, LLP as representing the City of Los Angeles; correct?

A. I do see that.

Q. Did you see a draft of this declaration before it was filed?

MR. PARADIS: Objection to form. Dan, where are we going? This is well beyond the scope of what's ordered in paragraph 2 of the court's order.

MR. THOMASCH: The court's order did not --

May I see the court order for a second?

MR. PARADIS: Sure.

THE WITNESS: Mark it.

MR. THOMASCH: Note for you that the court order provides that the witness will testify about the document referenced at row 71, that's the draft Complaint, quote, "to lay a foundation as to the party on behalf of whom the Complaint was drafted and the reasons for it, including, but not limited to, how the document was prepared and the circumstances surrounding the document."

The "including, but not limited to," I think you've read out of the order. These are matters that were in the notice. You brought a motion to quash the notice and you said the matters were too broad. You withdrew that motion from the court.

You're now attempting, as I see it, to read this in a narrow way that takes complete objection to the topics, which was a matter that you litigated and withdrew. I think it is highly improper. I think we're going to have to have more motion practice about it.

But, the question of whether or not there

has been a waiver, whether or not there has been conversations or disclosures between anyone representing the City and anyone representing Jones, is relevant to the existence of the privilege. Privileges can be waived if they're privileged to start with.

We can test that there was a privilege here in the first instance, but we -- because part of the reason is we believe that there may have been a waiver. We have a right to explore that. The court said we had a right to explore it.

The court asked questions at the hearing on our right before ruling for us. We have asked the same questions the court has asked, and you have objected and instructed the witness not to answer them. That's a matter that I don't understand, but we'll leave it to the judge to resolve whether or not his own questions, which you attempted to answer in court, actually have to be answered by a witness with knowledge or whether you have to be sworn to give the answer to the question.

But the court asked the question, the court signed an order. It says "including, but not limited to." I believe it's improper to try to limit this witness as you've done. That's the

reason that that's where we're going, is we're exploring matters that relate to the existence of the privilege and the possible waiver of the privilege.

MR. PARADIS: We think you're well beyond it. So go ahead, and I'm going to see where you go with it. And if you go beyond it, we're going to suspend the deposition, seek a protective order.

MS. TUFARO: Also, just for the record, that order originally as drafted by defense counsel included the topics listed in the deposition notice, and after having it brought to defense counsel's attention that those topics were way too broad, defense counsel then edited what is now the order to reflect the fact that the original order as drafted by defense counsel was too broad.

MR. THOMASCH: We're not talking about the original order, we're talking about the order that the court signed. The order the court signed says "including, but not limited to." This notice came out after that order. This notice postdates that order. Plaintiff took the position that the topics in this order were too broadly framed. Plaintiffs then withdrew that motion. Plaintiffs now, essentially, are asserting without the benefit -- we

could have had the court resolve all these matters ahead of time. I informed the court ahead of time that we were going to be going into the relationships. No argument was had on it because plaintiff withdrew the motion.

So we will -- I made a 3,000-mile trip to find out that we're going to reargue the matters that were on for argument before but that the plaintiff withdrew. That's plaintiff's decision. We go forward on that basis. We will bring another motion. We will seek to deal with this.

And at any rate, the rules give you a right to suspend this and to move for a protective order. I don't think there's a basis to do so, I think that would be in complete bad faith, but you have the right to do it. The rules give you that procedural right. You're aware of it, I'm aware of it. So we'll take it question by question. You'll do as you wish.

Q. Did you see a copy of Exhibit 6 before it was filed in the Bransford action?

MR. PARADIS: Objection to form. We're suspending the deposition and we're going to seek a protective order.

THE VIDEOGRAPHER: Off the record, sir?

MR. THOMASCH: The deposition appears to have been concluded by choice of plaintiff's counsel, who is leaving to file a protective order.

Do you know when we can expect that?

MR. PARADIS: We'll get back to you.

MR. THOMASCH: All right. We will, of course, be seeking relief on our own behalf.

THE VIDEOGRAPHER: This will mark the end of Volume I in the recorded deposition of Thomas Peters in his PMQ capacity. This original recording will be retained at Epiq Legal Solutions at 20750 Ventura Boulevard, Woodland Hills, California. Pardon me, at their offices, rather, in New York, New York.

Going off the record at 12:30.

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Declaration

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof, and I declare that the same is true of my knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under the penalties of perjury of the State of California that the foregoing is true and correct.

Executed on the day of , 2018, at , California.

W i t n e s s

C E R T I F I C A T E

I, Philip D. Norris, a Certified Shorthand Reporter for the State of California, do hereby certify:

That prior to being examined, Thomas Peters, the witness named in the foregoing deposition, was by me duly sworn to testify the truth;

That said deposition is a true record of the testimony given and was taken before me at the time and place therein set forth, and was taken down by me in shorthand and thereafter reduced to typewriting via computer-aided transcription under my direction;

I further certify that I am neither counsel for, nor related to, any party to said action, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this 17th day of September, 2018.

Philip D. Norris
CSR NO. 4980

Errata Sheet

NAME OF CASE: CITY OF L.A. vs PRICEWATERHOUSE COOPERS

DATE OF DEPOSITION: 09/13/2018

NAME OF WITNESS: Thomas Peters

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

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Exhibit 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,	)
Plaintiff,	) Case No. BC574690
vs.	)
PRICEWATERHOUSE COOPERS, LLP, et al.,	) Pages 1 to 229
Defendant.	)
AND RELATED CROSS-ACTION	

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

DEPOSITION OF ANTWON JONES

TAKEN ON

WEDNESDAY, FEBRUARY 13, 2019

Reported by: PHILIP D. NORRIS

CSR NO. 4980

Deposition of Antwon Jones, taken on behalf of Defendant, at 333 South Grand Avenue, Los Angeles, California, on Wednesday, February 13, 2019, at 11:10 a.m., before Philip D. Norris, CSR No. 4980, pursuant to Notice.

APPEARANCES:

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ALSO PRESENT:

ALAN HIMMELFARB, ESQ.

STEPHEN SMITH (Videographer)

I N D E X

WITNESS	EXAMINATION	PAGE
ANTWON JONES	(By Mr. Thomasch)	8, 224
	(By Mr. Isaacs)	222
	(By Mr. Himmelfarb)	217, 223

E X H I B I T S

NO.	PAGE	DESCRIPTION
Exhibit 1	18	Defendant PricewaterhouseCoopers LLP's Notice of Subpoena and Deposition of Antwon Jones
Exhibit 2	21	Defendant PricewaterhouseCoopers LLP's Notice of Deposition and Subpoena of Antwon Jones
Exhibit 3	23	Class Action Complaint in case BC577267
Exhibit 4	31	Declaration of Antwon Jones in Support of Plaintiff's Motion for Final Approval and Application for an Award of Attorneys' Fees, Costs and Service Awards

I N D E X

E X H I B I T S

NO.	PAGE	DESCRIPTION
Exhibit 5	38	Pages from Consumer Affairs, 22 pages
Exhibit 6	66	Letter to Daniel J. Thomasch, Esq., 2/12/19, with attachment, Bates numbers AJ000001 to 48
Exhibit 7	87	Letter to Richard Tom and Eskel Solomon, 4/2/15, Bates numbers 0001988981 to 989
Exhibit 8	142	Non-Party Antwon Jones's Objections to Deposition Subpoena and Request for Production of Documents
Exhibit 9	149	Letter from Paul O. Paradis, 2/12/19, with attachments
Exhibit 10	190	Consumer Affairs-FAQ, 15 pages
Exhibit 11	201	Service of Process Transmittal, with attachments
Exhibit 12	208	Declaration of Paul O. Paradis In Support of Plaintiff's Opposition to Defendant Second Motion to Compel

I N D E X

INSTRUCTIONS NOT TO ANSWER:

Page 29, Line 18
Page 30, Line 21
Page 45, Line 15
Page 48, Line 17
Page 51, Line 23
Page 143, Line 23
Page 144, Line 5
Page 146, Line 2
Page 147, Line 2
Page 147, Line 10
Page 148, Line 3

MARKED SPOT AT THE REQUEST OF MR. THOMASCH:

Page 146, Line 14
Page 147, Line 3

LOS ANGELES, CALIFORNIA; WEDS, FEBRUARY 13, 2019

11:10 A.M.

THE VIDEOGRAPHER: Here begins Volume I, Video Disc No. 1, in the deposition of Antwon Jones, in the matter of the City of LADWP versus PricewaterhouseCoopers, before the Superior Court for the State of California, County of Los Angeles. Case number is BC574690. Today's date is February 13, 2019. The time on the video monitor is 11:10.

Video operator today is Stephen Smith, contracted by Epiq Legal Solutions at 20750 Ventura Boulevard, Suite 205, Woodland Hills, California 91364. This video deposition is taking place at Gibson Dunn & Crutcher, LLP, 333 South Grand Avenue, Los Angeles, California 90071, and was noticed by Daniel Thomasch of Gibson Dunn.

Counsel, please voice identify yourselves and state whom you represent.

MR. THOMASCH: Daniel Thomasch for defendant PricewaterhouseCoopers.

MR. SANTIAGO: James Santiago for defendant PricewaterhouseCoopers.

MR. DORE: Michael Dore, also on behalf of

defendant PricewaterhouseCoopers.

MR. HIMMELFARB: Alan Himmelfarb on behalf of the related cases, Morski versus DWP and Macias versus DWP.

MR. KIESEL: Paul Kiesel, special counsel for the City of Los Angeles.

MS. SHEN: Paige Shen of Isaacs Friedberg on behalf of the deponent Antwon Jones.

MR. ISAACS: Jeff Isaacs, also with Isaacs Friedberg on behalf of Mr. Jones.

THE VIDEOGRAPHER: The court reporter today is Philip Norris of Epiq Legal Solutions.

Would the reporter please swear in the witness.

ANTWON JONES,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. THOMASCH:

Q. Good morning, Mr. Jones.

A. Good morning.

Q. My name is Daniel Thomasch. As indicated

on the record, I'm a partner here at Gibson Dunn & Crutcher, and I represent PricewaterhouseCoopers in a case brought by the City of Los Angeles on behalf of the Department of Power and Water against my client PricewaterhouseCoopers.

Prior to today, you and I have never met or spoken; is that correct?

A. Yes.

Q. In the course of the deposition I'll be asking you a series of questions. If at any point you don't understand the question, let me know, and I'll do my best to rephrase it or to try to make it understandable.

But it is important that if you don't understand, you let me know; is that all right?

A. All right.

Q. Obviously we -- we need what you've just done, which is verbal responses. Court reporter is excellent but he can't take down head nods or shakes. He needs a -- he needs a record with an audible response. Okay?

A. Okay.

Q. And finally, we'll take breaks at least every 90 minutes. If we need to take breaks in between that, that's -- we do this at your

convenience, and -- and if you need a break for any reason, you let us know, and we'll accommodate. All right?

A. All right.

Q. By way of brief background, would you describe your educational background since high school?

MR. ISAACS: Dan, I'm sorry, if I can just put a couple of things on the record --

MR. THOMASCH: Sure.

MR. ISAACS: -- before we start in.

First, pursuant to our discussions, we would ask, that is Mr. Jones, that this deposition be deemed confidential for purposes of the protective order, and then we would, as we discussed, once we have the transcript, we can go back, review and determine what should be maintained as confidential and what we can agree to need not be.

Also, Mr. Himmelfarb is here today, and I understand that although he's not a party to this case or representing a party to this case, that he has agreed to be bound by the protective order for purposes of this deposition.

Is that correct?

MR. HIMMELFARB: That's correct.

MR. ISAACS: Also, just to move things along, as we all know, there may very -- there's likely to be assertions of the attorney/client privilege and the work-product doctrine during the course of the deposition. I would just ask that instead of -- when I object on the basis of privilege or work product, that it's understood that by saying "objection, privilege" or "objection, work product," what I'm actually referring to is objecting to as the question calling for the disclosure of information that may be protected by the attorney/client privilege or the work-product doctrine so the objection doesn't have to be so wordy. If that's --

MR. THOMASCH: All of the procedures that you've laid out are entirely acceptable to PricewaterhouseCoopers.

MR. ISAACS: And Mr. Kiesel, is that agreeable to you as well?

MR. KIESEL: Fine.

MR. ISAACS: And I think -- anything else I missed?

All right. Thank you.

MR. THOMASCH: Okay. So we'll handle some

other off-the-record matters at a break. Why don't we continue while we have Mr. Jones here.

Q. And if you would just describe your educational background for us, sir.

A. After high school?

Q. Yes. Where did you go to high school? Was it in L.A. or elsewhere?

A. It was elsewhere.

Q. Where?

A. North Carolina.

Q. Okay. And what year did you graduate?

A. 2008.

Q. Did you attend school there after?

A. No.

Q. Are you self-employed?

A. No.

Q. What is your profession?

A. I'm an actor.

Q. And do you have an office address or work out of your home?

A. I work out of my home.

Q. Have you been employed in any other fields other than acting since 2008?

A. Yes.

Q. What were they?

A. I've been a waiter. I've been a swim instructor. I've been a lifeguard. I've been a promo model. I've been a nanny. I've -- that's all that I can think of.

Q. Have you ever worked for the City of Los Angeles?

A. No.

Q. When did you move to L.A.?

A. 2011.

Q. I understand that you were a plaintiff in a class action lawsuit brought against LADWP; is that correct?

A. It is.

Q. Have you ever been a plaintiff, the party bringing a lawsuit, in any other case other than that case against LADWP?

A. No.

Q. You have never had a litigation against Star Point Properties?

A. Oh, yes.

Q. Okay.

A. But that -- yes, that was small claims. But yes.

Q. Just a small claims matter?

A. Yes.

Q. And that was filed in 2012?
A. Yes.
Q. And just very generally, what was the nature of it?
A. Oh, I was just suing to get my security deposit back.
Q. Did you have a case against an entity called Moss?
A. Yes.
Q. And what was that?
A. Oh, same reason.
Q. Another security deposit?
A. Security deposit.
Q. Other than those cases in which you were seeking returns of security deposits, can you recall any other case in which you brought a lawsuit?
A. No.
Q. Have you ever been sued?
A. No.
Q. Have you ever testified at a trial?
A. No.
Q. Have you ever had your deposition taken before?
A. No.
Q. Very generally, what did you do to prepare

for this deposition?

A. I met with counsel and we went over our records. We went through my computer and email and looked at my LADWP bills.

Q. And by "counsel" you're referring to Mr. Isaacs and Ms. Shen; is that correct?

A. Yes. And Deanna, who also works over at the law firm.

MR. ISAACS: She's our paralegal.

BY MR. THOMASCH:

Q. Did you review any documents?

A. Yes.

Q. Did any of those refresh your recollection as to the events that took place in connection with your lawsuit against the City?

A. Excuse me?

Q. Did any of those documents help you recall the events that were described in there about your litigation against the City?

A. No. I didn't need recollection.

Q. Did you review any court transcripts?

MR. ISAACS: Do you understand the question? I mean, maybe you could be more specific when you talk about court transcripts.

///

BY MR. THOMASCH:

Q. When attorneys appear in court to -- for conferences or oral arguments a reporter is there and prepares a booklet, a written transcription of what went on, and it will indicate when the court is speaking and when counsel is speaking.

Do you recall reviewing anything of that nature?

A. No.

Q. Other than Mr. Isaacs, Ms. Shen, and anyone who works in their offices or is affiliated with their law firm, have you spoken with anyone else about today's deposition or about your preparation for today's deposition?

A. Can you repeat, please?

Q. Sure. Excluding Mr. Isaacs and Ms. Shen and those that work in their office, other than them, have you spoken with anyone about the fact that you're being deposed here or the subject matter of your deposition?

A. Yes.

Q. Who?

A. I spoke with the counsel for Jack Landskroner.

Q. Do you know what his name is?

A. I don't recall.
Q. But it was not Mr. Landskroner himself; is that correct?
A. Did I speak with him about it?
Q. Did you speak with Mr. Landskroner?
A. Yes.
Q. And did you speak with anyone who represented that he was Mr. Landskroner's counsel?
A. Yes.
Q. Does the name Mr. Friedman ring a bell?
A. Yes.
Q. Was it -- was it Ian Friedman that you spoke with?
A. Yes, it was.
Q. And when was that conversation?
A. I don't recall the exact date, but I would say it was middle January, beginning of January.
Q. Did you speak with Mr. Kiesel at all in preparation for your deposition?
A. No.
Q. Did you speak with Mr. Paradis at all in preparation for your deposition?
A. No.
Q. And did you speak with Ms. Tufaro at all?
A. No.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 1 of this date a document captioned "Defendant PricewaterhouseCoopers LLP's Notice of Subpoena and Deposition of Antwon Jones."

(The document referred to was marked by the reporter as Exhibit 1 for identification and is attached hereto.)

MR. ISAACS: I'm sorry, you're marking this as --

MR. THOMASCH: This is Exhibit 1 of today.

MR. ISAACS: And Dan, can I just clear up one thing?

MR. THOMASCH: Sure.

MR. ISAACS: Mr. Jones, you said you spoke with Mr. Landskroner and Mr. Friedman. Is it correct that that was before we became your counsel?

THE WITNESS: It is.

BY MR. THOMASCH:

Q. So let me -- you have in front of you what has been marked as Exhibit 1, a document that we just want to be able to refer to so I don't have to repeat the heading each time we talk about this document. And if you -- you'll see on the -- on the document that this is a -- something that was filed in the case of City of Los Angeles versus

PricewaterhouseCoopers, a case that I represented that I -- that we're here today on and that I represent PricewaterhouseCoopers in.

MR. ISAACS: It wasn't actually filed; right?

MR. THOMASCH: This was not -- it was not filed. This is a draft document. My -- my mistake for -- I was going to point that out by flipping to the third page. You'll see there's a signature line for James Santiago, who's sitting on my right today, and it's unsigned.

Q. Correct?

A. Yes.

Q. And the date on it, do you see, is January 9, 2019?

A. Yes.

Q. And then if you turn past the blue slip, you'll see what was a draft Deposition Subpoena, and you'll notice under the large box a smaller box that says the date of the -- of the -- that you're ordered to appear is January 29, 2019; do you see that?

A. Yes.

Q. Have you seen this document before?

A. Yes.

Q. And this was furnished to you by Mr. Friedman; is that correct?

A. No.

Q. How did you obtain it?

A. It was served to me.

Q. The draft document?

A. Well, yeah. I got something very similar to this served to me. If --

Q. Okay. I'll mark as Exhibit 2 --

MR. ISAACS: I think he's asking whether you saw this unsigned version, whether that was ever provided to you.

THE WITNESS: Oh.

MR. ISAACS: The one that you were served with presumably will have signatures. Did you -- do you know whether you ever saw the unsigned version?

THE WITNESS: No, I haven't.

MR. THOMASCH: We'll mark as -- as Deposition 2 of this date the actual served version of Defendant PricewaterhouseCoopers' Notice of Deposition and Subpoena of Antwon Jones, bearing an e-service, a date of January 16, 2019.

MR. ISAACS: Are we done with 1?

MR. THOMASCH: Hold that for a moment.

///

(The document referred to was marked by the reporter as Exhibit 2 for identification and is attached hereto.)

MR. ISAACS: This is 2?

MR. THOMASCH: This is 2.

Q. And I'll represent to you, Mr. Jones, that this document is very similar to Exhibit 1, which was a draft of the final version, and this document, as you will see on page 3, bears a date of January 16, 2019, and it bears the signature of James Santiago.

Do you see that?

A. Yes.

Q. And then if you turn to the next page, you'll see the attached Subpoena showing the date and time of this deposition as originally scheduled for January 31, 2019.

Do you see that?

A. Yes.

Q. And is it your understanding that counsel ultimately agreed to a more convenient time and decided to have the deposition today instead of -- there was no deposition on January 31st; correct?

A. Excuse me?

Q. There was no deposition on January 31st;

correct?

A. No.

Q. It was your understanding that counsel spoke and agreed to adjourn until today; is that right?

A. Yes.

Q. Okay. And just if -- looking between the two, do you know whether you have previously seen both Exhibit 1 and 2 or only one or the other? The two documents.

A. You're asking if I've seen both or one?

Q. Before today.

A. I've just seen -- I've seen one.

MR. ISAACS: I think the one that's marked as Exhibit 2, you can say for sure you've seen --

THE WITNESS: Oh, yeah, I've seen this, yes.

MR. ISAACS: "This" being the Exhibit 2; right?

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. So Exhibit 2, which is the one that was actually served on you personally --

A. Yes.

Q. -- at your address, that one you're certain

you've seen; correct?

A. I have.

Q. Do you know if you'd seen the earlier draft version?

A. No.

Q. "No," you don't know or "no," you didn't see it?

A. No, I didn't see it.

Q. Okay. Thank you. You can put those aside.

MR. ISAACS: Just stack them over there.

MR. THOMASCH: We'll go back to it at some point, but not for a while.

I'll ask the reporter to mark as this date Exhibit 3, a document bearing no Bates numbers, but showing a caption of "Antwon Jones versus City of Los Angeles, Class Action Complaint," filed April 1, 2015.

(The document referred to was marked by the reporter as Exhibit 3 for identification and is attached hereto.)

MR. THOMASCH: This will be Exhibit 3.

Q. Mr. Jones, do you recognize this document?

A. Yes.

Q. What is it?

A. It's the lawsuit that was filed on behalf

of -- on -- well, on behalf of me against LADWP.

Q. And it says, "Antwon Jones, on behalf of himself and all others similarly situated," so was it your understanding that you were the -- the named plaintiff whose name would appear in the caption, but, in fact, you were suing on behalf of a large group of LADWP ratepayers? Was that your understanding?

A. Yes.

Q. And ultimately this action against the City of Los Angeles was settled; is that correct?

A. It is.

Q. The settlement, I will represent to you, was submitted for court approval and there was a hearing on July 20th of 2017. Did you attend the hearing at which the court approved the settlement?

A. No.

Q. Were you aware that the -- that there was a hearing that the court passed on the settlement and agreed to accept the settlement?

A. Yes.

Q. And how did you find out about that?

A. My lawyer told me.

Q. And who was that?

A. Jack.

Q. Mr. Landskroner?
A. Yes.
Q. That settlement called for, as is typical, the named class representative, in this case you, to receive what's called a service award to compensate you, in part, for the time you spent. Did you receive a $5,000 service award in connection with the settlement of the case?
A. Yes.
Q. And about -- were you paid that award?
A. Yes.
Q. About when?
A. I don't recall the exact date, but would have to say November of the year --
Q. 2017?
A. Yes.
Q. It was, I'll let you know, 2017 was the -- the date of the final approval by the court, in the summer.
A. Yes.
Q. And so you think about November of 2017?
A. Yes.
Q. After that, after you received the service award, from then until the first time you heard about either of these notices, did you have any

conversations with anyone about your case?

MR. ISAACS: I'm going to object as vague and ambiguous.

Do you understand the question?

THE WITNESS: I understand it, but he says "anyone."

MR. THOMASCH: Well, let's -- just a simple yes or no at the moment.

Q. Did you have discussions with anyone about your lawsuit, after the time you received your service payment, up until the time the depo notice first came to your attention?

A. Just general -- like general conversations, yes.

Q. Okay. Did you have any conversations with any attorneys about -- about your case during that same time period?

A. I don't understand the question.

Q. Okay. Again, I'm focusing on the time period after you received your service award --

A. Okay.

Q. -- up until the issue of this deposition arose.

A. Uh-huh.

Q. Which was in early 2019; correct?

A. Yes.
Q. So between November of 2017 and January of 2019, did you have occasion to speak with any attorney about your litigation?
A. About my litigation?
Q. Yes, about the lawsuit that you filed against the City of Los Angeles.
A. Well, I have a friend that's an attorney and we spoke about it, but never anything -- nothing specific.
Q. Okay. Was that friend acting as your attorney or he just happens to be an attorney by way of profession?
A. Attorney by way of profession.
Q. Okay. And so let me be more -- more specific. Without revealing the content, the specific content of any discussion, did you speak -- at any time between November of 2017 and January 2019, did you have any conversations with Mr. Landskroner about the litigation?
A. Yes.
Q. Okay. And can you tell me when that was?
A. That we spoke about the case? The case is ongoing, so...
Q. How often would you speak with him? And

this is in that time period after you received your service of award until January of this year.

A. How often?

Q. Yeah.

A. Not often.

Q. Did you have written communications with him?

MR. ISAACS: That would include emails?

MR. THOMASCH: Yes.

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. And do you still have those documents?

A. Yes.

Q. During that same period of time, November 2017 to January 2019, so encompassing all of 2018, did you have any communications with Mr. Paradis about your lawsuit?

A. No.

Q. Neither oral nor written; correct?

A. No.

MR. ISAACS: Can I just clarify? Did you have any discussions with Mr. Paradis about anything during that period?

THE WITNESS: No.

///

BY MR. THOMASCH:

Q. Did you have any conversations with Mr. Kiesel about anything during that time period?

A. No.

Q. And you have no emails or text messages or written documents between you and Mr. Kiesel or Mr. Paradis during that time period; correct?

A. No.

Q. You do not?

MR. ISAACS: Meaning you have no emails?

THE WITNESS: I have no emails.

BY MR. THOMASCH:

Q. Do you have an understanding as to why Mr. Isaacs and Ms. Shen and not Mr. Landskroner is representing you at today's deposition?

MR. ISAACS: Objection, attorney/client privilege, and also work-product doctrine. And I will instruct the witness not to answer.

And can we have an understanding that when I -- that unless Mr. Jones indicates otherwise, when I instruct the witness not to answer, he will not answer? So you don't have to ask him whether he'll follow the instruction.

MR. THOMASCH: I'll assume he's going to follow your instruction unless he lets me know

otherwise.

I do want to clarify. The -- the question was simply a yes or no. We're not asking for any disclosure of the substance of any conversation, but I asked whether he had an understanding.

MR. ISAACS: Yes, I understand the question, and I'm instructing the witness not to answer based on attorney/client privilege and work product, and -- because any such understanding would have come from us. Or come from counsel, I should say.

BY MR. THOMASCH:

Q. Do you know who is paying Mr. Isaacs' fee for representing you today?

A. Yes.

MR. ISAACS: You can answer. Just yes or no.

BY MR. THOMASCH:

Q. And who is that?

MR. ISAACS: Objection, attorney/client privilege. I'm instructing the witness not to answer.

MR. THOMASCH: We can put this aside momentarily.

And I'll ask the reporter to mark as

Exhibit 4 a document bearing e-service date of May 5, 2017, Declaration of Antwon Jones in Support of Plaintiff's Motion for Final Approval and Application for an Award of Attorney's Fees, Costs and Service Awards.

(The document referred to was marked by the reporter as Exhibit 4 for identification and is attached hereto.)

MR. THOMASCH: Let's see.

MR. ISAACS: That's Exhibit 4; correct?

MR. THOMASCH: That is Exhibit 4.

Q. You see the caption on the front where I read from indicating "Declaration of Antwon Jones"?

A. Yes.

Q. And then if you turn to the last page, there's a document that's -- there's a page called "Electronic Proof of Service" by a paralegal of Mr. Landskroner's office.

Do you see that?

A. Yes.

Q. Just indicating that the document was provided to other counsel. If you turn one page into it, you'll see the name Antwon Jones under a signature line on page 5 of Exhibit 4. Is that your signature?

A. Yes.
Q. It would appear that -- that this page is a -- is a faxed copy. Did you sign a copy of this document and then fax it back to Mr. Landskroner's office?
A. No.
Q. Where were you when you signed it?
A. In L.A.
Q. With Mr. Landskroner?
A. No.
Q. Who were you with?
A. Myself.
Q. All right. And how did the document get from you to Mr. Landskroner?
A. I signed it and emailed it over.
MR. ISAACS: Did you use --
THE WITNESS: DocuSign. Yeah, DocuSign emailed it over.
BY MR. THOMASCH:
Q. And was it just the signature page or the whole document that you emailed over? Meaning, the first five pages. Did -- did you send, not this Certificate of Service here, but these first five pages that start with "I, Antwon Jones," and end with your signature, did you -- did you send all of

that to Mr. Landskroner?

A. No.

Q. Did you just send him the signature page?

A. Yes.

Q. Had you read the full five pages before signing it?

A. Yes.

Q. Do you still have a copy of that document that you had at the time and read?

A. Yes.

MR. ISAACS: Dan, can I ask a question?

MR. THOMASCH: Yeah.

MR. ISAACS: Are you sure, when you used DocuSign, do you -- that it's just the signature page or is it the entire document that gets transmitted? If you know.

THE WITNESS: I'm not sure.

MR. ISAACS: I'm not either.

BY MR. THOMASCH:

Q. If you see, look at the caption on the first page, "Declaration of Antwon Jones in Support of Plaintiff's Motion for Final Approval and Application for an Award of Attorney's Fees, Costs and Service Awards," is that your understanding of the reason you were signing this document, was that

you were supporting your counsel's motion to have the court approve the settlement?

A. Yes.

Q. I'm going to walk through the document with you. I want to ask you some questions about it. If you want to take a look through the whole thing first, I'm happy to do that. Otherwise, we'll just sort of walk through a paragraph at a time, whatever works for you.

A. We can walk through a paragraph.

Q. Okay. But at any time, if you want to look ahead -- there's no tricks here, it's a -- just got to walk through a document.

So the first paragraph indicates that you're over the age of 18 and you're familiar with the facts that are set forth in the document; correct?

A. Correct.

Q. And that was true; right?

A. Yes.

Q. And so the second paragraph says you're submitting this in support of plaintiff's motion for class approval, and that was your understanding at the time; correct?

A. Correct.

Q. The third paragraph says:

"At all times relevant hereto, I've been a resident and citizen of the State of California and a customer of the Los Angeles Department of Water and Power."

And does that -- withdrawn.

I'm now going to ask you a question. I'm not tying it to this particular paragraph, but just for way of background information. From 2011 to today have you always been an LADWP customer?

A. Yes.

Q. And you get or you're supposed to get bills in your name; is that correct?

A. Yes.

Q. Then paragraph 4 indicates that:

"In 2014 I was damaged by the LADWP when I was billed and paid for a greater quantity of electricity than I actually used."

Do you see that?

A. I see it.

Q. First, do you recall when in 2014 you first received a bill that you believed to be for a greater amount of electricity than you used?

A. You're asking me if I remember?

Q. Do you remember about when that was?

A. Yes.
Q. When?
A. It was around like November-ish 2014. Or a few -- like give or take a few months.
MR. ISAACS: And Dan, just so it's clear, you're asking for the date that he received the bill, not the period covered by the bill; correct?
MR. THOMASCH: Correct, correct.
Q. When you first received a bill.
A. Yes.
Q. Mr. Jones, see if this may refresh your recollection. That document, yes, that's in your hand --
A. Exhibit 3.
Q. -- that's Exhibit 3, and that's the Complaint in your action, the original one. If you would turn to page 19 -- actually, why don't I -- why don't I take you back first to page 11 just for context. Page 11 has a caption starting on line 10: "Plaintiff and Class Members Were Damaged As a Result of the City's Misconduct."
Do you see that?
A. Yes.
Q. And then there's some paragraphs in which some facts are set forth that relate to you?

A. Uh-huh.
Q. Is that correct?
A. Yes.
Q. And then if you turn to the next page, on paragraph 59 it says, and I'm paraphrasing, that your experience was not singular to you, it occurred with numerous others, and the class members voiced their outrage. And then there is a series of complaints set forth with a date and a -- and a complaint over the next eight or nine pages of the -- or more -- of the Complaint.
Do you see that?
A. I do.
Q. And so now, if I take you over to -- to page 19, where there are two boxes in full and a third box that continues over onto page 20, do you see the complaint dated 8/26/14, August 26, 2014?
A. Yes.
Q. Would you just read that, review that to yourself? And let me know whether you recognize that as being a complaint that you registered on a website.
A. What was the question?
Q. Do you recognize that as reflecting a complaint that you posted on a website?

A. I'm -- I'm not a hundred percent sure.
Q. Do you know whether you ever called LADWP and spoke to a -- to a supervisor?
A. Do I know if I did?
Q. Yeah.
A. Yes.
Q. Do you know whether his name was Herbert?
A. No, I don't recall.
Q. Okay.
MR. ISAACS: So you're not sure that this entry for August 26 of 2014 was from you?
THE WITNESS: I'm not a hundred percent sure. I can't say for a hundred percent certainty that that's me.
MR. THOMASCH: Understood. I have one more that may help; may not. But I'll ask the reporter to mark as our next exhibit, Exhibit 5, of this date a 22-page printout from a website of an organization called Consumer Affairs.
(The document referred to was marked by the reporter as Exhibit 5 for identification and is attached hereto.)
MR. THOMASCH: Showing you what -- what has been marked as Exhibit 5.
Q. Do you recognize the name Consumer Affairs

as a website for consumer complaints?

A. Are you asking me if I recognize it?

Q. Yeah.

A. No, I don't recognize it.

Q. Okay. If you turn to page -- up in the top right you'll see it starts page 1 of 22 and a number to page 15 of 22.

A. Uh-huh.

Q. On the -- on the website printout there is a copy of the August 26, 2014 review that appears in Exhibit 3, the Complaint, that we just looked at.

A. Uh-huh.

Q. This one on the website indicates it's from Antwon of Van Nuys, California.

A. Uh-huh.

MR. ISAACS: When you answer, answer "yes" or "no," not "uh-huh."

THE WITNESS: Okay.

BY MR. THOMASCH:

Q. Does that refresh your recollection, do you have any better memory now, looking at the document as it appeared on the website, that it pertains to a complaint that you posted to a website?

MR. ISAACS: And take a moment and read it to make sure.

THE WITNESS: Can you repeat the question?

MR. THOMASCH: Sure.

Q. Looking at Exhibit 5, does that in any way help you recall whether or not the substance of this complaint is taken from a posting that you made to a Consumer Affairs website?

A. Yes.

Q. And do you believe that it is your posting?

A. Yes.

Q. And so the review date was August 26, 2014, so would it be fair to say that the bill that you received in 2014, that you thought was greater than it should be for the amount of electricity that you used, that bill you would have received before August 26, 2014? Correct?

A. Yes.

Q. This is a complaint that you wrote after you received a bill; is that right?

A. Yes.

Q. Is it your recollection that you wrote the complaint after you -- after the first time you received a bill that you thought was too high?

A. Yes.

Q. Did you receive multiple bills you thought were too high or just one?

A. Multiple.
Q. So I'm just looking for a sequence of events. So at some point during 2014, before August 26, you received the first bill that you thought was too high and you believe that this complaint reflected on Exhibit 5 came next before you received your second bill; is that right?
A. I don't recall.
Q. Okay. But it is your recollection that after you received the first bill that you thought was too high, that's when you registered your complaint?
A. I don't know if it was the first or the second. I don't recall the exact time I filed it.
Q. So, then, is it fair that the bill you felt was inaccurate you got before August 26, 2014 but you're not sure how much before?
A. Yes.
Q. So the next paragraph -- I'm now returning to Exhibit 4.
A. Okay.
Q. Okay? This is your declaration. And I'm in -- on the second page of paragraph 5. So paragraph 4 we've just gone through. That was the "in 2014," and I was trying to have a little clarity

as to, the best of your recollection, when in 2014.

A. Okay.

Q. And the next paragraph begins with the word "Thereafter..." It says:

"Thereafter, I retained counsel and requested that counsel conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles to recover for the amounts that I had been overcharged by the LADWP for electricity."

Do you see that?

A. Yes.

Q. And that's an accurate statement?

A. Yes.

Q. So my first question with you is -- I'm just going to focus on the first four words, "Thereafter, I retained counsel..." Okay? That's all I want to ask you about.

A. Okay.

Q. Do you know how long, approximately, after you received the bill that you thought was too high, how long was it until you then retained counsel as referenced in this paragraph 5?

A. How long after I received the bill?

Q. Yes.
A. Did I retain counsel?
Q. Right. Was it days, weeks or months?
A. Months.
Q. Months?
A. Yes.
Q. Approximately how many months?
A. Approximately four.
Q. Who did you retain at that time?
A. Paul Paradis.
Q. Did you retain anyone else at that time?
A. No.
Q. And how -- how did you come to retain Mr. Paradis? Did you contact him? Did he contact you? Was he a family friend? How -- how did it come to your attention to contact -- to retain him?
MR. ISAACS: Without getting into the content of any communications you may have had with Mr. Paradis.
MR. THOMASCH: Correct. And throughout this deposition I'm not looking, unless I specifically say and your lawyer has a chance to object to it, I'm not asking about who said what to whom.
THE WITNESS: Uh-huh.

MR. THOMASCH: But I received a telephone call or I received an email, or I spoke, you know, I called him, without disclosing what was said. That's what I'm looking for here.

Q. So how is it that you came into contact with Mr. Paradis?

A. I received an email.

Q. From him?

A. Yes.

Q. Do you have that email?

A. Yes.

MR. THOMASCH: Counsel, we'll go through the -- withdrawn.

Q. How long between receiving email -- withdrawn.

After you received the email, did you respond to Mr. Paradis?

A. Yes.

Q. And -- and how -- how long between those two, between receiving and responding, how long occurred -- how long was the time period?

A. When I received the email and when I responded?

Q. Yeah.

A. Rather quickly.

Q. That's --
A. Less than a day.
Q. And you have that email as well?
A. Yes.
Q. Was it an email -- I'm assuming that, but I shouldn't have assumed. Was it an email that was your response?
A. Yes.
Q. When you wrote him back, did you consider that he was at that point in time your counsel or were you discussing with him the possibility that he would become your counsel?
MR. ISAACS: Objection, attorney/client privilege and -- well, attorney/client privilege, and I'm instructing the witness not to answer. Maybe if you can break up that question.
MR. THOMASCH: Let me try again.
Q. When -- when, in your mind, did you think that you had retained Mr. Paradis to be your counsel?
A. Are you asking for the date?
Q. Well, in -- by reference to -- you received an email from him. Let me withdraw the prior question and just reestablish.
You received an email from him at some

point in 2014; is that correct?

A. Yes. Yes, that's correct.

Q. Do you know approximately what month?

A. December.

Q. All right. And at that time did you know who he was when you received it?

A. No.

Q. Did you have prior knowledge who he was?

A. No.

Q. You responded within a day, is your recollection; correct?

A. Correct.

Q. I'm trying to find out whether on the day that he wrote you a letter, did you consider him your counsel or did you have conversations with him and at some point agreed that he would represent you?

MR. ISAACS: Objection, attorney/client privilege. If I may ask Mr. Jones a question, it might help to clarify.

MR. THOMASCH: Go right ahead.

MR. ISAACS: Mr. Jones, when you made this complaint that's been marked as Exhibit 5, was there a box that you were able to check asking for an attorney to contact you?

THE WITNESS: Yes.

MR. ISAACS: And when you received Mr. Paradis' email, was that in response to your having checked the box to have an attorney contact you?

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. Did you ever reach a point where you made a decision to retain Mr. Paradis?

A. Yes.

Q. And what I'm trying to find out is: Was that on the -- on the day that he emailed you, was that a week later, a month later? Can you tell me, in -- in reference to when he first contacted you, when did you decide to retain him?

A. Within a week.

Q. But not the day of his contacting you; correct?

A. I don't recall if it was the day of, but I know it was definitely within a week.

Q. Did Mr. Paradis -- and I am now asking about substance, so give your counsel a moment to consider the question -- did Mr. Paradis indicate to you what state he was licensed to practice law in?

MR. ISAACS: Objection, attorney/client

privilege. I think you could probably rephrase the question based on Mr. -- if you're asking Mr. Jones' knowledge as opposed to the source of it.

BY MR. THOMASCH:

Q. At the time you agreed to have Mr. Paradis represent you as counsel, did you know where his offices were?

A. Yes.

Q. Where were they? What was your understanding?

A. New York.

Q. Did he indicate to you -- withdrawn.

Did you have any understanding as to whether he represented anyone else who had a complaint against LADWP?

MR. ISAACS: Objection, attorney/client privilege, work product, and I'll instruct the witness not to answer.

BY MR. THOMASCH:

Q. Did you have an understanding as to whether he was in any way counsel for the City of Los Angeles?

MR. ISAACS: At what time?

MR. THOMASCH: At the time he was contacted by Mr. Paradis.

MR. ISAACS: I'm going to object, assumes facts not in evidence.

You understand the question?

THE WITNESS: No.

BY MR. THOMASCH:

Q. Okay. When Mr. Paradis contacted you, then sometime within a week you agreed to have him as your counsel; correct?

A. Correct.

Q. You knew he was a New York lawyer; correct?

A. Correct.

Q. Did you know whether or not he had any relationship as being a lawyer for -- that handled one or more cases on behalf of the City of Los Angeles?

MR. ISAACS: That's a yes or no.

THE WITNESS: Did I have knowledge of it?

MR. THOMASCH: Yeah.

THE WITNESS: No.

BY MR. THOMASCH:

Q. It says, taking you back to the language here, on paragraph 5:

"Thereafter, I retained counsel and requested that counsel conduct an investigation."

Do you see that?

A. I see it.

Q. Did the request that counsel conduct an investigation occur at the same time that you retained him or did that occur subsequently?

A. Subsequently.

Q. How long between when you retained him and when you asked counsel to conduct an investigation?

A. How long was the investigation?

Q. No. How long was it between when you retained him and when you asked him to conduct an investigation?

A. Immediately.

Q. So you received an email from Mr. Paradis, within a week you had reached an agreement that he would represent you in the case, and you immediately requested that he conduct an investigation; is that correct?

A. Yes.

Q. Is this a fair summary and complete summary of what you asked him to investigate? It says:

"Requested that counsel conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles to recover for the

amounts that I had been overcharged by the LADWP for electricity."

Was that a fair and complete statement of the investigation you requested?

A. Yes.

Q. Did you ask Mr. Paradis to investigate whether you had claims against anyone other than the LADWP and the City of Los Angeles?

MR. ISAACS: That's just a yes-or-no answer.

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. So this is correct, but not complete; is that -- is that what you're saying? That you asked him to conduct that investigation, but there's also another investigation?

A. Any -- I asked him to investigate anything that could arise from the overbilling by LADWP.

Q. Did you ask him to investigate any claim against any specific person or entity other than LADWP and the City of Los Angeles?

MR. ISAACS: Objection, attorney/client privilege. I'm going to instruct the witness not to answer. But why don't we mark that and I can discuss it with my -- with Mr. Jones at the lunch

break.

MR. THOMASCH: We will. I think that having offered a declaration and made a statement, I'm entitled to -- to a full understanding of -- of what was requested.

MR. ISAACS: And I'm not saying otherwise. I think the problem is in the phrasing of the question as to what knowledge Mr. Jones may have had versus his communications with Mr. Paradis as his counsel.

BY MR. THOMASCH:

Q. I'm not asking for -- well, I am asking whether or not the request that you disclose in this document -- this says you requested an investigation of claims that could be brought against the LADWP and the City of Los Angeles --

Do you see that?

A. I do.

Q. -- and I'm asking: Did you, in that same request, also request that he determine whether you had any claims that could be brought against any other specific person or entity?

MR. ISAACS: Do you understand the question?

THE WITNESS: Yes.

Yes.
BY MR. THOMASCH:
Q. What specific person or entity did you ask him to investigate?
MR. ISAACS: Let me object on attorney/client privilege grounds, and as I said, I'll discuss it with Mr. Jones either now or I can discuss it at the lunch break. I just want to know what -- what it will take to answer the question. And if it's not going to reveal privileged information, then I'm happy to have him answer it.
MR. THOMASCH: This one's pretty foundational, and there is a statement made under penalty of perjury about a request. That -- whatever that request was is -- it's not privileged at this point. And -- and why don't we take a break now, because this one is too fundamental to just simply wait until the end and deal with.
MR. ISAACS: That's fine.
MR. THOMASCH: Okay. So why don't we take a short break.
THE VIDEOGRAPHER: Okay. We're off the record. It's 12:06.
(Brief recess.)
THE VIDEOGRAPHER: Okay. We're back on the

record. It's 12:24.

MR. THOMASCH: I'm going to ask a new question.

MR. ISAACS: Yes. Can you repeat the question?

MR. THOMASCH: I'm going to ask a new question.

Q. Mr. Jones, a moment ago, with reference to paragraph 5 of your declaration, I asked you whether it was a fair summary and a complete summary of what you asked him to investigate. My question read, it says,

"...requested that counsel conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles to recover for the amounts that I had been overcharged by the LADWP for electricity."

Was that a fair and complete statement of the investigation you requested? And you answered, "Yes." Was that a correct answer or do you want to change that answer?

A. I would like to change it.

Q. Okay. I asked you: Did you ask Mr. Paradis to investigate whether you had claims

against anyone other than LADWP and the City of Los Angeles? What is the answer to that question?

A. Yes.

Q. Who did you ask Mr. Paradis to investigate other than LADWP and the City of Los Angeles?

A. PricewaterhouseCooper.

Q. And did you have an impression, as of the time you wrote this complaint on August 26, 2014, that PricewaterhouseCoopers and not LADWP was responsible for your overbilling?

A. Can you repeat the question?

Q. Sure. Back in -- in August of 2014, you submitted a complaint? It ends with:

"I want to start a class action lawsuit ASAP. They can't get away with this."

Do you see that?

A. I do.

Q. You were referring to LADWP; correct?

A. Yes.

Q. At the time you wrote this, did you have any belief or view that PricewaterhouseCoopers, not LADWP, was the entity that you should sue?

A. At this time?

Q. Yes.

A. No.

Q. Had you formed that impression by the time that you retained Mr. Paradis?

MR. KIESEL: Well, let me just object to that, because you defined two different periods of time in terms of the retention, so vague as to time. Just an objection.

MR. THOMASCH: Rephrase the question.

Q. Had you formed the impression that you should bring a suit or consider bringing a suit against PricewaterhouseCoopers prior to the time that Mr. Paradis first contacted you?

A. No.

Q. Was it your understanding, when you were first contacted by Mr. Paradis, that he was contacting you with your request to consider the starting of a lawsuit, a class action lawsuit, against LADWP?

A. Can you repeat the question?

Q. Sure. Your counsel asked you some questions, and you said you checked a box to have an attorney contact you?

A. Yes.

Q. Was it your understanding when he contacted you that he was contacting you about your request that you wanted to consider starting a class action

lawsuit against LADWP?

A. It was more about the matter that happened about me being overbilled. That's what I wanted a class action to happen for.

Q. And before you were contacted by Mr. Paradis, who did you think that that lawsuit should be brought against?

A. LADWP.

Q. The reference -- there's two references to counsel in paragraph 5 of your declaration. Those are both Mr. Paradis; is that correct?

A. Yes.

Q. Then in paragraph 6 you say: "In response to my instruction, my counsel retained experts," and it continues.

Do you see that?

A. Yes.

Q. And who were you referring to by reference to "my counsel"?

A. Paul Paradis.

Q. Anyone else?

A. Anyone else when? At what point?

Q. "In response to your instruction -- in response to my instruction," you write, "my counsel retained experts." When you wrote this sentence or

when you signed a declaration with this sentence in it, did you understand "my counsel" to mean anyone other than Mr. Paradis with respect to responding to the instruction in paragraph 5 and retaining experts?

A. Yes, Jack Landskroner.

Q. Did you make an -- did you make an instruction to Mr. Landskroner to conduct an investigation?

A. Yes.

Q. When?

A. Paul and Landskroner -- I don't understand the question.

Q. Okay. I'm trying to work on the time period here. You received your first overcharge bill somewhere prior to August 26 of 2014, which allowed you to register a complaint on August 26, 2014; correct?

A. Correct.

Q. At some point thereafter you were contacted by Mr. Paradis and you indicated that was around December of 2014; is that correct?

A. Yes.

Q. At the time you were contacted by Mr. Paradis, within a week you retained him and

immediately thereafter you asked him to conduct an investigation; correct?

A. Correct.

Q. When you asked him to conduct an investigation, at that time did you ask anyone else other than him or in addition to him to conduct an investigation?

A. At that time, no.

Q. When it says, "In response to my instruction, my counsel retained experts to assist in counsel's investigation," do you know whether -- withdrawn.

Do you know when your counsel retained experts to assist in counsel's investigation?

A. No.

Q. It says, "In response to my instruction, my counsel retained experts." Do you know what field those experts were in?

A. No.

Q. Were they legal experts or nonlegal experts?

A. I'm not sure.

Q. Were you aware of -- withdrawn.

Do you know who the experts are, as you sit here today, that were retained?

A. No.
Q. What was the basis for your statement in your declaration that your counsel retained experts to assist in counsel's investigation? How did you know that?
A. I was told.
Q. But you weren't told who they were?
A. No.
Q. Were you told when that occurred?
A. No.
Q. Do you -- you say, in response to your instruction, do you know whether the experts were retained before you made the request or after you made the request?
A. I'm not sure.
Q. So looking back at 6, in the first line it says, "In response to my instruction, my counsel retained experts to assist in counsel's investigation." Who are you referring to that you -- that retained experts in response to your instruction, Mr. Paradis alone or Mr. Paradis and others?
A. Mr. Paradis and others.
Q. And is the others Mr. Landskroner alone or Mr. Landskroner and others?

A. Mr. Landskroner alone.
Q. So in paragraph 5, when you refer to "counsel," you're referring to Mr. Paradis, and in paragraph 6, when you refer to "counsel," you're referring to Mr. Paradis and Mr. Landskroner; is that correct?
A. Correct.
Q. Paragraph 7 says:
"When counsel concluded that investigation, I conferred with counsel, and after being informed of counsel's finding, I instructed counsel to move forward in drafting a Complaint for my review and consideration."
Do you see that?
A. Yes.
Q. So I want to want to work, in effect, backwards through that sentence. It ends with:
"I instructed counsel to move forward in drafting a Complaint for my review and consideration."
Do you see that?
A. Yes.
Q. When was that instruction?
A. Are you -- I don't understand the question. Are you asking for the date or --

Q. Yes, the date, to the best of your recollection. It could be early in a month, it could be a specific date, it could be a season. I don't know.

A. It would have to be not long after we had our initial contact.

MR. ISAACS: When you say "we," you mean Mr. Paradis --

THE WITNESS: Yes, me and --

MR. ISAACS: -- or Mr. Landskroner, or both of them?

THE WITNESS: Mr. Paradis.

So a couple of months after December 2014.

BY MR. THOMASCH:

Q. The first contact from Mr. Paradis you've estimated around December 2014, and I can represent to you that this lawsuit is filed on April 1, 2015.

A. Yes.

Q. Between the first contact and the filing of the lawsuit, paragraph 6 says you gave an instruction, your counsel retained experts to assist in the investigation, your counsel conducted an investigation, and then in paragraph 7 it says after the counsel concluded the investigation, you conferred with the counsel. After you were

informed, you instructed counsel to move forward.

Do you see that sequence?

A. Yes.

Q. So now I'm looking for the -- as close as you can, an estimate of when you instructed counsel to draft a Complaint. Was it nearer in time to when Mr. Paradis first contacted you in December or nearer in time to August 1 -- to April 1? Using those as bookends, can you tell me about when you instructed counsel to move forward in drafting a Complaint?

A. In between those two periods, like.

Q. More than a month after one or more than a month before the other? Sort of in the middle? Or close to one or the other?

A. I would say sort of in the middle.

Q. All right. When it says, "I instructed counsel to move forward in drafting a Complaint," did you do that by speaking with counsel or by an email, or other written communication?

MR. ISAACS: Or both?

MR. THOMASCH: Or both.

THE WITNESS: Probably both.

BY MR. THOMASCH:

Q. Okay. Who did you communicate with? Who

is the counsel you instructed to move forward in drafting a Complaint?

MR. ISAACS: I'm going to object, lack of foundation. And in particular, we've not established when Mr. Landskroner entered the scene, and I think as a result it's somewhat confusing.

But if you understand the question, and you can answer it, go ahead and answer it.

THE WITNESS: Can you repeat the question?

MR. THOMASCH: Yes.

Q. When it says, "I instructed counsel to move forward in drafting a Complaint for my review and consideration" --

Do you see that?

A. Yes.

Q. -- and then the next sentence says, "Counsel did so," and then you reviewed it and then you directed counsel to file it; is that right?

A. Yes.

Q. Can you tell me about how long between when you instructed counsel and when the case was filed?

A. I would say within a week or two.

Q. When you instructed counsel, do you recall who you instructed? Who did you tell to draft the Complaint?

A. Paul Paradis.
Q. Then it says, "Counsel did so." You mean Paul Paradis; correct?
A. Yes.
Q. "And after having reviewed the Complaint and discussed the matter further with counsel."
Was that discussion with Mr. Paradis?
A. Can you repeat the question?
Q. Yes. It says:
"Counsel did so, and after having reviewed the Complaint and discussed the matter further with counsel, I directed counsel to file the Complaint to commence this action."
So in -- when it says "and discussed the matter further with counsel," that was the counsel that drafted the Complaint; correct?
A. That was Paul Paradis and Jack Landskroner.
Q. So you instructed Mr. Paradis to draft the Complaint and then you discussed the draft with Mr. Landskroner and Mr. Paradis?
A. They were both my lawyers, so any conversation I feel like I instructed them both at the same time.
Q. Were they both your lawyers when you directed Mr. Paradis to move forward and draft a

Complaint?

MR. ISAACS: Objection, lack of foundation, again, as to when Mr. Landskroner entered the picture.

BY MR. THOMASCH:

Q. Do you recall when Mr. Landskroner entered the picture, to use your counsel's phrase?

A. Yes.

Q. When?

A. March 2015.

Q. March 26?

A. I don't know the exact date.

MR. ISAACS: Don't guess.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 6 of this date a February 12, 2019 letter, signed by Jeffrey B. Isaacs, addressed to Daniel J. Thomasch. Attached to the letter are a production of documents bearing the Bates numbers AJ 1 through AJ 48.

(The document referred to was marked by the reporter as Exhibit 6 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Would you take a look just at -- I'm --

MR. ISAACS: I'm sorry, what number is

this?

MR. THOMASCH: Six. You can look at everything, but I don't have any questions right this moment about the bills that are attached here. My questions are going to relate to the cover letter that is the first three pages of the document.

Q. Okay?

A. Okay.

Q. And would you just take a look at that with the following question in mind: Have you seen this document before?

A. Yes.

Q. And do you recognize this as a document sent by your counsel, Mr. Isaacs, to me yesterday?

A. Yes.

Q. All right. I want to turn to the second page where it says:

"Based on our investigation to date" --

This is near the top, in the first full paragraph.

"Based upon your investigation to date, we can represent the following foundational facts that support application of the attorney/client privilege and attorney work-product doctrine to these documents."

Do you see that?

A. Yes.

Q. Okay. And for now -- we'll go back to this, but for now I just want to take you down to point 4, which states:

"Mr. Paradis introduced Mr. Jones to attorney Jack Landskroner via email on or about March 26, 2015, and Mr. Landskroner and his law firm, Landskroner Grieco Merriman, LLC, began representing Mr. Jones in his dispute with LADWP, together with Mr. Paradis and his law firm, on or about that date."

Do you see that?

A. Yes.

Q. To the best of your knowledge, is that accurate?

A. Yes.

Q. Recognizing that the introduction to Mr. Landskroner occurs on March 26, 2015, going back to the paragraph 6 with reference to "counsel's investigation," any investigation that counsel conducted between December of 2014 and prior to March 26, 2015 would have been by Mr. Paradis alone; is that correct?

A. It is.

Q. Were you aware of Mr. Paradis working with any other counsel on an investigation on your behalf during that time period?

MR. ISAACS: Objection. When you say "Mr. Paradis," you're also referring to his law firm?

MR. THOMASCH: His law firm. I am referring to his law firm at all times. Just his law firm.

THE WITNESS: Did I know that his law firm was working with other lawyers?

BY MR. THOMASCH:

Q. Did you know whether he was working with other lawyers during the time period prior to March 26, 2015?

MR. ISAACS: Other than lawyers within his law firm?

MR. THOMASCH: Other than lawyers within his law firm.

THE WITNESS: No.

BY MR. THOMASCH:

Q. Did you authorize him to work with anyone else, other than lawyers in his law firm, on your behalf during that time period?

A. No.

Q. Then on March 26 Mr. Paradis introduced you via email to Mr. Landskroner; correct?

A. Yes.

Q. Was that before or after you had directed your counsel to draft a Complaint?

A. Can you repeat the question?

Q. Sure. Recognizing that you -- that Mr. Paradis introduced you via email to Mr. Landskroner on March 26, 2015, had you already instructed Mr. Paradis to draft a Complaint or did the instruction to draft a Complaint occur after March 26, 2015?

A. I had already instructed him.

Q. Do you know about how long before he then brought Mr. Landskroner into your representation?

MR. ISAACS: Objection, vague and ambiguous.

MR. THOMASCH: Okay. Withdrawn.

MR. ISAACS: Can you rephrase it?

BY MR. THOMASCH:

Q. Sequence: You were working with Mr. Paradis as your counsel, you instructed Mr. Paradis to draft a Complaint, and at some point prior to filing Mr. Paradis introduced you to Mr. Landskroner; correct?

A. Correct.
Q. And now I'm between the time period that you instructed Mr. Paradis to draft the Complaint and when he introduced you to Mr. Landskroner. Can you tell me about how long that was, that time period?
A. Within a month.
Q. Once a draft Complaint was prepared, did you review it on your own before discussing it with counsel or did you only review it with counsel?
MR. ISAACS: Objection, vague and ambiguous. Again, maybe you can rephrase it as to did he read it -- did he read it and then did he discuss it with counsel? I think it's confusing the way it's phrased.
BY MR. THOMASCH:
Q. Did you ever read the draft Complaint that you asked to be prepared?
A. Yes.
Q. Did you read it when you were by yourself or did you only read it when sitting with counsel and going through the document with them or him?
MR. ISAACS: Objection, lack of foundation as to "sitting with counsel."
MR. THOMASCH: Okay. Let me withdraw the

question. It's really fairly easy.

Q. When you read it, were you alone?

A. Yes.

Q. After you read it, did you then have a conversation with counsel about it?

A. Yes.

Q. When you had a conversation, was it in person or by telephone, or otherwise?

A. It could have been by phone and email.

Q. Do you recall who the parties to that conversation were? Was it you and Mr. Paradis or were there others?

MR. ISAACS: Objection because assumes that there was only one such conversation or communication.

MR. THOMASCH: I'll withdraw the question.

Q. Paragraph 7 says:

"Counsel did so, and after having reviewed the Complaint and discussed the matter further with counsel, I directed counsel."

Do you see those words?

A. Yes.

Q. So now I'm focusing on the words "and discussed the matter further with counsel." Do you know whether that was one discussion or multiple

discussions?

A. Multiple.

Q. So you had -- you reviewed the Complaint, you had multiple conversations and then you directed counsel to file; is that correct?

A. Yes.

Q. Do you know how many conversations you had when you say you had multiple?

A. No.

Q. Do you know whether any of them were in-person conversations?

A. Do I know?

Q. Yes.

A. Yes.

Q. Were they?

A. No.

Q. Okay. So the only conversations you had were either by email or by telephone; is that correct?

A. At this point, yes.

Q. Did all of the conversations you had between your reading the Complaint and your directing counsel to file it, in that short -- in that period of time, between when you read it and when you said file it, was Mr. Paradis a party to

all those conversations? Was he involved?

A. Yes.

Q. Was anyone else involved in any of the conversations before you gave the instruction to file the Complaint?

A. No.

Q. So when it says, "I directed counsel to file the Complaint and commence this action," that was a direction to Paul Paradis alone; correct?

A. No, that was to Paul and Jack.

Q. Had Jack been party to any -- had he been involved in any of the discussions that you refer to in paragraph 7 when you say you discussed the matter further with counsel before you directed the filing of the Complaint?

MR. ISAACS: Let me just ask for clarification. When you say "discussion," are you referring to both telephone conversations and email exchanges, or just conversations?

BY MR. THOMASCH:

Q. When you use the phrase "discussed" in your declaration, did you understand it to mean communication between the two of you, whether by telephone or by email?

A. Yes.

Q. I will use it the same way. Okay? I'm just trying to understand what you said. So when you are talking about communications by either telephone or email between when you read the Complaint and when you said file the Complaint, in those conversations, you've told me that Mr. Paradis was in -- involved in all of them?

A. Uh-huh.

MR. ISAACS: "Yes"?

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. Was Mr. Landskroner involved in any of them?

A. Yes.

Q. Was he involved in all of them?

A. No.

Q. When did he make his -- did you understand that he was brought in, in order to file the Complaint?

A. No.

Q. What was the purpose of retaining Mr. Landskroner?

A. Paul said that he had someone who he had worked with before, who he wanted to bring in, who had more knowledge of the case or who had some

knowledge of the case, because it was a similar situation.

Q. If you'd just take a look at Exhibit 3 again. So it's not a test. You're not a lawyer. This is a legal document. But I just want to point out on it that -- see these numbers on the left-hand side? To make it easy, if you look between 9 and 10, you see "attorneys for plaintiff."

A. Yes.

Q. And the two firms that are identified as attorneys for plaintiff are the Law Offices of Michael J. Libman and the Landskroner firm; do you see that?

A. Yes.

Q. And then if you turn to the end of the -- page 44 of the Complaint, which is not the last page of the document, but that's -- that's the signature page, and you'll see it was signed by or on behalf of Michael J. Libman and it identifies underneath it that Jack Landskroner is also counsel for plaintiff.

Do you see that?

A. Yes.

Q. When did you first -- withdrawn.

Did you ever meet Mr. Libman?

A. No.

Q. Do you know who he is?
A. No.
Q. Did you ever understand Mr. Libman to be your counsel?
A. No.
Q. Did you ever see this document and notice that it was signed by someone named Michael J. Libman?
A. Repeat the question.
Q. Yeah. Did you ever, back in 2015, did you see this document and have occasion to see that it was signed by someone named Michael J. Libman?
MR. ISAACS: Meaning the filed version; right?
MR. THOMASCH: Yeah, meaning the -- you directed it be filed and after you directed it be filed it was filed.
Q. Correct?
A. Yes.
Q. And did you ever see the copy that got filed?
A. Yes.
Q. The copy that you reviewed, did it have Mr. Libman's name on it?
A. I don't recall.

Q. Okay. But this document shows that Mr. Libman and Mr. Landskroner are saying they're counsel for plaintiff. That's you; correct?

A. Yes.

Q. Did you ever see this document as filed with a stamp on it?

A. Yes.

Q. Okay. Did you notice that Mr. Paradis' name was not on the document?

A. Did I notice it?

Q. Yeah.

A. No.

Q. Did you think that Mr. Paradis was filing this document on your behalf with Mr. Landskroner?

A. Yes.

Q. Is it correct to think that you thought that Mr. Paradis, Mr. Landskroner were filing it, but the document shows that Mr. Libman and Mr. Landskroner actually filed it?

A. Yes.

Q. As you sit here today, do you have any knowledge as to why Mr. Paradis didn't identify himself as attorneys for plaintiff on this document?

MR. ISAACS: Objection --

MR. THOMASCH: Yes-or-no question.

MR. ISAACS: -- attorney -- well, if it's just a yes or no.

THE WITNESS: Can you repeat the question?

BY MR. THOMASCH:

Q. As you sit here today, do you know why Mr. Paradis, do you have any understanding as to why Mr. Paradis did not identify himself on this document as your counsel?

A. No.

Q. In paragraph 8, and this is -- remember, we're in your declaration now, not on the Complaint. We're in your declaration, just so we don't confuse things. This is written May -- you sign it on May 1 of --

MR. ISAACS: 2017.

MR. THOMASCH: -- 2017.

Q. Just above your signature you see that it says the 1st day of May?

A. Yes.

Q. And then it took until May 5th to actually get filed, but May -- May 1 is when you -- when you sign it. You say in paragraph 8:

"On April 1, 2015, my counsel filed this action."

When you signed this document in 2017, who

did you think had filed the action? What counsel?

A. Paul Paradis and Jack Landskroner.

Q. This document itself, am I correct, was drafted by Mr. Landskroner, reviewed by you and signed by you; is that right?

A. Yes.

Q. You didn't type it up; correct?

A. No, I did not.

Q. You didn't write it out longhand? You were provided the document, you reviewed it and you signed it; is that right?

A. Yes.

MR. ISAACS: Can I just ask a clarifying question?

MR. THOMASCH: Sure.

MR. ISAACS: Did you receive this declaration, draft of this declaration, from Mr. Landskroner or his office?

THE WITNESS: Yes.

MR. ISAACS: And as far as you know, it was Mr. Landskroner who prepared this?

THE WITNESS: Yes.

MR. ISAACS: That was your understanding?

THE WITNESS: Yes.

///

BY MR. THOMASCH:

Q. So back to paragraph 8. When you wrote or when you signed the declaration saying, "On April 1, 2015 my counsel filed this action," your understanding was Mr. Paradis and Mr. Landskroner had filed the action on that date; correct?

A. Yes.

Q. Then paragraph 9 says:

"Soon after my initial Complaint was filed, I directed my counsel to pursue the most efficient, effective and expeditious means of recovering LADWP's customers' losses in this action."

Do you see that?

A. Yes.

Q. First, when it says, "I directed my counsel to pursue," and it goes on from there, in less lawyerly words, are you saying there that you directed your counsel to explore settlement?

A. Yes.

Q. Okay. Who did you ask to explore settlement?

A. Jack Landskroner.

Q. Do you recall when you asked him that in relationship to when the Complaint was filed?

A. I don't recall.
Q. Do you know if it was within a day of when you filed the Complaint?
A. I'm not sure.
Q. Okay. Did you -- it says "soon after my initial Complaint was filed"; is that your recollection or did you ask him to explore settlement before he ever filed the suit?
A. I'm not sure.
Q. Did you ever ask him to explore settlement or did he simply inform you that he had?
A. I wanted to explore settlement.
Q. And did you direct him to do so?
A. I directed him to explore the quickest means to settle the case.
Q. Okay.
A. Whether that was settlement or trial, that is what I wanted to happen.
Q. And that was a direction after the case was filed?
A. Yes.
MR. ISAACS: Can I ask a clarifying question?
MR. THOMASCH: Certainly.
MR. ISAACS: Was any such direction given

to either Mr. Paradis or Mr. Landskroner before April 1st, 2015, when the Complaint was filed?

THE WITNESS: No.

BY MR. THOMASCH:

Q. Was it -- was it your understanding on April 15th that --

MR. ISAACS: I'm sorry, April 1st you mean?

MR. THOMASCH: Withdrawn. Yes.

Q. Let's go to April 1st, 2015. That's the day on which the case was filed.

A. Okay.

Q. Had you instructed anyone who was your counsel to reach out to anyone in the City or in LADWP to talk about the litigation before the case was filed?

A. No.

Q. After the case was filed you asked them to figure out how to get it resolved as quickly as possible; correct?

A. Yes.

Q. And you understood one possibility would be that they would try to settle it?

A. Yes.

Q. How long after filing the lawsuit was it before you gave that instruction?

A. I'm not sure.
Q. Okay. Do you have the letter?
MR. ISAACS: Dan, can I ask a clarifying question?
MR. THOMASCH: Yes.
MR. ISAACS: So Mr. Jones, when you say "soon after" in paragraph 9, can you give Mr. Thomasch an idea, without speculating or guessing, but just an estimate, what "soon after" meant? Was it days or -- or weeks, or months?
THE WITNESS: Days.
MR. ISAACS: Can you, again, estimate or recall approximately how many days?
THE WITNESS: I would think it would be within the week.
MR. THOMASCH: Let me, with apologies for jumping around, let me direct you back to Mr. Isaacs' letter for a moment.
THE WITNESS: Okay.
MR. THOMASCH: To your -- that's it.
Q. And if you look down at paragraph 6 --
A. Uh-huh.
Q. -- it says:
"Mr. Paradis and his firm represented Mr. Jones through at least April 1, 2015.

Mr. Jones believes that he last communicated with Mr. Paradis in writing on or about April 10, 2015."

Do you see that?

A. Yes.

Q. Is that accurate?

A. Yes.

Q. And so using April 10th as a before or after date, do you know whether "soon after my initial Complaint was filed I directed my counsel to pursue," and it goes on, do you know whether that was before or after your last communication with Mr. Paradis on April 10?

A. Can you repeat the question?

Q. Sure. The Complaint is filed on April 1.

A. Okay.

Q. And soon thereafter you instruct Mr. Landskroner to propose settlement; is that right?

A. Yes.

Q. Did that instruction also go to Mr. Paradis?

A. No.

Q. Why not?

MR. ISAACS: If you can answer without

getting into the contents of any communications you had with either Mr. Paradis or Mr. Landskroner.

BY MR. THOMASCH:

Q. Why you didn't instruct Mr. Paradis?

A. Because after this point I just started really having correspondence with Jack.

Q. And as far as you know, April 10, 2015 was the last time you had correspondence with Mr. Paradis; correct?

A. Yes.

Q. And what I'm trying to do is see, and this is just a recollection, may be right or wrong, but do you recall whether or not your instruction to Mr. Landskroner to pursue the possibility of settlement, was that before or after the last communication you had with Mr. Paradis?

A. After, I would say.

Q. Okay.

MR. ISAACS: Are you guessing or speculating?

THE WITNESS: Yeah, I'm --

MR. ISAACS: Don't guess or speculate. If you don't recall, you don't recall.

THE WITNESS: Well, he said there's no wrong answer or right answer.

BY MR. THOMASCH:

Q. I'm asking for your memory as opposed to -- if that's not the case, I'm not suggesting you're lying, I'm just looking for what you recollect. And -- and I have a document I want to show you next, but I want to first see what it is you remember as you sit here.

A. I don't recall.

MR. THOMASCH: Let me mark as Exhibit 7 of this date a letter dated April 2, 2015 on the Landskroner firm letterhead, dated -- to Richard Tom, assistant general counsel of LADWP, and Eskel Solomon, Deputy City Attorney with LADWP.

(The document referred to was marked by the reporter as Exhibit 7 for identification and is attached hereto.)

MR. ISAACS: Dan, is this going to take a while?

MR. THOMASCH: No.

MR. ISAACS: Okay. I was going to say, we should take our lunch break soon.

MR. THOMASCH: We will.

MR. ISAACS: This is Exhibit 7?

MR. THOMASCH: This is Exhibit 7.

Q. And draw your attention to two things,

Mr. Jones. One is the date in the top of the first page, April 2, 2015.

Do you see that?

A. Yes.

Q. And then secondly, the "re" line indicates "Jones Versus City of Los Angeles, Confidential Settlement Proposal and Request for Settlement Meeting." So that's the subject matter of the letter.

Do you see that?

A. Yes.

Q. So as the first paragraph of the letter itself begins, it indicates:

"On April 1, 2015, the above-referenced action (the 'Jones action') was filed against the City."

Do you see that?

A. Yes.

Q. Do you believe that you instructed counsel to consider settlement after the matter was filed on April 1 but before the date of this letter or do you think this letter actually preceded, came before your instruction?

MR. ISAACS: If you know or if you recall.

THE WITNESS: I don't recall.

BY MR. THOMASCH:

Q. Have you ever seen this letter before?

A. I'm not sure if I have or not.

Q. Do you recall about when you learned that, in fact, Mr. Landskroner had reached out to LADWP to raise the issue of settlement?

A. Can you repeat it?

Q. Sure. I'm looking -- remember, April 1 is when the suit is filed.

A. Yes.

Q. Shortly thereafter you instruct him to reach out, presumably he does reach out, and at some point thereafter you learned that he had contacted the City; correct?

A. Yes.

Q. What I'm now looking for is: Do you remember about when you learned he had done so, whether that was right after you filed the suit or whether that was weeks or months after you filed the suit? How long passed before you learned that "I contacted the City"? "I" being Mr. Landskroner.

A. A couple of months after.

Q. Okay. So a couple of months after you found out that he had done so; correct?

A. Yes.

Q. This indicates he did so the day after he filed the lawsuit; do you see that?

A. Yes.

Q. Do you have any recollection that you asked him to reach out to the City that quickly that allowed for this offer to be prepared within a day of filing?

A. What's the question?

Q. Do you recall, is this -- is it consistent with your memory at all, do you have any recollection that -- that you asked him so soon after filing the Complaint that he could reach out the next day?

A. Not to my recollection.

MR. THOMASCH: Why don't we take that lunch break.

MR. ISAACS: Okay. Very good.

THE VIDEOGRAPHER: This marks the end of Disc No. 1 in the deposition of Antwon Jones. We're off the record at 1:10.

(Lunch recess.)

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LOS ANGELES, CALIFORNIA; WEDS., FEBRUARY 13, 2019

1:47 P.M.

THE VIDEOGRAPHER: This marks the beginning of Disc No. 2 in the deposition of Antwon Jones, Volume I. Back on the record. It's 1:47.

FURTHER EXAMINATION

BY MR. THOMASCH:

Q. Exhibit 7, the settlement proposal, dated April 2. Am I correct, based on what you testified to before, you didn't see a draft of this letter before it was sent to the City? Correct?

A. I don't recall.

Q. And you don't recall seeing the actual letter or -- withdrawn.

Do you ever recall seeing this actual letter before today?

A. No.

Q. At some point you became aware that Mr. Landskroner had reached out to the City regarding settlement, though; correct?

A. Yes.

Q. And my recollection is you testified that you recall learning of that some months after the suit was filed; is that right?

A. Yes.

Q. The suit was -- shows a filing date of April 1, 2015. Do you know whether you were informed at or about that time that the suit had been filed?

A. I'm not sure.

Q. So as of April 2, the date of this letter, you're not even sure whether you knew that the lawsuit had been filed; correct?

A. Correct.

MR. ISAACS: Dan, just to expedite things, we'll go back and look at Mr. Jones' communications and emails and, if we're able to, get you some additional dates as to when he may have received a copy of the Complaint and/or whether there's a draft or a copy of that letter.

MR. THOMASCH: Okay.

Q. In your declaration -- this is Exhibit 4; correct? -- on the bottom of page 2 we were looking at paragraph 9.

Do you see that?

A. Yes.

Q. So the second sentence of that paragraph, after you direct your counsel to pursue the most expeditious means of recovering, that second sentence says, it begins, quote:

"This included working with the consulting team to develop a highly detailed settlement proposal by which I proposed to resolve the claims asserted in the class action that I filed, as well as..."

And goes on to identify other cases. Do you see that?

A. Yes.

Q. Were you aware that those other cases had been filed at or about the time you filed your case?

A. No.

Q. When, if ever, did you learn about the filing of these other cases?

A. I don't recall.

Q. Who is the consulting team that's referred to in paragraph 9?

A. I don't know.

Q. At some point after the case was filed, some months after the case was filed, you understood that Mr. Landskroner had reached out to the City; correct?

A. Yes.
Q. And was it your understanding at that point that when he had done so, he had done so without Mr. Paradis' involvement or did you think that the overture was made by Mr. Landskroner and Mr. Paradis?
MR. ISAACS: I'm going to object and ask you to rephrase it so he can answer yes or no.
BY MR. THOMASCH:
Q. Did you have an understanding, when you -- when you learned that your counsel had reached out to the City to discuss settlement, when you first learned of that, did you understand who it was that had reached out?
A. Yes.
Q. And who was it that had reached out to the City?
A. Jack.
Q. And did you wonder why Mr. Paradis hadn't been involved in that?
MR. ISAACS: Objection, assumes facts not in evidence.
Do you understand the question?
THE WITNESS: Yes.
MR. ISAACS: Can you answer it? Do you

want it repeated?

THE WITNESS: Can you repeat it?

BY MR. THOMASCH:

Q. Did you have any understanding as to why Mr. Paradis had not been involved?

MR. ISAACS: Objection, vague and ambiguous as to "involved." Involved in what?

MR. THOMASCH: Involved in the conveying of a settlement offer to the City on your behalf.

THE WITNESS: You're asking if I was -- why wasn't he on it?

BY MR. THOMASCH:

Q. When the settlement -- when you learned of the settlement offer sometime after it had been made, you understood that the offer had been made by Mr. Landskroner and not by Mr. Paradis; correct?

A. No.

Q. Did you think that, when you heard that a settlement offer had been made to the City, was it your belief that that offer had been made by both Mr. Landskroner and Mr. Paradis on your behalf?

A. Yes.

Q. Did Mr. Paradis ever resign as being your attorney or withdraw from being your attorney?

A. I don't have any formal communication

saying that he's not my attorney anymore.

Q. Did you ever fire him?

A. No.

Q. I'm trying to get a sense of whether he just simply faded out of view and you turned more to Mr. Landskroner or whether there is some point in time when you said okay, Jack Landskroner's my counsel, Paul Paradis is not.

MR. ISAACS: Objection, compound. And again, if you could break that up, maybe ask the second part first.

BY MR. THOMASCH:

Q. Up through the time of filing of the Jones v LADWP case, your understanding was you were represented by Mr. Paradis and Mr. Landskroner at that time; correct?

A. Yes.

Q. And when you heard that there had been a subsequent settlement offer, your understanding was that it had been conveyed to the City by Mr. Paradis and Mr. Landskroner; correct?

A. Yes.

Q. But at some time in the process did you come to understand that only Mr. Landskroner was actively involved in your representation or did you

always think that Mr. Paradis was involved?

A. I -- I stopped talking to Mr. Paradis and I started talking to Mr. Landskroner, so -- but I never received an email from Mr. Paradis saying that he wasn't my attorney anymore.

Q. And you never told him he was not your attorney; correct?

A. No.

Q. So did you consider at the time that the case was settled, an actual settlement agreement was reached --

Do you recall that happening?

A. Yes.

Q. -- at that time did you think that I'm represented by both Mr. Landskroner and Mr. Paradis, it's just that Mr. Landskroner's the one out in front that I'm dealing with?

MR. ISAACS: And just for the sake of clarity, we're talking now July of 2017; correct?

MR. THOMASCH: Well, that was when it was finally approved.

THE WITNESS: Uh-huh.

MR. ISAACS: So what date do you want him to --

BY MR. THOMASCH:

Q. At any -- at any time between when the case was filed in April of 2015 and the final approval was given by the court in July of 2017, that two and a half year span that the case ran before approval was granted by the court, did you always think that in that time period Mr. Landskroner and Mr. Paradis were both your counsel?

A. Yes.

Q. Now I want to take you back very briefly to the time period before you sued. Okay?

A. Okay.

Q. You sued on April 1, 2015. From the time that you were first contacted by Mr. Paradis, when that occurred, you've testified you were retaining him to consider a lawsuit against LADWP; correct? Right at the beginning.

MR. KIESEL: Misstates his testimony.

MR. ISAACS: Join the objection.

BY MR. THOMASCH:

Q. At the time that Mr. Paradis contacted you in response to your posted website complaint, you understood at that time initially that he was going to represent you in connection with a possible action against LADWP; isn't that correct?

A. Yes.

Q. And ultimately you sued LADWP; correct?
A. Yes.
Q. Was there ever a period of time between those two dates that you said not interested in suing LADWP at all and then changed your mind and went back to the idea? Did you ever -- was that always a possibility, in your mind, or at some point did you --
A. Wait, was what always a possibility?
Q. The possibility of suing LADWP. From the time Mr. Paradis came on board until the time the actual suit occurred, at all points during that time period were you considering as an option, one option, being suing LADWP?
A. Yes.
Q. Did you consider other options?
A. Yes.
Q. But did you ever consider I only want to go in a different direction, I'm not interested in suing LADWP? Was that ever your frame of mind?
A. Can you repeat the question?
Q. Sure. Was there ever a time between when Mr. Paradis began representing you and when you sued that you were not interested in the possibility of suing LADWP?

MR. ISAACS: Do you understand the question?

THE WITNESS: Not really.

MR. THOMASCH: Okay.

MR. ISAACS: Can I take a try?

MR. THOMASCH: Sure.

MR. ISAACS: From the time that Mr. Paradis contacted you, was it always your intent to sue LADWP if you were to bring a legal action?

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. Was a possibility that you wouldn't bring a legal action at all; correct? Was that a possibility?

A. That I go forward and not sue?

Q. Yes.

A. No.

Q. So you were intent on suing and you were always going to sue LADWP; correct?

A. I wouldn't say "always." I was going to listen to the advice of my counsel.

Q. Okay. There was never any period when you said don't talk to me about suing LADWP, don't want to sue them?

A. No.

Q. That was at least an option that you were actively considering at all times?

A. Yes.

Q. And it actually turned out to be what you did?

A. Yes.

Q. On paragraph 10 of your declaration it says:

"In particular, this included that the settlement proposal prepared by my counsel and consultants required the LADWP to:"

Do you see that?

A. Yes.

Q. And then there's four indented subpoints; do you see that?

A. Yes.

Q. So first, "the settlement proposal prepared by my counsel and consultants," who did you -- who did you understand you to be referring to with the phrase "my counsel"? This is the preparation of the settlement proposal. Who did you think was preparing it?

A. Jack.

Q. Alone or with others?

A. With others.

Q. Okay. Did the others include Mr. Paradis?
A. Can you re --
Q. Sure. You asked to have a settlement proposal prepared and this gives a little detail about what you wanted in the settlement proposal.
A. Yes.
Q. Was it your understanding that the proposal was being prepared by Mr. Landskroner alone as counsel or by Mr. Landskroner and Mr. Paradis as counsel?
A. I guess I didn't really think about it.
Q. Okay. Did you know who was being referred to by the phrase "and consultants"?
A. No.
Q. If you look at the -- the particulars of the settlement that -- that it says was prepared, take a look at the third one, which says:
"Take the remedial measures necessary to ensure that the defects in the new CC&B system were permanently corrected."
Do you see that?
A. Yes.
Q. Do you recall directing anyone to include not only refunds to the class, but also some sort of remedial measures necessary to ensure the defects in

the system were corrected?

A. Can you repeat the question?

Q. Yeah. Did you instruct anyone to do that or is that something that your attorney added?

A. I'm not sure.

Q. Paragraph 11 begins:

"My counsel regularly consulted with me while preparing the settlement proposal."

Who were you referring to as the counsel that consulted with you while preparing the settlement proposal?

A. Jack.

Q. Okay. What was the duration, what time period over which were these regular consultations? It said, "My counsel regularly consulted with me while preparing the settlement." How long did it take to prepare the settlement proposal?

A. I'm not sure.

Q. Do you know if it was days or weeks, or months?

A. I would say months.

Q. Okay. And that was preparing a settlement proposal that you asked him to prepare; correct?

A. Yes.

Q. And you asked him to prepare it soon after

your initial Complaint was filed; correct?

A. Yes.

Q. Paragraph 11, second sentence, says:

"Once the proposal was developed and I had authorized my counsel to present the settlement proposal to the LADWP, my counsel met with officials for the LADWP and the City of Los Angeles to discuss my settlement proposal."

Do you see that?

A. Yes.

Q. Do you know when that meeting of your counsel with the officials from the LADWP took place?

A. Yes.

Q. When?

A. It was the summer of -- I remember it was -- like I don't remember the exact date, but I remember it happening. I remember having a conversation about it.

Q. Did you have a conversation about it before it happened, when it was happening, or after it happened?

A. All of them.

Q. All of them. So you knew in advance it was going to happen?

A. Yes.
Q. Okay. You filed the lawsuit April 1, 2015, the lawsuit was going forward in 2015, 2016, 2017, and in July of 2017 the court says the final settlement is approved?
A. Yes.
Q. Do you remember when in that time period, early, middle, late, you understood your counsel was meeting with officials from the LADWP for the first time to discuss your settlement proposal?
A. It was before we got the preliminary settlement.
Q. Okay.
A. And that happened well before 2017.
Q. So the preliminary settlement was in 2016; correct?
A. I don't recall.
Q. Do you recall whether the first meeting between your counsel and the City's lawyers, did you understand that that took place months after or weeks after or months after or years after the case was filed?
A. Months after.
Q. Do you know, when you -- when you say your -- "my counsel met with officials," did you --

A. Where is that?
Q. That's on line 21 on page 3, in paragraph 11.
A. Okay.
Q. "My counsel met with officials," is that reference to "my counsel" to Jack Landskroner alone?
A. Yes.
Q. "Met with officials for the LADWP," do you know who he met with?
A. No.
MR. ISAACS: Meaning the names or positions?
MR. THOMASCH: Either.
THE WITNESS: No. Only thing I know is that there was a mediation.
BY MR. THOMASCH:
Q. Did you know that there was a -- withdrawn.
The paragraph 12 begins, "After several weeks of settlement discussions between my counsel and counsel for the City and LADWP, talks stalled and my counsel then sought my permission to engage the services," and it goes on to discuss the mediation.
Do you see that?
A. Yes.

Q. So there were several weeks of discussions before there was a request for mediation; right?
A. Yes.
Q. Did you know about the discussions ongoing before the request for mediation or did you find out about it at the time you found out about the request for mediation?
A. I don't recall.
Q. Not sure when you -- whether you knew -- withdrawn.
Do I understand you don't remember whether you knew or did not know that before the mediation there was actually ongoing settlement conversations?
A. I don't recall.
Q. Do you recall your counsel seeking your permission to engage in mediation?
A. Yes.
Q. And by that you meant Mr. Landskroner?
A. Yes.
Q. The end of paragraph 12 on page 4, lines 4 through 6, reads:
"Because the LADWP's reputation for truthfulness and honesty with its customers has deteriorated so severely over the past several years, I insisted that any settlement provide

for independent verification of the LADWP's claims that its bills were accurate."

Do you see that?

A. Yes.

Q. Was that, indeed, your insistence?

MR. ISAACS: The independent verification in particular?

MR. THOMASCH: Yes.

Q. Did you personally insist on that or is that something your attorney devised?

A. I don't recall.

Q. When did you think that LADWP's reputation for truthfulness and honesty began to deteriorate?

A. When?

Q. Yes.

A. When I received the ridiculous bill.

Q. Prior to that, did you think they had a reputation for truthfulness and honesty?

A. Yes.

Q. Page -- paragraph 13 says:

"Since the commencement of the prefiling investigation conducted by my counsel in this action and continuing through the present time, I've been involved in directing, monitoring and supervising my counsel and have read and

approved the filing of numerous documents with the court throughout this action."

Do you see that?

A. Yes.

Q. The two references to "my counsel" in line 7 and then again in line 9, the -- withdrawn.

So this is beginning with "the commencement of the prefiling investigation"; do you see that?

A. Yes.

Q. So at the time of the commencement of the prefiling investigation, who were you referring to as "my counsel" at that time?

A. Paul Paradis and Jack Landskroner.

Q. And then -- and continuing through the present time, you were involved in directing, monitoring and supervising, quote, "my counsel"?

A. Yes.

Q. And did that include Paul Paradis and Jack Landskroner?

A. That's Jack Landskroner.

Q. Because you're referring to that as the present time?

A. As far as the supervising?

Q. Yes.

A. Yes.

Q. At any time between when Mr. Paradis contacted you in 2014 and the date of this declaration, May 1, 2017, at any time in that time period did you believe that you were represented by anyone other than Mr. Paradis and/or Mr. Landskroner and those that worked at their firms?

A. Can you repeat the question?

Q. Yes. I'm looking at the time period from the very first contact that Mr. Paradis made with you up until you signed this declaration, May 1 of 2017. During that time period, at some points in that time period Mr. Paradis represented you; correct?

A. Correct.

Q. At some points in that time period Mr. Landskroner represented you; correct?

A. Correct.

Q. At some point during that time period both of them represented you at the same time; correct?

A. Correct.

Q. Was there anyone else during that time period that you understood to be representing you at that time?

A. No.

Q. Did you understand at that time Mr. Libman

to be representing you?

A. No.

Q. Did you understand at that time Mr. Kiesel to be representing you?

A. No.

Q. In paragraph 15 there's a reference to -- it begins:

"As a result, my counsel sought and obtained my permission for the parties to again engage the services of Judge Tevrizian..."

Do you see that?

A. Yes.

Q. That reference there, is that to Jack Landskroner?

A. Yes.

Q. Anyone else?

A. Whoever -- no.

Q. It says, "My counsel sought and obtained my permission." Was -- was the counsel that sought and obtained your permission just Mr. Landskroner?

A. Yes.

Q. Then if we go down to paragraph 17, it says:

"Throughout the course of this litigation, class counsel has demonstrated an extremely

high level of expertise."

Who were you referring to as "class counsel"? Let me --

A. That would be my lawyers.

Q. Okay. That's not a term you used; correct?

A. "Class counsel"?

Q. Yeah. Is that -- is that something the lawyer wrote and sent to you and you didn't know exactly who was meant by class counsel or did you have an understanding?

A. It was the -- the former, what you said.

Q. They -- they put that in there and it -- you didn't focus on exactly who they were talking about; is that right?

A. That's right.

Q. And if you look at paragraph 17, in line 27 on page 4, then again on line 1 on page 5, on line 3 on page 5 twice, you'll see the phrase "class counsel"; do you see that?

A. Yes.

Q. And, again, did you associate that as lawyers representing you without identifying some specific person or persons?

A. Yes.

Q. Is that also true for the two references to

"class counsel" in paragraph 18?

A. Yes.

Q. Now, it makes reference at the end of paragraph 18 to "class counsel's request for attorney's fees and costs"; do you see that?

A. Yes.

Q. Was it your understanding that, to the extent that the settlement involved the City paying money into the settlement, some amount of that money would be used to pay to your lawyers, that the City would actually, out of what it was settling for, part of that settlement would go to your lawyers? Do you understand that?

A. Yes.

Q. Who did you understand would be getting some of that money? Did you understand that Mr. Landskroner would get some money in connection with the request for attorney's fees?

MR. KIESEL: Assumes facts not in evidence.

MR. ISAACS: What?

MR. KIESEL: Assumes facts not in evidence that he had any understanding.

BY MR. THOMASCH:

Q. I'm asking: Did you have an understanding as to whether Mr. Landskroner was going to be

obtaining payment from the attorney's fees component of the settlement?

A. Yes.

Q. Did you have an understanding as to whether Mr. Paradis would be obtaining attorney's fees from the attorney's fees portion of the settlement?

A. No.

Q. You didn't know either way or you didn't think he was?

A. I didn't know either way.

Q. Because you weren't in contact with him at that time?

A. Yes.

Q. Now, if we go back to the letter from your counsel, which is marked as Exhibit 6, I want to focus on page 2, the eight numbered paragraphs that are here, starting with the -- with the first. There's reference in there to, "Mr. Jones recalls submitting complaints via one or more websites." And I have shown you a printout of a Consumer Affairs website.

Do you recall that?

A. Yes.

Q. And do you recall submitting a complaint to the Consumer Affairs website? There's one that says

"Antwon of Van Nuys, California," page 15 of 22, on Exhibit --

MR. ISAACS: Five.

MR. THOMASCH: -- 5.

Q. You recall that?

A. Are you saying do I recall it from --

Q. Do you recall submitting this, actually submitting a complaint?

A. Yes, I recall submitting a complaint.

Q. Okay. Do you recall any other website that you may have -- it says "submitted complaints via one or more websites." Are there any other websites that you're aware of that you submitted a complaint to?

A. There are other websites, but I'm not aware of which ones they are.

Q. But you think, in fact, it was more than one?

A. Yes.

Q. And not the same one more than one time; is that -- in other words, did you submit multiple complaints to one website or did you complain to several different websites?

A. I complained to several different websites.

Q. And we've identified one and you --

A. I don't recall -- yeah, I -- I think that it's -- maybe, but I can't say a hundred percent sure this is my post.

Q. Okay. And you don't know, you don't recall what other websites there might have been?

A. No.

MR. ISAACS: Does this cover page to Exhibit 5 look familiar? Do you remember looking at a website that had this as the introductory -- the introductory slide, something that looked like this?

THE WITNESS: It's the LADWP, you know, emblem, so that looks familiar. Possibly. I wouldn't doubt it a hundred percent, but I can't a hundred percent say that's me, I went on that particular website.

MR. THOMASCH: Okay.

Q. The -- you see the logo of LADWP?

A. Yes.

Q. Did you understand that this was affiliated with LADWP? Did you think this was -- that you were complaining to LADWP if you submitted something to this website?

MR. ISAACS: If you recall.

THE WITNESS: I don't recall.

BY MR. THOMASCH:

Q. Do you ever recall seeing the phrase "Los Angeles Department of Water and Power does not," in all caps, "participate in the Consumer Affairs accreditation program"? Do you recall seeing that phrase?

A. No.

Q. Do you know what that even means?

A. No.

Q. Was it your intention to try to submit a written complaint directly to LADWP?

A. Yes.

Q. And am I right that you're simply not sure whether you actually did so?

A. No, I'm -- I know that I did, I just don't know the exact websites I utilized to do so.

Q. But do you know whether the websites were actually LADWP websites or may have been websites just sponsored by plaintiffs' attorneys?

A. It's possible that I filed one with the LADWP website as well.

Q. It's possible?

A. It's possible.

Q. But you're not certain?

A. I'm not certain.

Q. Did you ever go to an LADWP office? There

is one in Van Nuys, for instance. Did you go to that office to -- to register a complaint?

A. I'm not sure. I do remember going into the office, but I don't remember if I registered a complaint.

MR. ISAACS: Dan, can I ask a couple of clarifying questions?

MR. THOMASCH: Sure.

MR. ISAACS: At some point in time did LADWP put you on a payment plan in order to pay the bill that you contended was over -- in which you were overcharged?

THE WITNESS: Yes.

MR. ISAACS: And was that -- you would make a series of payments?

THE WITNESS: Yes.

MR. ISAACS: Do you remember whether you went to a DWP office in order to make any of those payments or did you do it by mail or electronically, or some combination?

THE WITNESS: A combination.

MR. THOMASCH: Okay.

THE WITNESS: Probably more online.

MR. THOMASCH: All right. And we will get to -- we will get to that. I was speaking about

actual complaints before any repayment plan may have been reached out.

Q. But if you got a bill, saw it was too high, you intended to complain to LADWP, and did you -- do you have any recollection of going to a LADWP office to complain about the bill that you'd received?

A. No.

Q. Paragraph 2 talks about shortly thereafter, this was after receiving your overcharge, you -- you were contacted by Mr. Paradis; do you see that?

A. Yes.

Q. And that is accurate; correct?

A. Yes.

Q. And then paragraph 3 says:

"Mr. Paradis and his law firm began representing Mr. Jones in his dispute with LADWP on or about December 8, 2014."

Is that consistent with your recollection?

A. Yes.

Q. And if that's when he began representing you, is it your understanding that he first contacted you earlier than December 8?

A. Repeat the question.

Q. Sure. This says he began representing you, he began as your lawyer on or about December 8th?

A. Yes.
Q. Does that suggest to you that he first contacted you prior to December 8th?
A. Yes.
Q. And do you have any recollection of about how long that time period was between when he first reached out to you by email and when he began representing you as your counsel?
A. It was within a couple of days.
Q. It says that:
"Mr. Paradis' law firm began representing Mr. Jones 'in his dispute with LADWP.'"
Do you see that?
A. Yes.
Q. Did you ever personally consider that you had a dispute over your bill with anyone other than LADWP?
A. Did I personally?
Q. Yes.
A. No.
Q. Did you ever form an intention to sue anyone other than LADWP or the City of Los Angeles in regard to your bill?
A. Could you repeat the question?
Q. Did you ever form the intention, did you

ever decide I am going to sue someone else other than LADWP or the City of Los Angeles?

A. In my own mind?

Q. Yes.

A. Yes.

Q. Who did you decide to sue?

MR. ISAACS: Objection, objection as to the use of the term "decide." You started with "intent."

MR. THOMASCH: Okay.

Q. You had an intention at various times to sue LADWP and the City; correct?

A. Yes.

Q. And you ultimately did; correct?

A. Yes.

Q. You didn't sue anybody else; right?

A. No.

Q. But did you ever have an intention that you were going to sue someone else and then changed your mind?

MR. ISAACS: Objection.

MR. THOMASCH: Fine. Your objection's noted.

MR. ISAACS: It's compound and vague and ambiguous.

BY MR. THOMASCH:

Q. You had an intention to sue LADWP; correct?

A. Yes.

Q. You sued LADWP; correct?

A. Yes.

Q. You didn't sue anybody else; correct?

A. Yes.

MR. KIESEL: Asked and answered.

BY MR. THOMASCH:

Q. Did you ever form an intention I'm going to sue somebody else even though you didn't sue them?

A. Yes.

Q. And who did you form an intention to sue? Who were you intending to sue?

A. In my personal head?

Q. Yes.

A. There's a ton of people. But PricewaterhouseCooper was one.

Q. And why didn't you sue them?

A. On advice of counsel.

Q. And who was the counsel that you're referring to?

A. Paul Paradis.

Q. Paragraph 6:

"Mr. Paradis and his firm represented

Mr. Jones through at least April 1, 2015.
Mr. Jones believes that he last communicated with Mr. Paradis in writing on or about April 10, 2015."
Do you have that communication?
A. Yes.
Q. "He does not recall precisely when he last spoke with Mr. Paradis, but he believes that it would have been sometime soon thereafter."
Is that your recollection?
A. Yes.
Q. "He has not found any writing in which he was advised that Mr. Paradis and his law firm were no longer representing him."
Is that true?
A. Yes.
Q. Do you recall having received any writing in which you were so advised?
A. No.
Q. To your knowledge, did Mr. Paradis ever tell you that he was no longer representing you?
A. I don't recall.
Q. Did anyone ever tell you that Mr. Paradis is no longer your lawyer?
MR. KIESEL: Vague as to time.

BY MR. THOMASCH:

Q. Has anyone ever --

MR. KIESEL: I'm sorry, may also call for an attorney/client communication.

BY MR. THOMASCH:

Q. Has anyone ever told you that Mr. Paradis is not your lawyer?

MR. ISAACS: Objection, as phrased attorney/client privilege and work product. I would ask that you exclude time since Mr. Jones -- or the time after Mr. Jones was served with the Subpoena.

MR. THOMASCH: That's reasonable.

Q. I'm not talking about in connection with today's deposition or any conversations you may have had with Mr. Isaacs or Ms. Shen.

When you got the Notice of Deposition, you thought this case was over as concerns you; correct?

A. Yes.

Q. Do you know what, if any -- at that time, at the time you got the notice, did you know whether Mr. Landskroner was still working on this case at all?

A. Yes.

Q. And was it your understanding he was or he wasn't?

A. He was.
Q. Did you know whether Mr. Paradis is still working on this case at all?
A. Did I know whether or not --
Q. Whether he was or wasn't working on the case.
A. No.
Q. What was your understanding of what remained to be done in the case?
MR. ISAACS: As of the time that he was served with the Subpoena?
MR. THOMASCH: Yes. Yeah. In January.
THE WITNESS: That Jack was still coming out and making sure that the things that we said were being implemented and that they were being followed.
BY MR. THOMASCH:
Q. So as far as you were concerned, he was still representing you; correct?
A. Yes.
MR. ISAACS: "He" being Mr. Landskroner?
MR. THOMASCH: Mr. Landskroner.
Q. As far as you were concerned, was Mr. Paradis still representing you?
A. I'm not sure.

Q. Okay.
A. I just -- I kept having conversations with Jack.
Q. Paragraph 7 says:
"All of Mr. Jones' written communications with Mr. Paradis and/or Mr. Landskroner on or before April 1, 2015 were in confidence, in the course of his relationship with them as his attorneys, and for the purpose of" --
I think it means "securing" --
MR. ISAACS: "Securing."
MR. THOMASCH: -- "their legal services and obtaining legal advice from them."
Q. Do you see that?
A. Yes.
Q. And that's accurate, is it not?
A. Yes.
Q. Now, so this is before April 1, which is the date of the Complaint. You had written communications with Mr. Paradis and Mr. Landskroner; correct?
A. Correct.
Q. You consider those to be confidential because those were your attorneys; correct?
A. Correct.

Q. Did you ever authorize Mr. Paradis or anyone at his firm to share the confidential communications you had with him with any other lawyer?

A. No.

Q. Before Mr. Landskroner was introduced to you, did you authorize Mr. Paradis to share your confidential communications with Mr. Landskroner?

A. No.

Q. Did you ever at any time authorize Mr. Paradis to share your confidential communications with the City of Los Angeles or lawyers working for the City?

A. No.

Q. Did you ever authorize Mr. Landskroner to disclose confidential attorney/client communications to the City?

A. No.

Q. And did you authorize anyone, who I haven't identified by name, did you ever authorize anyone to disclose confidential communications you had with your counsel to anyone who was affiliated with the City?

A. No.

Q. Paragraph 9 reads:

"Mr. Jones was never in an attorney/client relationship with the Los Angeles City Attorney's office, attorneys for the LADWP, or Liner, LLP, and to the best of his knowledge and recollection, he never communicated directly with attorneys associated with any of these entities."

Do you see that?

A. Yes.

Q. And you have a particular lawsuit that is Antwon Jones versus the City of Los Angeles; correct?

A. Yes.

Q. And there are certain lawyers who represent the City of Los Angeles in that case; correct?

A. What exhibit are you?

Q. This is Exhibit 3, the Complaint.

A. And your question is what?

Q. So did you understand that there were certain lawyers that represented the City of Los Angeles in this case?

A. Yes.

Q. Was it your understanding that the City of Los Angeles has many, many lawyers?

MR. ISAACS: Objection, lack of foundation.

MR. THOMASCH: I'm asking him.
Q. Did you have that understanding or not, that the City has lots of attorneys?
MR. ISAACS: Same objection.
BY MR. THOMASCH:
Q. You can answer.
A. I didn't -- you're asking me if I --
Q. I'm not asking on your case. I'm not asking on your case. I'm asking whether you had any understanding as to whether the City of Los Angeles only had a couple of attorneys or had a lot of attorneys that represented.
A. I didn't think about it.
Q. Okay. Was it your impression that all of the attorneys who worked for the City of Los Angeles were actively working on the case that you had filed against them?
MR. ISAACS: Objection, lack of foundation and vague and ambiguous.
BY MR. THOMASCH:
Q. You can answer.
MR. ISAACS: Do you understand the question?
THE WITNESS: No.
///

BY MR. THOMASCH:

Q. Okay. You sued the City of Los Angeles and you understood that they were going to have lawyers come to court, if the case went to court, and defend them; correct?

A. Correct.

Q. Was it your impression that every lawyer that represented the City was going to be involved in your case?

MR. ISAACS: Objection, lack of foundation, vague and ambiguous as to "represented the City." Represented the City in his case or worked for the City?

BY MR. THOMASCH:

Q. Every lawyer that worked for the City of Los Angeles, did you expect all of them to be working for the City of Los Angeles against you in your case?

A. I didn't think about it.

Q. Okay. Did you ever have an attorney/client relationship, to your knowledge, with any lawyer who was affiliated with the City of Los Angeles, regardless of whether that lawyer was working on your case?

MR. ISAACS: Objection, calls for a legal

conclusion.

MR. THOMASCH: No, I'm asking whether you ever considered.

Q. In your mind, did you know of any lawyer that you were representing who was a lawyer affiliated with the City of Los Angeles?

MR. ISAACS: Objection, you said "a lawyer who you were representing."

MR. THOMASCH: Withdraw the question. Withdraw the question.

Q. Paragraph 9, which you said was accurate, said you "were never in an attorney/client relationship with the Los Angeles City Attorney's office."

Do you see that?

A. Yes.

Q. That was your understanding; correct?

A. Yes.

Q. Does that include anybody that worked for the City, Los Angeles City Attorney's office?

A. Yes.

Q. Attorneys for LADWP? Does that include any attorney who works for LADWP?

A. Yes.

Q. You understand that LADWP, when they are in

court, are represented by lawyers?

A. Yes.

Q. Without regard to whether those lawyers represent LADWP in this case, in your case, or whether they represent LADWP in somebody else's case, did you ever think you were in an attorney/client relationship with a lawyer who worked for LADWP in any case?

A. No.

Q. Did you ever try to get into an attorney/client relationship with a lawyer for the entity that you were suing, LADWP?

MR. ISAACS: Objection, vague and ambiguous.

MR. THOMASCH: Withdrawn.

Q. Did you ever seek to -- to have work with you as your attorney someone who you understood worked for, in any way, shape or form, LADWP?

MR. ISAACS: Do you understand the question?

THE WITNESS: Can you repeat it, please?

BY MR. THOMASCH:

Q. Looking at paragraph 9, saying you didn't have a relationship with anyone in the Los Angeles City Attorney's office or attorneys for the LADWP.

That's correct; right?

A. Yes.

Q. And I'm just asking: Did you ever -- is there any limitation on that? Was there -- as far as you were concerned, your lawyers do not and have not represented LADWP?

A. In this case?

Q. Your lawyers in this case.

A. Uh-huh.

Q. Was it your understanding that they don't represent LADWP in any case?

A. Yes.

Q. That's your understanding?

A. Yes.

Q. Would you have wanted them, would you have -- would you have hired them if they were trying to represent you and also represent in other cases the LADWP or the City of Los Angeles?

MR. ISAACS: Objection, improper hypothetical.

BY MR. THOMASCH:

Q. You may answer.

MR. ISAACS: Calls for -- calls for speculation and argumentative.

MR. KIESEL: I join.

BY MR. THOMASCH:

Q. You may answer. Would you -- would you have hired a lawyer who you understood to work for LADWP or the City?

A. No.

Q. The last paragraph of the letter I'm going to read into the record, and I'll ask -- I will actually ask for clarification from counsel. It reads, quote:

"In addition to Mr. Jones' assertion of the attorney/client privilege and work-product doctrine, we, as Mr. Jones' counsel, have been instructed by Mr. Paradis and Mr. Kiesel, and on behalf of Mr. Landskroner, that they intend and expect Mr. Jones to assert the attorney work-product doctrine on their behalfs with respect to all responsive documents that represent their work product as counsel for Mr. Jones and/or otherwise reflect their mental impressions, conclusions, opinions, legal research and/or legal theories."

Do you see that?

A. Yes.

Q. Counsel indicates that you're asserting work product as counsel for --

In work that was done as counsel for Mr. Jones and/or otherwise reflect their mental impressions, is your letter intended to assert a privilege with respect to work done other than for Mr. Jones?

MR. ISAACS: That is intended to reflect that any work or any responsive documents that reflect -- that Mr. Jones has from his counsel that reflect the mental impressions, conclusions, opinions, legal research and/or legal theories, that Mr. Jones -- or Mr. Jones, or we, as Mr. Jones' counsel, are asserting the work-product doctrine and declining to produce any such documents.

We don't know exactly what the relationship is of Mr. Jones' counsel vis-à-vis the City of Los Angeles, the City Attorney's office or LADWP, so it's really up to them and, I guess, up to you and them, to hash out whether documents that Mr. Jones has were also shared with the City or counsel for the City, the City Attorney's office or LADWP.

So in other words, if there's something that looks like work product from counsel that was representing Mr. Jones, both based on what Mr. Jones understood and what we've determined based on our investigation, then we are asserting work product,

again, on behalf of Mr. Kiesel, Mr. Paradis and Mr. Landskroner, and leaving it up to future determination whether they were also representing other parties at the same time. We just don't know at this point, Dan.

MR. THOMASCH: Okay. But if I understand that lengthy answer, if you've made a determination that looks like it was work product from Mr. Jones, you're going to assert privilege even if it somehow was also work product for another client; correct?

MR. ISAACS: We don't know whether it was work product for another client, so if it appears that it was work product for Mr. Jones, then we are going to assert the privilege.

MR. THOMASCH: Are you asserting the privilege with respect to anything that you understand not to have been work product for Mr. Jones but only to have been work product for a different client?

MR. ISAACS: We, at this point, we have not seen any such document. Anything that Mr. Jones has appears to be work product for him. Whether it was work product for another client as well, we can't make that determination yet?

///

BY MR. THOMASCH:

Q. Turning back the page to the preceding page, the bottom paragraph states:

"In addition to Mr. Paradis and Mr. Landskroner, Mr. Jones was in an attorney/client relationship with attorney Paul Kiesel and his law firm Kiesel Law, LLP, concurrent with his relationship with Mr. Paradis."

And I'm going to stop there for a moment. So this is saying at the time you were in an attorney/client relationship with Mr. Paradis, you were also in an attorney/client relationship with Mr. Kiesel. You see that's what it says?

A. Yes.

Q. Am I correct that -- whether as a legal matter that's true is something for a court to determine, but you never considered Mr. Kiesel to be your attorney; is that correct?

MR. ISAACS: Objection. Just for clarification, yes, paragraph 8 is based upon the investigation of counsel and our determination and apart from what Mr. Jones may have believed or understood at the time.

With that clarification, you can answer, if

you recall the question.
BY MR. THOMASCH:
Q. Subject to that, did you yourself personally ever consider Mr. Kiesel to be your lawyer?
A. No.
Q. When did you first -- withdrawn.
Have you ever met Mr. Kiesel before today?
A. No.
Q. When did you first -- before you received the Subpoena in this -- to have this deposition, had you ever heard his name?
MR. KIESEL: Let me just object to that insofar as may actually call for attorney/client communications to the extent you're asking him to be more specific in terms of how he may have heard my name.
BY MR. THOMASCH:
Q. You can answer.
A. I don't recall.
Q. To the extent that Mr. Kiesel -- withdrawn.
Mr. Kiesel never directly communicated with you; is that correct, about any subject at any time?
A. That's correct.
Q. Is the same true for Attorney Michael

Libman, who is affiliated with the law firm -- with the Law Offices of Michael J. Libman? Did he ever communicate with you directly?

A. No.

Q. Did you ever consider in your mind that he's your attorney?

A. No.

Q. Have you ever personally spoken with anyone who you understood to be affiliated with the Los Angeles City Attorney's office?

A. No.

Q. Do you know a gentleman by the name of Eskel Solomon?

A. No.

Q. Just for point of reference, he's an addressee, one of the people that this letter was addressed to.

A. What exhibit is that?

Q. That's Exhibit 7, the settlement demand.

MR. ISAACS: Up there.

THE WITNESS: Okay.

BY MR. THOMASCH:

Q. The second of the two attorneys is Eskel Solomon.

A. Okay.

Q. And I don't know if that refreshes your recollection, but that's who I'm referring to. I just want to know: Have you ever personally communicated with Mr. Solomon?

A. No.

Q. And the name above him is a Richard Tom, who shows as assistant general counsel for LADWP. Have you ever, to your knowledge, communicated directly with Mr. Tom?

A. No.

Q. Okay. We can put away those documents, I think, for good.

So now I'd like to return to, if I could, Exhibit 2, which is the notice that has the little stamp that shows that it was actually the real one. So we started to walk through this before. We looked at -- the second page has the date and the signature of Mr. Santiago on it. And then we turned and we saw that there was a Subpoena that originally called for your deposition to occur on January 31.

Do you see that?

A. Yes.

Q. Okay. And then if you continue through the document, there is an Attachment A, which contains definitions. Those go on for eight pages, after

which on page 9 you'll see a heading that says "Request For Production."

Do you see that?

A. Yes.

Q. And on pages 9 through 10 are eight requests to have you produce documents. Were you aware that that request had been made?

A. Yes.

Q. So I would like to walk through them and determine as to which you do or do not possess documents.

Request No. 1 asks for:

"Copies of all versions or iterations of the Jones v PwC draft Complaint that were sent to or received from a third party, including, but not limited to, LADWP, the Los Angeles City Attorney's office, Kiesel Law, Liner, LLP, or Paradis Law Group."

So that starts with a reference to the Jones versus PwC draft Complaint.

MR. ISAACS: And Dan, before we go further, we ask that our responses and objections to the Subpoena be marked.

MR. THOMASCH: Sure. What's our last exhibit number?

THE REPORTER: No. 8.

MR. THOMASCH: We'll mark as Exhibit 8 Nonparty Antwon Jones' Objections to Deposition Subpoena and Request for Production of Documents.

(The document referred to was marked by the reporter as Exhibit 8 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Do you have Exhibit 8?

A. Yes.

Q. Okay. I have no questions. You can put that to the side. I marked that as a courtesy to your counsel to complete the record. But that's a document between lawyers.

So I was on Exhibit 2, page 9, Request 1. And it makes reference -- it makes reference to something called "Jones v PwC draft Complaint"; do you see that?

A. Yes.

Q. And on page 3 there is a, in paragraph 9, a definition given to what is meant by "Jones v PwC draft Complaint," and that definition says:

"The term" --

Paragraph 9.

"The term 'Jones v PwC draft Complaint'

means and refers to any unfiled pleading captioned in which the parties identified on the face of the pleading or in the body of the document include Antwon Jones as a named plaintiff and PricewaterhouseCoopers, LLP as a named defendant, including, but not limited to, the document identified by LADWP as Jones v PwC-initial Complaint-final.doc, dated January 24, 2015, as identified in Row No. 71 of plaintiff's revised privilege log, served September 29, 2017."

Do you see that?

A. Yes.

Q. So let me ask you: Have you ever seen a document in which -- looking something like a Complaint, which is Exhibit 3, was -- was your Complaint -- a document that looks like a court pleading in which Antwon Jones is identified as the plaintiff and PricewaterhouseCoopers, LLP is identified as the defendant? Have you ever seen such a document?

MR. ISAACS: Objection, attorney/client privilege and work product. I'm going to instruct the witness not to answer.

///

BY MR. THOMASCH:

Q. Did you ever direct anyone to prepare a draft pleading in which you were suing PwC?

MR. ISAACS: Objection, attorney/client privilege and work product, and instruct the witness not to answer.

BY MR. THOMASCH:

Q. Okay. More, for the record, so that we have this clear for court: Mr. Jones, do you recall having ever seen -- withdrawn.

I'm going to ask you a question now referring to the time period up to when you received a Subpoena to testify for this deposition, which was in -- sometime in December/January; correct?

A. Yes.

Q. Okay. Before that, before you met Mr. Isaacs and Ms. Shen, before this proceeding, my question is: Had you ever seen any document that showed you as a plaintiff and PricewaterhouseCoopers as a defendant, even if in draft form?

A. Yes.

Q. When did you see that document?

A. I don't recall the exact date.

Q. Well, in the sequence of events where does it take place? Is it before or after you filed suit

against the City of Los Angeles?

A. Before.

Q. Who did you understand your attorneys were going to be in such a suit if it was filed?

MR. ISAACS: Objection, improper hypothetical and lack of foundation.

BY MR. THOMASCH:

Q. You may answer.

MR. ISAACS: Do you understand the question?

THE WITNESS: No.

BY MR. THOMASCH:

Q. Okay. You say you saw a draft Complaint; is that right?

A. Yes.

Q. And at that -- when you saw it, did you think that might at some point be a real lawsuit?

A. Yes.

Q. And if it was going to be a real lawsuit, you would be represented by counsel in it; correct?

A. Yes.

Q. And who did you understand would represent you in connection with a lawsuit against PricewaterhouseCoopers, if that came to be?

MR. ISAACS: Objection, attorney work

product. I'm sorry, attorney/client privilege. I'm going to instruct the witness not to answer.

MR. THOMASCH: Okay. To be clear, I'm asking -- I'm asking the witness when he saw the draft Complaint, who you understood your counsel would be if that case went on to become a real lawsuit.

MR. ISAACS: And can you answer that question -- well, strike that.

I'm going to stand on the objection because in order to answer that question he would be revealing an attorney/client privileged communication.

MR. THOMASCH: Okay. Let's mark that one for the court. Let's finish up this topic by going back to page 9 where there is a request. The request is for copies of any version of that draft Complaint that were sent to or received -- withdrawn.

Q. First, to start with, do you possess any copy of any draft Complaint that shows you as the plaintiff and PwC as the defendant?

A. Yes.

Q. Do you know whether that document was at any time provided to LADWP?

MR. ISAACS: Objection, attorney/client privilege. Instruct the witness not to answer.

MR. THOMASCH: Mark all of these.

Q. Do you know whether that document was prepared by your counsel or was prepared by the City and provided to your counsel?

MR. ISAACS: Objection, vague and ambiguous as to "your counsel" or "the City" or "the City's counsel," and also attorney/client privilege, and instruct the witness not to answer.

BY MR. THOMASCH:

Q. As of January 24, 2015, Mr. Jones, who represented you as your counsel?

A. January 24, 2015?

Q. Yes.

A. Paul Paradis and Jack Landskroner.

Q. Mr. Landskroner didn't start to represent you until March of 2015; isn't that correct?

A. What date did you ask me?

Q. I'm asking you January 24, 2015.

A. Paul Paradis.

Q. And just Paul Paradis?

A. Yes.

Q. Do you know whether the draft Complaint that you possess was prepared by Mr. Paradis?

MR. ISAACS: Hold on for a second.

Objection, attorney/client privilege, and instruct the witness not to answer.

MR. THOMASCH: Okay. Let's -- we'll take a short break and then we'll call the court.

MR. ISAACS: Why don't you go through the rest of your questions.

MR. THOMASCH: I think this one's pretty basic and pretty fundamental. The document appears in the --

MR. ISAACS: Do you want to stay on the record for this?

MR. THOMASCH: We'll go off the record.

THE VIDEOGRAPHER: Okay. We're off the record. It's 3:01.

(Brief recess.)

THE VIDEOGRAPHER: This marks the beginning of Disc No. 3 in the deposition of Antwon Jones, Volume I. We're back on the record at 3:16.

MR. THOMASCH: Ask the reporter to mark as our next exhibit, as Exhibit 9, a cover letter dated February 12, 2019, from Paul O. Paradis to Daniel Thomasch, attaching a two-page document that contains redactions, but otherwise includes the words "Confidential Draft Class Action Complaint,

Antwon Jones versus PricewaterhouseCoopers, LLP."

(The document referred to was marked by the reporter as Exhibit 9 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Mr. Jones, taking a look at the second and third pages of Exhibit 9, I'll represent to you that that was produced from the files of the City Attorney's office or the LADWP who have brought a separate suit against my client PricewaterhouseCoopers.

Does this document with the words "Confidential Draft" and the names of Paul Kiesel and Paul Paradis on it as attorneys for plaintiff look familiar to you? Have you seen it before?

MR. ISAACS: Objection as to the phrasing of the question. I would suggest that it be rephrased: Does it look similar to something you have seen before?

BY MR. THOMASCH:

Q. Does this look similar to something you have seen before, sir?

A. Yes.

Q. And what is your understanding of the document that you saw that this is similar to?

MR. ISAACS: Objection, vague and ambiguous as to "your understanding."

BY MR. THOMASCH:

Q. You've seen something that looks similar to this?

A. Yes.

Q. It's a document that you possess; correct?

A. Yes.

Q. I'm asking you what your document -- what do you understand your document to be?

A. A draft of a Complaint.

Q. Is it more than just the first page and last page? This is just the first page and last page of a document. It says "page 36."

A. Yes.

Q. This is page 1. That's all I have here. You have something that this reminds you of; correct?

A. Yes.

Q. Is your document a complete draft Complaint?

A. Yes.

Q. Does it show who the attorneys for the plaintiff are?

MR. ISAACS: Objection, vague and ambiguous

as to which document you're now talking about.

MR. THOMASCH: I'm talking about the document that you have that has not been produced to us, the draft Complaint that you have.

Q. Do you know what I'm talking about?

A. Yes.

Q. To the best of your recollection, does that document reflect who is identified as counsel for you, the plaintiff?

A. Yes.

Q. Is it Mr. Kiesel -- is Mr. Kiesel one of those counsel on yours, not on this document, on yours?

A. Yes.

Q. Is Mr. Paradis one of those, one of your lawyers?

A. Yes.

Q. Is there anyone else you recall besides Mr. Kiesel, Mr. Paradis and/or Ms. Tufaro?

A. I don't recall.

Q. Do you know about when you obtained the document that you have that looks like this?

A. Do I know about when?

Q. When. About when.

A. Yes.

Q. When?
A. Before the one for the LADWP was filed and after I was retained.
MR. ISAACS: After Mr. Paradis was --
BY MR. THOMASCH:
Q. After Mr. Paradis was retained?
A. Yes. Yes, after I retained Mr. Paradis.
Q. Did you ever authorize Mr. Kiesel to provide a copy of your document to the City of Los Angeles or LADWP?
A. No.
Q. Did you ever authorize Mr. Paradis to provide a copy of your document, the document you possess, to the City Attorney or LADWP?
A. No.
Q. Before you were subpoenaed for this deposition, did you have any understanding from any source that a document entitled "Antwon Jones versus PricewaterhouseCoopers" had been prepared by your attorneys and provided to the City of Los Angeles?
A. You're saying did I know?
Q. Yeah, did you know.
A. No.
Q. Okay.
MR. ISAACS: Dan, if you have an

understanding that this information was -- not operate as a waiver of attorney/client privilege, I can give you what we believe is the date that Mr. Jones received the draft -- a draft Complaint that had a caption page and signature page similar to what we see in Exhibit 9.

MR. THOMASCH: And that is?

MR. ISAACS: Pardon me?

MR. THOMASCH: And that date is?

MR. ISAACS: Do we have an understanding that it does not operate as a waiver of any attorney/client privilege?

MR. THOMASCH: We don't recognize there's a privilege, but that fact is not -- the fact that you're going to give us a date is not consequential, in our mind. We're not claiming that you're waiving something by virtue of telling us a date.

MR. ISAACS: Based on our investigation, that would be January 9 of 2015.

MR. THOMASCH: Okay. And I'm going to request a copy of the document be produced. And are you going to refuse to produce it on privilege grounds based on a privilege from Mr. Kiesel, Mr. Paradis?

MR. ISAACS: We are not going to produce

the document at this time based on the work-product doctrine as asserted, as we've been instructed to assert, by Mr. Paradis and Mr. Kiesel, and also because it is part of an attorney/client communication between Mr. Paradis and Mr. Jones.

MR. THOMASCH: Okay. And Mr. Kiesel, I trust you will recall that in court on the record Mr. Paradis was queried about the Jones versus PwC draft pleading; that he has testified that there was only one such pleading prepared. He has testified -- he has stated to the court that he drafted the pleading, that he drafted it on behalf of the City at the request of the City, and that the document is in the City's files.

The court has overruled the objections that the City raised to privilege with respect to these first two pages. I'm now going to ask you: Are you maintaining that the document prepared by counsel for Mr. Jones, that appears in the City's files, is a document on which plaintiff's counsel in our action is claiming attorney work product?

MR. ISAACS: Can you repeat that?

MR. THOMASCH: It's really not for you. I'm asking Mr. Kiesel a question.

MR. ISAACS: I know, but I need to

understand.

MR. THOMASCH: My question is: Mr. Paradis has testified -- Mr. Paradis has represented to the court on the record that only one version of the Complaint was prepared. He has stated unambiguously that he prepared it personally, that he did so while representing the City, he did so at the behest of the City. He provided it to the City, and the document is currently in the files of the City Attorney's office.

MR. KIESEL: So what I'm going to ask you to do --

MR. THOMASCH: And the document reflects that it was prepared by counsel for Mr. Jones and so I'm trying to find out the basis for an assertion that the document is the work product of the City's attorneys.

MR. KIESEL: So, honestly, what I need to do, I -- I accept your representations, but to the extent you're saying what Paul Paradis has stated to the court, I would want you to, because we all have transcripts, show me -- and I'm not sure this is the proper place to be doing this, but do you want to read into the record what Mr. Paradis said --

MR. THOMASCH: Sure.

MR. KIESEL: -- specifically? And then we can take it up.

MR. THOMASCH: I'm going to read into the record at Mr. Kiesel's request portions of the Transcript of Proceedings from Monday, December 4, 2017. I'm going to begin at page 17, line 21, through 27.

"THE COURT: Let me ask just on this issue. What's the plaintiff's view? Who was the attorney in this case drafting the pleading?

"MR. PARADIS: I drafted the pleading, Your Honor, on behalf of the City at the request of the City.

"THE COURT: You drafted them on behalf of the City?

"MR. PARADIS: Yes, sir."

Further colloquy. Moving forward to page 18, line 18.

"THE COURT: I don't want to see them unless you're going to show them to opposing counsel, but explain to me the process. You're telling me that you, as the attorney for the City, are drafting a Complaint for a plaintiff that's not the City?

"MR. PARADIS: Correct. We were asked --

actually, we drafted it for the City, for the City. That's a mistake on Mr. Thomasch.

"THE COURT: Who are you representing in that case?

"MR. PARADIS: We represented the City, Your Honor. We were actually contemplating different legal strategies, different legal theories, and the City requested that we prepare two different draft complaints, one which was a draft Complaint by the City against PwC, the other on behalf of Mr. Jones against PwC. We had discussions.

"THE COURT: I hear you, but I don't understand it. What are you doing as a City Attorney drafting a Complaint on behalf of Mr. Jones?

"MR. PARADIS: Again, without getting into the details to waive anything, there was concern on the City's part that people who were customers be entitled to recover, so the idea was what are the types of legal theories that might be out there that could be used by the class members if they wanted to recover, what are the theories. They wanted to explore and understand that. That draft Complaint had a

single allegation, single cause of action. It was never provided to anyone other than the City. And you've got a 16-count Complaint that was filed by Mr. Jones, which is very different, doesn't have anything to do" --

And then the court goes on into other matters.

MR. KIESEL: Okay. Thank you for reading that. I don't see how that clarifies what it is that you're seeking from this witness or from us. What I will say is the City has contended that what's in its files, the title which is in a privilege log of "Jones v PwC," is an attorney/client privileged communication for which there's a person most qualified from the City who's going to be deposed on that subject. We provided what the court asked for, which was the first page and the signature page, which you now have. But beyond that, the person most qualified from the City of L.A. needs to testify about what's in the City's files.

And I don't accept the representation of what Mr. Jones has is the same thing as what the City of Los Angeles has in its files, but obviously there's a representation that Mr. Jones was

identified as the plaintiff and PricewaterhouseCoopers was the named defendant in the City of Los Angeles document, and obviously Mr. Jones himself has a draft confidential Complaint, based upon what he's told us today, that similarly has him and PwC as the defendant.

That's all I can say.

MR. THOMASCH: Can you say who you represented in January of 2015?

MR. KIESEL: Well, here's the good news: I'm not under oath, nor am I being deposed here today.

MR. THOMASCH: I'm just asking.

MR. KIESEL: I don't think it's appropriate to be asking me questions on the record with regard to this, so I respectfully will decline.

MR. THOMASCH: Okay. I think we should call the court.

MR. ISAACS: Shall we go off the record while we're getting in touch with the judge? And I'd like -- is there any need for Mr. Jones --

MR. THOMASCH: No, Mr. Jones does not need to be here.

Thank you, Mr. Jones.

THE VIDEOGRAPHER: Shall we go off the

record now?

MR. ISAACS: Why don't we go off the record while we're calling the judge.

MR. THOMASCH: Before we go off the record. Before we go off the record:

Q. Mr. Jones, before you were subpoenaed for this deposition, did you ever have any inkling that Mr. Paradis was representing the City of Los Angeles as special counsel?

A. Can you repeat the question?

Q. Yes. Before you were noticed to be deposed in this case in which Mr. Paradis and Mr. Kiesel represent the City of Los Angeles and LADWP as special counsel, before you were noticed for your deposition, did you have any understanding that those gentlemen represented the City of Los Angeles?

A. No.

MR. THOMASCH: Okay. We can proceed. You don't need to be a part. There's no issue about your testimony here. This is a lawyer thing about documents and you don't need to be part of it.

MR. KIESEL: Is he done with his deposition?

MR. THOMASCH: No.

MR. KIESEL: He's staying on the record.

We're going to have him step out and then come back?

MR. THOMASCH: Yes. Yes, we're going to call the court and hopefully that won't take too long.

THE REPORTER: Off the record or on?

MR. THOMASCH: We'll stay on the record.

MR. KIESEL: Maybe go off the video record for a second --

MR. THOMASCH: We can go off the video.

MR. KIESEL: And let's go off the record for a second.

THE VIDEOGRAPHER: We're off the record at 3:33.

(Discussion held off the record.)

MR. ISAACS: I think we should stay on the record.

MR. KIESEL: I want to get an understanding of what it is you want to ask the court when you call the court.

MR. THOMASCH: I want to bring to the court's attention the notion that the City, which has represented to the judge that it is -- made certain representations to the court, is now asking Mr. Jones' counsel to assert work-product privilege on Mr. Jones' behalf.

MR. KIESEL: Mr. Jones is asserting his own attorney/client privilege.

MR. THOMASCH: It's not what it says in the letter. It's not what was said on the record.

MR. KIESEL: Exactly what Mr. Isaacs has just said. He said the work product and the attorney/client communications. Be clear about this, this is not a work-product privilege issue as far as this is concerned, it is the attorney/client -- I heard that. Do you want to go back on the record and find that --

MR. THOMASCH: I'm talking about the document itself.

MR. KIESEL: Correct.

MR. THOMASCH: Document itself -- the document itself has been claimed as work product multiple times and only work product multiple times.

MR. KIESEL: I disagree. Mr. Isaacs, it's right here. Ask him.

MR. ISAACS: No, no, I think we're talking about two different things. The document that Mr. Jones has identified, which he says has a caption page and a signature block, that resembles Exhibit 9, is a -- was provided, he's testified, was provided by Mr. Paradis in confidence and is part of

an attorney/client communication.

So Mr. Jones, on behalf of Mr. Jones, we're asserting the attorney/client privilege on behalf of Mr. Jones to whatever it is that he has. As to -- we are also, because we have been requested to, and therefore we believe it's our obligation to put on the record that we are also asserting that it is the work product of Mr. Paradis and Mr. Kiesel as counsel for Mr. Jones.

Whatever it is -- whatever's going on between PricewaterhouseCoopers and the City and the assertion of work product on behalf of the City is not what I'm talking about, and I don't think is really relevant to the issues.

So I, too, Dan, would ask what exactly is it that we're contacting the judge about? And I would object that -- to doing so in the middle of Mr. Jones' deposition, because it sounds like this is the kind of issue that's going to require a notice motion and potentially briefing. I can't imagine, and I don't see how it's going to be decided -- I'm not even sure what it is you're asking the judge to decide at this time.

So I would just ask, and suggest, that we complete the deposition and then we can meet and

confer on these open issues, and then at that time, if either -- bring a motion or we can talk about appearing before the judge together and addressing these issues at that time.

But I'm not sure what it is we're going to the judge about. Just to be clear, it's an assertion of attorney/client privilege as to the communication by Mr. Paradis to Mr. Jones that included the document with a caption page and signature page similar to Exhibit 9, as well as work product on behalf of Mr. Paradis and Mr. Kiesel as Mr. Jones' counsel.

Again, what their relationship is with the City I do not know, other than what I've read in the transcripts as well.

MR. THOMASCH: Well, since Mr. Paradis represented to the court in no uncertain terms that he prepared the Jones versus PwC draft Complaint, which we are told there is only one version of, as counsel for the City, I don't believe he has the right to claim work product as counsel for Mr. Jones. It's that simple.

MR. ISAACS: Hold on, hold on. And you may well be right, but I don't know because Mr. Paradis is not here. But that does not address the issue of

attorney/client privilege.

MR. THOMASCH: Mr. Kiesel's here and Mr. Kiesel's on the document.

MR. ISAACS: Okay. But again, how does that address the issue of attorney/client privilege? Just asking. I mean, is that what we're going to be talking to the judge about, is whether Mr. Jones has the right to assert the attorney/client privilege over that communication? Because I think it's pretty clear that there's a foundation for it. I mean, is that what the issue is? Or is it just clarifying who can assert work product?

MR. THOMASCH: It's an issue as to whether anyone can assert privilege when one lawyer is simultaneously holding himself out as representing two adverse parties.

MR. KIESEL: Well, but also at this point, the time we've already talked about here, Mr. Jones is considering a suit against both PwC, which he's already told you, as well as the Department of Water and Power, so I'm not sure that that can waive Mr. Jones' attorney/client privilege rights. It didn't. It's his privilege. He's the holder of that privilege, Mr. Jones is. Lawyers can't waive an attorney/client privilege.

MR. THOMASCH: Good argument. Make it to the court.

THE REPORTER: Off the record?

MR. ISAACS: Yes, we can go off the record.

(Discussion held off the record.)

THE VIDEOGRAPHER: We're back on the record. It's 3:51.

BY MR. THOMASCH:

Q. I'd like to go back to Exhibit 2, which is the -- I think it's here right in front of you -- the Notice of Deposition Subpoena. We're on page 9.

A. Okay.

Q. Request For Production 1, which was copies of all versions or iterations of the Jones v PwC draft Complaint. Do you have one or more versions of the document?

A. One.

Q. And who did you receive it from?

A. Paul Paradis.

Q. And did you authorize Mr. Paradis to provide that document to the City?

A. No.

Q. Request For Production No. 2:

"Documents sufficient to identify all counsel who have represented you at any time

between September 3, 2013 and April 1, 2015 with respect to any matter related to LADWP, PwC, this action, or the related proceedings, excluding documents that reflect requests for or provision of specific legal advice after the formation of an attorney/client relationship between you and counsel."

Do you see that?

A. Yes.

Q. Okay. So let's start with what we're not asking for. We're not asking for documents in which legal advice is being discussed between you and your lawyers. Do you have documents that would reflect who your counsel was during the time September 3, 2013 to April 1, 2015?

A. Yes.

Q. And are there many such documents or are there one or two specific documents, or a small number of specific documents?

A. I'm not sure on the amount.

Q. Okay. Request For Production No. 3 --

MR. ISAACS: Before we move on, with respect to Request For Production No. 2, it's our position that all such documents, all responsive documents, are subject to the attorney/client

privilege and also include work -- attorney work product.

And Dan, one of the reasons that we provided you with the letter that's been marked as Exhibit 6 is to give you the information that would otherwise come from those documents.

MR. THOMASCH: I understand.

Q. And so, as I understand it, you have documents that would show your counsel there's an issue about whether those documents are privileged, but your testimony is that during the time period September 3, 2013 to April 1, 2015 you were represented by Paul Paradis at times during that time period -- you're not sure of the start date -- but otherwise through and including April 1, 2015; correct?

A. You say I'm not sure of the start date of --

Q. Am I right that you're not sure what day you started to be represented by Paul Paradis? Or is it December 8th?

MR. ISAACS: On or about September -- December 8.

MR. THOMASCH: Okay. Let me strike my prior question and do it this way:

Q. From September 3rd, 2013 to December 1st, 2013 you weren't represented by any counsel; correct?

A. For this matter, no.

Q. And for any matter that related to your -- your dispute with LADWP about your bills?

A. No.

Q. Okay. Then beginning on or about December 8th, 2013, and at all times up until and including April 1, 2015, you were represented by Mr. Paul Paradis; correct?

A. Yes.

Q. And from March 26 -- on or about March 26 to April 1 you were also represented by Mr. Jack Landskroner; correct?

A. Yes.

Q. And those are the only two counsel that represented you at any time during that time period; correct?

A. Yes.

Q. All right. And that may alleviate the need for the documents.

Request For Production No. 3:

"Documents reflecting the date of the establishment and/or termination of any

attorney/client relationship between you and counsel between September 3, 2013 and April 1, 2015, including all retainer agreements."

So let me ask you first: Do you have any documents that formally reflect that you're retaining counsel?

A. Yes.

Q. And how many of those do you have?

A. Documents saying that I'm retaining counsel?

Q. Yes. An agreement by which someone agrees to be your attorney and it discusses, for instance, that you won't be responsible for payment of fees, for instance, as an example.

MR. ISAACS: I'm going to object to that question on attorney/client privilege grounds. I can represent that so far we have identified two documents -- two retainer agreements, two documents that we would consider retainer agreements.

MR. THOMASCH: With what counsel?

MR. ISAACS: Well, the counsel that we've been talking about.

MR. THOMASCH: Mr. Paradis and Mr. Landskroner?

MR. ISAACS: Correct. Separate documents.

Other than that, we would assert attorney/client privilege with respect to the remainder of the -- or with respect to this category. And again, the information, that's exactly why we provided -- one of the reasons we provided Exhibit 6, the letter that's Exhibit 6, to provide you with that information as to the start and -- dates. And currently we don't believe there's any termination dates.

MR. THOMASCH: And that's all I'm trying to confirm.

Q. You heard counsel and his representation related to documents showing the beginning or the establishment of a relationship; correct?

A. Yes.

Q. And you don't have any documents that reflect the termination of a relationship; correct?

A. Correct.

Q. And as far as you recall, you've never received such a document; correct?

A. No, I have not.

MR. THOMASCH: All right. Again, the representation is helpful and may alleviate the need to deal with the documents themselves.

MR. ISAACS: Understood.

MR. THOMASCH: Request For Production No. 4:

"All written agreements or understandings and all documents reflecting oral agreements or understandings between you, your counsel, or on behalf of you or the Jones putative class and LADWP, the Los Angeles City Attorney's office, Kiesel Law, Liner, LLP, or Paradis Law Group prior to April 1, 2015."

Q. Do you see that?

A. Yes.

Q. All right. We're going to need to change that a little bit because it's asking for documents between you on one hand or people representing you and LADWP or people we understood to be representing them on the other. But it also references Kiesel Law and Paradis Law, and I want to treat them separately. All right?

A. Okay.

Q. So now I just want to know: Do you have -- are you aware of any written agreements that exist between you or your counsel, whoever that is, and LADWP prior to April 1, 2015?

A. No.

Q. Do you have any written agreements

between -- that you or your counsel entered into with the Los Angeles Attorney's -- City Attorney's office before April 1, 2015?

A. No.

MR. ISAACS: Let's cover Liner, LLP.

MR. THOMASCH: We'll get there.

Q. Do you have any written agreements between you or your counsel that was entered into with Liner, LLP before April 1, 2015?

A. No.

Q. Now, do you have any, slightly odd question, but any written documents that -- like such as an email -- that reflects that you or your counsel made an oral agreement with the City before 2015, before April 1, 2015?

A. No.

Q. Do you have any written documents that discuss in them the fact that you or your counsel had made an oral agreement with the Los Angeles City Attorney's office before April 1, 2015?

A. No.

Q. And same question with respect to any written documents that reflect that there was an oral agreement between you or your counsel and Liner, LLP before April 1, 2015.

A. No.

Q. Okay. And we're just going to leave the -- Kiesel and Paradis out of this one for ease and move on to the next one.

"All documents exchanged between you, your counsel or on behalf of you or the Jones putative class and LADWP, the Los Angeles City Attorney's office, Kiesel Law, Liner, LLP, or Paradis Law Group, prior to April 1, 2015, related to LADWP, PwC, this action or the related proceedings."

Okay. Do you see that request for No. 5?

A. Yes.

Q. All right. So there's a lot there, but let's break it down and take it piece by piece. This is looking for documents that were exchanged, that you now possess a copy, so do you have any documents that you or your counsel received from LADWP prior to April 1, 2015, other than billing statements that you got from LADWP? Has LADWP sent you, you or your counsel, any other documents in that pre-April 1, 2015 time period, not including billing statements?

A. No.

Q. To your knowledge, did you or any of your

attorneys, either of your attorneys, send to LADWP any documents before April 1, 2015?

MR. ISAACS: I'm sorry, can you repeat that question?

MR. THOMASCH: Yes.

Q. To your knowledge, did you or your attorneys send any documents to LADWP before April 1, 2015?

A. No.

Q. And did you send any documents, you or your attorney, to the City Attorney's office before April 1, 2015?

MR. ISAACS: Are you asking to his knowledge?

MR. THOMASCH: To his knowledge.

MR. ISAACS: Yes or no.

THE WITNESS: No.

BY MR. THOMASCH:

Q. Did you authorize your counsel to send any documents to either LADWP or the City Attorney's office before the April 1, 2015 day on which you filed suit?

A. No.

Q. Okay. To your knowledge, do you possess any documents that you understand you received or

your counsel received from either LADWP, the City Attorney's office or Liner where the City sent you or your counsel those documents before April 1, 2015?

A. No.

Q. So April 1, 2015 is the date on which the lawsuit is filed; correct?

A. Yes.

Q. And before that, to your knowledge, your lawyers and the City's lawyers had not discussed your case; correct?

A. That's correct.

Q. Request For Production No. 6:

"All documents evidencing the extent to which, if at all, you exhausted your administrative remedies prior to April 1, 2015 filing of the Jones action pursuant to Rule No. 10 of the rules governing water and electric service promulgated by the board of directors of LLP, which provides for an administrative process for DWP customers to resolve any disputes over the accuracy of bills."

So you see that, that request?

A. Yes.

Q. Let me ask you first whether you believe

that you went through any administrative process to resolve the bill and --

Meaning, did you go through a process with LADWP other than your lawsuit?

A. I had a payment arrangement.

Q. Okay. And how did the pending arrangement -- payment arrangement come to be?

A. I called.

MR. ISAACS: Who did you call?

THE WITNESS: I called LADWP.

BY MR. THOMASCH:

Q. And that was in April of 2015; correct?

A. No, that was before.

Q. It was before you filed suit?

A. That I had a payment arrangement?

Q. Yes. When -- when did you -- when did you call LADWP to arrange for a payment schedule?

A. I don't recall the exact day.

Q. Okay.

A. It was shortly after I received the bill.

Q. So there was an unexpectedly big bill and they took the position that you owe them money because it actually represents multiple months of usage; correct?

A. I don't -- excuse me?

Q. Did you receive a large bill that they -- that you complained about and they said the bill actually covers more than the normal billing cycle?

MR. ISAACS: Can you break that down maybe?

BY MR. THOMASCH:

Q. Do you recall when you received a bill that you thought was too large?

A. Yes.

Q. Did it cover a two-month billing cycle or a longer than two-month billing cycle?

A. I don't recall.

Q. Okay. If you look in the -- at Exhibit 3 --

MR. ISAACS: The Complaint?

MR. THOMASCH: The Complaint.

Q. Turn in there to page 11.

A. Okay.

Q. Do you see it shows that -- it shows bills that you received covering the time period starting on September 16, 2013?

A. Yes.

MR. ISAACS: This is paragraph 57.

MR. THOMASCH: This is paragraph 57, yes.

Q. And it relates to an apartment that you lived in, in Van Nuys, California; correct?

A. Correct.
Q. That's still your current apartment; right?
A. Yes.
Q. Is September 16, 2013 when you moved in or is that -- did you move in earlier than that?
A. I don't recall the exact day I moved in.
Q. Is that about right?
A. I would think it would be a little bit before then because they wouldn't send me a bill for the first day.
Q. So the first bill you received while in that apartment was, for the electricity component, was $26.60; is that your understanding?
A. Yes.
Q. And all of this is subject to verification with the bills itself.
A. Okay.
Q. I'm -- I'm not hung up on the precise dollars.
A. Okay.
Q. But you received essentially a small bill for the first billing period of September through November and then another small bill for the period November through January of '14; is that correct?
A. Yes.

Q. So those are two month-long billing cycles. Do you know that LADWP sent those customers bills for two months at a time?

A. Yes.

Q. Then it indicates that no bill was sent until July 11, 2014; do you see that?

A. Yes.

Q. And when a bill finally came to you sometime in July, it appears to cover the time period dating back to January 16, 2014 up through May 16, so a four-month time period?

A. Yes.

Q. And it has a much larger number, $1,374.10; correct?

A. Yes.

Q. Is that the bill you first complained about?

A. Yes.

Q. And did you ever determine whether the amount of electricity you were charged for using during that four-month period was correct or incorrect?

A. You said did I determine?

Q. Yes. Were you able to determine, did you work through -- did you complain to LADWP and say

that you charged me for too much electricity or just that you charged me too much at once, you should have given me this in --

A. You charged me too much electricity.

Q. Okay. And did they agree with you?

A. I don't remember.

Q. By way of making a payment plan, a payment plan is when a large amount is due that would be difficult or inconvenient to pay at one time and so you pay it in installments; correct?

A. Yes.

Q. And you agreed -- you requested, and they agreed, to a payment plan for you at some point; correct?

A. Well, I didn't have an option. It's not like I could not pay.

Q. I understand. I'm just trying to find out: When you agreed to the payment plan, did you agree to pay the whole thing over time?

A. Well, that was part of the payment plan, yes.

Q. Okay. In connection with the litigation, did you get any sort of credit or refund to say that the amount you paid in total was too much?

A. I received a credit, yes.

Q. And how much was the credit for?
A. I don't recall the exact amount. It was done maybe a year after the payment plan was set up.
Q. Was it, ballpark, was it under a hundred, between a hundred and a thousand or over a thousand dollars?
A. It was over a thousand.
Q. Over a thousand dollars of a credit?
A. Yes.
MR. ISAACS: So a payment plan was created, you made payments pursuant to that plan?
THE WITNESS: Yes.
MR. ISAACS: And then you were given credit in -- in connection with the settlement of the lawsuit for what you paid or were you actually reimbursed funds?
THE WITNESS: I was -- they -- they did their own investigation. They saw themselves that that didn't seem typical for me to be charged so much, so that's when they refunded me the credit.
BY MR. THOMASCH:
Q. Okay. And was that part of the lawsuit or was that done without regard to the lawsuit?
A. Excuse me?
Q. The fact that they -- they investigated and

they said it looks like it's too much and they gave you a credit, was that something you obtained because you sued them and that was part of the resolution of the lawsuit or was that done separately from the lawsuit?

A. I'm not sure.

Q. Okay. Did you ever hire an attorney to formally dispute your bill, other than by going into litigation?

A. No.

Q. Let's look at Request No. 7:

"Copies of all versions or iterations of the Complaint in the Jones action that were sent to a third party, including, but not limited to, LADWP, the Los Angeles City Attorney's office, Kiesel Law, Liner or Paradis Law Group."

That's what it says there. Do you see that?

A. Yes.

Q. So the Jones action is defined as this, your case, Antwon Jones versus the City of Los Angeles, and this is asking for any versions you have of this Complaint that got sent to someone, so let's start with just: Do you have copies of the

Complaint that you understand to be the one that was filed in this case?

A. Yes.

Q. Do you have other copies of any other versions, such as drafts, before they were filed?

A. I'm not sure.

MR. ISAACS: Well, we can represent that I believe there is a draft, one draft.

Is that right?

MS. SHEN: Correct.

MR. ISAACS: Yeah. We can represent that there was --

MS. SHEN: But we don't know whether or not it was sent to a third party.

MR. ISAACS: Right, right. That was just in Mr. Jones' documents and in particular in electronic form.

MR. THOMASCH: Does it have a date?

MR. ISAACS: Pardon me?

MR. THOMASCH: Does it have a date?

MR. ISAACS: It appears to have been sent by Mr. Paradis, copying Mr. Landskroner, on March 29th of 2015, and we would assert privilege as to that document. And it was sent in confidence to Mr. Jones. March 29, 2015.

MR. THOMASCH: Okay. Is it a different version or is it the same version?

MR. ISAACS: We can -- we can compare it.

MR. THOMASCH: Give me a second.

MR. ISAACS: Dan, going back to Request No. 6, just so there's no misunderstanding, you asked for documents that evidence the efforts to exhaust administrative remedies. That does not include, I take it, documents relating to the payment plan, the creation of the payment plan?

MR. THOMASCH: No.

MR. ISAACS: Is that right?

MR. THOMASCH: Correct. In other words, documents that were intended as a challenge to the bill, which the payment plan was not a challenge to the bills. That was done somehow separately. But the administrative remedy of saying you sent me the wrong bill, not you sent me a bill I don't want to pay in one fell swoop.

MR. ISAACS: So I think we can represent that there are no documents responsive to Request No. 6; correct?

MS. SHEN: Not in Mr. Jones' possession. As he has previously testified, he has logged onto the website and made complaints, which he thought

was part of the LADWP complaint website. He does not have copies or screenshots of those things that he's filed, so it's not in his possession. But we're not saying that they don't exist.

MR. THOMASCH: Okay. And just for clarification:

Q. Exhibit 5 we had was that website --

A. Yes.

Q. -- that you noticed the LADWP emblem there?

A. Yes.

Q. Was it -- did you believe that the -- that you were logging onto an LADWP site because you saw something that was similar to that?

A. Yeah. If I wrote that, yes. I'm not sure. I'm not sure I wrote that.

MR. ISAACS: But you recall or in your mind you recall logging on and registering a complaint on a website that you believed was affiliated with LADWP; is that right?

THE WITNESS: Yes. Or the Federal Trade Commission or some type of --

MR. ISAACS: Some type of agency, governmental agency; is that -- is that right?

THE WITNESS: Yes.

///

BY MR. THOMASCH:

Q. And whatever site it was, you did it personally; correct?

A. Yes.

Q. But you don't have any record today as to which it was?

A. Correct. And speaking of Exhibit 5, you said that it says my name on it?

Q. Yeah, on page 15 of 22.

A. Would my name have been public or was this like an internal thing with my name on it?

Q. My understanding is that when you go onto the Consumer Affairs website, it shows this. It shows -- it doesn't show Jones, it shows Antwon of Van Nuys, California made this complaint on this day. This is copied off of the Internet, is what this is.

A. Okay.

Q. On the Internet the lines don't run together. It doesn't print really well. But this is the text of the complaint, the date of the complaint.

A. Okay.

Q. And in the complaint, this is reprinted in your Jones complaint, but it doesn't identify

anything about the names of the -- of the complainants in the complaint. Here it says "Antwon of Van Nuys."

A. Okay.

Q. And the second paragraph here, this wouldn't exactly be unique to you, but it says:

"I live by myself in a two-bedroom apartment, don't have a dishwasher, washer and dryer or central air. I have an AC unit that I hardly ever use because I'm never home."

Is that accurate to you or is that actually inconsistent with the layout of your apartment?

MR. ISAACS: I think it only applies to about 40,000 people living in The Valley.

MR. THOMASCH: I didn't suggest that it would be unique to the witness. I said to the contrary.

THE WITNESS: What's your question?

BY MR. THOMASCH:

Q. Is -- is there anything about that, that says well, that's obviously not me? I don't have a one-bedroom apartment or I do have a dishwasher. Is that information at least accurate to you? And it may well be to someone else. But is it accurate?

A. Yes, yes.

Q. And the paragraph above says that you were told that your meter was broken. Do you recall having a conversation with anyone that told you that your meter was broken and that accounted for your high bill?

A. I vaguely remember a conversation like that.

Q. Okay. This indicated that this person, this Antwon of Van Nuys, said, "I asked to speak to a supervisor, and I got Herbert. He was without a shadow of doubt the worst customer service representative that I've ever come across." You testified that you don't remember the name of the person you spoke to?

A. No.

Q. How would you rate the person you spoke to? Was he a good representative or a bad representative?

A. He was pretty bad.

Q. Okay. And then this attributes this person, this Antwon of Van Nuys, says -- his response was, "You didn't notice you had a low bill?" And then your response appears there that is a little incredulous that he would ask such a question. Does that seem -- does that sound like

the conversation you had or does that seem very different to you?

A. It seems like it could be accurate.

Q. So this may be you?

A. It may be.

Q. But you can't be certain?

A. Exactly.

Q. Okay.

A. Now I have a question. It says it's updated on 1/29/13.

Q. Yes, I believe that's -- in other words, I think if you go on to the website today, and I haven't gone there today, but I think it would still be there.

A. I can still go on this website today?

Q. I believe so.

A. Okay.

Q. Let me mark just as the next document another one about that website. See if you know about it.

This will be Exhibit 10.

(The document referred to was marked by the reporter as Exhibit 10 for identification and is attached hereto.)

///

BY MR. THOMASCH:

Q. So Mr. Jones, this is more that I just had downloaded off the Internet. You can do the same. It is not an official document, but it comes from the consumeraffairs.com website, as it shows in the upper left. And then it's -- you can click on, on the homepage, you can click on FAQs, frequently asked questions.

A. Okay.

Q. And one of those questions are: "What are you?" And you see there's a group of questions, and then below there are answers, and the answer to, "What are you?" says:

"Consumeraffairs.com is a web-based consumer news and resource center. We are not a governmental -- government agency and not affiliated with any other consumer organization."

That's referring to this group.

A. Okay.

Q. Did you happen to look at the FAQs of any of the websites that you went to?

A. I don't recall.

Q. Okay. Is the information I read to you anything that's familiar to you or is that something

you're seeing for the first time about consumeraffairs.com not being affiliated with the government?

A. It's my first time.

Q. Okay. So we've marked as Exhibit --

Have we marked the bills?

If you --

A. I have a question for you.

MR. ISAACS: Can we go off the record for a second?

MR. THOMASCH: Sure.

MR. ISAACS: Mr. Jones wanted to confer with counsel.

MR. THOMASCH: Okay.

THE VIDEOGRAPHER: We're off the record at 4:25.

(Brief recess.)

THE VIDEOGRAPHER: We're back on the record at 4:41.

BY MR. THOMASCH:

Q. Mr. Jones, behind the cover letter on Exhibit 6, the first three pages you'll find a series of billing statements bearing Bates numbers AJ 1 through and including AJ 48 that have been produced by your counsel today.

Do you see those?

A. Yes.

Q. We're not going to spend a lot of time on these. I just want to look at the first bill, which is AJ 001 at the bottom right.

A. Yes.

Q. Okay. That one is -- shows a previous account balance of 253.34, no payment received, a past due balance of $253.34, a late payment charge, $27.95 in new charges, and a total amount due of 284.89; do you see that?

A. Yes.

Q. And the summary of new charges shows that $26.60 were electrical charges; correct, in the blue box?

A. Yes.

Q. And that's the number that appears in paragraph 57 of your Complaint, which is Exhibit 3. So this is for your apartment at 15210 Sherman Way, Apartment 4. Do you know whether this was the first bill you received at that apartment or whether you had a prior bill?

A. I believe this is the first one.

Q. And do you have any understanding as to why it shows a previous account balance if this is your

first bill at that apartment?

A. Yes.

Q. And what is that?

A. I moved from a different apartment.

Q. So is that a carry-over charge from the other apartment?

A. Yes.

Q. And the $253.34, was that in regard to one billing period or multiple billing periods? If you recall.

A. I don't recall.

Q. If you turn to page 3, 03, this is still that same bill. In the upper right-hand corner it says "page 3" of a four-page bill.

A. Yes.

Q. So this is your first bill, shows your electric charges of 26.60 for your new charges. And if you go just up above where it says "26.60" you'll see the minimum charge was 24.16. In the box above that shows your meter reading and the amount of kilowatt usage; do you see that?

A. Yes.

Q. And the current read and the estimated -- I'm sorry, in the previous read both show the word "estimated"; do you see that?

A. Yes.
Q. Were you aware at this time that your bills were being based on estimated reads?
A. No.
Q. Had you ever seen that with regard to your bills earlier?
A. I don't recall.
Q. Did you make any attempt to determine why your bill was estimated?
A. I'm not sure I noticed.
Q. Then the next bill begins at page 05. This shows that new electrical charges are $28.41, as reflected in paragraph 57-B of the Complaint; do you see that?
A. Yes.
Q. It's also still showing a past due amount, the assessment of late charges, and a total due of 317.88; do you see that?
A. Yes.
Q. Okay. The next bill begins on page 9, lower right corner. The bill date on this is July 11, 2014, whereas the last billing date was February 26, 2014. If you just turn back a page, you see at the top you got a bill date in February and then you didn't get another bill until July 11, four and a

half months later; do you see that?

A. I do.

Q. And that bill shows that your new charges are $1,374.10, which is the amount set forth in the -- in the Complaint; do you see that?

A. Yes.

Q. So this bill arrived sometime after July 11, the -- it was due to be paid by July 30 in the amount of $1,486.51, and this is the first bill that you submitted a complaint to some website about; correct?

A. Yes.

Q. And does this help you at all, as far as recalling, when you would have submitted the complaint compared to the date of the bill?

A. Excuse me?

Q. Knowing that the bill date is July 11, 2014, does that help you recall when you may have first filed a complaint on a website?

A. No.

Q. Then if we go ahead to page 13, you'll see a bill dated September 16, 2014. That carries forward that large $1,486.51 amount due; do you see that?

A. Yes.

Q. Now, that one then shows an adjustment being made, which subtracts $1,378.58, and then also a correction, it adds in new charges, and adds in a payment arrangement for the amount due; do you see that?

A. Yes, but I think you're reading it incorrectly.

Q. Okay. How do you read that?

A. Well, the adjustment is not saying that it's not due, it's just saying that it's rolled into the payment arrangement and that's why the amount due was 462. It's not saying that that credit was applied, I don't no longer owe that amount, it's just saying that in there -- the way that it's in their system the amount I owe is 462, but the other amount that I didn't pay would still carry over to the following month.

Q. Right. So what they're charging you for are the new charges, plus a portion of the past due amount, pursuant to a payment arrangement; right?

A. Yes.

Q. And they're asking you for $136.80 as part of the past due amount because you had reached a payment arrangement with them; is that right?

A. Yes.

Q. Did they later void or stop with the payment arrangement?
A. At some point.
Q. And why was that?
A. Why did they stop with the payment arrangement?
Q. Yeah.
A. I'm not exactly sure.
Q. Okay. Well, let's go to --
A. But it's possible that I paid it. I'm not sure.
Q. Page 29, down on the lower right-hand corner, if I'm interpreting this right, and I may not be, the summary of new charges, the blue box in the middle, shows new charges of $123.07, but above that it indicates that there's -- no payment have been received, and there's a past due amount of 292.
And then it says "payment arrangement current, balance adjusted," and it adds in $1,458, to give you a total amount due of $1,875.93; do you see that?
A. Yes.
Q. So they're -- they're adding back the payment arrangement, and was that because you had failed to make payments or is there a different

reason why they added that back in?

A. There's a different reason.

Q. What is that?

A. This is the reason they gave me: I was on a payment arrangement and I paid a day early, and because I paid a day early it knocked it off out of the system, so all the funds were immediately due. And they turned my electricity off because of this as well.

MR. ISAACS: Do you recall as of what date they turned your power off?

THE WITNESS: It was right around the beginning of April 2015.

MR. ISAACS: After you filed the -- after the Complaint in Jones versus DWP was filed?

THE WITNESS: Yes.

BY MR. THOMASCH:

Q. Did you -- how did you go about getting your power restored?

A. I emailed my lawyers.

Q. And if you turn to page 37, do you have a view as to whether it was coincidental that they cut off your power after you sued them or do you think they cut off your power because you sued them?

A. You're asking me my personal opinion?

Q. Yeah.
A. I think they cut it off because I sued them.
Q. Then this bill, Bates No. 37, which shows a bill date at the top of July 17, 2015,
You got that one?
A. Yes.
Q. Now, that one shows a past due balance of $1,475.80, and then an electric customer relations adjustment of $1,537.16, and even after new charges, you still have a credit balance running in your favor on this bill?
A. Yes.
Q. The date of this is July 17, 2015, which I believe is shortly after the mediation in this case. Do you know whether this adjustment related to the litigation itself or is it unrelated to the litigation, as far as you know?
A. What I do know is that LADWP was supposed to do their own investigation aside from the lawsuit, and they were going to review my account, they said, which is look at my past usage and -- before and after I received the bill, and after that they would issue me a credit.
So I don't know if it was because of that

conversation or if it was because of the mediation with my lawyers.

Q. Okay. So it could have been either, but one aspect of that is, if I get it, they -- someone at LADWP told you they were going to review your bill, having nothing to do with the lawsuit, they were just going to review it because you had received an unexpectedly high charge?

A. Yes, and I was calling and I was complaining.

Q. And they were responding in the regular course of business, not as a matter of we got sued; correct?

A. From what I understand, yes.

Q. I think you can put those aside.

I'll ask the reporter to mark as Exhibit 11 a document that starts with a service of process transmittal from CT Corporation on the first two pages, and then is a date stamped, conformed copy of the Complaint in City of Los Angeles versus PricewaterhouseCoopers, LLP, date stamped March 6, 2015.

(The document referred to was marked by the reporter as Exhibit 11 for identification and is attached hereto.)

MR. ISAACS: Dan, we're done with the Subpoena request, Exhibit 2?

MR. THOMASCH: Yes.

Q. So Mr. Jones, you can bypass the first two pages, and then see page -- the third page of the document, which is page 1 of the Complaint; do you see that?

A. Yes.

Q. And so this document is a Complaint in state court in Los Angeles. It reflects in the caption, starting on line 17, on the left, that the plaintiff is the City of Los Angeles and they are suing PricewaterhouseCoopers, LLP. There's other information contained on here, including a list of names of individuals in the City Attorney's office and then Mr. Kiesel's name as attorneys for the City of Los Angeles.

Do you see that?

A. Yes.

Q. So my first question to you, sir, is: Prior to being subpoenaed to give a deposition in this action, had you ever seen this Complaint or any Complaint that showed the City of Los Angeles suing PricewaterhouseCoopers?

A. No.

Q. Were you aware, and this is prior to receiving your Subpoena for this deposition, all these questions, unless I indicate otherwise, were you aware prior to being subpoenaed to testify here today that the City of Los Angeles had sued PricewaterhouseCoopers?

A. I'm not sure.

Q. Did you know that Mr. Kiesel of Kiesel Law is one of the attorneys for plaintiff, the City of Los Angeles, in this case?

A. No.

MR. ISAACS: Again, prior to --

MR. THOMASCH: Everything's prior to the --

Q. When do you believe you received the draft Subpoena? Was that in December or January?

MR. ISAACS: I think he said he did not -- he's not sure if he received the draft Subpoena.

BY MR. THOMASCH:

Q. The first time you knew you were being asked to testify in this case was about when?

A. Okay. Say it again.

Q. The first time that you understood from Mr. Friedman or otherwise that you were being asked to testify in this case, in this deposition, when was that?

A. The first time I understood I will have to be deposed?

Q. Yeah.

A. December.

Q. December. Okay. And so I don't want to deal with December today as you're getting ready for a deposition in this case, I just want to deal with from 2015 up through, say, the end of November of last year. During that time period, if I understand you, you had never seen a copy of the Complaint in the case of City of Los Angeles versus PricewaterhouseCoopers; correct?

A. That I have never seen a copy of it? That's correct, I have never seen a copy of it.

Q. And during that time period, were you aware that the City had actually sued PwC?

A. Before December, no.

Q. Before December did you -- would you have recognized the names of any of the five attorneys at the top who are all affiliated with the City Attorney's office?

A. Do I recognize any of them?

Q. Yeah.

A. I can't say a hundred percent yes or no.

Q. Okay.

MR. ISAACS: This is before December of 2018. Mike Feuer? Yeah, maybe --

MR. THOMASCH: On the news.

MR. ISAACS: Voted for him.

MR. THOMASCH: Yeah, he's on there. He's a City official.

MR. ISAACS: Sorry, the City Attorney in Los Angeles is an elected position --

MR. THOMASCH: Right.

MR. ISAACS: -- so I think Mr. Jones is saying he may have seen Mr. Feuer's name on a ballot.

MR. THOMASCH: I got you.

MR. ISAACS: But as to the others.

THE WITNESS: No.

BY MR. THOMASCH:

Q. As of -- before December of 2018, would you have recognized the name Paul R. Kiesel?

A. Before December 2015 --

Q. 2018.

A. -- would I have -- would I have?

Q. Recognized Mr. Kiesel's name.

A. No.

Q. Now, the date was March 6, 2015 --

We'll go off on the record on the

deposition.

THE VIDEOGRAPHER: We're off the record. It's 5:02.

(Recess taken to conduct hearing before Judge Berle.)

THE VIDEOGRAPHER: This marks the beginning of Disc No. 4 in the deposition of Jones, Volume I. We're back on the record at 5:43.

BY MR. THOMASCH:

Q. Thank you, Mr. Jones, for your patience while we spoke with the court and had to interrupt your deposition. I appreciate you waiting for us. And we'll try to finish up promptly now.

Looking at the document in front of you, which is captioned "City of Los Angeles versus PricewaterhouseCoopers," a Complaint filed in Los Angeles on March 6, 2015, we looked at the cover page. If you would, would you just turn to page 56 of the document. Looking at the numbers at the bottom.

And do you see here, on the front page, if you hold it and look at both, front page shows five lawyers from the City Attorney's office and Mr. Kiesel as attorneys for the plaintiff City of Los Angeles in March of 2015, one month before you

sued. And then on the last page you see March 6, 2015, those same five attorneys from the City Attorney's office. You see Paul R. Kiesel, whose signature appears there, and underneath that is a signature that I'll represent to you is -- is Paul O. Paradis' signature. Immediately above his name and below that -- below Mr. Kiesel and Mr. Paradis as special counsel for plaintiff, plaintiff being the City of Los Angeles; do you see that?

A. Yes.

Q. Am I correct that in or about March of 2015, prior to you bringing suit against the City of Los Angeles, you were unaware that either Mr. Kiesel or Mr. Paradis was special counsel for the City of Los Angeles? Is it correct that you did not know that?

A. I did not know that.

MR. ISAACS: Prior to December 2015; correct?

THE WITNESS: Correct.

MR. ISAACS: I'm sorry, December -- I'm sorry, I messed up your question. Was it prior to December of 2018; right?

MR. THOMASCH: Well, let me do it in two stages.

Q. At or about March of 2015 you didn't know that fact; correct?
A. No.
Q. And, in fact, you never knew that fact up to December of 2018; correct?
A. That's correct.
Q. And you have never had a conversation with Mr. Kiesel or Mr. Paradis about that fact? If you have learned it since, it is not because Mr. Kiesel or Mr. Paradis told you; is that right?
A. That's right.
Q. Show you -- mark one more document as Exhibit 12 of this date, a Declaration of Paul O. Paradis in Support of Plaintiff's Opposition to Defendant Second Motion to Compel, dated with an e-service stamp of November 15, 2017.
(The document referred to was marked by the reporter as Exhibit 12 for identification and is attached hereto.)
BY MR. THOMASCH:
Q. This is a November 2017 declaration under penalty of perjury, signed by Mr. Paradis on November 15, 2017, as shown on page 3; do you see that?
A. Yes.

Q. And you don't need to read or study it, but do you believe you've ever seen this document before?

A. No, I've never seen it.

Q. Okay. You'll see in the first paragraph Mr. Paradis indicates:

"I'm an attorney admitted pro hac vice before this court in the above-captioned action. I am one of the special counsel for the City of Los Angeles, the City or plaintiff in this action."

Do you see that?

A. Yes.

Q. And as of the date of this document, which is November 15, 2017, you were unaware of that fact; correct?

A. Yes.

Q. Paragraph 8 says -- well, let me withdraw that.

Paragraph 3 starts with a reference to January of 2015, when the City had been named as a defendant in two customer class actions; do you see that? Paragraph 3.

A. Yes.

Q. So we're back in January of 2015. And then

as it goes down, it says, in paragraph 6:

"At the same time the City was evaluating and planning its legal strategy, the City was also discussing and evaluating the possibility of pursuing claims against PwC, either directly or indirectly."

Do you see that?

A. Yes.

Q. Then paragraph 7 says:

"During this time, discussions were had by and among LADWP officials and attorneys from the City Attorney's office and outside counsel concerning possible ways in which the City/LADWP might pursue its damage claim against PwC."

Do you see that?

A. Yes.

Q. And then in paragraph 8 it says:

"To aid LADWP officials in understanding one possible avenue of recovery against PwC, LADWP officials requested that outside counsel prepare a draft Complaint alleging claims that could be brought by an LADWP ratepayer against PwC."

Were you aware of any such discussions

among LADWP officials in the time period around January of 2015?

A. No.

Q. Paragraph 9 says:

"As requested by LADWP officials, outside counsel then researched and drafted document No. 71 in plaintiff's revised privilege log, i.e., the Jones versus PwC Complaint."

Do you see that?

A. Yes.

Q. Prior to being noticed for a deposition, subpoenaed for a deposition in this case, had anyone at any time made you aware that counsel for the City had researched and drafted the Jones versus PwC Complaint for the City's use?

A. Can you repeat the question?

MR. KIESEL: Let me just object as to form as to the term "City's use" is concerned because I think that's vague and ambiguous, "use."

BY MR. THOMASCH:

Q. Okay. Paragraph 8 says, "The LADWP officials," carrying over from the top, "LADWP officials requested that outside counsel prepare a draft Complaint alleging claims that could be brought by an LADWP ratepayer against PwC."

Do you see that?

A. Yes.

Q. "As requested, outside counsel then drafted the Jones versus PwC Complaint."

I want you to assume for the purposes of this question that the Jones versus PwC Complaint refers to a plaintiff Antwon Jones, specifically you. Did you give the City permission to use your name as a potential plaintiff to further the City's interests?

A. No.

Q. That document, the Jones v PwC Complaint, was circulated to and among several ranking LADWP officials and City attorneys. Did you give permission to have a draft Complaint on your behalf circulated to LADWP officials and City attorneys in or about January of 2015?

A. No.

MR. ISAACS: Can we just clarify? When you say "on your behalf," meaning with Mr. Jones' name as that of the plaintiff?

MR. THOMASCH: Yes. Showing that -- showing that --

Q. Using you as the named plaintiff without your knowledge. Did you -- did you give anyone

consent that they were free to circulate among the City officials a Complaint showing that you were going to sue someone?

A. No.

Q. Before reading this document today, did you have any knowledge that a draft Jones versus PwC Complaint was circulated among ranking LADWP officials in or about January of 2015?

MR. ISAACS: You said before today. Can you back it up to before December of 2018?

MR. THOMASCH: Sure.

Q. Before you were subpoenaed to appear at this deposition, did you have any understanding or knowledge that in or about January of 2015 a draft Complaint that showed you as the named plaintiff was being circulated to and among several senior ranking LADWP officials and City attorneys?

A. No, I was not aware.

Q. Would you have given permission to do that?

MR. ISAACS: Objection.

MR. THOMASCH: I'll withdraw.

MR. ISAACS: Improper --

MR. THOMASCH: I'll withdraw the question.

MR. ISAACS: Thank you.

///

BY MR. THOMASCH:

Q. Were you aware at the time that your case was preliminarily settled, reached a preliminary agreement, that the settlement agreement called for certain remediation activities, certain activities by which the City had to increase staffing or upgrade its performance with respect to its billing system?

A. Can you repeat the question?

Q. Sure. Going back to the time when, in 2016, when there was a preliminary approval of the settlement, were you aware that the terms of the settlement generally included refunds to ratepayers? Are you aware of that?

A. Yes.

Q. Were you aware that the terms of the settlement included payments to attorneys?

A. Yes.

Q. Were you aware that the terms of the settlement included the City being obligated to take some future conduct to increase or improve the performance of its billing system?

A. Yes.

Q. Were you aware that someone would -- that independent parties were going to oversee that, that

work?

A. Yes.

Q. Prior to being noticed for this deposition, did anyone ever inform you that Mr. Paradis had a contract with the City by which he was paid or authorized to be paid more than $6 million to oversee the City's performance of the work that was agreed to in the settlement of your case?

MR. ISAACS: Yes or no.

THE WITNESS: No.

MR. THOMASCH: All right. Mr. Jones, I want to thank you for your cooperation today. I have no further questions at this time. There are some open privilege issues, and because of that I'm not going to agree to close the deposition, but I'm going to work with your counsel, Mr. Isaacs, and I'm going to try to make sure that, if at all possible, you are not further inconvenienced.

Thank you for your time today.

MR. ISAACS: Before we -- before we go off the record, I was going to ask whether Mr. Himmelfarb or Mr. Kiesel had --

MR. THOMASCH: For this case. My apologies.

MR. KIESEL: I'm not sure, Mr. Himmelfarb,

you have standing to ask any questions of this witness. Not meaning to cut you off.

What would be the standing in the case?

THE REPORTER: If we're on the record, I'm going to -- the video won't pick up Mr. Himmelfarb.

MR. HIMMELFARB: The standing I have is that the judge ordered these cases related for purposes of discovery pursuant to the request of DWP. This is back in 2015. And the purpose and intention of that so -- it was so that we did not have to do serial depositions of witnesses and so I'm here as a related case pursuant to the DWP's request that they be related. So I have questions for Mr. Jones because Mr. Jones' testimony has opened some doors that have relevance to the Macias action.

MR. KIESEL: Okay. So let me take a five-minute recess and see if we can make a phone call, and then we'll continue forward.

THE REPORTER: Off the record, then?

MR. ISAACS: Yes.

THE VIDEOGRAPHER: Okay. We're off the record at 5:57.

(Brief recess.)

THE VIDEOGRAPHER: We're back on the

record. The time is 6:02.

EXAMINATION

BY MR. HIMMELFARB:

Q. Mr. Jones, I'm Alan Himmelfarb. I'm an attorney on related cases to the action that you've been called in to deposition for. I'm not associated with the DWP. I'm not associated with PwC. My clients are suing the DWP in another class action very similar to the class action that you just underwent under the action Jones versus the Los Angeles Department of Water and Power.

So even though I'm sitting on this side of the table, that doesn't mean that I'm associated with anybody else in this room. I have my own interests, and I'm pursuing claims against the DWP for problems with billing. So similar to your case, but some different claims.

I'd like to draw your attention to Exhibit No. 6 --

A. Okay.

Q. -- which has the billing statements in there. And I'd like to go to page 9, which is the bill dated July 11, 2014, that included additional

new charges of $1,375.28. When you received this bill, what was your immediate response upon opening the bill and finding out that that was the amount of money that the DWP was attempting to collect from you?

A. What was my immediate response?

Q. Yes.

A. I don't recall my immediate response.

Q. Did you have any kind of reaction or any kind of emotional response to that amount of money being asked of you?

A. Yes.

Q. What was that?

A. I was pissed.

Q. Okay. And did you think that there was some mistake on that bill?

A. I knew there had to be a mistake on that bill.

Q. Okay. So turning to page 13, now we see that you have entered into a payment plan. This is the bill dated September 16, 2014. Did you enter into a payment plan with the DWP -- strike that.

Why did you enter into a payment plan with the DWP?

A. I don't understand the question.

Q. Okay. Did you think that you owed the amount of money that the DWP was attempting to collect from you?

A. No.

Q. Then why did you enter into a payment plan with the DWP to agree to pay money that you did not think you owed?

A. Because the DWP is a monopoly and it's not like I could get service with someone else, so if I didn't pay, I could not get service.

MR. ISAACS: "Service" being power?

THE WITNESS: Power.

BY MR. HIMMELFARB:

Q. So I see that just above the amount there's a line on the bill that says: "Your bill includes a past due amount, which is due now." Did the DWP -- did the DWP send you a late payment notice or a past due amount notice? If you recall.

A. Before this moment?

Q. Well, yes, before this moment.

MR. ISAACS: Other than -- other than the bills that he received that were marked past due?

MR. HIMMELFARB: Other than the bill.

Q. Do you remember if you received anything from the DWP stating late payment notice or past due

notice, or even a disconnect notice?

A. Not at this point, no.

Q. Okay.

A. But I was on a payment arrangement at this point that you're asking about.

Q. Right. You were on a payment arrangement. I was just wondering if you had received a past due notice.

A. I wasn't past due because I was on a payment arrangement.

Q. Now turning to page 37, which is the bill statement dated July 17, 2015, there's a past due balance in red of 1475.80, and then underneath that there's a electric customer relations adjustment of minus $1,537.16; and do you see that?

A. Yes.

Q. So the DWP made an adjustment to your account and subtracted from the amount that you owed more than $1500; correct?

A. Yes.

Q. Okay. Is that because you didn't owe that money in the first place?

A. As I stated before, I'm not sure exactly why that amount was credited. I don't know if it was because of the investigation I asked them to do

into the matter or it's because of the lawsuit.

MR. ISAACS: I think he's asking was it your understanding that they were paying you or crediting you because they had originally overcharged you?

THE WITNESS: Yes.

BY MR. HIMMELFARB:

Q. Okay. So at any point in your relations with the DWP did you feel that the DWP asking you for this amount of over a thousand dollars of an electric bill for monies that you did not actually owe, did you feel intimidated by the DWP?

A. Yes.

Q. Did you feel threatened by the DWP?

A. I believe I was threatened, actually, having my power shut off if I didn't pay.

Q. And did you feel coerced into entering into a payment plan with the DWP so that they wouldn't shut off your power?

A. Yes.

Q. And did, in fact, the DWP ultimately disconnect your services?

A. Yes.

Q. And it was based upon the erroneous amount of money that they thought that you owed them?

A. Yes.

MR. HIMMELFARB: Thank you. I have no further questions.

MR. ISAACS: Need to clarify before Mr. Himmelfarb completes his questioning.

EXAMINATION

BY MR. ISAACS:

Q. Your power was shut off when in relation to the filing of your Complaint?

A. Right around the same time.

Q. And did -- had you received, prior to that, a, as Mr. Himmelfarb referred to it, a disconnect notice?

A. No.

Q. So how -- explain or just relate to us, if you could, what happened. Were you at home when all of a sudden your power went off? Or how did it come about?

A. I was leaving a long day of work and I got home and I didn't have any power, and first I thought it was a mistake, so I checked around the neighborhoods and asked if they had power, and they said that they did. And I noticed that the light

outside of my apartment was on and -- yeah.

Q. How long was your power off for?

A. A little less than a day. It was -- well, probably more than a day, because I was working, and it was cut off when I was working, so it could have been cut off that morning and I got back that evening. And it wasn't put back on until mid-morning to early afternoon the following day.

MR. HIMMELFARB: Just a couple of more questions.

FURTHER EXAMINATION

BY MR. HIMMELFARB:

Q. When the Jones versus the City of Los Angeles action settled, were you aware that certain claims that you had brought in that case were released by the court upon entry of final approval of that settlement?

A. No.

MR. HIMMELFARB: Okay. All right. No further questions.

MR. THOMASCH: I just want to follow up on those questions.

///

FURTHER EXAMINATION

BY MR. THOMASCH:

Q. Very briefly. I wasn't certain of your answer. Do you know whether the power cutoff was before or after you filed the lawsuit against the City on April 1, 2015?

A. It was after.

Q. It was shortly after?

A. Yes.

Q. And you said you spoke with your attorneys about that when you figured out that it had been cut off?

A. Yes.

Q. Do you remember who you spoke to?

A. Yes.

Q. Who?

A. Paul and Jack, Paul Paradis and Jack Landskroner.

MR. ISAACS: When you say "spoke," you mean actually had an oral conversation with them or communicated by email, or both?

THE WITNESS: I mean communicated by email, or both.

///

BY MR. THOMASCH:

Q. But one way or another, when the power cut off, you wanted -- you, in your mind, thought it was retribution for you bringing a lawsuit; correct?

A. I thought it was possible.

Q. And you then told -- you communicated with both Mr. Paradis and Mr. Landskroner to try to remedy that situation; correct?

A. Yes, but I did also call LADWP.

Q. And then ultimately it was resolved and power went back on?

A. Yes.

MR. THOMASCH: Thank you. Nothing further. I think we are done for today.

MR. ISAACS: Do we want to put a stipulation on the record?

MR. THOMASCH: As to?

MR. ISAACS: What we're going to do with the transcript.

MR. THOMASCH: Well, we can sign this before -- before any notary if that's -- if that's the concern. Do you have any other stipulation you want?

MR. KIESEL: Typically, in California we do a stipulation that avoids the necessity for a

notary --

MR. THOMASCH: Right.

MR. KIESEL: -- has the witness review it and then has counsel hold it for custody, if you ever need it.

MR. THOMASCH: That's fine. I usually just sign before any notary, but -- certainly not having to come before the same notary, but if you want to do it without --

MR. KIESEL: Under penalty of perjury.

MR. THOMASCH: That's fine, if that's -- if that's your preference.

MR. ISAACS: Paige, you want to put a stipulation on?

MS. SHEN: Why don't we stipulate to relieve the court reporter of his duties under the Code; that the original deposition transcript be sent to Mr. -- sent to us, Isaacs Friedberg. We'll have Mr. Jones review the transcript, make any changes, notify counsel of any changes within 30 days of receipt; that the original deposition transcript be maintained by Gibson Dunn.

And that if the original's not available at the time of trial, that a certified copy may be used in lieu thereof.

MR. THOMASCH: That's all fine by us.

MR. ISAACS: Good with everybody else?

MR. HIMMELFARB: So stipulated.

MR. KIESEL: Fine.

THE VIDEOGRAPHER: This concludes the deposition of Antwon Jones, Volume I. The number of discs that were used were four. The original video will be retained by Epiq Legal Solutions at 20750 Ventura Boulevard, Suite 205, Woodland Hills, California 91364.

We're off the record at 6:14.

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Declaration

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof, and I declare that the same is true of my knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under the penalties of perjury of the State of California that the foregoing is true and correct.

Executed on the day of , 2019, at , California.

W i t n e s s

I, Philip D. Norris, a Certified Shorthand Reporter for the State of California, do hereby certify:

That prior to being examined, Antwon Jones, the witness named in the foregoing deposition, was by me duly sworn to testify the truth;

That said deposition is a true record of the testimony given and was taken before me at the time and place therein set forth, and was taken down by me in shorthand and thereafter reduced to typewriting via computer-aided transcription under my direction;

I further certify that I am neither counsel for, nor related to, any party to said action, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this 15th day of February, 2019.

Philip D. Norris
CSR NO. 4980

Errata Sheet

NAME OF CASE: CITY OF LOS ANGELES vs PRICEWATERHOUSE COOPERS

DATE OF DEPOSITION: 02/13/2019

NAME OF WITNESS: Antwon Jones

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

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Exhibit 3

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

vs.

PRICEWATERHOUSECOOPERS, LLP, et al.,

Defendant.

AND RELATED CROSS-ACTION

Case No. BC574690

Pages 1 to 213

DEPOSITION OF JAMES CLARK

TAKEN ON

TUESDAY, FEBRUARY 26, 2019

Reported by: PHILIP D. NORRIS

CSR NO. 4980

Deposition of James Clark, taken on behalf of Defendant, at 333 South Grand Avenue, Los Angeles, California, on Tuesday, February 26, 2019, at 9:41 a.m., before Philip D. Norris, CSR No. 4980, pursuant to Notice.

APPEARANCES:

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ALSO PRESENT:

ALAN HIMMELFARB, ESQ.

STEPHEN SMITH (Videographer)

I N D E X

WITNESS	EXAMINATION	PAGE
JAMES CLARK	(By Mr. Thomasch)	7

E X H I B I T S

NO.	PAGE	DESCRIPTION
Exhibit 1	19	Notice of Entry of Order Granting Defendant, etc., 17 pages
Exhibit 2	21	Defendant PriceWaterhouseCoopers LLP's Amended Notice of Deposition, etc, 17 pages
Exhibit 3	37	Letter to Daniel Thomasch, 2/12/19, three pages
Exhibit 4	62	Log, two pages
Exhibit 5	67	Declaration of Richard Tom, etc., six pages
Exhibit 6	75	Engagement and Contingency Fee Agreement, 34 pages
Exhibit 7	114	Letter to Michael N. Feuer, 6/26/15, three pages
Exhibit 8	118	Declaration of Antwon Jones, etc., seven pages

I N D E X

E X H I B I T S

NO.	PAGE	DESCRIPTION
Exhibit 9	130	Declaration of Jack Landskroner etc., with attachments
Exhibit 10	133	Letter to Richard Tom and Eskel Solomon, 4/2/15, Bates numbers 00001988981 to 989
Exhibit 11	141	Defendant City of Los Angeles' Further Reply, etc., 10 pages
Exhibit 12	151	Customer Information and Billing System Class Action Litigation Settlement Summary, August 2015, four pages
Exhibit 13	165	Excel spreadsheets, nine pages

LOS ANGELES, CALIFORNIA; TUESDAY, FEBRUARY 26, 2019

9:41 A.M.

THE VIDEOGRAPHER: Here begins Volume I, Video Disc No. 1, in the deposition of James Clark, in the matter of LADWP versus PricewaterhouseCoopers, in the Superior Court, for the State of California, County of Los Angeles. Case number is BC 574690.

Today's date is February 26, 2019. The time on the video monitor is 9:41. Video operator today is Stephen Smith, contracted by Epiq Legal Solutions at 20750 Ventura Boulevard, Suite 205, Woodland Hills, California 91364.

This video deposition is taking place at Gibson, Dunn & Crutcher, LLP, 333 South Grand Avenue, Los Angeles, California 90071, and was noticed by Daniel Thomasch of Gibson Dunn.

Counsel, please voice identify yourselves and state whom you represent.

MR. THOMASCH: Daniel Thomasch for defendant PricewaterhouseCoopers.

MR. SANTIAGO: James Santiago for defendant PricewaterhouseCoopers.

MR. DORE: Michael Dore on behalf of defendant PricewaterhouseCoopers.

MR. HIMMELFARB: Alan Himmelfarb on behalf of related cases, Morski and Macias versus LADWP.

MR. ISAACS: Jeff Isaacs on behalf of nonparty Antwon Jones.

MR. PETERS: Tom Peters on behalf of the City.

THE VIDEOGRAPHER: The court reporter today is Philip Norris of Epiq Legal Solutions.

Would the reporter please swear in the witness.

JAMES CLARK,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. THOMASCH:

Q. Good morning, Mr. Clark.

A. Good morning, Mr. Thomasch.

Q. We have not met before you came into the room this morning, have we, sir?

A. No, we have not.

Q. Am I correct, however, that you are an attorney and practice in the field of litigation?

A. Yes, sir.

Q. As such, and given your representation by counsel, I don't feel a need for instructing you on these proceedings. You're familiar with how depositions operate, are you not, sir?

A. I certainly am.

Q. And you've taken many?

A. Many.

Q. Have you been a witness before?

A. No.

Well, that's not quite true. I was twice in court. I was asked by judges to comment on things in a hearing without a jury, but I've never had my deposition taken before.

Could I get some water, by the way?

Q. Certainly can.

As you know, your testimony is under oath. It's being recorded. And we have a video operating. We're going to take breaks about every 75 to 90 minutes, unless you need a break in a sooner time period, and if you do, just let us know and we'll try to rapidly accommodate.

Is that all right?

A. Sure.

Q. Now, I understand you were on medical leave recently; is that correct?

A. Yes.

Q. When did you return to the office?

A. I think it was February 8.

Q. Are you currently on any medication that inhibits your memory or might otherwise impair your ability to provide accurate, truthful testimony?

A. I am not.

Q. Apart from any medications, is there any reason that you would not be able to testify accurately today?

A. None.

Q. Starting with your graduation from law school, would you please just identify the various professional positions you have held in sequence, if you can?

A. Sure. New York University School of law. I graduated in 1973. Thereafter, for about 14 months, I was a law clerk for the Honorable John Minor Wisdom, United States Court of Appeals, for the Fifth Circuit, in New Orleans. Thereafter, in October of '74, I became an associate at Gibson, Dunn & Crutcher. I was an associate until 1981 and

went partner until January 1st of 2011.

Thereafter, I retired, did not hold a professional position until July of 2013 when I became Chief Deputy City Attorney of the City of Los Angeles, and that's the position I currently hold.

Q. And you are not in private practice in any capacity currently; is that correct?

A. I am not.

Q. And you are not currently affiliated with the law firm Gibson, Dunn & Crutcher; is that correct?

A. Only in the sense that I have retirement benefit. I'm not doing any work for Gibson Dunn, but I do have a retirement benefit that I receive monthly.

Q. Who do you report to in your current position?

A. City Attorney, Michael Feuer.

Q. And what attorneys within the City Attorney's office directly report to you without an intermediary?

A. Mr. Peters. He's the head of our Civil Litigation Branch. On some matters David Michaelson, who's the chief of our Municipal Branch. The general counsel of the Department of Water and

Power, the general counsel of Los Angeles World Airports, and the general counsel of the Port of Los Angeles, called the Harbor Department. I believe -- I believe that's it in terms of the direct reports.

Q. Do you understand that Judge Berle has set a trial date for this case in January of 2020?

A. I didn't know that.

Q. Well, as you sit here today, do you have any plans or expectations to leave your employment with the City before January of 2020?

A. I do not.

Q. I'd like to run through some specific documents first to ask you if you reviewed them in connection with your preparation for this deposition, and if you have not, whether you've ever reviewed them. All right?

A. Okay.

Q. Let me start with -- with the privilege log in this case, dated September 29, 2017, which has the specific entry on it that led to the motion practice that resulted in this deposition. Have you reviewed that log?

A. I have reviewed one page of the log, which I think has the specific entry you're referring to. I have not reviewed the rest of the log.

Q. When was the first time that you saw that log, the page with the log entry at issue?
A. Within the last two weeks.
Q. You had no involvement in approving -- reviewing or approving the log before it was served; is that correct?
A. I did not.
Q. Did anyone within the City Attorney's office?
A. Not to my knowledge. I don't know about that. I don't think so.
Q. Have you reviewed the motion papers that concern PricewaterhouseCoopers' motion in 2017 to compel production of a document entitled "Jones v PwC Draft Complaint"?
A. I've reviewed the court's order on that. I don't think I've reviewed the motion itself.
Q. Or the briefing?
A. Briefing. I'm sorry.
Q. Special counsel to the City, Paul O. Paradis, submitted a declaration in opposition to PwC's motion, dated November 15, 2017; do you recall whether you reviewed that in preparation for your deposition?
A. I did.

Q. Had you seen that declaration prior to your preparation for the deposition?

A. I had not.

Q. On December 4th, 2017 there was a hearing before Judge Berle, which the issues involving the asserted privilege over the Jones v PwC draft Complaint were argued. Have you reviewed that hearing transcript?

A. I have.

Q. The original PMQ notice was dated in April of 2018; have you reviewed it?

A. No.

Q. Did you review it at about the time that it was actually severed?

A. No.

Q. Almost immediately after it was served, Mr. Paradis wrote a letter dated April 25, 2018 demanding withdrawal of the PMQ notice; have you ever seen that letter?

A. I have not.

Q. Are you aware that subsequent to Mr. Paradis' April 25, 2018 motion LADWP made a motion to quash?

A. No.

Q. Were you aware that Mr. Peters submitted a

declaration dated April 26, 2018 in support of LADWP's motion to quash?

A. I have seen that declaration.

Q. And you saw that in preparation for the deposition?

A. That's correct.

Q. Had you seen it earlier?

A. I had not.

Q. Almost immediately following LADWP's motion to quash, PwC filed a motion to compel and for sanctions; have you seen any of the briefing on that motion?

A. No, sir.

Q. There was a hearing on LADWP's motion to quash and PwC's motion to compel and for sanctions held before Judge Berle on June 11, 2018; have you reviewed the transcript of that hearing?

A. Yes.

Q. Had you previously reviewed it before preparing for your deposition?

A. No, sir.

Q. In or about the time period April 2018 to June 2018, were you aware that the City was resisting producing a PMQ witness in response to the court's order of January 11, 2018?

A. I was not.
Q. Do you understand that today's deposition is a continuation of a deposition that was begun on September 13, 2018 and ended when counsel for the City left the deposition --
MR. PETERS: Objection.
BY MR. THOMASCH:
Q. -- before the questions were completed?
MR. PETERS: I'm sorry.
Objection, vague and ambiguous. I think it's also contrary to the facts here.
But to the extent you understand it.
THE WITNESS: I wasn't aware of that.
BY MR. THOMASCH:
Q. Well, let me break that down. Are you aware that today's deposition is a continuation of a PMQ deposition that began on September 13, 2018?
MR. PETERS: Same objections.
THE WITNESS: I don't think it's a continuation. I understand Mr. Peters was previously identified as the PMQ. I read the transcript of that deposition. I don't recall the City not completing it, and I don't think this is a continuation of that. I'm not sure -- I'm not Mr. Peters.

BY MR. THOMASCH:

Q. But you're -- you're aware of Mr. Peters' prior role as a PMQ?

A. I am.

Q. You're aware that there was a dispute about certain questions that led to the end of the deposition and a statement by counsel for the City that they would seek a protective order? Are you aware of that?

A. Which part? There's three questions in there.

Q. All right. Are you aware that the deposition ended before the questioner had completed questioning?

A. No.

Q. Are you aware that on the record at the deposition counsel for the -- special counsel for the City indicated that the City would be making a motion for a protective order?

A. Yes.

Q. Do you know whether that motion was made?

A. I do not.

Q. When was the first time that you learned that there was a statement made by counsel that there would be a motion for protective order made?

A. When I reviewed Mr. Peters' deposition transcript, which is in the last 10 days to two weeks.

Q. So this would all be after you returned to the office from leave; correct?

A. That's correct, yes.

Q. And -- and prior to that date, prior to when you came back after leave, what, if any, understanding did you have about any controversy in this case over the production of the Jones v PwC draft Complaint?

A. None.

Q. What, if any, understanding did you have about the basis for privilege objections being made by the City of Los Angeles with respect to discovery that PwC sought beginning with the Jones v PwC draft Complaint?

A. None.

Q. Did you review LADWP's motion for a protective order filed subsequent to the PMQ deposition of Mr. Peters?

A. No.

Q. Did you review PwC's motion to compel and for sanctions that followed?

A. No, I did not.

Q. Are you aware that there was a hearing on December 5th, 2018 on PwC's motion to compel and for sanctions?

A. I've read the transcript of that hearing, so, yes, I am.

Q. And you read that?

A. Yes, I did.

Q. And, again, that would be in February of this year you read it?

A. That's correct, sir.

Q. And how about the transcript of the hearing on December 12th, 2018 related to LADWP's motion for protective order?

A. I think I read that one. I read several. I believe that was one of them.

Q. There was a hearing on January 23, 2019; do you know whether you read that one?

A. I did.

Q. Did you know that hearing was taking place before it occurred?

A. No.

Q. Did you first hear about that hearing after February 8, 2019?

A. Yes, sir.

MR. THOMASCH: I'll ask the court reporter

to mark as Exhibit 1 of this date Notice of Entry of Order dated January 24, 2019.

(The document referred to was marked by the reporter as Exhibit 1 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Mr. Clark, showing you what has been marked by the reporter as Exhibit 1 of this date. Would you take a look through that and let me know if you have seen this Order before.

A. I have.

Q. Do you understand this to be an Order in connection with, among other things, the court's denial of LADWP's motion for protective order and granting of PwC's motion to compel?

A. I do.

Q. Have you familiarized yourself with the nature of the objections that the City made in connection with opposing this Proposed Order, which was later entered by the court?

A. No.

Q. So, for instance, if we just, relative random selection, went to page 4, paragraph 7, where you'll see the court ordered LADWP to produce all documents responsive to Request for Production No.

4, which is then identified and quoted, as you sit here today, do you have any knowledge as to what objections the City made to -- to that paragraph?

A. I -- I do not, unless it's contained in this document, which I think it is not, that information. I did read what the court wrote here, though, in the Proposed Order.

Q. You've read --

A. I've read the -- I've read the -- I know it's an actual Order, but the page I'm looking at that says "Proposed order" at the top, I do understand an Order in this form was entered.

Q. Correct. You understand that PwC lodged a Proposed Order, the City provided a filing in which it objected to many of the provisions in this Order, and the court signed PwC's Proposed Order as submitted?

A. I am aware of the latter. I've not seen what the objections of the City were. But yes, I understand this was the Proposed Order submitted on behalf of PwC by its counsel and ultimately entered by the court.

MR. THOMASCH: Let me ask the court reporter to mark as Exhibit 2 of this date Defendant PricewaterhouseCoopers' Amended Notice of

Deposition, date stamped February 1, 2019.

(The document referred to was marked by the reporter as Exhibit 2 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. I'll represent to you, Mr. Clark, that this is an Amended Notice of Deposition that differs slightly from the April 2019 (sic) Notice of Deposition, primarily through the addition of request for productions No. 7 through 10, which were not present in the original notice.

MR. PETERS: Let me just object. I think you unintentionally said April 2019, which would make it vague, ambiguous.

MR. THOMASCH: I'm sorry. Let me just rephrase that. I'll represent to you that this Amended Notice, which is dated February 1, 2019, was filed -- was served and filed after the PMQ deposition of Mr. Peters. It is similar to the original notice with the exception that it adds Request for Productions No. 7 through 10.

Q. And just asking you to look through it, to the extent necessary, to let us know on the record: Have you previously seen and reviewed this document?

A. Yes.

Q. Are you aware that on February 13, 2019 Mr. Antwon Jones was deposed?

A. I've heard that to be the case, yes.

Q. Have you read the transcript of Mr. Jones' deposition?

A. I have not.

Q. A court conference was held in this matter on February 13, 2019. Were you aware that that conference was taking place on or before February 13?

A. I don't believe so, no.

Q. Do you know who appeared on behalf of the City?

A. No. Or at least I looked at the transcript. I don't remember who appeared on behalf of the City, I guess, is the best way to put it.

Q. Did you read the transcript of February 13?

A. I think so, yes. As I said, I read a lot of transcripts. I believe I read that one.

Q. Most recently, Judge Berle issued an order in all related cases dated February 21, 2019; have you seen that order, sir?

A. I have.

Q. Are you aware that in December of 2019 (sic) Judge Berle directed special counsel Paul

Kiesel to contact Mike Feuer about this case?

MR. PETERS: Objection, vague, ambiguous. You just got the rear wrong again.

MR. THOMASCH: I'm sorry if I got the year wrong again. Let me try again.

Q. In December of 2018, are you aware or were you aware that in December of 2018 Judge Berle directed special counsel Paradis -- special counsel Kiesel to confer with Mike Feuer about this case?

A. Yes.

Q. You saw the nature of the court's comments on that day?

A. That's my recollection, yes, that I did.

Q. And were you aware -- withdrawn.

Are you aware of whether that conversation has taken place?

A. I believe so.

Q. Do you know when it took place?

A. No.

Q. Were you aware at the time that it was taking place?

A. Since I don't know when it took place, I can't tell you whether I was aware at the time or not.

Q. Well, do you recall being present for any

conversation?

A. I was not.

Q. Or on any phone on the conversation between Mr. Kiesel and Mr. Fewer?

A. No.

Q. Other than the documents that I brought to your attention, specifically questioned you about, what documents, if any, did you review in preparation for your deposition?

A. I reviewed these two documents in front of me. As I think I mentioned, one page of the privilege log that I was shown. I've reviewed Mr. Peters' deposition transcript and his declaration. I reviewed the court orders that I've mentioned. I reviewed the caption page and signature page of a draft Complaint entitled "PricewaterhouseCoopers" -- I'm sorry, "Department of" -- no, "Antwon Jones versus PricewaterhouseCoopers."

That's all -- I think that's all I reviewed.

Q. What else, if anything else, did you do you to prepare for your deposition today?

A. I investigated what had happened because I wanted -- it's a long time ago and I was not

involved in some of the -- at all in some of the events here, so I talked with David Wright of the Department of Water and Power, Richard Tom, Deborah Dorny, Eskel Solomon, all lawyers with the City Attorney's office at DWP, Maribeth Annaguey, who's outside counsel, then at Liner, now at -- now at --

MR. PETERS: Brown George.

THE WITNESS: -- Brown George. Thank you.

I spoke with Mr. Paradis, Ms. Tufaro, Mr. Kiesel and Mr. Peters. I believe that's -- that's it.

BY MR. THOMASCH:

Q. As a result of your investigation, have you taken any actions other than preparing for your deposition?

A. No, I have not.

Q. In speaking with Mr. Wright, did you learn any facts that you were previously unaware of?

A. I think so, yes.

Q. And could you identify what those were, please?

A. Yes. Mr. Wright confirmed, if you will, that he was aware that Mr. Paradis was representing Mr. Jones in connection with a possible case by Mr. Jones against PwC, and that sometime after

Mr. Paradis was retained by Mr. Jones he informed Mr. Wright, at least, that -- of that representation.

Q. Do you know when Mr. Paradis informed Mr. Wright of that representation?

A. It was in December of 2012, Counsel. I don't have an exact -- not 2012. I'm sorry. Of 2014. I'm having trouble with dates, too.

Q. I'm not one to cast stones on that.

And what was Mr. Wright's response to being informed of the fact that Mr. Paradis was representing Mr. Jones?

A. I'm not sure he had a specific response. He didn't tell me about it, at least. But he became aware of it, as I said, sometime in December of 2014.

Q. Did you speak with Mr. Wright about other aspects of Mr. Paradis' representation of the City of Los Angeles?

A. In this sense, yes. From the beginning, the Department of Water and Power had two goals with respect to resolving this case: one, that every ratepayer be paid -- who -- every ratepayer who had been overcharged be paid a hundred cents on the dollar for the overcharge; and, two, that the system

be fixed.

I've got to be wrong on that date. It's not December. It's got to be February of 2015. I apologize.

Q. Do you know what triggered Mr. Paradis' disclosure to Mr. Wright about his then existing representation of Mr. Jones?

A. No, I'm really not sure about that.

Q. Do you know whether Mr. Paradis' disclosure to Mr. Wright was made in writing or orally?

A. I understand it was made orally.

Q. Now, I asked you about your awareness of Mr. Paradis' role in representing the City and you referenced two goals. Can you link that back to Mr. Paradis?

A. Only that Mr. Paradis was -- was instructed, as I understand it, because of the representation (sic) of the City those were the goals. I understood that Mr. Paradis, his representation of Mr. Jones, encompassed the same goals.

I said Mr. Jones. Representation of Mr. Jones. Sorry.

Q. Are there any other facts that you can recall learning as a result of your investigation,

to the extent that your investigation involved interactions with Mr. Wright?

A. No.

Q. You indicated that you talked with Richard Tom as part of your investigation; correct?

A. Correct.

Q. And what, if any, facts did you learn from Mr. Tom?

A. Mr. Tom reminded me of a couple of meetings in which I participated, although I don't remember them, in which the potential Jones v PwC Complaint was discussed. And I did not recall those meetings. I think -- and I think that's it with Mr. Tom that was new.

Q. Was the -- you indicated you didn't recall the meetings. Did that refresh your recollection about knowledge of a Jones v PwC draft Complaint?

A. Well, I had -- I did remember it without any refreshing. I remember that I received such a Complaint, or draft, and reviewed it.

Q. Was that in January of 2015?

A. I believe so.

Q. Did Mr. Tom provide you with any writings or documents?

A. No.

Q. Do you recall anything else you learned from Mr. Tom as part of your investigation?

A. Virtually everything I know about today's deposition I learned from one or more of the people I talked to, and I can't remember which -- which is which.

Q. All right.

A. But I did -- tried to investigate as best I could to prepare for this deposition.

Q. And you identified Dorny?

A. Yes.

Q. Who's that?

A. She's a --

Q. Deborah Dorny?

A. Yes.

Q. And what is her role?

A. Her role was as one of the Department of Water and Power lawyers on the billing case and -- billing case being the case LADWP -- Jones v LADWP. And she, I believe, is still involved in that case.

Q. What facts did she make you aware of?

A. I'm not going to be able to do this, Counsel. I -- I don't remember which facts which person told me about. She essentially told me the same thing as Mr. Tom.

Q. Did Mr. Tom tell you that he was aware that Mr. Paradis had an attorney/client relationship with Mr. Jones?

A. I -- I think so.

Q. So he knew about the Jones v PwC Complaint and you believe he knew that Mr. Paradis was the actual counsel to Mr. Jones?

A. Well, Mr. Paradis' name was on the Complaint, so I assume he knew it either orally or through that.

Q. To your knowledge, at any time prior to April 1, 2015, which is the date that the Jones case was actually filed in court, at any time prior to that do you know whether Ms. Dorny was aware that Mr. Paradis had an attorney/client relationship with Mr. Jones?

A. I believe so, for the same reasons I believe Mr. Tom was aware.

Q. Had she also seen --

A. I'm sorry, what?

MR. PETERS: You said Mr. Tom was aware. I think you meant Ms. Dorny was aware.

MR. THOMASCH: He said the reason that Mr. Tom was aware.

MR. PETERS: Okay. My bad.

BY MR. THOMASCH:

Q. And had -- is it your understanding that Ms. Dorny had seen the Jones v PwC draft Complaint?

A. I believe she had.

Q. To your knowledge, was Mr. Eskel Solomon aware of the attorney/client relationship between Mr. Paradis and Mr. Jones prior to April 1, 2015?

A. I believe that was the case. I don't know whether he was informed orally, but he received a copy of the Complaint with Mr. Paradis' name as counsel for Mr. Jones.

Q. To your knowledge, did Mr. Paradis brief Mr. Tom, Ms. Dorny or Mr. Solomon on the nature of his representation of Mr. Jones?

MR. PETERS: Objection to the extent that it's vague and ambiguous.

THE WITNESS: I -- I don't know.

BY MR. THOMASCH:

Q. In other words, you've indicated that you are making an assumption based on the fact that those individuals received a document that showed Mr. Paradis as counsel; correct?

A. Yes, I believe they were told orally through counsel, but I'm sure they received the Complaint.

Q. Does Ms. Annaguey work with Ms. Dorny in the defense of the City in the Jones v LADWP case?

A. Yes.

Q. Was she also provided a copy of the draft Jones v PwC Complaint?

A. Yes.

Q. Do you recall any specific facts that she informed you of that you had not previously known?

A. Yes. The -- her firm, which she was then at the Liner firm, which no longer exists, she prepared a memorandum, as I understand it, about the draft Complaint. I don't recall ever seeing that memorandum, but she told me that that was -- that was the case. She definitely was in communication with DWP about the Complaint, the DWP lawyers.

Q. What was the nature of the memo?

A. I don't know. I haven't seen it. But I understand it to be one that was recommending against filing that Complaint.

Q. Did she provide a copy of that memorandum to anyone at the City Attorney's office?

A. I don't know.

Q. Do you know whether the City Attorney's office has a copy today?

A. I -- they don't. Or we don't.

Q. How long was your conversation with Mr. Paradis?

A. It was a series of conversations totaling several hours on several different days.

Q. And Mr. Paradis is still special counsel to the City?

A. That's correct, as I understand it, yes.

Q. Do you have the authority to change that?

A. No.

Q. Who does?

A. I guess certainly Mr. Feuer would.

MR. PETERS: The board --

THE WITNESS: The board of LADWP would.

BY MR. THOMASCH:

Q. Okay. We can circle back on Mr. Paradis. How long was your conversation with Ms. Tufaro?

A. She was present at all the conversations that I had with Mr. Paradis.

Q. Did you have any conversations with either one of them without the other?

A. No.

Q. How long was your conversation with Mr. Kiesel?

A. Brief, less than an hour.

Q. Did you come away from that conversation

with any understanding as to whether Mr. Kiesel and Mr. Jones ever had an attorney/client relationship?

A. I understood from the draft Complaint they had an attorney/client relationship, but Mr. Kiesel informed me he had never met Mr. Jones until the deposition in this case which was, I think, within the last couple of weeks.

Q. Did he inform you as to whether or not Mr. Jones was aware that Mr. Kiesel considered himself to be Mr. Jones' attorney?

A. No, I don't know what Mr. Jones was aware of. Mr. Kiesel didn't relate anything about that. I don't know how he would have known it anyway.

Q. Are you aware that when Mr. -- when Mr. Peters served as the PMQ witness he volunteered that there was, in effect, no one better situated to be the PMQ?

A. I read that in his transcript.

Q. Why has the choice of witness changed?

A. I don't know the answer to that. I think because the court and the objection of you, your team, decided that the PMQ deposition of Mr. Peters given was inadequate and because I was Mr. Peters' supervisor I was designated to be the PMQ. I don't know beyond that. I think I was offered up in court

by Mr. Kiesel, as I recall, having read his transcript.

Q. Did any of the individuals you spoke with in the course of your investigation provide you with any documents?

A. Yes.

Q. Who and what?

A. Ms. Tufaro provided me with the single page from the privilege log and the -- a copy of the caption page and signature page of the draft PwC -- I'm sorry, Jones versus PwC Complaint.

Q. Anyone else provide you with any documents?

A. Yes, Mr. Peters.

Q. And did anyone direct your attention to the documents that you could otherwise locate but not provide them to you?

A. No.

Q. Did you participate in any deposition preparation sessions independent of your investigation?

MR. PETERS: Objection, vague, ambiguous.

THE WITNESS: I, no, I don't think so.

BY MR. THOMASCH:

Q. Was your meeting with Mr. Peters about being a deponent or about the underlying facts as

part of your investigation?

A. I don't understand the distinction. I was investigating to be a deponent, so I -- I don't know how to answer your question.

Q. During the course of your investigation did you take any notes?

A. Yes.

Q. Did you bring them with you today?

A. I did not.

Q. I'll ask for production of the notes, Counsel.

A. They've been discarded.

Q. When were they discarded?

A. I think last Friday.

Q. Did someone request that you discard the notes?

A. No.

Q. Why did you discard the notes?

A. I didn't need them. I use it as a method to remember things.

Q. How long were they?

A. Written on white paper, probably totaling four or five pages. Some of it was my own thoughts.

Q. Are there any copies or other records of the notes?

A. No.
Q. Are you aware of whether in this case the City of Los Angeles has circulated any form of document retention memorandum?
A. I'm not.
Q. Did you make any inquiry of anyone as to whether or not you were required to maintain copies pursuant to the City's own procedures?
A. Not that I recall. And I -- I may have been. If a document -- document retention memorandum was circulated before early April of 2015, I -- I probably saw it. I just don't remember it.
Q. And you made no inquiry about the existence of such a document before you destroyed your notes?
A. No.
MR. THOMASCH: I'll ask the court reporter to mark as Exhibit 3 of this date a letter dated February 12, 2019 from Paul O. Paradis to Daniel Thomasch, attaching a two-page document.
(The document referred to was marked by the reporter as Exhibit 3 for identification and is attached hereto.)
BY MR. THOMASCH:
Q. Mr. Clark, if you take a moment to look

through Exhibit 3. Am I correct that the second and third pages are pages that you have seen a copy of previously?

A. Yes.

Q. And that's what you were referring to?

A. Yeah, but I don't remember -- I don't remember the redaction, apparent redaction.

But yes, I've seen it.

Q. When you saw it, did it have the phrase "Confidential Draft" stamped on both pages?

A. That's my recollection.

Q. Do you know when that stamp was affixed to the document?

A. I do not.

Q. Had you seen the cover -- have you seen the cover letter previously?

A. No.

Q. If you just take a moment to read to yourself the first paragraph of the cover letter.

A. Okay.

Q. Is that consistent with what your understanding is of the second and third pages, the description in the first paragraph?

A. Yes.

Q. For the record, who is identified on the

draft Jones v PwC Complaint as counsel for plaintiffs -- for plaintiff?

A. Well, I think the -- on the caption page?

Q. Yes.

A. I think it speaks for itself, but Mr. Kiesel, Mr. Paradis and Ms. Tufaro.

Q. And it indicates "attorneys for plaintiff" and you understood that to be plaintiff Antwon Jones; correct?

A. That's correct.

Q. Is there any indication anywhere on this document that Mr. Kiesel, Mr. Paradis and/or Ms. Tufaro were special counsel to the City of Los Angeles?

MR. PETERS: Objection, document does speak for itself.

THE WITNESS: I don't think -- no.

BY MR. THOMASCH:

Q. Now I'm going to ask you questions about this document. I'm actually asking about the entirety of the -- of the Complaint when I make reference to the -- to the document and not simply the cover page. All right?

A. Okay.

Q. Have you seen the entirety of the document?

A. You mean the Complaint --
Q. Yes.
A. -- draft Complaint? Not in the last several years, but I did in -- whenever it was produced either late 2014, early 2015. I think it was early 2015.
Q. At that time did you have an understanding as to who drafted the document?
A. Yes.
Q. Who was that?
A. Mr. Paradis.
Q. To your knowledge, did anyone edit the document at that time?
A. Not to my knowledge.
Q. Did Mr. Kiesel have any role in the creation of the document, to your knowledge?
A. I have no idea.
Q. Do you know whether Ms. Tufaro had any role in the creation of the document?
A. I believe she must have. She does -- she and Mr. Paradis do everything together, pretty much.
Q. Do you know whether Mr. Peters had any role in the creation of the document?
MR. PETERS: Objection, vague and ambiguous.

THE WITNESS: I think Mr. Peters directed Mr. Paradis to prepare such a document for evaluation.

BY MR. THOMASCH:

Q. Do you know about when that direction was given?

A. Yes, it probably was December of 2014.

Q. Do you have a specific date?

A. No.

Q. Did Mr. Peters provide you with a specific date?

A. No, not that I recall. He may have. I don't remember the date if he did.

Q. If he did, would you have written it in your notes?

A. Probably not.

Q. You indicated you were aware of the draft Complaint at or about the time of its preparation. Had you known about it in advance of its preparation?

A. Yes, I had to have had.

Q. And in what way did you know about it?

A. Mr. Peters and I discussed this, preparing a draft Complaint, for -- wait, no. Mr. Paradis was going to prepare a draft Complaint for the

possibility of Mr. Jones suing -- suing PwC directly.

Q. When did you learn that fact?

A. Shortly before I reviewed the Complaint.

Q. Was it before or after Mr. Peters directed Mr. Paradis to prepare the draft Complaint?

A. I believe it was after.

Q. So Mr. Peters, not you, was the impetus for the creation of the document but you learned about it shortly after it was created; is that correct?

A. I -- I don't know if I learned about it before or afterwards, but Mr. Peters was the one that made the request to prepare the document.

Q. Did you make -- did you undertake any investigation to determine whether the City Attorney's office or LADWP possesses more than one version of the Jones v PwC draft Complaint?

A. I did not. Well, I didn't take -- undertake an investigation. I understand that was the case.

Q. You understand what is the case?

A. That there were two -- two draft Complaints.

Q. Are both possessed by the City Attorney's office?

A. No. The Complaint that was prepared and sent to Mr. Jones, no one in the City Attorney's office, LADWP has ever seen.

Q. Who was that Complaint prepared by?

A. Mr. Paradis. I mean, maybe Ms. Tufaro, too.

Q. Why was it not shared with those in the City Attorney's office?

A. I have no idea. No one knew it existed.

Q. When did anyone in the City Attorney's office or LADWP first learn that Mr. Paradis had provided Mr. Jones with a draft Jones v PwC Complaint?

A. Well, I don't know that anybody knew about it until, basically, now. I certainly didn't, but I -- I'm screened in the case, so somebody else might know, known about it earlier.

MR. PETERS: And I just want to remind you: I'm giving you a lot of leeway, but this is a depo about the one we did know about, not the one we didn't know about.

MR. THOMASCH: I'm fully confident that this is within the scope of what the court envisions.

Q. Do you know on what date the drafting of

Exhibit 3 began?

A. No.

Q. Do you know on what date it was completed?

A. No.

Q. To your knowledge, did you ever personally authorize its preparation?

A. I think I did, told Mr. Peters to go ahead and have such a Complaint prepared.

Q. And would that have been in December of 2014?

A. Probably. I think it was in December of 2014.

Q. What is your understanding as to why the document is dated January blank 2015?

A. I think that's when its preparation was completed. As I recall now, the best I can -- this is my preparation, not my personal memory -- the Complaint was received in our office in -- later on in January, in its twenties someplace.

Q. Was there a request made within the office for authorization to file the Complaint?

A. Not that I recall.

Q. Am I correct that other than Mr. Paradis, you don't know anyone who has seen copies of both the Jones v PwC draft Complaint in the City

Attorney's possession and the Jones V PwC Complaint in Mr. Jones' possession?

A. That is my understanding.

Q. And that would include Mr. Kiesel?

A. Yes.

Q. Without having seen the two, it's certainly possible the two are identical; correct?

A. I've been informed they're different.

Q. Who informed you of that?

A. Mr. Paradis.

Q. What did he say the differences were?

A. He didn't tell me.

Q. Did he say what the magnitude of the differences were?

A. No. I don't know what that means, but no.

Q. Well, it could have different dates or they could have different trivial factor -- trivial issues or they could be -- and still be essentially the same; would you agree?

A. I don't know. But I mean, their -- there's a privilege that's between Mr. Jones and Mr. Paradis as to that Complaint, as I understand it, so I didn't get any information about it beyond the fact that there were two.

Q. Did you ever consider whether the privilege

between Mr. Jones and Mr. Paradis was impacted in any way by the fact that Mr. Paradis was simultaneously serving as special counsel to the City of Los Angeles?

A. Since he wasn't doing it simultaneously, no.

Q. He wasn't doing what simultaneously?

A. He didn't represent both parties simul -- I'm sorry, he did with respect to -- against PwC, that's correct.

Q. Do you understand the circumstances under which Mr. Paradis became Mr. Jones' lawyer?

A. Yes.

Q. And what were they?

A. Mr. Paradis had a website, basically soliciting interests from anybody who believed they'd been overcharged by PwC. As I understand it, in response to that, I believe it was an email, Mr. Jones contacted Mr. Paradis, having reviewed that website, and Mr. Paradis called Mr. Jones in response to that, had a conversation, and either in that conversation or shortly thereafter an attorney/client relationship was formed between Mr. Jones and Mr. Paradis.

Q. And what was the name of the website?

A. I don't know.
Q. What's the address?
A. I don't know.
Q. Did you ask Mr. Paradis?
A. No.
Q. Was that a website that Mr. Paradis created in connection with his representation of the City?
A. I don't believe so.
Q. When do you believe that website was created?
A. Sometime in December or November of 2014, but I don't know.
Q. Did you understand what he was doing at the time he did it, the creation of the website?
A. I understand -- I didn't know about it. This is all about Mr. Jones, and nobody in LADWP knew anything about Mr. Jones other than he was -- his name was on a Complaint.
Q. Did anyone at LADWP or the City Attorney's office know that Mr. Paradis had set up a website seeking a plaintiff who might file a private suit?
MR. PETERS: Objection, vague as to time.
THE WITNESS: I -- well, yes, that's fair. What time do you mean? They know now.
///

BY MR. THOMASCH:

Q. Did they know in late 2014?

A. I don't believe so.

Q. Did they know in early 2015?

A. I doubt it. I don't think so. Let me amend that. It wasn't conversation with me, but I suspect when Mr. Paradis talked about Mr. Jones with people at LADWP that he may have mentioned the website. I don't -- I don't know that.

BY MR. THOMASCH:

Q. If the City Attorney's office felt that the City and recipients of City services had an interest in common vis-à-vis a third party, would it be permissible for attorneys from the City Attorney's office to draft pleadings and provide the work product to a private attorney to use as he or she saw fit?

MR. PETERS: Objection, vague, ambiguous, also an incomplete, improper hypothetical.

THE WITNESS: Incomplete hypothetical, hence would not -- I would not -- I would say not to do as with he or she pleases under any circumstances, but there are circumstances in which I think would be permissible, and I don't know what "permissible" means.

BY MR. THOMASCH:

Q. Under what circumstances do you think it would be permissible for attorneys from the City Attorney's office to draft pleadings and provide them for use by someone outside the City of Los Angeles government?

A. I don't -- I don't have a specific instance.

Q. To your knowledge, has that ever occurred?

MR. PETERS: Objection, vague and ambiguous.

THE WITNESS: I don't know that. I don't know.

MR. THOMASCH: I'll note, Counsel, your objections to these questions have already been overruled by the court. So I understand you're making them for the record, but they can't stop the witness from answering the question.

MR. PETERS: But you haven't asked the hypothetical, which is incomplete and improper, of Judge Berle. I'm sure that he would want you to straighten out that hypothetical. I think you got your answer.

MR. THOMASCH: I read the question verbatim. The judge approved it.

MR. PETERS: Got it.
BY MR. THOMASCH:
Q. Are there different rules for what special counsel may do by way of representing third parties than there are -- than there are for attorneys in the City Attorney's office full time?
MR. PETERS: Same objections.
THE WITNESS: Special rules? I don't know of any special rules.
BY MR. THOMASCH:
Q. Well, are special counsel allowed to represent third parties in lawsuits against the City?
A. I'm sorry, say -- would you repeat that?
Q. Yes. Are special counsel allowed to represent third parties in lawsuits against the City of Los Angeles?
A. Special counsel for the City?
Q. Yes.
A. No.
Q. Are they allowed to represent individuals who are interested in bringing lawsuits against the City of Los Angeles?
A. I can't answer that question because, again, it's an incomplete hypothetical.

Q. Who made the decision to identify Mr. Antwon Jones on the draft Jones v PwC Complaint?

A. Mr. Paradis.

Q. What was the basis for the decision to put Mr. Antwon Jones' name in the caption of the Jones v PwC Complaint?

A. As I understand it, it was the contact Mr. Jones made with Mr. Paradis and Mr. Paradis made with Mr. Jones, plus the verification that Mr. Jones in fact had been overcharged.

Q. And why Mr. Jones as opposed to one of the other ratepayers who had conveyed concerns about their bills?

A. Again, because the contact with -- there was a contact with Mr. Paradis and Mr. Jones, and it was Mr. Paradis' idea to put Mr. Jones in as a plaintiff. Nobody at LADWP knew who Mr. Jones was.

Q. And you can't identify anyone who knew Mr. Paradis' website at that time?

A. I can't. I didn't, but I just can't.

Q. To your knowledge, was Mr. Jones the only ratepayer then represented by Mr. Paradis?

A. To my knowledge. I don't know of any.

Q. Did you ask Mr. Paradis whether others had responded to his website?

A. No.
Q. In January of 2015, did anyone in the City Attorney's office or LADWP inform Mr. Jones that Mr. Jones was identified on a draft Complaint prepared by the City captioned Jones v PwC?
MR. PETERS: Forgive me, I just didn't hear it. Can you read it back?
BY MR. THOMASCH:
Q. Yes. In January of 2015, did anyone in the City Attorney's office or LADWP inform Mr. Jones that Mr. Jones was identified on a draft Complaint prepared by the City captioned Jones v PwC?
A. Well, there was no Complaint prepared by the City, so obviously didn't inform them of that.
Q. Who was the Complaint prepared by?
A. Mr. Paradis.
Q. And he was special counsel to the City --
A. Not then.
Q. -- in January of 2015, was he not?
A. I guess he was, yeah.
Q. All right. So if he was special counsel to the City in 2015 and he drafts something --
A. Yes.
Q. -- is it your position that that is being drafted by the City or are you making a distinction

in saying that he is somehow distinct from the City in his role as special counsel?

A. In his role as special counsel, no. But otherwise, yes.

Q. When did he begin his role as special counsel?

A. I believe it was in December of 2014.

Q. Has any attorney affiliated with the City, including special counsel in this litigation, ever disclosed orally or in writing the existence of the draft Jones v PwC Complaint to Mr. Jones?

A. No.

Q. After the Jones v PwC draft Complaint was completed, who was involved in any decision as to what to do with the document?

A. Best of my recollection, I was. I think Mel Levine was. I think Mr. Peters was. And there probably were additional inhouse DWP lawyers involved, but I just -- wasn't able to ascertain that.

Q. And what decision was made?

A. Not to file it.

Q. Why?

A. At least two reasons. I, at least, and I think most of the other lawyers, thought it was not

legally viable or was skeptical about it. Most importantly, wasn't going to accomplish the Department's goals of a hundred percent refund all overcharged ratepayers and having anything to do with getting the system fixed, so it didn't make any sense to pursue it further.

Q. Was consideration given as to whether or not it would be advantageous to Mr. Jones to have such a Complaint filed with him as the named plaintiff?

MR. PETERS: Objection, calls for speculation, may invade --

THE WITNESS: I -- I was making a decision for the City, not for -- I wasn't representing Mr. Jones.

MR. THOMASCH: I understand.

Q. But the caption was Jones versus PwC.

A. I understand.

Q. And what I'm asking is: Did anyone in the discussion about what to do with the Complaint think about whether it was in Mr. Jones' interest to sue PwC?

A. I don't know what people thought about, Counsel.

Q. Did anyone discuss that?

A. Not that I recall.
Q. Did you personally consider it?
A. No.
Q. Do you have any understanding of when Mr. Jones told Mr. Paradis that he wanted to sue LADWP only and not PwC?
A. I do not.
Q. Did you inquire of Mr. Paradis?
A. No.
Counsel, it's about 10 of 11:00. I'd like to take a break, if you don't mind.
MR. THOMASCH: Then why don't we take a break.
THE VIDEOGRAPHER: We're off the record at 10:52.
(Brief recess.)
THE VIDEOGRAPHER: This marks the beginning of Disc No. 2 in the deposition of James Clark, Volume I. We're back on the record. It's 11:05.
BY MR. THOMASCH:
Q. Mr. Clark, you testified about the reasons that the decision was made not to file the Jones v PwC draft Complaint. Was Mr. Feuer part of that decisionmaking process?
MR. PETERS: Objection, vague and

ambiguous.

THE WITNESS: I don't remember Mike taking part in that -- those discussions. I'm sure I reported it to him, but I don't think he was involved in the decision.

BY MR. THOMASCH:

Q. When did he first learn, to your knowledge, when did he first learn of the existence of the draft Jones v PwC Complaint?

A. I have no idea. I don't remember.

Q. Did you apprise him of that fact?

A. I'm sure I did. We meet twice a week. I advise him of what's going on. I have no specific recollection of advising him.

Q. You indicated that there were two goals for the filing of any Complaint and that they wouldn't be accomplished by the filing of the -- of the Jones draft Class Action Complaint; is that correct?

A. No, the Jones -- Jones v PwC Complaint would not accomplish that.

Q. Correct. And those two goals were that you wanted to see recovery of a hundred percent of overcharges for all ratepayers and you wanted to see the system fixed; is that correct?

A. Correct, correct.

Q. And is it your testimony that the Jones v PwC draft Complaint, if filed, would not have been able to accomplish the first of those two goals?

A. Was our understanding, yes.

Q. And why is that?

A. Because the money wouldn't have been sufficient, probably, to pay off all the ratepayers. We wanted to do it fast. Just seemed to us -- we wanted to get -- to get that resolved. So the -- this case obviously has dragged on for years, and we wanted to get something -- something done. And it's not -- not clear at all that this money would have gone -- to who this money would have gone.

Q. It was styled as a class action complaint; correct?

A. It was.

Q. And do recoveries in class action complaints go to anywhere other than to the class?

A. Yes, they go to the lawyers.

Q. All right. And was there a difference in -- in the lawyers' ability to recover money in a potential suit by Mr. Jones against PwC or a suit by Mr. Jones against LADWP?

A. Yes.

Q. And how so?

A. The -- well, I don't know because I didn't know what the contingency fee arrangement would have been with Mr. Paradis representing Mr. Jones, so I don't know. We just wanted to get it done and done right.

Q. In addition to the two goals of -- withdrawn.

The goal of assuring that every ratepayer received a one hundred percent recovery was a goal that could be achieved by the City on its own without litigation; correct?

MR. PETERS: Objection, vague and ambiguous.

THE WITNESS: Potentially, yes. I mean, I think it ended up 860,000 people got some kind of refund or credit, so -- and it was a lot of work by DWP but yet they didn't have to be sued, I think, in order for that to happen.

BY MR. THOMASCH:

Q. And in fact, they started making refunds of overcharges as early as 2015; correct?

A. I -- I -- I don't know.

Q. All right. You agree with me that to the extent that LADWP was aware that it had overcharged a customer, then it had no choice but to refund one

hundred percent of the overcharge; correct?

A. No. They had lots of choices. They could have done a percentage of those. It could have -- for example, one of the contests was what do you do about people that were undercharged.

Q. That's not my question. My question relates to an individual -- let's just take it down to one individual. If the -- if the City became aware that LADWP had charged an individual for more money than the cost of the service received by the individual, did the City have an obligation to refund that money?

A. I don't know what you -- I'm not sure that I understand your question.

Q. Okay.

A. An obligation --

Q. I'll try it again. Do you think the City has an obligation to refund overcharged customers to the extent they are aware of that?

A. Do I think that? Yes.

Q. Do you know of any basis on which the City could say no, we're not going to refund your overcharge?

A. I do not. Which doesn't mean there isn't one.

Q. And so the goal of refunding customers all overcharges is a goal that could have been accomplished by the City without having to be sued; correct?

A. Well, the -- the City was already -- Mr. Blood, Mr. Himmelfarb had already sued the City, so the City, before Mr. Landskroner came in, already had been sued, so the City didn't have a choice to do this some other way.

Q. Well, it could have independent -- while it was litigating the case, it could have refunded customers for overcharges; correct?

A. It did.

Q. Correct. It didn't require a court order to refund --

A. He said he was given a case that's pending, that's correct.

Q. City's also capable of reforming its own system and remediating to the extent it desires without regard to a court order; correct?

A. I -- I don't know.

Q. Well, the City had started remediation as early as late 2014, had it not?

A. I think so.

Q. The one goal that the City couldn't

accomplish on its own but needed litigation for was to obtain a release broad enough to cover the claims of the Bransford and Fontaine and Kimhi plaintiffs; correct?

A. I have no idea.

Q. One goal of the Jones v -- withdrawn.

A. Again, Mr. Thomasch, I've been screened from this case since April of 2015, so I went on with this other stuff. I just don't know. And I wasn't -- I'm not permitted to know.

Q. You were not screened from the Jones v LADWP case; correct?

A. That's correct.

Q. And a goal in the Jones v LADWP case was to obtain a settlement broad enough to obtain a release that would cover as much as possible the claims of the Bransford and Fontaine and Kimhi and other plaintiffs; correct?

A. I think that -- that's essentially right, although I don't remember the claims. There was other plaintiffs. But certainly in a class action settlement you want the broadest possible release, so I think that's always the goal.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 4 of this date excerpts from the

September 29, 2017 privilege log in this action.

(The document referred to was marked by the reporter as Exhibit 4 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Did you read the question in Mr. Peters' -- at his PMQ deposition regarding the privilege log entry on Exhibit 4?

A. I'm sure I did.

Q. What, if any, investigation did you do specific to this log entry?

A. Which log entry?

Q. Log entry related to documents in row No. 70 and 71, which are the bottom two rows on the first page of Exhibit 4.

A. Seventy and 71?

Q. Yes.

A. Well, I talked to Mr. Solomon, and he talked to some of the people identified in the email. Couple retired; he couldn't get ahold of them. But -- so I talked to Mr. Solomon. He talked to Ms. Grove and Ms. Walker-Bonnelli. And I also spoke to all three at --

No, I didn't speak to Richard Brown. He's retired. I did speak to Ms. Dorny and Mr. Tom who

are identified as having received copies.

Q. Who is Mr. Thomas?

A. Mr. Thomas?

Q. I believe you said I didn't speak with Mr. Brown; he's retired. I did speak to Ms. Dorny and Mr. Thomas.

MR. PETERS: Tom.

THE WITNESS: Tom.

BY MR. THOMASCH:

Q. Richard Tom?

A. Yes. Sorry. If I said Thomas, that was a mistake.

Q. What facts did you learn from Mr. Solomon -- withdrawn.

You personally spoke to Dorny and Tom; correct?

A. That's correct.

Q. What did you learn from them?

MR. PETERS: Objection, asked and answered.

THE WITNESS: What did I learn from them?

MR. THOMASCH: With regard to this log entry.

THE WITNESS: Nothing.

BY MR. THOMASCH:

Q. All right. Who was the sender and who were

the recipients of the underlying email sent to Mr. Solomon?

A. I understand that Mr. Paradis sent it to Mr. Solomon. I don't think there was anybody else who was a percipient from Mr. Paradis. There may have been. I don't know.

Q. When did Mr. Paradis send it to Mr. Solomon?

A. It was either the 23rd or 24th of January 2015. I may be off by a day or two, but essentially that's when it was.

Q. Now, there is no entry on this log that reflects Mr. Paradis being the sender of the Complaint; correct?

A. Document speaks for itself, Counsel. It's either there or not.

Q. And it's not there, is it, sir?

A. I -- I guess not. I -- I -- I'd have to do the preparation of this log. It could be someplace else. I don't know.

Q. Well, please take a moment to look at 70 and 71.

A. I'm saying I don't know if it's elsewhere in this document. It's not in those lines, that's true.

Q. It's not in row 70 or 71?
A. That's correct.
Q. Do you have any explanation for why that's so?
A. No, I don't. This was prepared in 2017. I had nothing to do with this case.
Q. Do you have know who was involved in the preparation of this document?
A. I do not.
Q. Do you know who is responsible for the fact that Mr. Paradis' role was not disclosed?
A. No.
Q. Did anyone who received the email from Mr. Solomon attaching the Jones v PwC Complaint forward the draft Complaint to anyone outside of LADWP?
A. No.
Q. Was the Jones v PwC Complaint forwarded by any recipient of Mr. Solomon's email to anyone inside or outside LADWP as an attachment to a different email?
A. No.
Q. In his role as special counsel, who does Mr. Paradis report to?
A. I think Mr. Peters. And maybe

Mr. Brajevich as well, who is general counsel of DWP.

Q. With respect to --

A. I should add the board of DWP, too.

Q. Are there any matters on which Mr. Paradis reports to you even indirectly?

A. No.

Q. In January of 2015, what relationship or relationships did Mr. Paradis have with the City of Los Angeles?

A. He was special counsel, as I -- as I recall.

Q. And that special counsel relationship, are you aware of that being the -- embodied in a contingent fee contract between Mr. Paradis' firm and the City?

A. I -- I don't remember that. I don't know. I don't recall seeing such a contract.

Q. Are you aware of any separate relationship that Mr. Paradis has with the City other than as special counsel in the case of Jones -- in the case of LADWP versus PwC?

A. I am.

Q. And what is that?

A. He has been retained, as I understand it,

as a consultant and is working to continue to work on technical problems for the City. I don't know much more about it than that, but I know he's in that role.

Q. When was he first retained in that role?

A. I think shortly after the problems were discovered, so probably -- I'm guessing now, so I don't know.

I might note, Counsel, this is way beyond what the judge ordered.

Q. Excuse me?

A. This is way beyond what the judge ordered. Mr. Paradis' role and some other role, that's not in the list of questions. That's list of topics.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 5 of this deposition the Declaration of Richard Tom bearing a date stamp of February 17, 2017.

(The document referred to was marked by the reporter as Exhibit 5 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Mr. Clark, I show you what's been marked as Exhibit 5, Mr. Tom's declaration, executed February 17, 2017. Have you seen this document before?

A. I don't believe so.
Q. Direct your attention to paragraph 6, sir. First sentence reads:
"Shortly after going 'live' with the CC&B billing system, the LADWP began to experience massive billing problems and received a large influx of customer complaints."
Do you see that?
A. I do.
Q. The going live was on September 3rd, 2013; are you aware of that?
A. I probably was at the time, but I -- it says it here. I'm sure it's correct.
Q. Is it your understanding that in 2013 the City began to experience billing problems and it began to receive customer complaints?
A. I think there were customer complaints during 2013, so I assume that there were already problems that had surfaced.
Q. In paragraph 7, you'll see in the second sentence it indicates that the first consumer class action, Kimhi versus City of Los Angeles, was filed on February 15, 2014; do you see that?
A. I do.
Q. Were you aware of that action being filed

on or about that time?

A. I'm sure I was.

Q. The next sentence indicates that:

"Based on the number of customer billing complaints that LADWP was receiving after having gone live with its CC&B billing system, and the filing of the Kimhi action, plaintiff's counsel reasonably believed that additional consumer class actions would be filed against the City."

Is that consistent with your recollection?

A. Yes.

Q. Moving to paragraph 9, it indicates that, in the first sentence:

"In response to the public's outcry concerning these billing errors, threatened lawsuits, and the filing of the Kimhi action, Counsel for the City ('plaintiff's counsel') commenced an investigation and remediation effort in or about September 2014."

Do you see that?

A. I do.

Q. Is that consistent with your recollection?

A. The City convention is investigation and remediation. I'm not sure it was September 2014,

but that's certainly -- those activities occurred. I'm not sure about the date. I assume Mr. Tom swore that this is correct.

Q. And then in the beginning of paragraph 10, it says:

"Plaintiff's counsel led and supervised this effort."

That's a reference to Mr. Paradis; is that correct?

MR. PETERS: Objection, calls for speculation. I think he should be able to read the entirety of the document if you're going to question him in detail about specific --

MR. THOMASCH: Sure, I'm happy to have you read the entire document. The question I have is whether or not the person who led and supervised the effort, if you understand it, was Mr. Paradis or not. Take all the time you want, sir.

THE WITNESS: Okay. If your question is, is the counsel referred to in paragraph 10, I believe it's Mr. Paradis.

BY MR. THOMASCH:

Q. Is Mr. Paradis compensated for his efforts leading and supervising the remediation?

A. I understand he is, either he or a company

of which he's affiliated.

Q. And by "a company," do you mean something other than his law firm?

A. Yes.

Q. And what's the name of the company?

A. I don't know. I've probably been told. I just don't remember. Again, none of this was on the list of topics, so I'm not prepared on this.

(Discussion held off the record between Mr. Peters and the witness.)

THE WITNESS: Yeah, Mr. Peters is right. Given the date, it can't be Mr. Paradis. He wasn't retained yet.

BY MR. THOMASCH:

Q. Mr. Paradis began his work in project management with respect to the remediation before the effective date of his service as special counsel; isn't that true, sir?

A. I don't know.

Q. Well, if he did, then it could be Mr. Paradis; correct?

A. Calls for speculation, Counsel. It could be, sure. It could be anybody.

Q. Who made the decision to retain Mr. Paradis to serve in his project management role?

A. I believe it was -- it was probably Dave Wright. It could have been Marcy Edwards and Dave Wright.

Q. Do you know when that decision was made?

A. No.

MR. PETERS: Objection, this stuff is way beyond what he prepared for as a PMQ.

MR. THOMASCH: I'm -- I'm not holding him to an investigation, I'm asking for his personal knowledge with respect to that.

THE WITNESS: I'm not testifying to my personal knowledge, Counsel. I'm appearing as a PMQ.

MR. THOMASCH: I'm allowed to ask followup questions.

THE WITNESS: This isn't followup. This is totally far afield. I'm answering the questions as best I can, but I don't know the answer to a lot of these questions. I didn't prepare for it.

MR. THOMASCH: If you don't know the answer to the question, the proper answer is I don't know the --

THE WITNESS: The proper thing is for you to ask questions the judge ordered and reasonable followup. This is not either.

MR. THOMASCH: I'll continue to ask my questions. You have counsel here. If you want to seek a judicial ruling, I'm more than happy to do so.

THE WITNESS: I don't need a judicial ruling, Counsel.

MR. THOMASCH: Then we'll continue.

Q. Do you know on what basis Mr. Wright and Mr. -- and Ms. Edwards hired Mr. Paradis?

A. No.

Q. When did you first meet or -- when did you first meet Mr. Paradis?

A. I believe late nine -- late 2014. Might have been early 2015.

Q. Who made the decision to hire him as special counsel to the City?

A. I think it was ultimately Dave Wright.

Q. Do you know how Mr. Wright and Mr. Paradis know each other?

A. I'm not sure they did know each other.

Q. Do you know whether they did know each other before that?

A. I do not. I do not.

Q. In January of 2015, what relationship, if any, did Mr. Kiesel have with the City of Los

Angeles or LADWP?

A. I don't think he had any at that time. Or at least if he had any, I don't know about it.

Q. Who made the decision to retain Mr. Kiesel?

A. Again, I assume it was Mr. Wright.

Q. Does Mr. Kiesel have any relationship with the City -- withdrawn.

Has Mr. Kiesel had any relationship with the City or LADWP since January of 2015, other than as special counsel to the City?

A. I don't believe so. I'll clarify that in this respect: He may be a part of a joint interest group in a case against Southern California Gas, because he represents a whole bunch of plaintiffs against Southern California Gas.

MR. PETERS: That's a People --

THE WITNESS: Oh, that's a People case.

Sorry. No, wrong. I shouldn't get confused on that, other people do.

MR. THOMASCH: I'll ask the court -- the court reporter to mark as Exhibit 6 of this date a multipage document without Bates stamps, bearing the heading "Engagement and Contingency Fee Agreement."

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(The document referred to was marked by the reporter as Exhibit 6 for identification and is attached hereto.)

MR. PETERS: If he's going to read it, I suggest we do it over lunch.

MR. THOMASCH: I don't think he'll need to read it. I just want him to look through it and it may be that looking through it will allow you to answer the question whether you've ever seen this document before.

THE WITNESS: Well, I'm shown as a signatory, so presumably, yes, although I didn't -- I'm not the person (sic) signed it, this copy.

BY MR. THOMASCH:

Q. Have you been involved in other instances in which the City has hired special counsel to assist the City Attorney's office?

A. Yes.

Q. And are you routinely in the loop on the approval of that?

A. I would say I am.

Q. This contract is -- this fee arrangement, you'll see in the first sentence, is -- it says it is made on April 21, 2015; do you see that?

A. Yeah, I do.

Q. And just by point of reference, Mr. Kiesel -- withdrawn.

Mr. Paradis and Mr. Kiesel identified themselves as special counsel in a filing against PwC, the initial Complaint, on March 6, 2015. You're aware of that; correct?

A. Yes.

Q. At that time you had not yet been walled off; correct?

A. In March?

Q. Yes.

A. I think whenever the demurrer was filed in this case. I think that was early April.

Q. Okay. March 6, 2015 is the date on which the Complaint itself was filed. No counsel for defendant had made an appearance?

A. That's correct.

Q. So at that time had you been walled off in the case?

A. No.

Q. And what was your responsibility vis-à-vis the LADWP versus PwC case as of March 2015?

A. Well, Mr. Peters was really running it from the City Attorney's point of view, and I was getting reports from Mr. Peters, and we were discussing

stuff, tactics, status, things like that.

Q. Do you know why the fee agreement was not made until after the case had been filed in which they identified themselves as special counsel?

A. I do not.

Q. And I'll note on page 4, if you look at the "General Requirements" in section Roman III --

A. My copy isn't numbered.

Q. Correct. If you would turn to what would be the fourth page.

A. Okay.

Q. Roman numeral III, "General Requirements," and I'll direct you to the "Term of Agreement" in paragraph C, and specifically the first words after "Term of Agreement" that says: "This agreement shall commence on January 1, 2015..."

And it goes on from there. Do you see that?

A. I do.

Q. Is that your understanding as to the effective date of Mr. Paradis' role as special counsel?

A. I think so.

By the way, I should say ultimately the decision to hire Mr. Paradis as special counsel and

Mr. Kiesel was made by the DWP board.

Q. When the DWP board made that -- do you know when the DWP board made that decision?

A. I do not.

Q. Did anyone disclose to the DWP board before they made that decision that Mr. Kiesel and Mr. Paradis were at that time counsel for Mr. Antwon Jones?

MR. PETERS: Objection, attorney/client privilege as I heard it.

THE WITNESS: Yeah.

MR. THOMASCH: I'll ask you again and see if we have an instruction.

Q. Did anyone disclose to the DWP board before they made the decision to hire special counsel that Mr. Kiesel and Mr. Paradis were at that time counsel for Mr. Antwon Jones?

MR. PETERS: I believe it's attorney/client privilege if you're asking what -- if you will allow him to answer this and not take the position that a larger waiver ensues --

MR. THOMASCH: I will take any waiver on a question-by-question basis and not claim it's a general waiver for the purpose of this -- for the purpose of this deposition. If he answers the

question after your instruction on privilege grounds, I will not claim it's a general waiver.

MR. PETERS: Not -- not in this deposition, nor in any other proceeding?

MR. THOMASCH: Right. With respect to -- with respect to a disclosure made in this deposition.

MR. PETERS: Fair enough.

Thank you very much. With that in mind, Mr. Clark, if you can answer.

THE WITNESS: Yeah, I don't know.

BY MR. THOMASCH:

Q. Do you know whether Mr. Paradis was retained before Mr. Kiesel or vice versa?

A. I -- I think it was basically simultaneous, but I'm not sure of that.

MR. PETERS: In the spirit of cooperation, can my objection this is beyond the scope of the PMQ just run?

MR. THOMASCH: Yes.

Q. Was Mr. Jones sent any inaccurate bills by LADWP after September 3, 2013?

A. Yes.

Q. You indicated in a question earlier that -- in answer to a question earlier -- that that fact

was verified although I don't if that -- if you used the actual word verified.

A. That's okay. Yes, it was.

Q. And who -- who did that?

A. Somebody at DWP. There were any number of people working on this. I don't know the name of that individual.

Q. When you say there were any number of people working on it, what do you mean?

A. On the billing problem.

Q. So presumably a large number of people working on billing problems generally; correct?

A. Oh, yes.

Q. And then, as I understand your testimony, after Mr. Jones responded to Mr. Paradis' website and an attorney/client relationship was formed, after that point someone at LADWP verified that Mr. Jones had, in fact, been overcharged; is that correct?

A. That's correct, yes.

Q. And do you know specifically who did that?

A. No.

Q. Do you know whether Mr. Wright was the one who saw that that was done?

A. That would be speculation, Counsel. I

don't know.

Q. Do you know the total amount of the alleged overcharge?

A. Yes, $1300.

Q. And that was the amount of the overcharge, not the amount of the bill; is that correct?

A. That's correct.

Q. Prior to April 1, 2015, did Mr. Jones ever contact LADWP directly to complain about any bill he had received?

MR. PETERS: Objection, calls for speculation.

THE WITNESS: Yeah, I don't know when he contacted LADWP.

BY MR. THOMASCH:

Q. Do you know any contact that preceded his contacting Mr. Paradis as a result of Mr. Paradis' website?

A. I believe there were such contacts. I don't know any details about them.

Q. Was such a contact the reason that Mr. Paradis contacted Mr. Jones or was it that Mr. Jones had responded to the website?

A. I understand Mr. Jones responded to the website.

Q. To your knowledge, was Mr. Jones represented by counsel at or about the time he contacted LADWP, not Mr. Paradis, to register a concern about one or more bills?

MR. PETERS: Objection, calls for speculation.

THE WITNESS: I'm speculating, but I don't think so.

MR. THOMASCH: I'm not asking you to speculate at all. I'm asking you whether you know he was.

THE WITNESS: I don't know.

BY MR. THOMASCH:

Q. It is your understanding, however, that as of January 24, 2015 Mr. Jones was represented by counsel; correct?

A. Yes.

Q. And who was that counsel?

A. Paul Paradis and Paul Kiesel and Gina Tufaro.

Q. During what period of time was Mr. Jones represented by Mr. Paul Paradis?

MR. PETERS: Objection to the extent it calls for legal opinion, conclusion, calls for speculation.

THE WITNESS: Yeah --

MR. THOMASCH: You may answer.

THE WITNESS: -- I'm going to try to answer it.

Whenever that relationship was formed until sometime in middle to late March of 20 -- sometime in late --

Well, I don't know when it was formed, I guess, because I wasn't aware of it. It terminated sometime in middle to late March 2014 -- 2015. Sorry.

BY MR. THOMASCH:

Q. I'll direct your attention to page 7 of Exhibit 1.

A. Okay.

Q. And you'll see, the very top of page 7, question "u":

"During what period of time was Mr. Jones represented by Mr. Paul Paradis?"

That is a specific question that was in the order.

A. I understand.

Q. Did you investigate that -- the answer to that question?

A. I did.

Q. And what did you learn?
A. I learned -- I just can't remember, Counsel, when the beginning of the relationship was. I just don't. It terminated sometime in the middle or later part of March 2015.
Q. And -- and the fact that you can't remember is a fact that you learned sometime earlier this month; correct?
A. Correct. I just can't remember now.
Q. You first learned Mr. Paradis was representing Mr. Jones in or about December of 2014; correct?
A. That -- that's my recollection.
Q. And at that time, or shortly thereafter, did you instruct Mr. Paradis to inform Mr. Jones that he was special counsel to the City of Los Angeles?
A. No.
Q. What, if any, understanding did you have of what Mr. Jones' first sought by way of legal advice from Mr. Paradis?
A. I don't know. I wasn't privy to those conversations.
Q. Why is it that you did not advise Mr. Paradis to make a disclosure to Mr. Jones that

Mr. Paradis was special counsel to the City?

A. Well, they were -- I -- why didn't I? Because there was no reason to do it. I -- I had no contact with Mr. Jones, and both Mr. Jones and the Department of Water and Power had similar complaints against PricewaterhouseCoopers, so same side in other words.

Q. Mr. Paradis' work in drafting the Jones v PwC Complaint was work done for the benefit of the City; correct?

A. Well, it was requested by the City. I guess the answer to that is yes.

Q. It was done in his role as special counsel; correct?

A. Yes.

Q. Apart from the document marked as Exhibit 3, which is the first and last page of the draft Complaint, putting that aside, do you have any -- did you at the time, meaning late 2014 or early 2015, have any knowledge of any attorney/client relationship between Mr. Kiesel and Mr. Jones?

A. No.

Q. Do you know whether anyone in the City Attorney's office or at LADWP, other than Mr. Paradis or Mr. Kiesel, had knowledge that

Mr. Kiesel had a relationship with Mr. Jones?

MR. PETERS: Objection, calls for speculation.

THE WITNESS: My understanding is that sometime in December Mr. Wright learned from Mr. Paradis that there was a client out there. I don't think that they -- he knew the name of Jones at that point. It was a -- sometime, according to Mr. Wright, in second half of December.

BY MR. THOMASCH:

Q. Is it your understanding that Mr. Paradis first reached out to Mr. Jones by way of email?

A. He had a posting on his site that reached out generally. I don't remember. Once he got an e-mail from Mr. Jones -- all of this Mr. Paradis told me obviously -- I contacted him. I don't think he remembers. And I surely don't know whether it's email or phone.

Q. Does the City maintain in its files any communication, any written communication, between Mr. Jones and Mr. Paradis?

A. No.

Q. As far as you know, was the idea for Mr. Paradis to reach out to Mr. Jones in the first instance Mr. Paradis' alone or was it suggested to

him by anyone at LADWP?

A. I know of no one else that suggested it.

Q. And thus, to the best of your knowledge, no one at the City Attorney's office directly authorized Mr. Paradis to reach out to Mr. Jones prior to the initial contact between the two?

A. That's my understanding.

Q. At any time did anyone within the City Attorney's office or LADWP voice any concern about the propriety of Mr. Paradis serving as counsel for Mr. Jones and special counsel for the City of Los Angeles at the same time?

A. Not that I recall.

MR. PETERS: As against PwC.

THE WITNESS: Oh, yeah, I'm sorry. Involving PwC.

MR. THOMASCH: I understand and that wasn't part of my question.

And actually, Mr. Peters, you had your chance at being the witness here.

MR. PETERS: I'm sorry, Dan. I just thought he missed out part of it. I apologize. So I'll let you ask it again. I won't speak.

MR. THOMASCH: We'll move on.

Q. Does the City possess any documentation

reflecting the beginning and/or the ending of the attorney/client relationship between Mr. Paradis and Mr. Jones?

A. No.

Q. Does the City possess any documentation reflecting the beginning and/or ending of the attorney/client relationship between Mr. Kiesel and Mr. Jones?

A. No.

Q. To your knowledge, did Mr. Paradis contact any other ratepayers prior to April 1, 2015?

A. I know of none. Well, unless you call -- consider the website to be a contact.

Q. Is the website still active?

A. I've no idea.

Q. What is your understanding as to whether today does an attorney/client relationship exist between Mr. Paradis and Mr. Jones?

A. I believe it does not because I think it was terminated in March of 2015.

Q. What do you understand about the circumstances of that termination?

A. I don't have any detailed understanding of the circumstances. I'm not sure what you mean, but I think they had a conversation -- well, that's just

assumption. I don't know.

Q. Do you know whether Mr. Paradis ever informed Mr. Jones that he was terminating the attorney/client relationship?

A. I -- I don't know.

Q. Did you ask that of Mr. Paradis?

A. No.

Q. Did you read Mr. Jones' deposition testimony on that subject?

A. No.

Q. Would you have any -- would you have had an expectation that Mr. Paradis would have informed Mr. Jones that he was terminating an attorney/client relationship?

A. Yes.

Q. Did anyone at the City, including the City Attorney's office and LADWP, ask Mr. Paradis to document the termination of the relationship in writing?

A. Not to my knowledge.

Q. What is your understanding as to whether today there's an attorney/client relationship between Mr. Kiesel and Mr. Jones?

A. I believe there is no such relationship.

Q. Is it your understanding that there

previously was such a relationship?

A. Yes.

Q. And what is the basis for that?

A. Mr. Kiesel's name on the Complaint.

Q. You spoke with Mr. Kiesel in your investigation; correct?

A. Yes.

Q. Did he indicate that he had an attorney/client relationship with Mr. Jones?

A. What he indicated is he never met Mr. Jones. His name was on -- on the draft Complaint, so he said he did, but he never -- never met him, so --

There was nothing in writing.

Q. The draft Complaint that was in the City's files, to your knowledge, never went to Mr. Jones; correct?

A. Oh, that's correct, yes.

Q. Okay. So under what circumstances would him simply putting his name on that draft Complaint indicate that he was, in fact, counsel of -- counsel for Mr. Jones?

A. Well, because that's what you're supposed to do.

Q. In other words, you're not supposed to put

it there unless it's true?

A. That's what I meant, yeah.

Q. Do you have an understanding of when Mr. Landskroner began representing Mr. Jones?

A. Yes.

Q. When is that?

A. It was in late March of 20 -- 2015.

Q. Before the Jones v LADWP Complaint was filed on April 1, 2015, had you ever heard Mr. Landskroner's name?

A. I had not.

Well, before it was filed. Yes, I think before it was filed, after Mr. -- we found out Mr. Landskroner was going to represent Mr. Jones. I'm sure I heard his name in that period.

Q. So am I correct that your understanding is that Mr. Paradis stopped representing Mr. Jones in March of 2015 and Mr. Landskroner started representing him at or about the same time?

A. Yes, that's my understanding.

Q. And did Mr. Paradis brief you about that at the time?

A. No.

Q. When did you find out about that transition having been made?

A. Well, I mean, I -- I guess on April 1, when Mr. Landskroner sued the City. On behalf of Mr. Jones he sued the City.

Q. Understood. And what I'm trying to find out is whether you had heard of Mr. Landskroner before that.

A. As I said, a few days before, I'm sure, in discussion who's going to represent Mr. Jones against the City, I'm sure I heard his name.

Q. What is your understanding as to how the Landskroner/Jones relationship began?

A. My understanding is that when it became clear to Mr. Paradis that PwC -- the suit against PwC by Mr. Jones was not going to go forward, he contacted Mr. Landskroner, with whom he had a prior relationship based on another case, and who had been involved in investigating the PwC efforts to put a system in at Cleveland.

Q. You said that was at the time that it was clear that the suit wasn't going forward. Did you understand that at that time Mr. Jones had made a determination that he was going to sue the City of Los Angeles?

A. I think we were told that, yes.

Q. Under anyone's definition, Mr. Paradis

would have a conflict at that time; correct?

A. If he continued to represent the City and Mr. Jones he'd have a conflict.

Q. So instead he recommended new counsel for Mr. Jones; correct?

A. With respect to the PwC case, yes. I'm sorry, no, that's not right. With respect to the billing case, yes.

Q. The case that within a week was filed as Jones v LADWP?

A. I think that -- well, that's right. It was filed on April 1, so I guess that's within a week.

Q. It was March 26, 2015, before Mr. Landskroner was even introduced to Mr. Jones; correct?

A. That's correct. That's my understanding.

Q. Yes. And is it also consistent with your understanding that before that date Mr. Jones had instructed Mr. Paradis to file a complaint against the City?

A. I don't know.

Q. Did you think that there was any ethical concern about special counsel for the City of Los Angeles making a recommendation to his client as to who should be the lawyer that actually filed a case

against the City of Los Angeles?

A. No.

Q. Did you think it important that Mr. Paradis explain to Mr. Jones why he could not continue to serve?

A. I think so, yes.

Q. To your knowledge, did he?

A. I don't know.

Q. Did you ask him?

A. Yes.

Q. And what did he say?

A. He said he did.

Q. He said he told -- what did he say?

A. He said he told Mr. Jones that he couldn't represent him anymore because it was clear Jones did not want to sue PwC and he wanted to sue the City instead.

Q. And did he explain that he was special counsel to the City?

A. Well, I don't know.

Q. Did he say so?

A. No. Did he say so?

Q. Did he ever indicate to you that he ever informed Mr. Jones that he, Mr. Paradis, was special counsel to the City of Los Angeles?

A. I'm sure Mr. Jones was aware of that because there were two suits contemplated, one by the Department of Water and Power, one by Mr. Jones.

Q. Did you read Mr. Jones' testimony?

A. No. I told you I didn't.

Q. Would it disturb you to learn that Mr. Jones testified under oath that he had no idea that Mr. Paradis ever represented the City of Los Angeles?

A. It wouldn't disturb me. I don't know (unintelligible) Mr. Jones believed or remembers.

Q. You don't know whether Mr. Paradis actually made that disclosure, do you?

A. I do not.

Q. Is it your understanding that the Complaint that was filed by Mr. Jones on his behalf on April 1, 2015 against the City of Los Angeles was originally drafted by Mr. Paradis?

A. I think he had -- he had -- well, I'm not sure. I think he may have had some role in that.

Q. Did you inquire about that?

A. Yes.

Q. And what did Mr. Paradis tell you about his role in preparing the draft Complaint that was filed six days after the case was handed off to

Mr. Landskroner?

A. I think he had prepared the earlier Complaint, and I think he gave it to Mr. Landskroner.

Q. Do you know whether the Complaint as filed differed from the Complaint that Mr. Paradis prepared?

A. No.

MR. PETERS: When you get to a convenient time, maybe we could take a break.

MR. THOMASCH: We'll take a break now.

THE VIDEOGRAPHER: We're off the record at 12:01.

(Lunch recess.)

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LOS ANGELES, CALIFORNIA; TUESDAY, FEBRUARY 26, 2019

12:45 P.M.

THE VIDEOGRAPHER: We're back on the record at 12:45.

THE WITNESS: Mr. Thomasch, I had a bit of a memory lapse, I'm afraid. I want -- I gave you an incomplete answer about Mr. Paradis' role in preparing the Complaint (unintelligible) filed by Mr. Landskroner. I'm sorry, I should have remembered this before.

He -- he, Mr. Paradis, apparently gathered the complaints that had been previously filed by -- in the other class actions and sent them to Mr. Landskroner, so that was done. I don't know if Mr. Paradis -- and I don't have reason to believe Mr. Paradis had any role in the actual drafting the Complaint, but I do know he did that.

BY MR. THOMASCH:

Q. And you don't know either way whether Mr. Paradis played a role or did not play a role --

A. That's correct.

Q. -- in the drafting of --
A. I'm sorry.
Q. -- what was ultimately filed on April 1, 2015?
A. That's correct.
Q. What is your understanding of -- withdrawn.
What is your understanding as to the date or approximate date on which Mr. Jones directed Mr. Paradis to prepare a complaint against the City?
A. I just don't know about that.
Q. You mentioned in an earlier answer that Jones and LADWP were, quote, "on the same side"; do you recall using that phrase?
A. Yeah, I do.
Q. Did you consider that there was a privilege between Mr. Jones and the City?
A. No. At that time?
Q. During --
A. Never, no.
Q. During the time that Mr. Paradis represented both Mr. Jones and the City.
A. No, I didn't think we had any privilege with Jones.
Q. To what extent did Mr. Paradis keep the City apprised of his dealings with Mr. Jones during

the time that he was representing both Mr. Jones and the City?

A. I honestly don't know.

Q. Do you know whether there was ever a time during that relationship, the relationship between Mr. Jones and Mr. Paradis, during which Mr. Jones was not considering the potential of filing a lawsuit against LADWP?

A. I don't.

Q. Shortly before we took the luncheon break, you provided some of your understanding regarding the circumstances under which Mr. Paradis ended his relationship with Mr. Jones. Is your understanding of the circumstances of termination based on knowledge you acquired in 2015 or in February of 2019?

A. The latter.

Q. February 2019?

A. Yes, sir.

Q. In 2015, did you know anything about the circumstances under which Mr. Paradis left the representation of Mr. Jones?

A. I did not.

Q. You indicated that before April 1, 2015 you knew that Mr. Landskroner was counsel; was that

something that Mr. Paradis had informed you of?
A. Yes.
Q. Did he inform you that Mr. Landskroner would be filing a Complaint against the City?
A. He may have. I honestly don't remember on that whether I was informed. I certainly around that time learned it, of course, but I'm not sure if he told me at that time. "He" being Paradis.
Q. When you met with Mr. Paradis, you indicated that Ms. Tufaro was -- was with him; is that correct?
A. That's correct.
Q. Was there anyone else in the room?
A. Mr. Peters.
Q. Was Mr. --
A. Mr. Peters on some occasions and Mr. Kiesel on one occasion.
Q. Did you explore with Mr. Paradis how long Mr. Jones' contacts with Mr. Paradis existed for?
A. No. I assumed that they ended in March or late March of 2015.
Q. Would it cause you any concern to know that Mr. Jones has testified under oath that they continued after April 1, 2015?
A. It probably would, yes.

Q. Are you aware that shortly after Mr. Jones filed suit against the City his power was cut off?

A. I learned that this morning, I think. I did not know that before.

Q. And did you learn that because he thought that was retribution, he contacted the individuals he thought were his attorneys at the time, namely Mr. Paradis and Mr. Landskroner?

A. I don't know that he thought -- I know he contacted Mr. Paradis to work on the -- on the shutdown -- shutting off his power. I have no idea whether he considered Mr. Paradis his attorney or just asking a favor. I don't know.

Q. You indicated in one of your earlier answers that you were subject to an ethical screen in connection with the case captioned LADWP versus PwC; correct?

A. Correct.

Q. Who -- whose decision was it to put in an ethical screen?

A. Mine and Mike's. We both agreed. When I'm on a case and Gibson Dunn is on the other side, I'm screened automatically. No discussion necessary.

Q. And you've had no discussion with anyone at Gibson Dunn during the course of the litigation;

correct, until today?

A. Yeah. I talked to Chris Chorba about having lunch, but I've not talked about this case or anything of substance.

Q. And other than the fact that you testified having a retirement benefit, there was no actual conflict that would prevent you from representing the City in a case against a client represented by Gibson Dunn; correct?

A. I think that's correct ethically, but I never got that far because under the government code I can't -- I can't be involved when I've got a financial benefit from the firm.

Q. What government code are you referring to?

A. The California government code. I think that's where it is. We have a person that advised on ethics and the first time we had this issue it was clear that I could not be involved.

Q. Who's the person that advised on ethics?

THE WITNESS: What's Renee's last name?

MR. PETERS: Stadel.

THE WITNESS: Stadel.

BY MR. THOMASCH:

Q. Can you spell that?

A. S-t-a-d-e-l.

Q. First name?
A. Renee.
Q. Was Ms. Stadel in that capacity in 2015?
A. I've no idea. Well, wait a minute. Yeah, I think so. Yeah. Sorry.
Q. Was she ever contacted in regard to Mr. Paradis' dual role with respect to serving simultaneously as special counsel to the City and counsel to Mr. Jones?
A. Not to my knowledge.
Q. To your knowledge -- withdrawn.
What, if any, investigation have you done to determine whether Mr. Paradis has received any part of the court approved fee to plaintiff's counsel in the Jones action?
A. Haven't done any investigation of that.
Q. Do you know whether Mr. Paradis has received any part of the court approved fee?
A. I do not.
Q. Do you know any financial arrangements between Mr. Landskroner and Mr. Paradis that relate to the fact that both of them have represented Mr. Jones with respect to LADWP?
A. I do not.
Q. And you've made no inquiry?

A. I've not made an inquiry.
Q. Did anyone at LADWP or the City Attorney's office suggest any other possible plaintiff's counsel to replace Mr. Paradis?
A. Not to my knowledge.
Q. From the time that Mr. Jones retained Mr. Paradis, did you have an understanding that there was always a contingency plan that if Mr. Paradis could not talk Mr. Jones into suing PwC, then Paradis would hand off the case so that a different plaintiff's lawyer would sue LADWP?
MR. PETERS: Objection, lacks foundation. It's also vague and ambiguous.
THE WITNESS: And I was not aware of that, if it's -- if that's true.
BY MR. THOMASCH:
Q. Did anyone within the City Attorney's office authorize Mr. Paradis to bring Mr. Landskroner into the case for the purpose of suing LADWP and the City?
MR. PETERS: Objection, vague and ambiguous, also lacks foundation.
THE WITNESS: I don't -- I think the City was informed of that once Mr. Paradis concluded he would have a conflict. I assume somebody authorized

it. That wasn't -- that wasn't me.
BY MR. THOMASCH:
Q. You assumed someone other than you authorized Mr. Paradis recommending to Mr. Jones that he retain Mr. Landskroner to bring a lawsuit against the City; is that correct?
A. I don't know what he said -- I'm sorry, I don't know what he said to Mr. Jones. I remember him recommending Mr. Landskroner, but --
Q. And you understood that the -- at the point that Mr. Paradis was recommending Mr. Landskroner, you personally understood that the reason Mr. Landskroner was coming in was to sue the City of Los Angeles; correct?
A. That's correct.
Q. Was Mr. Landskroner deemed to be the counsel most advantageous to the City by virtue of his pre-existing relationship with Mr. Paradis?
A. No. I think he was viewed to be advantageous because of his prior experience with PwC in Cleveland.
Q. And did -- was the thinking that that would advantage Mr. Jones in a case against LADWP or that that would advantage the City of Los Angeles?
A. I think -- I -- I think that it would

advantage the City of Los Angeles.

Q. Why did Mr. Paradis not recommend that Mr. Jones retain Mr. Blood, Mr. Himmelfarb or some other plaintiff's counsel who had already filed an action against the City?

A. I think the reason was, that they were being unreasonable, there was a suggestion of a tolling agreement to both Mr. Blood and Mr. Himmelfarb agreed, and they -- shortly thereafter Mr. Himmelfarb, -very shortly, Mr. Blood a little longer -- refused to toll their claims against the City, and Mr. Landskroner was seen as a more reasonable -- as I understand it, Mr. Paradis as a more reasonable person to deal with.

Q. I'm sorry, at the end you said: "And Mr. Landskroner was seen as a more reasonable -- as I understand it, Mr. Paradis as a more reasonable person to deal with."

A. That's not what I said.

Q. That is what you said. The question is what you meant to say.

A. Okay. Fair enough. I didn't take (sic) that intentionally, let's put it that way.

Q. Both the reporter and I heard it that way and that's what's reflected on the screen. Let's go

back to what you intended to say.

So the question was: Why did Mr. Paradis not recommend that Mr. Jones retain Mr. Blood, Mr. Himmelfarb or some other plaintiff's counsel who had already filed an action against the City? And let's try that answer again.

A. Okay. My understanding, and this is mostly from outside counsel, the Liner people, who have been trying to deal with Mr. Blood, Mr. Himmelfarb, and I think there was another plaintiff's lawyer involved, too, that they were just intransigent, couldn't -- they wouldn't -- didn't want to negotiate or propose things that were not -- were not acceptable. And I don't know if they were willing to do what DWP wanted, which was basically -- there would have been overcharge repaid and have the -- and have oversight of the system to correct it.

Q. Was Mr. Landskroner viewed as someone who would be more, in your words, reasonable than Mr. Himmelfarb or Mr. Blood based simply on Mr. Paradis' prior association with him or based on some understanding that had been received -- that had been made between Mr. Paradis and Mr. Landskroner?

A. I know of no such understanding, but that was Mr. Paradis' recommendation.

Q. No one brought Mr. Landskroner into the case because he was viewed as someone who would be the most zealous advocate available for Mr. Jones to pursue claims; correct?

A. That's -- that's right.

Q. Did anyone in the City Attorney's office consider whether it was ethical for Mr. Paradis to not inform Mr. Jones of the nature of his conflict yet be the person who recommended counsel to Mr. Jones?

A. No.

Q. Did you personally make clear to Mr. Paradis that he was to inform Mr. Jones before April 1, 2015 that he could not serve as counsel in a lawsuit against the City because he was special counsel for the City?

A. No.

Q. And there was no such conversation with Mr. Kiesel; correct?

A. No.

Q. "No," there was not?

A. There was not a conversation.

Q. At that time did you consider it would have

been relevant to Mr. Jones' thought process to know that his counsel was special counsel for the City which Mr. Jones was about to sue?

A. I have no insight into what Mr. Jones' mental state was. I never met him, never talked to him.

Q. Did you consider whether or not objectively a plaintiff in his position would want to know that information?

A. I did not.

Q. To your knowledge, did anyone within the City Attorney's office discuss the possibility of seeking ethics counsel with respect to the withdrawal of Mr. Paradis from Mr. Jones' counsel and the recommendation to retain Mr. Landskroner?

A. No.

Q. Do you have an understanding as to what extent, if any, the original Jones v LADWP Complaint filed on April 1, 2015 was based on a prefiling investigation of counsel?

A. I'm sorry, would you repeat that, please?

Q. Yes. Do you have an understanding as to what extent, if any, the original Jones v LADWP Complaint filed on April 1, 2005 was based on a prefiling investigation of counsel?

A. I don't know.
Q. Did anyone in the City Attorney's office or special counsel for the City in the LADWP versus PwC action know or expect that Mr. Jones would be filing the Jones versus City of Los Angeles Complaint before that filing occurred on April 1, 2015?
MR. PETERS: Object as asked and answered.
THE WITNESS: Yeah, I don't understand the question.
MR. THOMASCH: All right. Well, maybe we can read the question.
Q. If you'd look at Exhibit 1, and why don't we go to page 7.
A. Okay.
Q. If you go to page 7, if you follow along, I'll read question "ee," and then we'll get your answer:
"Prior to April 1, 2015, did anyone in the City Attorney's office or special counsel for the City in the LADWP versus PwC action know or expect that Mr. Jones would be filing the Jones v City of Los Angeles, No. BC 577267 (Los Angeles Superior Court filed April 1, 2015) Complaint?"
Do you see the question there?

A. Yeah.
Q. Okay. Can you answer that question?
A. I'm sure we knew before April 1, yes.
Q. And did you understand at that time, immediately before April 1, 2015, that the Jones v LADWP Complaint was going to be filed and that there would then be an immediate request to individuals in the City Attorney's office to settle the case?
A. I think we were trying to settle the case, so I mean, I -- I don't know about immediate request, but we were not -- we were trying to settle the case on the basis I explained.
Q. Did you understand that Mr. Landskroner, after he took over in the last week of March 2015, was going to file a lawsuit and then immediately reach out to try to settle the case?
A. I think I did.
Q. And that was something the City wanted to accomplish; correct?
A. The City -- the City wanted to settle the Complaint on the basis I've explained -- settle the lawsuit. I'm sorry.
Q. And the goal in settling any lawsuit brought in regard to the billing problems would be to obtain releases covering as many of the lawsuits

as possible; correct?

A. Yes.

Q. And the City, in late March 2015, thought that it could most readily obtain such a settlement from negotiations with Mr. Landskroner; correct?

A. I'm sure we reached that conclusion, yes. I'm not sure -- I don't think it was that early, but yeah.

Q. Well, as of the date -- withdrawn.

You're -- you're -- are you aware -- withdrawn.

Are you aware that on April 2, 2015 Mr. Landskroner did, in fact, reach out to try to settle the case?

A. I am.

Q. And that was not unexpected, was it?

A. I don't recall.

Q. Okay. Mr. Paradis had informed the City Attorney's office that Mr. Landskroner would be filing the litigation and would then immediately seek to settle it; correct?

A. I don't recall that.

Q. Do you recall being surprised by the fact that there was a settlement overture the day after the --

A. No, I wasn't surprised at all. That's the way class actions work.

Q. That didn't work for the class actions filed by Mr. Himmelfarb, did it?

A. It did not.

Q. Did it work for the class actions filed by Mr. Blood?

A. No.

Q. You had a meeting with Mr. Blood at some point in 2015; do you recall that?

A. No.

Q. Do you recall Mr. Blood raising concerns that the City had intentionally sought the -- what he deemed to be the weakest class counsel to negotiate with?

A. No.

Q. Do you recall anything about your meeting with Mr. Blood?

A. I don't recall meeting with Mr. Blood. I'm not saying I didn't, I just don't recall it.

Q. And you haven't reviewed any correspondence that he sent to you and Mr. Feuer?

A. No.

MR. THOMASCH: I'll ask the reporter to mark as our next exhibit, Exhibit 7, a letter dated

June 26, 2015 from Timothy G. Blood to Michael N. Feuer, City Attorney.

(The document referred to was marked by the reporter as Exhibit 7 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. And Mr. Clark, we've established that you're a seasoned litigator. You're familiar with the concept of refreshed recollection; correct?

A. I am indeed.

Q. So I'd just ask if you would just review this letter to yourself solely for the purpose of seeing whether or not it refreshes your recollection as to any meeting that you and Mr. Feuer may have had with Mr. Blood in 2015.

MR. PETERS: Let me object for the record. This document seems to be covered by mediation privilege as expressly referenced in things told to a mediator. I'm just reading it on the fly here. I would like a chance to read it before you start questioning. I'm also seriously concerned this is a protected document, it's privileged.

MR. THOMASCH: I'm quite confident that's not the case, and if you read the document, you'll agree.

THE WITNESS: I don't remember the letter.

MR. PETERS: Just a second.

THE WITNESS: Or the -- well...

MR. PETERS: I believe it's covered by the mediation privilege.

MR. THOMASCH: I believe that the letter clearly confirms that the author of the letter was annoyed that the mediation privilege was being used to prevent the disclosure of the information that the author wanted to have. This document doesn't reflect any information that actually was subject to the mediation privilege. It evidences that there was such information and that the City was refusing to disclose it.

MR. PETERS: I think, taking a step back, I read this as -- by Mr. Blood to get the City to reconsider positions it was taking in the mediation. Mr. Blood was present during the mediations. Mr. Blood, as I recall, had direct access to Mr. -- to retired federal district judge Tevrizian.

With respect to all the matters he claims were opaque, my understanding is that there was transparency, and indeed that transparency is in the context of the mediation itself, but not beyond it because of the existence of the privilege.

So with your permission, I'd like to adjourn for just one minute and make a phone call, and then come back and hopefully we can talk about this further. But in the absence of that opportunity, I just don't have enough information to waive what I think may be an applicable position, and I don't want to be in a position of having waived something without fully understanding.

I haven't seen this document before.

MR. THOMASCH: Okay. I do not believe this document is covered by any privilege. I'm not going to agree to stop questioning at this moment because I'm not asking any question about the substance of what is said in this document. I'm going to ask a question. You can hear the question, decide whether to instruct not to answer or not.

Q. My question, sir, is: Do you recall this letter?

A. No.

Q. My second question is: Does reading this letter refresh your recollection as to any of the underlying events set forth in the letter, specifically with respect to any meeting that may have been held by Mr. Blood with you and Mr. Feuer on June 25th, 2015?

A. No.
Q. Do you recall in the context of --
You may put the letter aside.
Do you recall in the context of hearings seeking the approval of the settlement, whether the preliminary settlement or the final settlement, counsel for other plaintiffs taking the position that Mr. Landskroner had copied the work of other counsel in preparing the Jones Complaint?
A. No. Of making that contention, I think I do remember that, yeah.
Q. And you do understand that Mr. Landskroner was retained six days before the filing of the Complaint and that he had received copies from Mr. Paradis of the other complaints already filed; correct?
A. Yes.
Q. And the purpose for providing those to Mr. Landskroner was to both make it easier for him to draft a complaint and to try to draft one that would cover the claims in all actions; correct?
A. That's my understanding.
Q. And I may have indicated a -- a meeting with respect to -- between you, Mr. Feuer and Mr. Blood. I believe the letter reflects a

telephone conversation. Does that change any of your answers?

A. No.

Q. So you have no recollection of a telephone conversation?

A. I do not.

Q. And the -- and reading the letter does not refresh your recollection?

A. That's correct, sir.

Q. Thank you.

Ask the reporter to mark as Exhibit 8 Declaration of Antwon Jones in Support of Plaintiff's Motion for Final Approval and Application for an Award of Attorney's Fees, Costs and Service Awards, date stamped May 5, 2017.

(The document referred to was marked by the reporter as Exhibit 8 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. If you take a moment to look through this document to be able to answer my first question, which is: Have you seen it before?

A. Let me take a look at it, Counsel.

Q. Sure.

A. I don't recall seeing this document before.

Q. Am I correct that during the time period of 2015 through 2017 you had overall supervisory authority for the City's defense of the Antwon Jones versus City of Los Angeles case?

A. I -- I think overall, yeah, I think that's correct.

Q. You were not the one directly on the -- on the front lines, but it came up to you; right?

A. If there was a issue came up, I heard about it, yeah.

Q. You were aware, were you not, that in the summer of 2017, late spring and summer of 2017, the plaintiffs and the City were seeking final approval of a settlement in the Jones versus City of Los Angeles case?

A. Yes.

Q. And were you aware that the final approval would be of both -- would be of the terms of the settlement, would also involve a service award to the named plaintiff, and would involve -- and would involve an award of attorney's fees to counsel for the plaintiffs?

A. I knew the settlement included those elements.

Q. This particular document is submitted in

support of all three aspects of the approval process; correct? Based on its heading alone.

A. That's, yeah, that's what it appears to be.

Q. Do you know to what extent, if any, Mr. Paradis played a role in the drafting of this document?

A. I do not.

Q. Do you know to what extent Mr. Landskroner played a role in the drafting of this document?

A. Well, it's on his -- he's shown at the top, the caption, so I presume he played a significant role in drafting it.

Q. Do you know whether he showed this document in draft form before it was submitted to the court with any counsel or special counsel for the City?

A. I do not.

Q. In reaching the settlement, am I correct that the City agreed not to oppose a fee application for up to a certain amount of money?

A. That's my recollection, Counsel.

Q. And that amount changed over the course of the negotiations from the preliminary settlement to the final settlement; correct?

A. That was -- that was a sub -- substance -- or subject, I should say, of negotiation, yes.

Q. And as a result of that negotiation the number was upwardly revised?
A. I don't remember that, but probably. I don't -- I don't know. I just don't remember.
Q. Did the City understand that the amount that would be sought would involve a claim by plaintiff's counsel to have worked a certain number of hours at a certain billable rate and the use of a multiplier against that loadstar?
A. That may have been true. I just don't recall that.
Q. Is that typical for class action settlements?
A. Yeah, it is.
Q. Did the City have any interest in limiting the amount of money that it was going to pay in attorneys' fees to the amount that reflected actual work done on the case by plaintiff's counsel?
A. I think -- I don't know what the expectation of the City was because it was handled by outside counsel. That was -- I was peripherally involved. I know that the fees were not paid out of any -- any money that was going to go to the ratepayers. It was paid separately.
Q. Correct. But it would come out of the

City's coffers; correct?

A. That's right, yeah.

Q. And in that regard, did the City want to make sure that it was only agreeing to compensate attorneys for time that they had spent actually working on this litigation?

A. I can't remember if we were using that formula or a result formula, or they were using it. I don't remember.

Q. If the City was using or was agreeing to not oppose a fee application based on hours, times rate, equals loadstar, times multiplier, if that formula was going to be used, would the City have concerns to make sure that the hours reflected hours spent -- actually spent working on the case?

A. I don't think so, because I think this fee was negotiated, heavily negotiated, and I think we agreed to the number without having seen the hours.

Q. What role did Mr. Paradis play in the negotiations?

A. He was there. It was -- it was a mediation with Judge Tevrizian. Mediation privilege has not been waived, so that's all I'm going to say about it.

Q. Was Mr. Kiesel present?
A. I don't think so. He may have been. I don't -- I don't remember that.
Q. Would you turn to paragraph 5 on page 2 of the Declaration of Mr. Jones?
A. I'm sorry, which paragraph, Counsel?
Q. Paragraph 5, please.
A. Okay.
Q. I'll read it into the record, if you'll follow as I read:
"Thereafter, I retained counsel and requested that counsel conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles to recover for the amounts that I had been overcharged by the LADWP for electricity."
Did I read that correctly?
A. Yes.
Q. All right. And that is paragraph 5, coming after a paragraph 4, which indicated that:
"In 2014, I was damaged by the LADWP when I was billed and paid for a greater quantity of electricity than I actually used."
Do you see that?

A. Yes.
Q. Are paragraphs 4 and paragraph 5 consistent or inconsistent with your understanding of what Mr. Jones retained Mr. Paradis to do?
A. I don't know Mr. Jones retained Mr. Paradis to do.
Q. In paragraph 5 it says: "Thereafter, I retained counsel..." Do you have an understanding as to whether counsel being referred to there is Mr. Paradis or not?
MR. PETERS: Objection, calls for speculation.
THE WITNESS: Yeah, I don't know because he seems to mix up Mr. Paradis and Mr. Landskroner.
BY MR. THOMASCH:
Q. Yes, Mr. Landskroner, if he drafted this, didn't make that clear, did he, sir?
A. I don't know --
MR. PETERS: Objection, calls for --
THE WITNESS: I don't -- I don't know if Mr. Landskroner drafted this.
BY MR. THOMASCH:
Q. You don't think Mr. Landskroner drafted this?
A. I said I don't know.

Q. All right. Let's go back. You had a discussion with Mr. Paradis; correct?

A. Ever?

Q. No, in February of 2019 you had several discussions with Mr. Paradis about issues raised in this case; correct?

A. If I did, it be privileged.

Q. No, you've testified to them already, sir. This is the --

A. But you're way beyond the PMQ, so I -- I think that's privileged. And you're certainly welcome to test it. You can test it if you like.

Q. We'll test it.

A. Okay.

Q. Mr. Clark, you testified earlier in your deposition that you conducted an investigation in response to the amended notice and the order of the court; correct?

A. Correct.

Q. During the course of that investigation, you testified that you spoke with Mr. Paradis; correct?

A. I did.

Q. All right. You testified about what you understood Mr. Paradis' relationship was with

Mr. Jones, didn't you, sir?

A. I did.

Q. And what I'm asking you is: Now that you are looking at a sworn declaration, sworn to on May 1, 2017, paragraphs 4 and 5, I'm not asking whether they're accurate or inaccurate, I'm asking whether or not they are consistent or inconsistent with your understanding of the nature of the relationship between Mr. Jones and Mr. Paradis?

A. I can't tell.

Q. Did Mr. Paradis ever tell you that he had been retained by Mr. Jones and requested to conduct an investigation to determine whether Mr. Jones had any claims that could be brought against the LADWP and the City of Los Angeles?

A. No.

Q. Paragraph 6 says:

"In response to my instruction, my counsel retained experts to assist in counsel's investigation."

And it goes on from there. Do you know, did you speak with Mr. Paradis about who retained experts to assist in the prefiling investigation in the Jones case?

A. No.

Q. Do you know who paid for the experts that were retained by Mr. Jones' counsel in advance of the filing of the Jones v LADWP case?

A. I do not.

Q. What, if any, filings did you review in advance of the court's August 17, twenty -- I'm sorry, withdrawn.

Are you aware that on July 20, 2017 the court granted final approval of the Jones settlement?

A. I don't recall it granted. I don't recall the date.

Q. And you understand that before final approval was granted all parties submitted papers to the court?

A. I -- I don't know if all parties did. I don't know what you mean by "all parties."

Q. The City did, did it not?

A. I'm sure, yeah.

Q. And the plaintiff did, Mr. Landskroner as plaintiff's counsel?

A. I'm sure he did, yes.

Q. All right. Did you read at that time, in 2017, did you read any of those filings?

A. I don't think so.

Q. Did you have any understanding as to whether or not Judge Berle was, in 2017, advised of the relationship between Mr. Paradis and Mr. Landskroner?

A. I don't know if he was advised or not.

Q. Did you take any steps intended to ensure that he would be so advised?

A. No.

Q. Before we put away Mr. Jones' declaration, could I direct your attention, please, to paragraph 12 on page 3?

A. Okay.

Q. And further directing your attention to the sentence beginning near the end of line 26, which begins:

"Particularly troublesome during settlement discussions were my demands that any settlement result in one hundred percent of all overcharges being refunded or credited to all past or present LADWP customers."

Do you see that?

A. I do.

Q. That was not a troublesome issue because the City itself wanted to accomplish that; isn't that true, sir?

A. I believe that's the case, yeah. I haven't seen this, but yeah.

Q. The second thing that Mr. -- the second thing that Mr. Jones says in this declaration is that particularly troublesome during settlement negotiations were the LADWP take the remedial measures necessary to ensure that the defects in the new CC&B system were permanently corrected. That also was something that LADWP independently wanted to achieve; correct?

A. That's correct.

Q. The third was that LADWP provide independently verified evidence that the CC&B system was functioning properly and generating accurate customer bills on an ongoing basis; is that also something that LADWP affirmatively wanted to ensure?

A. That's correct.

Q. Mr. Jones is someone that you have never met; correct?

A. I have never met him, that's correct.

Q. He was never present at any settlement negotiation, to your knowledge?

A. None of the ones I attended.

Q. And that included the mediation?

A. Yeah. Well, that's what -- that's what I

-- talking about, yeah.

Q. Right. And Mr. Jones was not present for any mediation session?

A. No, no.

MR. THOMASCH: Ask the reporter to mark as Exhibit 9 Declaration of Jack Landskroner in Support of Plaintiff's Motion for Final Approval, date stamped May 5, 2017.

We're not going to use all the exhibits.

MR. PETERS: Bless you.

THE WITNESS: I thank you. Thank you, Mr. Thomasch. You had me worried.

(The document referred to was marked by the reporter as Exhibit 9 for identification and is attached hereto.)

MR. THOMASCH: Is it Exhibit 9?

THE REPORTER: Yes.

BY MR. THOMASCH:

Q. Do you have a copy of Exhibit 9 in front of you?

A. Yes.

Q. It's a declaration with many exhibits that we're not going to go into, but it's all there in case.

The document is titled "Declaration of Jack

Landskroner in Support of Plaintiff's Motion for Final Approval"; is that correct?

A. It sure is.

Q. Do you believe that you saw this at or about the time it was submitted to the court?

A. I don't think I did.

Q. Let me direct your attention to the Background section bridging pages 2 and 3 of the declaration, starting with paragraph 7 at the bottom of page 2.

A. Okay.

Q. Paragraph 7 says:

"Both prior to and after the filing of the Complaint in the Jones action, plaintiff Jones, by and through his counsel, undertook an extensive investigation into the failure of the CC&B system in order to understand the defects which directly resulted in the harms and losses experienced by LADWP customers."

Do you see that?

A. I do.

Q. I want to focus on the extensive investigation conducted prior to the filing of the Complaint. Do you have any understanding as to who conducted that investigation?

A. I do not.
Q. Paragraph 8 says:
"This investigation, including interviews with confidential witnesses, multiple reviews of documents, and consultation with nontestifying experts, all of which confirmed the widespread nature of the defects in the CC&B system."
Do you see that?
A. I do.
Q. Did you talk to Mr. Wright about whether LADWP gave access to Mr. Paradis and/or Mr. Landskroner to talk with its employees before the filing of the Jones v LADWP Complaint?
A. I don't recall doing that.
Q. Do you have any understanding as to whether LADWP employees met with Mr. Paradis or Mr. Landskroner for the purpose of providing information to be used in the Jones versus LADWP Complaint?
A. No, I don't.
Q. Did anyone report to you in 2007 -- withdrawn.
Did anyone report to you in 2015 about the investigation that preceded the filing of the Jones

v LADWP Complaint?

A. There was so many extensive investigation inhouse by DWP personnel. Mr. Wright may be aware of that, perhaps others.

Q. As you sit here, am I correct that you do not know one way or the other as to whether or not any aspects of the internal LADWP investigation was made available for use in the formulation of the Jones versus LADWP Complaint?

A. I do not.

MR. THOMASCH: I'll ask the reporter to mark Exhibit 10 of this date an April 2, 2015 letter to Richard Tom and Eskel Solomon, signed by Jack Landskroner and on behalf of Michael Libman.

THE WITNESS: For what it's worth, Counsel, he pronounces it Eskel.

MR. THOMASCH: Eskel?

THE WITNESS: Eskel.

MR. THOMASCH: Thank you for that one.

MR. PETERS: Can I put away 9?

MR. THOMASCH: You may.

(The document referred to was marked by the reporter as Exhibit 10 for identification and is attached hereto.)

MR. THOMASCH: A more user friendly

exhibit, Mr. Clark, Exhibit 10.

Q. So, first, take whatever time you need, and you can continue to go back to the document on a question-by-question basis if you need to, but my question is whether you recall having seen this document before.

A. I don't.

Q. Do you recognize the date of April 2, 2015 as being the day after the filing of the Jones v LADWP Complaint on April 1, 2015?

A. I do.

Q. It is addressed to individuals. The first individual is -- help me out again on the pronunciation, Mr. Solomon's first name.

A. Eskel.

Q. Eskel. One of the two recipients is Eskel Solomon, Deputy City Attorney, and I trust you know that gentleman.

A. I do.

Q. And who does he directly report to?

A. Joe Brajevich, general counsel of DWP.

Q. Who then reports to you; correct?

A. Yes.

Q. The other gentleman was or is Richard Tom, assistant general counsel. And you know Mr. Tom;

correct?

A. I could.

Q. And who does Mr. Tom report directly to?

A. Well, I'm trying to remember when --

Rich Brown was the general counsel. I can't recall when Mr. Brown retired, but it was -- I think it was after this, so it would have been Mr. Brown.

Q. And did Mr. Brown have a reporting relationship to you?

A. I honestly don't know because Mr. Brown was hands off -- hands off kind of guy. So I recall meeting with Mr. Brown and Mike Feuer. I guess in theory he reported to me. I don't think in fact he did. But as a structural matter, I think, yes.

Q. This indicates that it was sent via overnight delivery and email; do you see that?

A. Yes, I do.

Q. Are you aware of whether the emails have been maintained by LADWP?

A. I -- I do not know that.

Q. Just for the record, I'll call for the production. We have called for them before. We have not received them.

Do you have any understanding as to how

Mr. Landskroner from Cleveland, Ohio knew to send his letter to Mr. Solomon and Mr. Tom?

A. No.

Q. If you look through the first paragraph of the letter, about five lines from the bottom you'll see a sentence that begins:

"I note this fact because I'm aware that Judge Berle inquired of the parties on March 30 as to whether there should be a consolidated complaint filed that encompasses all the litigations from all the other 'billing error' complaints."

Do you see that?

A. I do.

Q. Do you know how it is -- withdrawn.

Do you know who informed Mr. Landskroner of Judge Berle's inquiry on March 30?

A. I do not, although I assume it was Mr. Paradis.

Q. The first numbered paragraph immediately below the bottom of the page indicates that Mr. Jones has directed Mr. Landskroner to "inform the City and the Department that he is prepared to settle all of the claims alleged in the Jones action on behalf of himself and all other similarly

situated persons," and it continues.

Do you see that?

A. Yes.

Q. And, again, do you -- does this refresh your recollection that you understood at the time of filing that this document would be forthcoming the next day or soon thereafter?

A. I -- I don't think I -- I knew that we anticipated settling with Mr. Jones. I -- I can't recall if I -- if I knew this document was coming. I don't further recall thinking it was coming April 2nd.

Q. How much earlier than April 1 did you know that the settlement demand would be forthcoming at some point and that you would be settling with Mr. Jones?

A. Sometime during the latter half of -- the end of March.

MR. THOMASCH: I'm notified that we're -- we need to change the tape, so why don't we take a 10-minute break.

THE WITNESS: Fine.

THE VIDEOGRAPHER: We're off the record at 1:44.

(Brief recess.)

THE VIDEOGRAPHER: This marks the beginning of Disc No. 3 in the deposition of James Clark, Volume I. We're back on the record at two o'clock.

BY MR. THOMASCH:

Q. Mr. Clark, with reference to Exhibit 10, the last exhibit that we had --

A. I've got it.

Q. -- that's the April 2, 2017 overture.

A. Yes.

Q. Did Mr. Tom and Solomon have authority to decide to enter into -- to accept the invitation to enter into settlement discussions?

A. I think they could enter into settlement discussions. They certainly couldn't settle the matter.

Q. Do you know how and when anyone replied to Exhibit 10?

A. I don't know, but I believe settlement discussions started pretty soon thereafter. We ended up, as you know, ended up in mediation. But I'm not sure of the exact date, Mr. Thomasch.

Q. Were you -- withdrawn.

Are you aware, as you sit here today, that Mr. Kiesel and Mr. Paradis have litigated as co-counsel in other cases before April 1, 2015?

A. Not involving the City, you mean?
Q. Not involving the City.
A. I -- I think that -- I think I knew that because I know -- I know -- I know they knew each other, and I assumed, I guess, or maybe I was told, it was because of other cases.
Q. And did you learn at any time that in their -- in one or more of their past cases they had utilized Judge Tevrizian to be a mediator?
A. Yeah, I knew that.
Q. Did you have an understanding from before the filing of the Jones versus LADWP case that as a part of the settlement discussions there would be a mediation?
A. I didn't know that, but in this case I probably would have assumed it.
Q. Do you know whether there was a discussion between Mr. Paradis and Mr. Landskroner in advance of the lawsuit to, in effect, have a game plan that included using Judge Tevrizian as the mediator?
A. I do not.
Q. It's not something you've asked of Mr. Paradis; correct?
A. I've not asked Mr. Paradis, and I've used Judge Tevrizian a number of times, so I thought he

was a good choice.

Q. And -- withdrawn.

When, after April 2, 2015, were you first personally advised of the fact that a settlement overture had been made?

A. I don't remember exactly, but pretty soon thereafter, I'm sure.

Q. Do you know whether Mr. Jones had exhausted his administrative remedies before suing the City?

A. No.

Q. "No," you don't know?

A. I do not know. Sorry.

Q. Do you know whether the defense of failure to exhaust administrative remedies had been raised by the City against one of the plaintiffs who filed litigation against the City prior to Mr. Jones?

A. Not that I recall.

Q. Prior to entering into discussions with Mr. Jones, did the City engage in any settlement conversations with the Kimhi plaintiffs?

A. I'm sorry, but with Mr. Jones --

Q. Prior to the City entering settlement conversations with Mr. Jones --

A. Through his counsel.

Q. Through his counsel, yes.

A. Okay.
Q. -- did the City engage in any settlement conversations with respect to the Kimhi Complaint?
A. I -- I -- I can't sort these various class actions out, but I know there'd been discussions with outside counsel, with Mr. Blood for sure, I think Mr. Himmelfarb, and I'm not sure beyond that. But my understanding, they -- there had been discussions conducted by outside counsel.
Q. But discussions with those gentlemen about settling their cases?
A. At least the possibility of settling them, yes.
MR. THOMASCH: I'll ask Mr. Norris to mark as Exhibit 11 of this date a document on Liner, LLP paper, captioned "Defendant City of Los Angeles' Further Reply in Support of Plaintiff Jones' Motion for Preliminary Approval of Class Action Settlement," bearing a date stamp of November 2, 2015.
(The document referred to was marked by the reporter as Exhibit 11 for identification and is attached hereto.)
BY MR. THOMASCH:
Q. Would you take a look through Exhibit 11

briefly, and let me know whether you recall or have seen this document before.

A. I don't believe I have.

Q. You know who Liner is; correct?

A. Was, yes.

Q. Right. That firm at that time was representing the City as counsel of record in the Jones case; correct?

A. That's my understanding, yes.

Q. And if you look at the Service List on the second to last page --

A. Yes.

Q. -- you see that it has the related cases, and so we have Mr. Blood, among others, as attorneys for Bransford in the upper left?

A. Yes.

Q. Mr. Himmelfarb for Daniel Morski?

A. Right.

Q. Mr. Bower for Hayley Fontaine?

A. Right.

Q. And then the Jones case shows on the left Mr. Landskroner, among others; correct?

A. Yes.

Q. As attorney for plaintiffs. And on the right side do you see Mr. Libman and Paul R. Kiesel?

A. Yes.
Q. And was it your understanding that Mr. Landskroner, Mr. Libman and Mr. Kiesel all represented the City in that case?
A. No. Kiesel, yes. The other two, no.
Q. Representing the City in the case of Jones versus -- I'm sorry, you're of course right. Mr. Landskroner, Mr. Libman were representing plaintiff Antwon Jones; correct?
A. Right, right.
Q. And what is your understanding of who Mr. Kiesel was representing on the Service List?
A. I thought the City. The service says Antwon Jones. I can't explain that.
Q. Let me direct your attention to page 6, which is the signature page.
A. Okay.
Q. Okay? You recognize counsel Maribeth Annaguey?
A. Yes.
Q. Representing the City of Los Angeles?
A. That's correct.
Q. And this is a filing dated November 2, 2015; correct?
A. Yes.

Q. Footnote 3, let me read for the record:

"To support the claim of a reverse auction, objecting plaintiffs accuse unspecified LADWP attorneys of soliciting them to participate in the lawsuit against PwC. This accusation is false. Counsel for LADWP in these actions never had any such discussions with objecting plaintiffs. But even if true, this does not show that there has been a reverse auction."

Do you see that?

A. I do.

Q. Now, where it says "counsel for LADWP in these actions" -- withdrawn.

Are you aware of the fact that Mr. Paradis, special counsel to the City, solicited other plaintiff's attorneys to participate in a lawsuit against PwC?

A. No.

Q. Have you ever talked with Ms. Annaguey about this footnote or that circumstance?

A. No.

Q. Have you spoken with Mr. Paradis about it?

A. No.

Q. So if Mr. Paradis had made such overtures, you wouldn't know of them?

A. That's right.
Q. You were, in a sense, high up, up the reporting chain that I'm assuming you do not specifically review and approve the filing of these papers; is that correct?
A. That is correct.
Q. And so you would not have seen that footnote before it was filed with the court?
A. I'm positive I would not have.
Q. If you had seen it, and if you had known that Mr. Paradis had made such overtures, would you have required the footnote to be revised to be more clear to the court?
A. Yes.
Q. What role, if any, did Mr. Paradis have in the selection of the independent monitor to oversee compliance with the settlement?
A. I honestly don't remember if he knew the monitor ahead of time. He was deeply involved in the remediation, so I'm sure he had some role.
Q. And his involvement in the remediation predated even the filing of the Complaint; correct?
A. I think that's right. By that you mean the Jones Complaint versus --
Q. The Jones Complaint, yes.

A. I think so.
Q. And between the time of the preliminary approval and the time of the final approval there were changes to the settlement agreement; correct?
A. I -- I think so.
Q. And --
A. Look, I have over 2,000 matters I'm responsible for. We had outside counsel. I wasn't involved deeply in the drafting of the settlement agreement.
Q. Do you know when the settlement agreement between the class and the City first incorporated terms that included specific performance metrics that needed to be achieved as part of the settlement?
A. I'm sorry, certain performance metrics by whom?
Q. By the City. In other words, that LADWP was committing itself to certain performance metrics as part of the settlement.
A. I think I knew that, yes.
Q. Do you know when that first entered into the settlement agreement?
A. I do not.
Q. Do you know, are you aware of the fact that

that was not requested in the initial Complaint?

A. Jones Complaint?

Q. Yes.

A. I think that's right.

Q. By having the court order the achievement of a remediation, that assisted LADWP in obtaining funding for the remediation work it wanted to do; correct?

A. I don't understand the question. Funding from whom?

Q. Funding -- approval for funding from the board.

A. I have no idea. I don't know -- I don't know what animated the board.

Q. Have you reviewed any of the requests made to the board by Mr. Wright with respect to funding for a, quote, "court ordered," end quote, remediation?

A. No.

Q. The Exhibit 9, is that the large one?

A. I think so, yeah.

Q. I want to pull that out, but again limiting to the top of it.

A. Okay.

Q. In the Declaration of Jack Landskroner,

marked as Exhibit 9, would you turn to page 10, paragraph 40, heading "Nonmonetary Remedial Relief"?

A. Okay, I found it.

Q. Okay. And looking straight at paragraph 41, it says:

"As explained in the Independent CC&B System Monitor Declaration, the value of these nonmonetary remedial measures is at least 20 million. Independent CC&B System Monitor Declaration 37."

Do you see that?

A. Right. Yes, I do.

Q. In fact, the City agreed that it would spend $20 million as part of the remediation in connection with the Jones settlement; correct?

A. I don't know.

Q. Do you know whether internal documents reflect that that money was going to be spent anyway?

A. No, I don't know that.

Q. Did you speak to Mr. Wright about that, per chance?

A. No, no.

Q. Do you know that as a result of putting that extra $20 million into the settlement an

additional $4 million was paid to the plaintiffs' attorneys?

A. No.

Q. "No," you don't know?

A. No, I don't know. I'm not saying it didn't happen, I just didn't know it.

Q. Do you know what Mr. Paradis' role was in building into the remediation -- into the settlement a guaranteed spend by LADWP on remediation?

A. I do not.

Q. Are you aware that throughout the remediation process, to comply with the settlement as finally approved, there have been negotiations as to what work should be prioritized, what work should be done, and what work should not be done?

A. I'm sorry, negotiations between and among who, Counsel?

Q. Mr. Bender and others.

A. Well, I think, as I understand it, there -- Mr. Bender's been very involved, and I'm sure there have been negotiations with people at LADWP, as I understand his role.

Q. And Mr. Bender or Mr. Landskroner present the plaintiffs' vantage point on that and speaking for the City in conversations with them is

Mr. Paradis in his role as project management on the remediation; is that correct?

A. I think so, but I'm not sure. That sounds right, though.

Q. Do you have an understanding as to how much Mr. Paradis or businesses in which Mr. Paradis is a partner or principal have received for work related to the implementation of the settlement or the remediation?

A. I do not. I know that there was a $10 million contract or agreement signed at some point. I don't know -- but I don't know much -- if that's exhausted, how much has been paid, I just -- I don't know. And maybe there's another contract.

Q. Do you know when that contract was?

A. I don't.

Q. Do you know for what period of time that contract was?

A. I'm sorry, I just don't remember. I was just informed about it in the course of supervision of the lawyers at LADWP and somebody remarked on it. I don't know more than that. I've not been involved in remediation stuff at all.

Q. Even as it relates to the carrying out of the court approved settlement?

A. That's correct.

Are we done for now with this --

Q. I think we are. And I think we're done for good with that.

I'll ask the reporter to mark as Exhibit 12 an LADWP document entitled "Customer Information and Billing System Class Action Litigation Settlement Summary, August 2015."

(The document referred to was marked by the reporter as Exhibit 12 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. So Mr. Clark, looking at Exhibit 12, do you understand this to be a document released by LADWP?

A. I do.

Q. Concerning the preliminary settlement of the class action litigation captioned "Jones v DWP"?

A. Given the date, it's got to be the preliminary settlement, yeah.

Q. And so the first paragraph indicates that the settlement makes good on a promise to correct any billing errors, and is that -- that's the second sentence relating back to the first.

A. That's what it says, yeah.

Q. And was that your understanding at the

time?
A. I think the settlement was in the process of doing that. The system hadn't been fixed as of August 2015, but it was in process.
Q. And the second -- and then after that first paragraph there's a section called "Status of Class Action Litigation and Proposed Settlement"; do you see that?
A. I do.
Q. The first paragraph indicates an agreement to settle four class actions on June 29; correct?
A. That was the announcement. I don't know how much ahead of that the settlement was.
Q. Okay. And the second paragraph indicates that Judge Tevrizian had conducted a mediation before the announcement of the settlement agreement; correct?
A. That's -- that's correct.
Q. Then the third paragraph says:
"The City and LADWP continued to pursue claims against PricewaterhouseCoopers to recover damages, including costs associated with the class action settlement and system remediation, attorney's fees and related claims through litigation filed by the City Attorney

on behalf of the City, LADWP and its customers."

Do you see that?

A. I do.

Q. Was that your understanding in August 2015, that all of the damages that the City was agreeing to pay in connection with the Jones litigation were going to be the subject of the claims for relief against PwC in the pending City versus PwC case?

MR. PETERS: He is screened from the case as of that date.

THE WITNESS: I had no understanding at all about that.

BY MR. THOMASCH:

Q. Did you see this announcement when it went out?

A. I did. Or at least I think I did.

Q. You participated in the, in effect, the public roll-out of the original settlement, did you not, sir?

A. I think so.

Q. And in every announcement that the City publicly made about the settlement of the Jones case, they indicated that they would seek recovery of the damages from PwC; isn't that a fact?

A. I don't know.
Q. Do you recall that ever happening in your presence?
A. No. I was screened.
Q. No, you weren't screened when Ms. Edwards was speaking to the press, were you?
A. I guess not. I mean --
MR. PETERS: August of 2015?
THE WITNESS: Yeah, I was screened. When she was speaking --
BY MR. THOMASCH:
Q. You were screened from participating in the litigation. This was a public statement about the Jones case.
A. I didn't have any involvement in the litigation.
Q. I understand. But you -- but did you not know, based on your involvement in the settlement of the Jones case, you were aware of the fact that the City had publicly announced its intention to recoup damages paid in the Jones case from PwC?
A. If you're asking what this says, sir, that's what it says.
Q. Was it consistent with your understanding at the time?

A. I didn't have an understanding at the time.
Q. Okay. Let's circle back, if we could, to Exhibit 2. I'd like to direct your attention to page 9 of the document.
A. Okay. Oh, okay.
Q. Do you see the Request for Production set forth at page 9 to 10?
A. I see a number of requests.
Q. Okay. I want to direct your attention to Request for Production No. 2, reading:
"All written agreements or understandings between LADWP and Antwon Jones and/or Jones' counsel prior to April 1, 2015."
Do you see that?
A. I do.
Q. Does the City possess any documents responsive to Document Request No. 2?
A. No.
Q. What investigation did you do with respect to this request?
A. I asked the lawyers responsible for the production of documents in this case, who were actually involved in the case, whether any documents and they assured me there were not.
Q. And did that include Mr. Paradis?

A. Yes.
Q. Now, Mr. Paradis was Mr. Jones' counsel and there are written agreements between LADWP and Mr. Paradis prior to April 1, 2015; correct?
A. Yeah, I think so. Yeah.
Q. So --
A. I -- yeah.
Q. -- is this -- excluding those documents, does reading it to mean understandings between LADWP and Mr. Paradis in his role as counsel for Mr. Jones?
A. Yeah, because that's what it says here, Jones' counsel, and capital letters.
Q. That's actually a defined term and it includes Mr. Paradis.
A. Yeah. Okay.
Q. Doesn't limit it in any way how Mr. Paradis was acting.
A. Okay.
Q. So as I understand your testimony, there are no documents between LADWP and Mr. Paradis in his capacity as acting for Mr. Jones; is that right?
A. That's my understanding.
Q. There are -- there may well be or indeed there are documents between LADWP and Mr. Paradis

who was Mr. Jones' counsel?

A. I think that's correct.

Q. All right. Moving to Request No. 3, would you just read the request to yourself, please.

A. Yes, I see it.

Q. Okay. And do you understand this is seeking documents that were transmitted initially prior to the date of the Jones Complaint, April 1, 2015?

A. Yes.

Q. Okay. And specifically among documents in that time period, it's looking for documents that were sent to LADWP and/or others, including Paradis Law and Kiesel Law; do you see that?

A. Yes.

Q. And the documents that were transmitted would have been, to be responsive, would have been transmitted by Antwon Jones or Mr. Jones' counsel or otherwise on behalf of Mr. Jones or the Jones class; do you see that?

A. Yes.

Q. All right. What investigation, if any, did you make as to whether the City possesses documents responsive to Request for Production No. 3?

A. I talked to the DWP lawyers identified

earlier, Mr. Paradis, Mr. Peters, and Mr. Kiesel.

Q. What did you determine?

A. Well, the only document that I believe is the case is the communication sent to Mr. Solomon by Mr. Paradis as to which a privilege claim has been made, I believe.

Am I wrong about that?

MR. PETERS: Uh-uh. I thought you had conversation with Mr. Solomon about what contents were on that forwarded email that forwarded --

THE WITNESS: But the forward had no -- no -- substantive in the draft.

BY MR. THOMASCH:

Q. I'm sorry, could you explain a little more what -- what conversation you had with Mr. Solomon with respect to Request for Production No. 3?

A. Sure. I asked him what -- if he remembered receiving a draft Complaint from Mr. Paradis, what he did with it, and he sent it on to other people, both lawyers and business people in DWP, without comment.

Q. And when did he receive that?

A. It was around January 23rd or thereabouts of 2015. May have been 24th, but it's close.

Q. And who was the plaintiff on the draft

Complaint?

A. I believe it was Mr. Jones.

Q. And who was the defendant?

A. I think PwC.

MR. PETERS: It's the draft Complaint we talked about extensively this morning.

MR. THOMASCH: Okay.

Q. The same document that you -- we looked at the first and last page?

A. That's correct.

MR. PETERS: On Exhibit 4.

MR. THOMASCH: Okay.

Q. And that document was sent by Mr. Paradis to Mr. Solomon?

A. That's my understanding, yes.

Q. And did Mr. Solomon say that was the only document and the only copy of the document that was responsive?

A. Well, I asked other people, as I said. That's the only positive -- only answer I got to my request.

Q. So it was your understanding that when Mr. Paradis submitted that to Mr. Solomon he was doing so as counsel for Mr. Jones or on behalf of Mr. Jones; correct?

A. I'm sorry --

MR. PETERS: Lacks foundation.

THE WITNESS: Yeah, I don't understand what --

You're saying Mr. Solomon was counsel for Mr. Jones?

MR. THOMASCH: No, no.

Q. When Mr. Paradis --

A. Oh, yes.

Q. -- transmitted the document --

A. Yes.

Q. -- prior to April 1, he was transmitting the document on behalf of Antwon Jones and submitting it to LADWP, specifically Mr. Solomon; correct?

MR. PETERS: Object to the extent it calls for speculation.

But go ahead.

THE WITNESS: I don't know who he was -- on whose behalf he was sending it.

BY MR. THOMASCH:

Q. Well, the Request for Production is asking for documents sent on behalf of Mr. Jones; correct?

A. That's what it says.

Q. Okay. Did anyone tell you that the draft

Complaint from Mr. Paradis was responsive to Request for Production No. 3?

A. No, I assumed it was within the ambit of No. 3.

Q. So in investigating No. 3, you are aware of a document sent to Mr. Solomon before April 1, 2015, but made no attempt to determine whether it was sent on behalf of Mr. Jones or not?

A. How would I know that?

Q. You could ask the person who sent it.

A. I didn't.

Q. You didn't ask Mr. Paradis that?

A. On whose behalf he sent it, no.

Q. Request for Production No. 4, if you would review that, please, page 9, Exhibit 2.

A. Okay. I'm there.

Q. Request 4 reads:

"All documents transmitted prior to April 1, 2015 to Antwon Jones or Jones' counsel by or on behalf of LADWP, including, but not limited to..."

And it goes on from there identifying individuals and officers; do you see that?

A. Yes.

Q. So this is, in effect, the flip side of No.

3; do you recognize that?

A. Yes.

Q. So this is in the same time period documents that were going out of LADWP and to Mr. Jones?

A. Correct.

Q. What investigation, if any, did you conduct with respect to whether the City maintains documents responsive to Request for Production No. 4?

A. I spoke with Deborah Dorny, Eskel Solomon, Richard Tom, Paul Paradis, Gina --

What's her last name again?

MR. PETERS: Tufaro.

THE WITNESS: -- Tufaro and Mr. Kiesel and Maribeth Annaguey.

BY MR. THOMASCH:

Q. And what did they tell you?

A. They did not have any such documents.

Q. Why does the -- why would the documents -- the complaints in other actions that Mr. Paradis forwarded to Mr. Jones' then counsel Mr. Landskroner at the end of March 2015, why did those not register as being responsive?

A. I didn't -- I didn't look for public documents. Those are public documents in the court.

I didn't think that was -- I was obligated to do that as part of my investigation.

Q. So the best of your knowledge, there were documents that were transmitted, but you read "documents" to exclude publicly filed documents; is that correct?

A. Yes.

Q. Request for Production No. 5 reads:

"Documents sufficient to identify all LADWP customers 'who have been complaining to the Department' and 'had been in touch with the Department' prior to the preparation of the Jones v PwC draft Complaint."

And it indicates Transcript of Proceedings, December 4, 2017 at page 20; do you see that?

A. I do.

Q. Did you look at page 20 of the Transcript of Proceedings on December 4, 2017?

A. Yes.

Q. And that was Mr. Paradis' comments made to Judge Berle in this litigation; correct?

A. I don't have the transcript in front of me, but if you say so.

Q. For the record, I'll read from page 20 of the transcript, lines 5 through lines 16:

"THE COURT: Is there a reason why Mr. Jones' name is on it? Now, I understand you put John Doe or XYZ as a fictional potential plaintiff. How did it end up with Antwon Jones as the plaintiff?

"MR. PARADIS: Again, Your Honor, without disclosing the privilege communication, there were several people who had been complaining to the Department at that point in time, had been in touch with the Department, and Mr. Jones' name was one of them.

"THE COURT: All right. We'll have to discuss this further."

That's the statement. Do you recall reading that statement?

A. I read it. I don't recall specific lines in all the transcripts I read, but I'm sure that's correct.

Q. And this document, Request for Production No. 5, specifically identifies and quotes wanting documents that will identify the customers who had been in touch with the Department prior to April 1, 2015. Mr. Paradis said there were several people.

What, if any, documents did you find -- what, if any, investigation did you do to determine

what documents would reflect who those several people were?

A. I spoke with Mr. Paradis, Ms. Tufaro, who said those documents had been produced to you.

MR. THOMASCH: I'll ask the reporter to mark as Exhibit 13 a document produced by the City in this litigation bearing Bates numbers 1995800, bears that Bates number and has an attachment to it.

(The document referred to was marked by the reporter as Exhibit 13 for identification and is attached hereto.)

BY MR. THOMASCH:

Q. Mr. Clark, I'll represent to you that in addition to the first and last page -- first and last page of the Jones versus PwC draft Complaint we were provided from the City a spreadsheet with three tabs on it. Did you look at what was produced in response to the request and the agreement that we had with Mr. Peters that the documents would be produced in advance of the deposition of Mr. Jones?

A. No.

Q. Who would understand what it is that was actually produced to us?

A. Gina Tufaro.

Q. Okay. The first tab contains 48,038 names

in alphabetical order, and the first page after the cover of the exhibit, Exhibit 13, is the beginning of the names, starting with those that had numbers, and then it moves to the A's, the B's, the C's, and the second page is the last page ending with Gregory Zymet, Z-y-m-e-t, in column number or row number 48,038.

You don't know what those names represent, do you?

A. I -- I've never seen this document before.

Q. I'll note on the record there's no reference to Mr. Jones.

A. Okay.

MR. PETERS: Well, I just -- I'm looking at his name on what you gave --

MR. THOMASCH: That's on tab 2 and on tab 3. There are three tabs. We'll just walk through it for the record.

Q. After the first two pages, you'll then see pages -- three pages that are excerpted from tab 2. The first page, starting with Ore, O-r-e, hyphen Giron, G-i-r-o-n, E-a-m-o-n, in row two, is the first page of tab 2, I will represent to you. There are a total of 54,216 rows ending with Lawrence Zvirn, Z-v-i-r-n, on the third page. And in between

is a page that references Mr. Jones at line 23,794.

Do you seen "Jones, Antwon"?

A. Yes.

Q. That's on tab 2. Tab 3 begins with Neil Aalto, A-a-l-t-o. It goes through pages ending again with Lawrence Zvirn, Z-v-i-r-n, and on the middle page, on tab 3, Mr. Jones is identified at line 7958 out of a total of 18,321.

I will represent to you that I have no idea what those names represent or what they mean, and I take it we're in the same position.

A. You are.

Q. All right.

A. We are, I should say.

Q. And I'm curious as to, when Mr. Paradis or Ms. Tufaro said they had produced documents, did they not tell you what they produced?

MR. PETERS: Did she tell you she reached out to IT and Customer Service?

THE WITNESS: Yeah. I don't know what this is, but I'm just telling you what she told me.

MR. THOMASCH: Mr. Peters, can you shed any light on this? Because we had -- this request has been out there since April of 2018 and what we have is unusable.

MR. PETERS: What I understand was done here was the Internet Technology Department, that DWP was asked if there was a resource that could be queried to yield all of the names of individuals and perhaps entities who had complained to the Department about alleged instances of overbilling. That same query was -- was put to Customer Service as those were the two divisions within the Department of Water and Power that were fielding these sorts of complaints, and that as a result their information was queried with some software -- I don't know specifically if it's important. I'm sure we can figure it out -- and that thing was given to Ms. Tufaro, who produced it with Mr. Paradis as part of Exhibit 3. It's mentioned in there as documents that are going to be produced in response to RFPs 5 and 6.

MR. THOMASCH: Did the queries limit the names to those who had been in touch with the Department prior to April 1, 2015?

MR. PETERS: I believe so. If that is important to you, I can probably plan that out in a telephone call.

MR. THOMASCH: It is important to me. This is in response to what Mr. Paradis described to the

court as several people who have been complaining, and I want to know whether by "several" did he mean 18,321, 48,038 or 54,216, or some other number.

MR. PETERS: At the next break I'll try to find that out for you.

MR. THOMASCH: Thank you. And we'll move on to Request No. 6.

"Documents sufficient to identify all LADWP customers who, prior to April 1, 2015, had 'voiced their outrage over electricity and water bills' as identified on pages 12 to 23 of the April 1, 2015 Jones Class Action Complaint, and pages 14 through 24 of the August 17 amended Jones Class Action Complaint."

Q. Do you see that?

A. Yes.

Q. Did you look at pages 14 to 24 of the Jones Class Action Complaint?

A. No.

Q. Did you look at --

A. Well, I read the Complaint, so I guess -- I guess I did, yeah.

Q. All right. Did you see on pages 12 to 23 of the Jones Class Action Complaint that there were descriptions of 30-some-odd customers?

A. Yes.
Q. And that carries forward into the amended class, just at different paragraph numbers and different pages?
A. Okay.
Q. The Jones Complaint described several dozen individuals, not more than 10 or more than 50,000 individuals; correct?
A. It's -- document speaks for itself. It says what it says.
Q. Am I correct that you, other than being assured by Ms. Tufaro that something had been produced, you didn't undertake to check what it was that was being produced in response to Request for Production No. 6?
A. No, I did not.
MR. THOMASCH: Mr. Peters, I would again indicate that we are at a loss as to how what has been produced to us has any relevance to Request for Production No. 6 and would ask for followup.
MR. PETERS: Next break I'll see if I can get you anything on that.
MR. THOMASCH: Okay. Let's go to Request for Production No. 7 at page 10 of Exhibit 2.
"All documents reflecting any oral or

written disclosure by special counsel regarding any relationship that special counsel had with Mr. Jones at any time between September 3, 2013 and April 1, 2015."

Q. Do you see that?

A. I do.

Q. Are -- what investigation, if any, did you perform with respect to Request for Production No. 7?

A. I -- I talked to special counsel and the lawyers at LADWP and apparently there are no documents responsive to that request.

Q. Can you tell me specifically which lawyers you spoke with?

A. Same group: Richard Tom, Deborah Dorny, Mr. Paradis, Ms. Tufaro, Mr. --

Go ahead.

Q. No, I didn't mean to interrupt you.

A. No, I paused.

Q. All right. Is there any -- if there was a document submitted by special counsel regarding a potential conflict of interest, would that document be maintained by a specified individual or department?

A. I don't know.

Q. If you were looking for conflict letters over the years, would you -- would there be a file or a custodian that you would go to?

A. Well, presumably, if you're talking about LADWP, be somebody in LADWP, and I don't know who.

Q. Special counsel to the City, would it go to the ethics person that you described earlier?

A. No, I don't think so. It might, but I don't -- I don't -- I never encountered the situation, so I don't know.

Q. You never encountered a situation in which special counsel made a written disclosure of potential conflict of interest?

A. None that I can recall.

Q. Is there any procedure in place at the City Attorney's office to obtain written explanations or written disclosures in the event of a potential conflict of interest?

A. I don't understand the question. Sorry.

Q. Special counsel -- withdrawn.

When you were in private practice, did you understand there to be certain procedures that you would follow in the event that you were asked to take on a representation and you had concerns about whether or not it would cause a conflict of

interest?

A. Probably the same one used now.

Q. All right. Is there any similar sort of procedure available for use by special counsel who are in private practice but retained to represent the City of Los Angeles?

A. Well, we have an outside counsel committee which reviews all conflicts. I sit on that. I chair it. So we go through it. The Council has to approve any conflicts, City Council, but in this case it probably would be the LADWP board.

Q. Was there a disclosure to the board seeking approval?

A. Not that I know of.

Q. At the time -- is it your understanding that at the time Mr. Paradis was retained by the City -- withdrawn.

What is your understanding as to whether or not Mr. Jones was represented by Mr. Paradis at the time Mr. Paradis was first retained by the City?

A. I don't know the timing on that.

Q. Because you're not sure what the date is on which Mr. Paradis began working for the City?

A. I'm not sure of that and I'm not sure the date he began working for Mr. Jones.

MR. PETERS: I'm sorry, you're not sure what?

THE WITNESS: The date he began working for the City. I think that's a matter of record.

BY MR. THOMASCH:

Q. Well, we've looked at the contingency fee agreement.

A. Excuse me?

MR. PETERS: It's in the contingency fee agreement.

BY MR. THOMASCH:

Q. We've looked at the contingency fee agreement. You'll see that the agreement itself was made effective as of --

A. Yeah, I'm sorry, I misunderstood your question.

Q. Don't apologize so fast. That agreement was made effective January 1, 2015.

A. That's correct.

Q. In point of fact, Mr. Tom represented to the court that Mr. Paradis was working on the remediation prior to January 1, 2015; isn't that true?

A. I think so.

Q. And that -- were you familiar with the

City's attempt to maintain privilege over some 40,000 remediation-related documents dating back into 2014 based on Mr. Paradis' role?

A. I know nothing about the discovery fights or claims of privilege in the -- in this case.

Q. Mr. Paradis identified himself on the filed Complaint in this case as special counsel for the City before the agreement was actually made; correct?

A. It would so appear, yeah.

Q. And do you know why January 1, 2015 was chosen as the date to backdate the document reflecting the contingency fee agreement?

A. I do not.

Q. It does not necessarily correspond with the day on which Mr. Paradis began work for the City, does it, sir?

A. No.

Q. Did you ask --

A. Just to make sure, I don't correspondence (sic) began legal work. You're talking about remediation, which I don't regard as legal work. But maybe counsel does and claim privilege. I just don't know.

Q. And did you ask Mr. Paradis when he started

working in a legal capacity for LADWP?

A. Yes.

Q. And what did he say?

A. Mid-December of 2014.

Q. And it's my understanding that his retention agreement with Mr. Jones reflects a December 8, 2014 start date of that attorney/client relationship; is that your understanding?

A. That's my recollection.

Q. So do I take from that that Mr. Paradis was in private practice and obtained a feeler, so to speak, from Mr. Jones in response to the website, they entered into an attorney/client relationship on or about December 8, 2014, and very shortly thereafter Mr. Paradis was retained to start in a legal capacity for the City of L.A.?

A. That's my -- that's my understanding.

Q. That's the sequence?

A. That's my understanding.

Q. Do you know who Mr. Paradis, if anyone -- withdrawn.

Do you know the circumstances under which Mr. Paradis first spoke with someone within LADWP or the City Attorney's office about becoming a lawyer for the City?

A. No.
Q. Did you ask him that?
A. I did. I didn't get a -- I don't remember what the answer was. I didn't get anything specific, just he talked to -- I can't remember who he talked to about it.
Q. Was it Mr. Wright?
A. Probably was Mr. Wright.
Couldn't have been Mr. Wright because Mr. Wright wasn't there. It probably was Mr. Brown, and then I think -- then I think it was brought to the board.
Q. Let's look at Request for Production No. 8.
A. Okay.
Q. "All documents reflecting any oral or written disclosure by special counsel of any actual or potential conflict of interest involving Paradis Law Group, Kiesel Law or Jones counsel related to commencing or prosecuting this action, defending any of the related procedures, participating in any aspect of the negotiation or implementation of the settlement of the Jones action, or representing Antwon Jones individually or on behalf of a putative class at any time."

Do you see that?

A. I do.

Q. So we're looking for written documents that reflect either written disclosures or that discuss oral communications, but in all respects disclosures by special counsel of actual or potential conflicts of interest. Did you do an investigation in regard to that?

A. I did. I talked to the same people as I mentioned before, and I was told there are no such documents.

Q. Did Mr. Paradis indicate that he had made any oral or written disclosures of actual or potential conflicts of interest but that there were no documents that currently exist that reflect that?

A. No.

Q. Is it your understanding that he did not make any oral or written disclosures of any actual or potential conflict?

A. I don't know of any such disclosures.

Q. Did you ask him?

A. Yes.

Q. And did you take from his answer that he had not made any such disclosures?

A. Yes.

Q. Request No. 9 asks for any oral or written waiver by the City of any conflict of interest. Am I correct that your investigation of that was dictated by the fact that there had been no disclosure of anything to be waived?

A. And there had been no conflict, yes.

Q. Well, who made it -- who made a determination at the City that Mr. Paradis never had a conflict in connection with his representation of Mr. Jones and the City simultaneously?

A. I don't know who made -- the City made a determination. I made that determination based on what Mr. Paradis told me. He did not represent Mr. Jones against the City at the same time he represented Mr. Jones against PwC.

Q. Is your --

MR. PETERS: Against the City.

THE WITNESS: No, I said the City.

MR. PETERS: Second time you said PwC.

THE WITNESS: Yeah, I think -- isn't that right? Maybe I -- maybe I -- let's try it again.

MR. THOMASCH: Let's try it again.

Q. What -- what -- what determination have you made as to whether Mr. Paradis had a conflict of interest arising out of his simultaneous

representation of Mr. Jones up until and including March 26, 2015 and his representation of the City during all or most of the same time he represented Mr. Jones?

A. Yeah, I don't know what -- when he terminated the relationship. We don't have any writing on that. So maybe it's March 26. That's when Mr. Landskroner was retained, I believe. But I'm just saying if he didn't represent two adverse clients at the same time, and they were not adverse at the time he represented them as special counsel, there is not a conflict.

Q. And when you made -- when did you make that determination?

A. In the course of my investigation.

Q. And during the course of your investigation you did not read Mr. Jones' sworn declaration or Mr. Jones' sworn oral testimony; correct?

A. That's correct, I did not.

Q. And you've now seen Mr. Jones' statement in his sworn declaration that he retained counsel and requested counsel conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles to recover for the amounts that I had been

overcharged by the LADWP for electricity. You've now seen that; correct?

A. I have.

Q. That is inconsistent with what you understood the facts to be; correct?

A. Correct.

Q. And you understand that that was written on a document that was submitted to the court by Mr. Landskroner?

A. I don't know who -- I assume Mr. Landskroner submitted it. I don't know.

Q. I'll note, if you wish to look, that at least the Proof of Service is a paralegal at Mr. Landskroner's law firm.

A. Fair enough.

Q. If you accepted as truthful the fact that Mr. Jones at all times during his representation by Mr. Paradis was actively considering a lawsuit against LADWP and the City of Los Angeles, would that change your view about the conflict or potential conflict?

A. I don't think so because what Mr. Jones was considering doesn't create a conflict.

Q. Doesn't create a conflict to sue the City of Los Angeles --

A. I didn't say that. What he was considering doesn't create a conflict.

Q. I said if you accept as truthful -- withdrawn.

If you consider as truthful his statement that he instructed counsel to assist him in bringing a litigation against LADWP, would that change your view about the conflict?

A. Who's counsel? Doesn't identify who it is.

Q. You didn't read his deposition, sir, did you?

A. Whose?

Q. Mr. Jones'.

A. No.

Q. Okay. If Mr. Jones testified at his deposition, and if it is accepted to be truthful testimony, that Mr. Jones instructed Mr. Paradis to prepare a complaint against LADWP and the City of New York while Mr. Paradis was counsel -- special counsel for the City, would that change your view as to whether --

A. You said the City of New York. I'm pretty sure you didn't mean to say that.

Q. Let me withdraw it. Let me try again.

MR. PETERS: And if you want to take a

break at some point, I'm ready. But go ahead.

MR. THOMASCH: We'll take a break after this question.

Q. If you are to accept for purposes of analysis the truthfulness of Mr. Jones' sworn testimony that he retained Mr. Paradis for the purpose of investigating a claim against LADWP and the City of Los Angeles and instructed Mr. Paradis to prepare a complaint against those entities, would that change your view?

A. It would.

Q. And obviously, am I correct, that you have no basis, as you sit here today, to reach a conclusion about the accuracy or truthfulness of Mr. Jones' testimony?

A. I don't have any basis.

MR. THOMASCH: All right. Let's take a break.

MR. PETERS: Thank you.

THE VIDEOGRAPHER: We're off the record at 3:05.

(Brief recess.)

THE VIDEOGRAPHER: Okay. We're back on the record. It's 3:31.

///

BY MR. THOMASCH:

Q. Mr. Clark, we were looking at Exhibit 2, and specifically when we broke we had been discussing Request for Production No. 9; do you see that?

A. Yes.

Q. And I'd like to move ahead to Request for Production No. 10. That reads:

"Documents sufficient to reflect any measure taken by plaintiff and/or special counsel to prevent violations of the California rules of professional conduct by Paradis Law Group, Kiesel Law, plaintiff, special counsel, or Jones counsel, related to commencing or prosecuting this action, defending any of the related proceedings, participating in any aspect of the negotiation or implementation of the settlement of the Jones action, or representing Antwon Jones individually or on behalf of a putative class at any time."

Do you see that?

A. I do.

Q. Did you undertake an investigation with regard to the question whether there were documents possessed by LADWP or the City responsive to Request

for Production No. 10?

A. Yes.

Q. And what did you find out?

A. There are no such documents.

Q. Did anyone within the -- the special counsel's office ever review the California rules of professional conduct with respect to Mr. Paradis' multiple roles in this case?

A. Not that I know of, no. I could -- I could find no such documents.

Q. And the same would be true with regard to Mr. Kiesel; correct?

A. That's correct.

Q. Let's go back for a little clean-up to Exhibit 1.

A. Okay.

Q. Which is the Court Order. And let me direct your attention initially to page 9 --

A. Okay.

Q. -- question "pp."

A. Okay.

Q. "When and under what circumstances did the City/LADWP first become aware of the professional relationship between (i) Paul Paradis and/or Paradis Law Group, PLLC, and

(ii) Jack Landskroner and/or Landskroner Grieco Merriman, LLC, including, but not limited to, LADWP's knowledge, if any, of plaintiffs' co-counsel relationship in either or both of Reed versus Nationstar Mortgage, LLC, No. 14-civ-01701, filed August 4, 2014, and/or Wright v Nationstar Mortgage, LLC, No. 14-civ-10457, Northern District Illinois, filed December 30, 2014."

Do you see that?

A. I do.

Q. And we've talked about the City's knowledge with respect to relationships between Mr. Paradis and Mr. Landskroner that I'm not looking to revisit, but this specifically relates to the City's knowledge of the professional relationship that includes their co-counsel relationship in some earlier class actions.

Do you see that?

A. I do.

Q. Did you investigate with respect to this question?

A. I did.

Q. And what did you learn?

A. I learned that sometime between mid and

late March Mr. Paradis was talking certainly, at least, to Dave Wright and told him, not without identifying the cases, but the -- he knew Jack Landskroner from a prior -- at least one prior case which they'd been co-counsel and on the same side, and so he knew that -- he may have told others as well, but mid to late March we knew about that. But obviously was only after Landskroner was identified.

But that was seen as one of the advantages because of Mr. Paradis knew and had worked with Mr. Landskroner.

Q. And that's mid to late March 2015?

A. That's correct.

Q. And with respect to being seen as one of the advantages, it was seen as an advantage in moving towards a settlement of the case that was going to be filed; correct?

A. Yes.

Q. And did you obtain that information from Mr. Paradis or Mr. Wright?

A. I believe I got it from Mr. Wright.

Q. And when you interviewed Mr. Wright, who was with you?

A. Mr. Peters, Mr. Paradis, and Ms. Tufaro.

Q. Are you aware that the propriety of

Mr. Paradis' conduct in particular is at issue in matters before the court?

A. I am.

Q. Did that -- notwithstanding that, why did you choose to have Mr. Paradis participate in interviews of others?

A. He wasn't participating in interviews, but I was just trying to get the most complete information I could.

Q. Well, you say he wasn't in interviews. What was the nature of the discussion you had with Mr. Wright?

A. Well, okay, if you want to call it an interview, fine. That's not what I considered. I was just trying to gather information. If you want to call it an interview, fine.

Q. Well, you sat down with him in person or over the phone?

A. In person.

Q. So you sat down with him in person to gather information?

A. Correct.

Q. And some of the information concerned whether or not what Mr. Paradis has done and has disclosed in the case is proper; correct? You

recognize that issue as being on the table?

A. I recognize the issue. I don't think we discussed that with Mr. Wright.

Q. Let me take you to question "qq," the next question on page 9.

A. Okay.

Q. "Are there any oral or written communications between, 1, LADWP, including, but not limited to, Richard Brown, Deborah Dorny, Eskel Solomon or Richard Tom, Paradis Law Group, Kiesel Law, Liner, LLP, or the Los Angeles City Attorney's office, and, 2, Antwon Jones or Jones' counsel prior to April 1, 2015, over which you claim a privilege against disclosure?"

A. Certainly not with respect to -- depends how "Jones' counsel" was interpreted. We obviously claimed with respect to some communications between Paul Paradis and Paradis Law Group and DWP. If it's talking about as Jones' counsel, I think the answer is no.

Q. So to the extent that Paul Paradis was representing Mr. Jones, you're not claiming any privilege between a communication between Mr. Paradis and someone at LADWP?

A. As far as Mr. Jones -- when he's representing Mr. Jones?

Q. While he was representing Mr. Jones.

A. I don't think so, no.

Q. Okay. Are you aware that previously the City raised common interest doctrine as a basis for a privilege?

A. I did not know that. I think that ought to be tested, I guess.

Q. Well, as I understand it, the City has withdrawn that basis for privilege, and I'm trying to find out if whether or not -- whether it remains and I'm misunderstanding the situation.

A. I'm sorry, who withdrew it?

Q. The City.

A. When?

Q. January 23 or January -- probably January 30th, the Jones conference that Mr. Peters attended.

MR. PETERS: If you'd allow me because --

MR. THOMASCH: Sure.

MR. PETERS: -- on this topic or have equivalent knowledge to the deponent.

Yes, the City has withdrawn the joint defense privilege. We have been informed, however, by Jones' counsel, I believe, that Jones is

invoking -- continuing to invoke all privileges. Landskroner has said the same.

So to be clear, the City has said we waive the -- the mediation privilege as to the City with respect to the negotiation with Judge Tevrizian. We've been informed that neither Jones nor Landskroner are similarly waiving those privileges. We have waived the privilege -- the joint defense privilege and we've been -- we have been informed that the others have not.

So from the City's standpoint, yes.

MR. THOMASCH: Okay. Couple of questions for you, if we could. One, when you said "Jones' counsel," who were you referring to?

MR. PETERS: I understand Mr. Isaac (sic) had a conversation with Mr. Paradis and/or Mr. Kiesel in which that position was asserted. That's what I've been told. And likewise, a position by Mr. Drooks, D-r-o-o-k-s --

THE WITNESS: Drooks.

MR. PETERS: -- with respect to Mr. Landskroner and his unwillingness to waive privileges.

MR. THOMASCH: And did you say that the City has waived the mediation privilege?

MR. PETERS: City's going to waive the mediation privilege as well.

MR. THOMASCH: And in that -- so I think that answers the question, but just to be clear: It is a question of -- of position and it doesn't need to be the witness that responds. Question "qq" is asking whether there are any communications that fall into that description over which there is a remaining claim of privilege.

MR. PETERS: So from the City's standpoint, no.

MR. THOMASCH: Okay. I understand. To the extent there's a privilege, it's not being asserted by the City?

MR. PETERS: Precisely so.

MR. THOMASCH: It could be asserted by the City at the behest of someone else; is that --

MR. PETERS: No. Let me be as misprecise as I can.

Left to its own devices, the City would assert no privilege. The City does not assert a privilege on behalf of the City. However, to the extent others have asserted privileges, and that they jointly hold with the City, the City is not going to go against their wishes. And indeed, we

have been informed by the counsel I identified that legal measures would be taken against the City and our counsel in order to disclose privileged materials subject to our own waiver of that privilege when we've been informed that joint holders of the privilege are not similarly waiving it.

MR. THOMASCH: And that informing that you were potentially subject to action if you disclosed, was that Mr. Isaacs or Mr. Drooks, or both?

MR. PETERS: I understand both.

MR. THOMASCH: And your understanding in that regard is based on a discussion with who?

MR. PETERS: Mr. -- special counsel.

MR. THOMASCH: Mr. Paradis and Mr. Kiesel?

MR. PETERS: Both.

MR. THOMASCH: And Ms. Tufaro?

MR. PETERS: I believe she was present when some of these representations were made. I was not, but I think my conversations have been, as I'm remembering it, with -- with Paul Kiesel and Paul Paradis.

MR. ISAACS: Dan, since Mr. Jones' counsel if present here at the depo, can I clarify exactly what Mr. Jones -- what privileges Mr. Jones is

asserting?

Per my letter to you, which I believe copied Mr. Paradis --

Excuse me. I'm sorry, do you need me in the frame?

MR. THOMASCH: No. If you can be heard, you're good.

MR. ISAACS: Can you hear me?

THE VIDEOGRAPHER: We have a table mic.

MR. ISAACS: Jeff Isaacs on behalf of Antwon Jones.

Per my letter to Mr. Thomasch and Mr. Santiago, which was copied to Mr. Paradis, Ms. Tufaro, Mr. Kiesel and, I believe, also Mr. Drooks, we asserted on behalf of Mr. Jones the attorney/client privilege, to the extent applicable, at the direction of Mr. Paradis and Mr. Kiesel and Mr. Drooks on behalf of Mr. Landskroner. We also asserted the attorney work-product doctrine to the extent applicable.

I'm aware of a letter from Ms. Tufaro stating that as far as she and Mr. Paradis were concerned, that they never directed me on behalf of Mr. Jones to assert attorney/client privilege or work-product doctrine on their behalf or the City's

behalf.

They did not -- they did not instruct us to assert attorney/client privilege, nor were they in a position to do so, but they clearly directed us to assert the work-product doctrine to the extent it applied, again, on behalf of Mr. Paradis, Ms. Tufaro, Paradis Law Group, Mr. Kiesel and Kiesel Law. That was confirmed in the letter. And it was also confirmed by Mr. Kiesel when we were here for Mr. Jones' deposition, and it was confirmed in a meeting that I had with -- that included Mr. Paradis, Ms. Tufaro and Mr. Kiesel.

So I hope that clarifies things. We have not asserted and are not aware of any basis for asserting a common interest or the common-interest doctrine with the City or LADWP, or we're not asserting and don't know whether there is a mediation privilege to be asserted. We have not been asked to waive that privilege to the extent that Mr. Jones can assert it.

MR. THOMASCH: Okay. So if I understand correctly, Jeff, Mr. Jones himself, not at the direction of anyone else, Mr. Jones himself is asserting attorney/client privilege over some documents that he maintains, including his copy of

the Jones v PwC draft Complaint; is that correct?

MR. ISAACS: Correct.

MR. THOMASCH: Secondly, Mr. Jones has neither asserted nor waived any mediation privilege, but is not currently withholding any documents based on such a privilege; is that correct?

MR. ISAACS: Correct.

MR. THOMASCH: And, third, Mr. Jones has asserted a work-product privilege over certain documents, including the Jones v PwC draft Complaint, and it is your representation on the record that that assertion was done at the behest of Mr. Paradis, Ms. Tufaro and Mr. Kiesel, and if it were not for their assertion of it, you would not be asserting work product; is that correct?

MR. ISAACS: That's correct. And I wrote Ms. Tufaro yesterday, as you did, seeking clarification as to whether we are -- that is, we as counsel for Mr. Jones and Mr. Jones -- whether they are continuing in their instruction to we as counsel for Mr. Jones and Mr. Jones to continue to assert work product on their behalf should it arise, and have not received a response from Ms. Tufaro, and I have not seen a response to your letter either.

MR. THOMASCH: Right. And I do think it's

important for everybody to figure out who's asserting what privilege so we know what we're briefing before the court in a matter of days.

And Mr. Peters, is -- am I correct that the City is not asserting any work-product privilege with respect to anything that was prepared by Mr. Paradis or Ms. Tufaro in their role as counsel for Jones but the City is, in effect, allowing them to assert such a privilege on their own behalf? Is that correct?

MR. PETERS: Let me break that down. To the extent the City holds work-product privileges with respect to the Complaint, only one of which the City has seen, we are not asserting that, the draft Jones versus PwC Complaint, of which you've only been shown the first and last page.

MR. THOMASCH: Why haven't we seen the whole thing, then?

MR. PETERS: My understanding now, somewhat at odds with what I just heard, is that there is some other assertion by counsel. And I have not analyzed who holds the work-product privilege to waive, but I can get back to you on that.

My understanding had been as I've described, that there had been admonition that Jones

qua Jones wished to invoke privileges, and that's clearly not true to the extent I had believed it to be so heretofore, and Mr. Drooks with respect to Landskroner was broadly asserting privileges, including mediation and any others that would attach.

MR. THOMASCH: Okay. I do think that with Mr. Isaacs in the room, to the extent that anyone is purporting to assert a privilege on his behalf, seems to me he has the final say on that. He has made it clear on the record that he is -- that his client is not asserting work-product privilege or asking anyone to assert work-product privilege on behalf of work they did while Mr. Jones' counsel.

Am I correct, Mr. Isaacs?

MR. ISAACS: Mr. Jones is not, except to the extent that we have been instructed to do so on behalf of Mr. Paradis and Ms. Tufaro and Mr. Landskroner.

Now, I think we can narrow this down if we're talking about the Complaint. So that Complaint was communicated -- the draft Jones versus PwC Complaint was communicated to Mr. Jones prior to April 1st of 2015. I believe it was January 9th of 2015, long before mediation began. So I don't --

I'm not aware of any basis to assert mediation privilege over that. It was provided to Mr. Jones as part of a privilege communication, and the transmittal email is marked "Attorney/Client Privilege" and the Complaint, I believe, is marked "Confidential." Now, that's the one that -- that's the version that was sent to Mr. Jones by Mr. Paradis prior to Mr. Landskroner's involvement, at least as far as Mr. Jones is aware.

Second, we understand, because of the privilege log and because of the City's production of the caption page and signature block, that there was a complaint that looks, at least on its face, very similar to the one that was provided by Mr. Paradis to Mr. Jones on January 9th. That, from the privilege log, the City's privilege log, appears to have been provided to the City on or about January 23rd of 2015, again well before there was any mediation.

And Mr. Kiesel represented, as everyone will recall who was at Mr. Jones' deposition, Mr. Kiesel represented, including to the court, that he -- that the version that was sent to the City of Jones versus PwC was somehow different than that submitted to -- or that sent to Mr. Jones.

So I don't think that Mr. Jones has any basis to claim attorney/client privilege over whatever was submitted to the City by Mr. Paradis, and I'm not -- and I don't believe that Mr. Jones has any basis, notwithstanding the instruction, to assert work product over whatever Mr. Paradis submitted to the City on January 23rd, so -- or 21st I mean.

So I don't think that Mr. Jones has any basis to claim any privilege over -- to whatever was submitted to the City as matters as -- now stand, based on Mr. Clark's testimony, based upon Mr. Peters' representations, and based upon Mr. Jones' testimony and what we understand is the current state of the record.

MR. THOMASCH: Okay. And so there are -- there are documents called Jones v PwC draft Complaint in two separate files and the one place that I understand that PwC and Mr. Jones have a difference of viewpoint is with respect to whether that is -- the version in Mr. Jones' files is protected by the attorney/client privilege, and that will be a matter that both of us will, presumably, be briefing on Friday.

My understanding of that is that that is

the only basis on which Mr. Jones affirmatively on his own behalf seeks to not produce that document, and there is a question out as to whether or not Ms. Tufaro or Mr. Kiesel or Mr. Paradis are trying to tell Mr. Jones at this stage that the copy in Mr. Jones' files can't be produced.

And there does seem to be massive miscommunication with Ms. Tufaro about this subject that we both sought clarification, and we will try to obtain clarification so that we're at least briefing only real issues and not miscommunication issues before the court. There's enough real issues.

On the version that is in the City's files, I understand that the City is not raising any objection over -- to production of that document on its own behalf, the City qua the City. Mr. Isaacs has made clear that Mr. Jones is not seeking to stop the production of the document in the City's files, and the version that the City has was provided to the City before Mr. Landskroner was in the case, so I don't think Mr. Blood has anything to say about the issue.

So the only question seems to be whether or not the City is not producing the document because

Mr. Paradis or Ms. Tufaro are claiming a work-product privilege in their capacity as Mr. Jones' counsel at that point in time.

MR. PETERS: I believe that to be true.

MR. THOMASCH: And you believe they are maintaining that privilege?

MR. PETERS: Based on what Mr. Isaacs has represented, I do.

MR. ISAACS: I don't know what, just so it's clear, I don't know --

MR. THOMASCH: I thought they only instructed you with regard to what's in Mr. Jones' files.

MR. ISAACS: That's all they could instruct us at.

MR. THOMASCH: Right.

MR. ISAACS: So I think if they're asserting work product or any other privilege as to what's in the City's files, it would be as special counsel for the City, and that's what I understood from, as best I could piece together, from reading the transcripts of the hearings before the court.

But just so it's clear, Mr. Jones is not asserting any privilege or work-product doctrine with respect to what's in the City's files?

MR. THOMASCH: Correct. And that's where my focus is at the moment. There is an issue to be briefed as to what's in Mr. Jones' file on the attorney/client privilege.

But with regard to what's in the City, the question that needs resolution promptly, so we know how to join issue on briefing or whether we don't have to brief a particular issue because we're going to receive a copy of that document, is whether -- whether the City is asserting on anyone's behalf --

And as I understand it, it could only be on behalf of Mr. Paradis, Ms. Tufaro or Mr. Kiesel, because it was -- the document was created on their watch and precedes Mr. Landskroner, and Mr. Landskroner doesn't have a claim of work product, Mr. Jones is not asserting a claim of work product over that document.

So if anyone is doing it, now that the City is not, it is counsel Tufaro, Paradis or Kiesel in their role as counsel for Mr. Jones at a point in time when they were simultaneously special counsel for the City. And I guess we would just like to get clarification as soon as possible whether they are -- whether the City is derivatively refusing production on the grounds that special counsel

wearing their other hat is claiming a privilege.

MR. PETERS: It is my intent to get to the bottom of it.

MR. THOMASCH: Thank you. And I take you at your word, and we're going to leave it at that, and I hope to hear from you soon in that regard.

THE WITNESS: Before we restart, Counsel, can I just take a two-minute break?

MR. THOMASCH: Of course.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: We're off the record at 3:59.

(Brief recess.)

THE VIDEOGRAPHER: Okay. We're back on the record. It's 4:02.

MR. THOMASCH: Couple of final topics for you, Mr. Clark.

Q. First, the selection of special counsel, is there a generalized procedure on how special counsel are selected, first, when special counsel is used and, second, how they're selected in the City Attorney's office?

A. During the time I've been there, there's not been any other special counsel, so I don't think we have any regular procedures. We do with respect

to contingent fee counsel representing the City because the Santa Clara case demands that the public entity using contingency fee counsel maintain ultimate control of the litigation.

Q. And that's true in this case; correct?

A. Yes.

Q. And -- and just to be clear, the Atlantic Richfield case in Santa Clara?

A. That's correct, that's the case.

Q. So here we've seen -- we've marked the contingent fee arrangement, and I believe it states clearly in there that the ultimate responsibility for the actions of special counsel reside with the City itself; correct?

A. Yes.

Q. And if there --

A. As long as it's within the scope of their authority.

Q. Well, if the court is -- if the court were to find that special counsel committed any violation of the code of professional responsibility or otherwise engaged in any conduct that could be characterized as a fraud on the court, the conduct of special counsel is attributable to the City in this case, is it not?

A. I don't think so.
Q. Why not?
A. Because it's beyond the course and scope of their engagement. They're not engaged to commit violations of the rules of ethics or fraud.
Q. But the City knew that they were representing Mr. Jones; correct?
A. Not simultaneously. They're representing the City.
Q. They were special counsel to the City at the time they were --
A. Yes.
Q. -- representing Mr. Jones; correct?
A. That's right. They're not adverse to the City.
Q. And, in effect, it all hinges on your understanding, at least prior to coming here today, that when they were representing Mr. Jones, Mr. Jones had no adversity of interest with the City of Los Angeles; is that right?
A. That's right.
Q. It's not that Mr. Paradis, Ms. Tufaro or Mr. Kiesel didn't have adversity of interest; correct? It's the client?
A. Yes, of course it's the client.

Q. Okay. And -- and to the extent that you have any knowledge about whether or not Mr. Jones had an adversity of interest with the City during any of the time period that he was represented by Mr. Paradis and Mr. Kiesel and they were special counsel to the City, you have that information from Mr. Paradis; is that correct?

A. That's correct.

Q. And he and Ms. Tufaro are your only sources of information; right?

A. That and Mr. Kiesel.

Q. Well, what does Mr. Kiesel know about Mr. Jones?

A. Only what he's been told.

Q. From Mr. Paradis or --

A. That's correct -- you're right.

THE REPORTER: Can you do that again?

BY MR. THOMASCH:

Q. So only from -- whatever he's been told, he's been told from Mr. Paradis or Ms. Tufaro; correct?

A. That's correct.

Q. He has no independent knowledge?

A. That's correct.

Q. On April 1, 2015, Mr. Landskroner and his

local counsel, as counsel of record for Mr. Jones, filed the Complaint captioned "Jones v City of Los Angeles"; correct?

A. Correct.

Q. On that day did you -- do you consider that on that day there was adversity of interest between Mr. Jones and the City of Los Angeles?

A. Yes.

Q. And on that day you knew that Mr. Paradis had previously been Mr. Jones' counsel; correct?

A. Correct.

Q. Why was Mr. Paradis not ethically walled off of having anything to do with the Jones case once the Jones case was filed?

A. The Jones -- well, because I think that we do not believe there was simultaneous representation; therefore, there was not adversity and not a conflict.

Q. Now, you understand that he previously had been counsel to Mr. Jones?

A. That's right. But I understood that --

Q. And he had confidential information belonging to Mr. Jones; correct?

A. I have no idea if he had confidential information.

Q. Wouldn't you generally assume that a lawyer for a client possesses confidential information about that client?

A. Well, the -- we'd been sent a Complaint purporting to have the -- Mr. Jones as a client. I don't know if it had any additional confidential information or not.

Q. Okay. Well, did anybody at the City make any attempt to find out, now that Mr. Paradis' prior client has actively sued the City, did anyone make any inquiry as to whether Mr. Paradis possessed confidential information of Mr. Jones?

A. Not that I recall.

Q. Do you know that the rules of professional responsibility call for restrictions by counsel when there is a subsequent representation of a party who is now adverse to their former client?

A. I have a general knowledge of that.

Q. Did anyone consider whether that applied here?

A. I don't know anybody considered it. I didn't.

Q. And -- and is there any reason why no one would consider that other than there was no expectation that the parties were going to stay

adverse with each other?

A. Well, the parties, I think, are still adverse to each other, so that wasn't anybody's expectation. The expectation was the case would be resolved.

Q. And for that reason Mr. Paradis was not walled off and participated in the mediation, for instance?

A. I don't know if that was the reason. He did participate in the mediation.

Q. He did participate in the mediation?

A. Yes. Best recollection is that he did.

Q. Yes, I mean, you were -- Judge Tevrizian said you were directly involved in the mediation; correct?

A. I was?

Q. Yes.

A. Yes.

Q. So you were in a position to know?

A. I'm just trying to remember, but I -- I do believe Mr. Paradis was there.

MR. THOMASCH: Okay. Subject to followup with Mr. Peters with respect to matters called for in the production of documents, I have no further questions.

Anyone else?

MR. HIMMELFARB: No questions.

MR. ISAACS: I don't think we have standing to ask.

MR. THOMASCH: In that case, thank you for your time, Mr. Clark.

And we will go off the record, be done for today.

THE VIDEOGRAPHER: This concludes the deposition of James Clark, Volume I. The number of discs used today was three. The original video will be retained by Epiq Legal Solutions. We're off the record at 4:09.

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Declaration

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof, and I declare that the same is true of my knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under the penalties of perjury of the State of California that the foregoing is true and correct.

Executed on the day of , 2019, at , California.

W i t n e s s

I, Philip D. Norris, a Certified Shorthand Reporter for the State of California, do hereby certify:

That prior to being examined, James Clark, the witness named in the foregoing deposition, was by me duly sworn to testify the truth;

That said deposition is a true record of the testimony given and was taken before me at the time and place therein set forth, and was taken down by me in shorthand and thereafter reduced to typewriting via computer-aided transcription under my direction;

I further certify that I am neither counsel for, nor related to, any party to said action, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this 27th day of February, 2019.

Philip D. Norris
CSR NO. 4980

Errata Sheet

NAME OF CASE: CITY OF L.A. vs PRICEWATERHOUSECOOPERS

DATE OF DEPOSITION: 02/26/2019

NAME OF WITNESS: James Clark

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page _____ Line _____ Reason _____

From _____ to _____

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Exhibit 4

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Liaison Counsel

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ANTWON JONES, on behalf of himself, and all other similarly situated,

Plaintiff,

vs.

CITY OF LOS ANGELES, by and through the Los Angeles Department of Water and Power and DOES 1 through 50, inclusive,

Defendants.

Case No. BC577267

[Related to Case Nos. BC565618 (Lead), BC568722, BC571664, and BC574690]
[CLASS ACTION]

DECLARATION OF ANTWON JONES IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL AND APPLICATION FOR AN AWARD OF ATTORNEYS' FEES, COSTS AND SERVICE AWARDS

Hearing Date: July 7, 2017
Time: 9:00 a.m.
Department: Dept. 323
Judge: Hon. Elihu M. Berle

I, Antwon Jones, under penalty of perjury, hereby declare that the following is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and am fully familiar with the facts and circumstances set forth herein and could competently testify thereto if called upon to do so.

2. I submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Application for an Award of Attorneys' Fees, Costs and Service Awards.

3. At all times relevant hereto, I have been a resident and citizen of the State of California and a customer of the Los Angeles Department of Water and Power ("LADWP").

4. In 2014, I was damaged by the LADWP when I was billed and paid for a greater quantity of electricity than I actually used.

5. Thereafter, I retained counsel and requested that counsel conduct an investigation to determine whether I had any claims that could be brought against the LADWP and the City of Los Angeles to recover for the amounts that I had been overcharged by the LADWP for electricity.

6. In response to my instruction, my counsel retained experts to assist in counsel's investigation and conducted an investigation into the nature and cause of my having been charged for more electricity than I actually used by the LADWP over the course of the next several months.

7. When counsel concluded that investigation, I conferred with counsel and, after having been informed of counsel's findings, I instructed counsel to move forward in drafting a complaint for my review and consideration. Counsel did so and after having reviewed the complaint and discussed the matter further with counsel, I directed counsel to file the complaint to commence this action.

8. On April 1, 2015, my counsel filed this action, captioned, *Jones v. City of Los Angeles*, Case No. BC577267 (the "*Jones* Action") as a class action in the Superior Court of the State of California for the County of Los Angeles. The complaint alleged claims involving customer over-billing and other billing errors by the LADWP that were caused by, and are related to, the defective implementation of the LADWP's new Customer Care & Billing System (the "CC&B System") or damages incurred by customers arising from their participation in the LADWP's Solar Incentive Program.

9. Soon after my initial complaint was filed, I directed my counsel to pursue the most efficient, effective and expeditious means of recovering LADWP customers' losses in this action. This included working with the consulting team to develop a highly detailed settlement proposal by which I proposed to resolve the claims asserted in the class action that I had filed, as

well as the class claims asserted in *Bransford, et al. v. City of Los Angeles*, Case No. BC565618 (the "*Bransford* Action"), *Fontaine v. City of Los Angeles, et al.*, Case No. BC571664 (the "*Fontaine* Action") and *Kimi v. City of Los Angeles*, Case No. BC536272 (the "*Kimhi* Action").

10. In particular, this included that the settlement proposal prepared by my counsel and consultants require the LADWP to:

a. conduct a review and audit of all LADWP customer accounts to determine if billing errors occurred;

b. refund or credit one hundred percent of the amounts the LADWP had improperly charged any of its customers as a result of billing errors caused by the LADWP's new CC&B System or because of the customers' participation in the LADWP's solar incentive program;

c. take the remedial measures necessary to ensure that the defects in the new CC&B System were permanently corrected; and

d. provide independently verified evidence that the CC&B System was functioning properly and generating accurate customer bills on an ongoing basis.

11. My counsel regularly consulted with me while preparing the settlement proposal to discuss various aspects of the proposal and to obtain my: (i) agreement concerning specific terms and conditions that I was demanding; and (ii) approval to proceed with the further development of the proposal. Once the proposal was developed and I had authorized my counsel to present the settlement proposal to the LADWP, my counsel met with officials for the LADWP and the City of Los Angeles to discuss my settlement proposal.

12. After several weeks of settlement discussions between my counsel and counsel for the City and LADWP, talks stalled and my counsel then sought my permission to engage the services of retired United States District Judge Dickran Tevrizian to serve as a mediator for the purpose of assisting the parties in re-starting settlement discussions. Particularly troublesome during settlement discussions were my demands that: (i) any settlement result in 100% of all overcharges being refunded or credited to all past or present LADWP customers; (ii) the

LADWP take the remedial measures necessary to ensure that the defects in the new CC&B System were permanently corrected; and (iii) the LADWP provide independently verified evidence that the CC&B System was functioning properly and generating accurate customer bills on an ongoing basis. Because the LADWP's reputation for truthfulness and honesty with its customers has deteriorated so severely over the past several years, I insisted that any settlement provide for independent verification of the LADWP's claims that its bills were accurate.

13. Since the commencement of the pre-filing investigation conducted by my counsel in this action, and continuing through the present time, I have been involved in directing, monitoring, and supervising my counsel and have read and approved of the filing of numerous documents with the Court throughout this action.

14. In August 2015, the parties executed the Class Action Settlement Agreement and Limited Release ("Settlement Agreement"), which I authorized and approved. Following two deadline extensions requested by the Independent Court-Appointed Monitor to provide the Independent Monitoring Team time it needed to confirm: (i) that *all* LADWP customers who had been overcharged were identified; and (ii) the accuracy of the methodology and calculations to quantify the amounts to be refunded or credited to Class members, the amount of the Settlement increased by millions of dollars.

15. As a result, my counsel sought and obtained my permission for the parties to again engage the services of Judge Tevrizian to conduct a further mediation to aid the parties in addressing a number of issues that arose as a result of the additional work performed by my counsel and the Independent Monitoring Team working with officials from the LADWP throughout most of 2016.

16. In October 2016, Judge Tevrizian conducted another mediation session and the parties memorialized the revised agreement that was reached during that mediation in the Revised Class Action Settlement Agreement and Limited Release ("Revised Settlement Agreement"), which I authorized and approved.

17. Throughout the course of this litigation, Class Counsel has demonstrated an extremely high level of expertise in dealing with the complex legal issues involved in this action.

Class Counsel steadfastly represented my interests and the interests of my fellow Class members and has remained a tenacious advocate throughout all stages of the litigation. I am extremely pleased with Class Counsel's efforts on behalf of myself and the Class and believe Class Counsel performed in a highly commendable manner.

18. I personally approve of the settlement of this action on the terms contained in the Revised Settlement Agreement (the "Revised Settlement" and "Revised Settlement Agreement," respectively). In light of the high quality of work performed by Class Counsel and the excellent benefit that the Revised Settlement represents for the Class, I respectfully request that the Court finally approve the Revised Settlement on the terms and conditions set forth in the Revised Settlement Agreement and Class Counsel's request for attorneys' fees and costs.

19. As a result of my participation in this action, I expended many hours of my time reviewing and analyzing documents, participating in telephone calls, responding to emails and conducting regular face to face meetings with my Counsel as well as directing Plaintiffs' counsel in connection with the prosecution of this action on behalf of the Class.

20. As a result of my participation in the prosecution of this action, I have lost both business opportunities and wages in the amount of at least $5,000. On the basis of the foregoing, I therefore respectfully request that the Court reimburse me in the amount of five thousand dollars ($5,000) to compensate me for my time and the lost business opportunities that I have incurred and wages that I have foregone as a result of my performance of the duties described herein on behalf of the Class in this action.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct to the best of my knowledge on this 1st day of May, 2017 at Van Nuys, California.

Antwon Jones

ELECTRONIC PROOF OF SERVICE

STATE OF OHIO, COUNTY OF CUYAHOGA

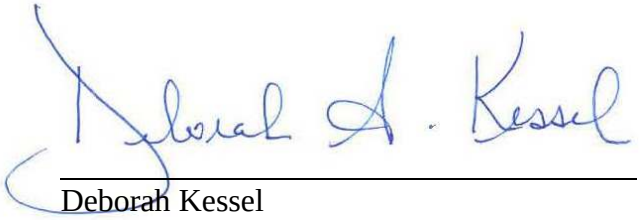
I am a paralegal with Landskroner Grieco Merriman, LLC in the County of Cuyahoga, State of Ohio. I am over the age of 18 and not a party to the within action. My business address is 1360 West 9th Street, Suite 200, Cleveland, OH 44113.

On May 5, 2017, I served the foregoing document(s) described as **DECLARATION OF ANTWON JONES IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL AND APPLICATION FOR AN AWARD OF ATTORNEYS' FEES, COSTS AND SERVICE AWARDS** on the interested parties in this action as follows:

BY ELECTRONIC SERVICE VIA FILE & SERVEXPRESS: In accordance with the Court's Order Authorizing Electronic Service governing Case No. BC BC577267 and related matters requiring all documents to be served upon interested parties via the File & ServeXpress Service system.

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

Executed on May 5, 2017 at Cleveland, Ohio.



Deborah Kessel

Exhibit 5

ISAACS | FRIEDBERG

A LIMITED LIABILITY PARTNERSHIP

Jeffrey B. Isaacs, Esq.
Direct: (213) 929-5533
E-mail: jisaacs@ifcounsel.com

555 South Flower Street, Suite 4250
Los Angeles, California 90071
Office: (213) 929-5550
Fax: (213) 955-5794

February 12, 2019

VIA EMAIL

Daniel J. Thomasch, Esq.
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
dthomasach@gibsondunn.com

Re: ***City of Los Angeles v. PricewaterhouseCoopers, LLP***
Los Angeles County Superior Court, Case No. BC577267
Deposition of Antwon Jones

Dear Dan:

As you know, our firm, Isaacs | Friedberg LLP, represents Mr. Antwon Jones in connection with his third party deposition in the above-referenced case, scheduled for tomorrow, February 13, 2019, at 10:30 am.

Per your request, we are producing in advance of Mr. Jones' deposition documents responsive to the document rider to the Deposition Subpoena to Mr. Jones, dated January 16, 2019, that are not covered by the attorney client privilege.

More specifically, we are producing with this letter documents numbered AJ000001 – AJ000048. As you will note, they consist of bills Mr. Jones received from the Los Angeles Department of Water and Power ("LADWP") during the period December 27, 2013 through November 17, 2015 that are responsive to Request No. 8. They include a bill that reflects that he was charged $1,374.10 on July 11, 2014, purportedly for electrical services covering the period January 16 through May 16, 2014, which was far in excess of his prior monthly billings. These documents have been designated "**Confidential**" and are being produced pursuant to the terms of the Stipulated Protective Order in this case.

To confirm, all documents responsive to the other Requests (Nos. 1 - 7) are covered by the attorney client privilege and, in many cases, also the attorney work

product doctrine, and therefore Mr. Jones will not be producing any of them at the deposition.

Based upon our investigation to date, we can represent the following foundational facts that support application of the attorney client privilege and attorney work product doctrine to these documents:

(1) After receiving bills from LADWP overcharging him for electrical service as noted above, Mr. Jones recalls submitting complaints via one or more websites.

(2) Shortly thereafter, Mr. Jones recalls being contacted by attorney Paul Paradis, with the law firm of Paradis Law Group, PLLC, about his complaint.

(3) Mr. Paradis and his law firm began representing Mr. Jones in his dispute with LADWP on or about December 8, 2014.

(4) Mr. Paradis introduced Mr. Jones to attorney Jack Landskroner via email on or about March 26, 2015, and Mr. Landskroner and his law firm, Landskroner Grieco Merriman LLC, began representing Mr. Jones in his dispute with LADWP, together with Mr. Paradis and his law firm, on or about that date.

(5) Mr. Landskroner and his law firm have continuously represented Mr. Jones in his dispute with LADWP since March 2015.

(6) Mr. Paradis and his firm represented Mr. Jones through at least April 1, 2015. Mr. Jones believes that he last communicated with Mr. Paradis in writing on or about April 10, 2015. He does not recall precisely when he last spoke with Mr. Paradis, but believes that it would have been sometime soon thereafter. He has not found any writing in which he was advised that Mr. Paradis and his law firm were no longer representing him.

(7) All of Mr. Jones' written communications with Mr. Paradis and/or Mr. Landskroner on or before April 1, 2015, were in confidence, in the course of his relationship with them as his attorneys, and for the purpose of ecuring their legal services and obtaining legal advice from them.

(8) In addition to Mr. Paradis and Mr. Landskroner, Mr. Jones was in an attorney-client relationship with attorney Paul Kiesel and his law firm, Kiesel Law LLP, concurrent with his relationship with Mr. Paradis, and with attorney Michael Libman and his law firm, Law Offices of Michael J. Libman, concurrent with his relationship with Mr. Landskroner. Mr. Jones has not found any written communications between he and Mr. Kiesel or Mr. Libman responsive to any of the Requests.

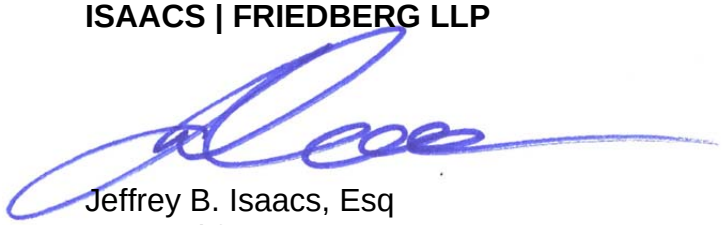
(9) Mr. Jones was never in an attorney-client relationship with the Los Angeles City Attorney's Office, attorneys for the LADWP, or Liner LLP, and, to the best of his knowledge and recollection, he never communicated directly with attorneys associated with any of these entities.

In addition to Mr. Jones' assertion of the attorney client privilege and work product doctrine, we, as Mr. Jones' counsel, have been instructed by Mr. Paradis and Mr. Kiesel, and on behalf of Mr. Landskroner, that they intend and expect Mr. Jones to assert the attorney work product doctrine on their behalves with respect to all responsive documents that represent their work product as counsel for Mr. Jones and/or otherwise reflect their mental impressions, conclusions, opinions, legal research and/or legal theories.

We will see you tomorrow. In the meantime Mr. Jones reserves all rights, privileges and protections.

Very truly yours,

ISAACS | FRIEDBERG LLP



Jeffrey B. Isaacs, Esq
Counsel for Antwon Jones

Encl.

cc: Paige Shen, Esq. (w/encl.)
James Santiago, Esq. (w/encl.)
Paul O. Paradis, Esq. (w/encl.)
Gina M. Tufaro, Esq. (w/encl.)
Paul R. Kiesel, Esq. (w/encl.)

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Attorneys for Defendants
PRICEWATERHOUSECOOPERS LLP and JAMES M. CURTIN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SPRING STREET COURTHOUSE

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP, PAUL BUTLER, JAMES M. CURTIN, PHILLIP P. DANIELE, DAVID GARCIA, TREVOR LAROCQUE, RAYMOND M. TULLOCH and NASIR KHAN,

Defendants.

PRICEWATERHOUSECOOPERS LLP,

Cross-Complainant,

v.

NASIR KHAN,

Cross-Defendant.

CASE NO. BC574690

APPENDIX OF EXHIBITS TO THE DECLARATION OF DANIEL J. THOMASCH IN SUPPORT OF DEFENDANT PWC'S SUBMISSION REGARDING PRIVILEGE ISSUES

VOLUME 2 OF 2

ASSIGNED FOR ALL PURPOSES TO:
HON. ELIHU M. BERLE

HEARING:
Date: March 4, 2019
Time: 9:00 a.m.
Dept: 6

Action Filed: March 6, 2015
Trial Date: January 6, 2020

APPENDIX OF EXHIBITS

Exhibit No.	Description
1	Sept. 13, 2018 Deposition Transcript of Thomas Peters
2	Feb. 13, 2019 Deposition Transcript of Antwon Jones
3	Feb. 26, 2019 Deposition Transcript of James Clark
4	May 5, 2017 Decl. of Antwon Jones ISO Plaintiff's Motion for Final Approval and Application for an Award of Attorneys' Fees, Costs and Service Awards
5	Feb. 12, 2019 Letter from Jeffrey Isaacs to Daniel Thomasch
6	Apr. 21, 2015 Engagement and Contingency Fee Agreement between City of Los Angeles, acting on behalf of LADWP, and Kiesel Law LLP (Agreement No 47334-5) and Paradis Law Group, PLLC (Agreement No. 47335-5)
7	Sept. 11, 2015 Hr'g Tr. in *Bransford v. City of Los Angeles*, No. BC565618
8	Feb. 12, 2019 Letter from Paul Paradis to Daniel Thomasch attaching caption and signature pages of Jones v. PwC Complaint.
9	Excerpts of Feb. 7, 2017 Decl. of Jack Landskroner ISO Joint Opposition to *Bransford* and *Fontaine* Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness
10	Excerpts of Feb. 7, 2017 Decl. of Maribeth Annaguey ISO Joint Opposition to *Bransford* and *Fontaine* Plaintiffs' Ex Parte Application to Lift Discovery Stay to Allow Limited Discovery re: Procedural Fairness
11	Dec. 4, 2017 Hr'g Tr.
12	Dec. 12, 2018 Hr'g Tr.
13	Excerpts of May 5, 2017 Decl. of Jack Landskroner ISO Plaintiff's Motion for Final Approval
14	Aug. 17, 2015 "Statement by LADWP General Manager Marcie Edwards Regarding Settlement of Customer Billing Class Action Litigation"
15	Aug. 2015 "Customer Information and Billing System Class Action Litigation Settlement Summary"
16	Aug. 17, 2015 "Landskroner Grieco Merriman, LLC, Settles Overbilling Class Action Lawsuit on Behalf of 1.6 Million LADWP Customers."

Exhibit No.	Description
17	Nov. 3, 2015 Hr'g Tr. *Jones v. City of Los Angeles*, No. BC577267
18	Oct. 19, 2015 Board Letter Approval Agreement No. 47361-6 for Project Management Services-Customer Information System Remediation with Paradis Law Group, PLLC
19	Excerpts of June 7, 2016 Minutes of Regular Meeting of the Board of Water and Power Commissioners, Item No. 16
20	Excerpts of June 6, 2017 Minutes of Regular Meeting of the Board of Water and Power Commissioners, Item No. 22
21	Mar. 29, 2017 Secretary of State Statement of Information re Aventador Utility Solutions, LLC
22	Feb. 13, 2019 Hr'g Tr.

Exhibit 6

ENGAGEMENT AND CONTINGENCY FEE AGREEMENT

This Agreement (the "Agreement") is made on April 21,2015, by and between the City of Los Angeles, California ("Los Angeles") and the Office of the City Attorney, City of Los Angeles ("City Attorney") acting on behalf of the Los Angeles Department of Water and Power (collectively, the "City"), and Kiesel Law LLP (Agreement No 47334-5) and Paradis Law Group, PLLC (Agreement No 47335-5), which are retained by the City as outside counsel (hereinafter collectively "Special Counsel"). Paul Kiesel and Paul Paradis are the principal attorneys designated to assist the City in this litigation.

The City and Special Counsel agree as follows:

I. SCOPE OF SERVICES/CASE HANDLING

A. City Attorney, as the chief legal officer of the City, is charged with representing the City in legal proceedings with respect to which the City has an interest.

B. The City hereby retains Special Counsel to provide legal services to the City for the purpose of conducting the "Dispute Resolution" process specified in Article X, Section 1001.1 of LADWP Agreement No. 47976 (the "Dispute Resolution Process" and "CISCON Contract," respectively) and, if necessary, to initiate and conduct litigation against PricewaterhouseCoopers LLP (the "Defendant" or "PwC") and possibly other entities, to recover damages incurred by the City that were caused by Defendant having: (i) made a series of materially false and misleading statements and/or failing to disclose material facts to the City that were intended to, and did, fraudulently induce the City to enter into the CISCON Contract; and (ii) breached numerous material provisions of the CISCON Contract (the "Litigation").

C. The City hereby authorizes Special Counsel to associate or consult in this representation with such other counsel as Special Counsel may deem necessary, provided that Special Counsel obtains the prior written approval of City Attorney. Unless otherwise agreed to by City Attorney and Special Counsel in writing, Special Counsel shall be responsible for compensating any counsel it associates or consults.

D. City Attorney shall supervise and retain final authority over all aspects of the Dispute Resolution Process and, if litigation is commenced, all aspects of the Litigation. To facilitate City Attorney's retention of such supervisory control and final authority, City Attorney will monitor, review, and participate as the lead counsel in the Dispute Resolution Process and the Litigation. In addition, if litigation is commenced Special Counsel will present the following matters to City Attorney for decision with adequate time for City Attorney to review and decide, without limitation, such matters as: (a) the content of all court pleadings; (b) the content of all dispositive motions and oppositions to such motions; (c) the decision of whether to settle or try the case; (d) the decision of whether to waive a jury trial; (e) selection of witnesses and evidence to be presented at trial; (f) trial strategy questions; (g) the conduct of trial; and (h) all other matters of significance. City Attorney retains all discretion to conduct the Dispute

Resolution Process and the Litigation. City Attorney retains veto power over any action or proposed action by Special Counsel in connection with the Dispute Resolution Process or the Litigation. City Attorney and the Board of the Los Angeles Department of Water and Power retain sole authority to settle or otherwise compromise this matter at any time and in exchange for any consideration.

E. Any media inquiry relating to the Litigation or any related matter will be referred immediately to City Attorney. Special Counsel may not make statements to the media on behalf of the City without prior approval of City Attorney.

F. Special Counsel shall ensure that City Attorney is kept fully informed of all material case developments at all times, shall reply promptly and completely to all inquiries and requests, and shall provide City Attorney with copies of all correspondence, pleadings, and discovery requests and responses related to the Litigation.

G. Special Counsel shall communicate with staff from departments of Los Angeles through City Attorney unless alternative arrangements are made in advance between Special Counsel and City Attorney, in which case Special Counsel shall copy City Attorney on all communications and provide updates as necessary.

H. Special Counsel shall provide sufficient resources, including expert witnesses and advisors, attorney time, and capital for payment of Costs (as defined in paragraph II.B below) to prosecute the Litigation faithfully and with due diligence. Legal services under this Agreement shall be performed only by duly-licensed attorneys and other competent personnel under the supervision and in the employment of Special Counsel or retained by Special Counsel as consultants or experts.

I. Special Counsel agrees to maintain adequate Costs records (as defined in paragraph II.B below) necessary to support the proper reimbursement of Costs in the event of a recovery.

II. CONTINGENCY FEE AGREEMENT

A. The employment of Special Counsel shall be on a contingency fee basis. Specifically, if Special Counsel and the City are successful in obtaining and collecting a recovery – whether by settlement, arbitration award, Court judgment or otherwise – Special Counsel shall receive attorneys' fees in the amount of 19.99% (split evenly between the two firms) of any net monetary and non-monetary recovery, after deduction of Costs (the "Contingency Fee"). This fee is not set by law but has been negotiated between the City and Special Counsel. The sole contingency upon which the City shall pay compensation to Special Counsel is a recovery by the City, whether by settlement, arbitration award, Court judgment or otherwise. City Attorney or the Board of the Los Angeles Department of Water and Power retains final authority over all decisions relating to the settlement or dismissal of the Litigation.

B. Costs. Special Counsel may incur certain court costs and other types of expenses in pursuing the Litigation for the City ("Costs").

(1) For the purposes of this Agreement, reimbursable Costs shall include: deposition and video deposition costs; filing fees for which the City is not exempt; court reporter and transcript fees; fees for service of process; fees for messenger service; travel expenses as defined in paragraph III.G below; document reproduction; electronic discovery expenses; postage and Federal Express and UPS costs, fees for consultants, experts, or investigative services; and costs associated with special master or alternative dispute resolution services.

In any event, Special Counsel shall obtain the prior approval of the City to incur any Costs in excess of $10,000. Special Counsel shall be responsible for coordinating the obtaining of such prior written approval.

If there is a monetary recovery, the City agrees to reimburse Special Counsel for all reasonable and actual Costs incurred by Special Counsel in connection with conducting the Dispute Resolution Process or the Litigation out of such monetary recovery. If there is no monetary recovery, Special Counsel shall bear sole responsibility and liability for payment of Costs.

If there is a monetary recovery but the reasonable Costs incurred by Special Counsel in connection with conducting the Dispute Resolution Process or the Litigation exceed the monetary recovery, reasonable Costs shall be reimbursed up to the maximum of the total recovery. In such an event, Special Counsel shall bear sole responsibility and liability for the remaining unreimbursed Costs.

The City shall not reimburse Costs that do not comply with this provision.

C. In the event that the Dispute Resolution Process or Litigation results in the City receiving any non-monetary recovery, the City shall pay Special Counsel attorneys' fees in the net amount of 19.99% of the fair market value of the non-monetary recovery, after deduction of Costs.

D. City Attorney agrees to consult with Special Counsel prior to making a recommendation to the Board of the Los Angeles Department of Water and Power regarding settlement or dismissal of legal proceedings. However, City Attorney and the Board retain final authority over any settlement decision or decision to dismiss.

E. All monies recovered by settlement, arbitration award, Court judgment or otherwise, and any other proceeds resulting from this Litigation, shall be deposited into a separate trust account created by Special Counsel for disbursement in accordance with the provisions of this Agreement, subject to the direction of City Attorney.

III. GENERAL REQUIREMENTS

A. Performance by Special Counsel. In the performance of this Agreement, Special Counsel shall provide those services that are necessary to carry out work for the City in an efficient and effective manner.

Special Counsel shall prepare and send status reports on the litigation to the City Attorney on a reasonable schedule to be given by City Attorney or his or her designee.

B. Record-keeping. Special Counsel shall maintain adequate Costs records to support the reimbursement of Costs in the event of a recovery.

C. Term of Agreement. This Agreement shall commence on January 1, 2015, and shall continue in full force and effect through: (i) the completion of the Dispute Resolution Process; or, should the matter not resolve through the Dispute Resolution Process, (ii) resolution of the Litigation, unless the Agreement is terminated by either or both parties as provided in this Agreement or in accordance with law.

D. Termination. The City may terminate this Agreement at any time, either in whole or in part, by giving written notice specifying the effective date and scope of such termination. Upon date of termination, all rights, powers, privileges and authority granted to Special Counsel, other than those rights concerning payment of attorneys' fees and recovery of Costs set forth in Paragraphs II.A and II.B above, shall cease.

E. Consequences of Termination. If Special Counsel is terminated, Special Counsel shall be entitled to file a lien for reimbursement for reasonable Costs incurred and compensation for services as set forth herein. In no event shall reimbursement of Costs or contingent fee obtained by Special Counsel exceed that provided for in this Agreement.

F. Duties Upon Termination. Upon termination of the Agreement, all finished or unfinished documents, data, studies, maps, photographs, reports, and other materials prepared by Special Counsel under this Agreement shall be promptly delivered to the City. In the event this Agreement is terminated prior to the resolution of the Litigation handled by Special Counsel on behalf of the City, Special Counsel shall do all other things reasonably necessary to cause an orderly transition of services without detriment to the rights of the City.

G. Travel. Special Counsel shall be reimbursed for reasonable travel, lodging and meals costs, consistent with the City's standard guidelines.

H. Non-Exclusive Remedies. The City's right to terminate this Agreement is not its exclusive remedy but is in addition to all other remedies provided to the City by law, in equity, or under the provisions of this Agreement.

I. No Special Damages. In no event shall the City be liable to Special Counsel or any other party, person or entity for any indirect, special or consequential damages or lost profits arising out of or relating to this Agreement or the performance or breach thereof. City's liability under this Agreement shall be limited to the payment of compensation provided for in Paragraph II.A and reimbursement of Costs and Awarded Costs provided for in Paragraph II.B of this Agreement.

J. Conflict of Interest. Special Counsel promises, covenants, and warrants that the performance of its services and representation to the City under this Agreement shall not result in a conflict of interest as that term is used in the Rules of Professional Conduct of the State Bar of California. In the event of a conflict of interest or potential conflict, Special Counsel must disclose such conflict to City Attorney and shall request the City to waive such conflict on a case-by-case basis.

Should it be discovered that any member or associate of Special Counsel at one time represented the Defendant, Special Counsel shall identify that individual and erect an appropriate ethical wall. Special Counsel shall not represent a party involved in a claim, dispute or transaction of any kind which would create a conflict of interest for Special Counsel or the City unless and until Special Counsel have informed City Attorney of the proposed representation and received written approval to proceed.

K. Confidentiality. Special Counsel shall maintain the confidentiality of all information that it may acquire in connection with activities under this Agreement in accordance with all applicable federal, state and City laws, regulations, ordinances and directives relating to confidentiality, including the Code of Professional Responsibility. Special Counsel shall inform all of its principals, employees and agents providing services under this Agreement of these confidentiality requirements, and shall ensure that all attorneys, paralegals, and secretarial and clerical personnel having access to information relevant to the provision of services under the Agreement are aware of and acknowledge these confidentiality requirements. These confidentiality requirements shall survive this Agreement's termination or expiration.

L. Relationship of Parties; Independent Contractor. Special Counsel shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City. None of the provisions of this Agreement is intended to create, nor shall any provision be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The parties are not, and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Special Counsel shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. No person performing the work or services described herein shall be considered an officer, agent, servant or employee of the City, nor shall any such person be entitled to any benefits available or granted to employees of the City.

M. Assignment; Subcontracting. The services to be performed by Special Counsel are personal in character. Accordingly, Special Counsel is prohibited from: (1) assigning or subcontracting this Agreement; or (2) delegating any duties or obligations hereunder in any manner whatsoever, either voluntarily or by operation of law, unless the City first approves in writing such assignment, subcontract or delegation by written instrument executed and approved in the same manner as this Agreement. The City may give or withhold such approval in its sole and absolute discretion. Any purported assignment or subcontract by Special Counsel in violation of these restrictions will confer no rights on any other party and will, at the City's sole option, be void.

N. Nondiscrimination. Special Counsel shall comply with all applicable Federal, State, and local laws and regulations including the City's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code section 12900, et seq.); and California Labor Code sections 1101 and 1102. Special Counsel shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Special Counsel discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

O. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Proper venue for legal action regarding this Agreement shall be in the Superior Court of the County of Los Angeles.

P. Integrated Agreement. This instrument, including the exhibits attached hereto, which are made a part of this Agreement, contains the entire agreement between the parties and all prior written or oral negotiations, understandings and agreements are merged herein. The parties further intend this Agreement shall constitute the complete and exclusive statement of its terms and no extrinsic evidence whatsoever, including prior drafts hereof and changes therefrom, may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

Q. Amendment. Neither this Agreement nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the parties hereto or except as otherwise expressly provided herein.

R. Non-Waiver of Rights. No failure by the City to insist upon the strict performance of any obligation of Special Counsel under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, without regard to the length of

time for which such failure continues, and no acceptance of any monies, shall constitute a waiver of such breach or of the City's right to demand strict compliance with such term, covenant or condition of this Agreement. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. Any consent by the City hereunder shall not relieve Special Counsel of any obligation to secure the consent of the City in any other or future instance under the terms of this Agreement.

S. Indemnification and Insurance. The indemnification and insurance requirements for Special Counsel are set forth in Exhibit A, attached hereto and incorporated herein by this reference.

T. Notices. All notices required by this Agreement shall be in writing and shall be deemed to have been duly given only if delivered personally or deposited in the United States mail, postage prepaid, return receipt required, addressed to the other party at the address or addresses set forth below or at such other address as the party may designate in writing in accordance with this section.

To THE CITY:
Eskel Solomon
Office of the City Attorney
Los Angeles Department of Water & Power
111 North Hope Street, Room 340
Los Angeles, California 90012
T: (213) 367-4585
F: (213) 367-4588

To SPECIAL COUNSEL:
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Kiesel Law LLP
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Beverly Hills, California 90019
T: (310) 854-4444
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And

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F: (213) 978-8216

Paul O. Paradis
Paradis Law Group, PLLC
570 Seventh Avenue – 20th Fl.
New York, New York 10018
T: (212) 986-4500
F: (212) 986-4501

U. Interpretation. The captions preceding the sections of this Agreement have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Agreement. This Agreement has been negotiated at arm's length and between parties sophisticated and knowledgeable in the matters contained herein. This Agreement shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible

for drafting any part of this Agreement. Provisions in this Agreement relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words will not be construed to limit any general term, statement or other matter in this Agreement, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

V. Severability. If any provision of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this Agreement will be valid and enforceable to the fullest extent permitted by law. However, notwithstanding anything to the contrary herein, if the City determines a finding of illegality adversely affects the basic consideration hereunder, the City may, at its option, terminate this Agreement.

W. Successors and Assigns. Subject to the provisions of this Agreement restricting Special Counsel's right to assign and subcontract, the terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the City and Special Counsel and, except as otherwise provided herein, their personal representatives, successors and assigns.

X. Survival. Termination, expiration or cancellation of this Agreement shall not affect any provision of this Agreement, which expressly states it shall survive termination, expiration, or cancellation hereof.

Y. First Source Hiring Program.

(1) The Consultant shall designate a liaison to facilitate effective implementation of the First Source Hiring Program (FSHP) and have the designee register with the program online, prior to the beginning of contract work. The Consultant shall also ensure that subconsultants working on the contract comply with the requirements of FSHP, including having them sign the Pledge of Compliance and submitting the same to LADWP's Economic Development Division.

(2) The Consultant shall provide the LADWP's Economic Development Division the number of anticipated employment opportunities resulting from each applicable contract within fifteen business days of establishing the contract. Specifically exempt from FSHP are trade positions or jobs for which the hiring procedures are subject to collective bargaining agreements which conflict with FSHP.

(3) The Consultant shall notify LADWP of subsequent employment opportunities by creating a requisition to fill vacant positions in the FSHP job portal at least ten business days prior to publicly advertising such vacancies; and

(4) The Consultant shall first consider qualified applicants referred from the FSHP database before seeking candidates from other sources;

(5) The Consultant shall provide feedback in the job portal concerning FSHP candidates they considered but did not hire, stating the reason(s) the applicants were not hired. The feedback is intended to continuously improve the short-listing and referral process and also ensure that qualified FSHP candidates get a fair chance.

Failure by the Consultant to comply with the above requirements may be deemed a material breach of the contract for which LADWP may exercise commensurate contractual and legal remedies.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives on the day and year written below.

DEPARTMENT OF WATER AND POWER OF
THE CITY OF LOS ANGELES BY
BOARD OF WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

Date: _____ By: _____

MARCIE L. EDWARDS
General Manger

And: _____

BARBARA E. MOSCHOS
Secretary

THE CITY OF LOS ANGELES, a municipal corporation
MICHAEL N. FEUER, City Attorney

Date _____ By: _____

JAMES P. CLARK
Chief Deputy City Attorney

KIESEL LAW, LLP

Date _____ By: _____

PAUL R. KIESEL

PARADIS LAW GROUP, PLLC

Date _____ By: _____

PAUL O. PARADIS

APPROVED AS TO FORM
MICHAEL N. FEUER, City Attorney

Date _____ By: _____

ANNE HALEY
Assistant City Attorney

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

APR 09 2015

BY _____
ESKEL H. SOLOMON
DEPUTY CITY ATTORNEY

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word **"CONTRACTOR"** herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. NUMBER OF ORIGINALS

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

PSC-4. TIME OF EFFECTIVENESS

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;

B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;

C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and

D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-5. INTEGRATED CONTRACT

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

PSC-6. AMENDMENT

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

PSC-7. EXCUSABLE DELAYS

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

PSC-8. BREACH

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

PSC-9. WAIVER

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-10. TERMINATION

A. TERMINATION FOR CONVENIENCE

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

B. TERMINATION FOR BREACH OF CONTRACT

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.

2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.

3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

CITY'S lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.

5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.

7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

PSC-11. INDEPENDENT CONTRACTOR

CONTRACTOR is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

PSC-12. CONTRACTOR'S PERSONNEL

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

CONTRACTOR shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

CONTRACTOR may not, unless it has first obtained the written permission of the **CITY**:

A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or

B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-14. PERMITS

CONTRACTOR and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

PSC-15. CLAIMS FOR LABOR AND MATERIALS

CONTRACTOR shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

PSC-18. FALSE CLAIMS ACT

CONTRACTOR acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to $10,000 per false claim.

PSC-19. BONDS

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

PSC-20. INDEMNIFICATION

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION

CONTRACTOR, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

PSC-22. INTELLECTUAL PROPERTY WARRANTY

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

PSC-23. OWNERSHIP AND LICENSE

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

PSC-24. INSURANCE

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-25. DISCOUNT TERMS

CONTRACTOR agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-27. NON-DISCRIMINATION

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

PSC-28. EQUAL EMPLOYMENT PRACTICES

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.

E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.

F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.

H. Intentionally blank.

I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Hiring practices;

2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

3. Training and promotional opportunities; and

4. Reasonable accommodations for persons with disabilities.

L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY.**

PSC-29. AFFIRMATIVE ACTION PROGRAM

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR.**

F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY.** In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

($10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.

I. Intentionally blank.

J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

1. Every contract of $5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.

L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

2. Classroom preparation for the job when not apprenticeable;

3. Pre-apprenticeship education and preparation;

4. Upgrading training and opportunities;

5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;

6. The entry of qualified women, minority and all other journeymen into the industry; and

7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.

P. Intentionally blank.

Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

CONTRACTOR certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:

1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.

2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.

3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.

4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.

B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.

C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

D. **CONTRACTOR** shall inform employees making less than Twelve Dollars ($12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

PSC-32. AMERICANS WITH DISABILITIES ACT

CONTRACTOR hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM

CONTRACTOR agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than $100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

PSC-35. EQUAL BENEFITS ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.

B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.

C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.

D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

CONTRACTOR shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

> "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922."

PSC-36. SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT For additional information about compliance with City insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1. **Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. **Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3. **Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

4. **Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5. **Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

6. **Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Exhibit 1 (Continued)
Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

___ **Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)** WC *Statutory* ___
EL _____

☐ Waiver of Subrogation in favor of City ☐ Longshore & Harbor Workers
☐ Jones Act

___ **General Liability** _____ _____

☐ Products/Completed Operations ☐ Sexual Misconduct _____
☐ Fire Legal Liability _____
☐ _____

___ **Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work) _____

___ **Professional Liability** (Errors and Omissions) _____

___ **Property Insurance** (to cover replacement cost of building – as determined by insurance company) _____

☐ All Risk Coverage ☐ Boiler and Machinery
☐ Flood _____ ☐ Builder's Risk
☐ Earthquake _____ ☐ _____

___ **Pollution Liability** _____

☐ _____

___ **Surety Bonds** – Performance and Payment (Labor and Materials) Bonds 100 % of Contract Price
___ **Crime Insurance** _____

Other: _____

Exhibit 7

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 323 HON. ELIHU M. BERLE, JUDGE

SHARON BRANSFORD, ET AL., PLAINTIFFS, VS. CITY OF LOS ANGELES, DEFENDANT.	)	CASE NO. BC565618

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SEPTEMBER 11, 2015

APPEARANCES:

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FOR PLAINTIFF ANTWON JONES:

LAW OFFICES OF MICHAEL J. LIBMAN
BY: MICHAEL LIBMAN, ESQ.
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ENCINO, CALIFORNIA 91436

(CONTINUED)

REPORTED BY: RHONA S. REDDIX, CSR RPR CRR RMR NO. 10807
OFFICIAL REPORTER

APPEARANCES:
(CONTINUED)

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	OFFICE OF THE CITY ATTORNEY MICHAEL N. FEUER BY: RICHARD TOM, DEPUTY DEBORAH DORNY, DEPUTY 111 NORTH HOPE STREET, NO. 340 LOS ANGELES, CALIFORNIA 90012

REPORTED BY: RHONA S. REDDIX, CSR RPR CRR RMR NO. 10807
OFFICIAL REPORTER

I N D E X

WITNESSES

(NONE)

E X H I B I T S

(NONE)

CASE NUMBER:	BC565618
CASE NAME:	BRANSFORD VS. CITY OF LA
LOS ANGELES, CALIFORNIA	SEPTEMBER 11, 2015
DEPARTMENT 323	HON. ELIHU M. BERLE
REPORTER:	RHONA S. REDDIX, CSR 10807
TIME:	A.M. SESSION
APPEARANCES:	(SEE TITLE PAGE.)

THE COURT: PLEASE BE SEATED. MAKE YOURSELF COMFORTABLE.

CALLING THE CASE OF JONES VERSUS CITY OF LOS ANGELES. COUNSEL, YOUR APPEARANCES, PLEASE.

MR. LANDSKRONER: JACK LANDSKRONER FOR PLAINTIFF ANTWON JONES, YOUR HONOR.

THE COURT: GOOD MORNING.

MR. LIBMAN: MICHAEL LIBMAN ON BEHALF OF PLAINTIFF ANTWON JONES, YOUR HONOR.

THE COURT: GOOD MORNING.

MS. AGRUSA: GOOD MORNING, YOUR HONOR. ANGELA AGRUSA ON BEHALF OF THE CITY OF LOS ANGELES, BY AND THROUGH THE DEPARTMENT OF WATER AND POWER.

THE COURT: GOOD MORNING.

MS. ANNAGUEY: GOOD MORNING, YOUR HONOR. MARIBETH ANNAGUEY, ALSO FOR THE CITY OF LOS ANGELES, BY AND THROUGH THE DEPARTMENT OF WATER AND POWER.

THE COURT: GOOD MORNING.

MR. TOM: GOOD MORNING, YOUR HONOR. RICHARD TOM,

ASSISTANT GENERAL COUNSEL FOR THE DEPARTMENT OF WATER AND POWER. WITH ME THIS MORNING ARE DAVID WRIGHT, THE CHIEF ADMINISTRATIVE OFFICER FOR THE DEPARTMENT, AS WELL AS MARK TOWNSEND, ASSISTANT DIRECTOR FOR INFORMATION TECHNOLOGY FOR THE DEPARTMENT.

THE COURT: GOOD MORNING.

MR. HIMMELFARB: GOOD MORNING, YOUR HONOR. ALAN HIMMELFARB APPEARING FOR DANIEL MORSKI, PLAINTIFF.

THE COURT: GOOD MORNING.

MR. BLOOD: GOOD MORNING, YOUR HONOR. TIMOTHY BLOOD FOR PLAINTIFF BRANSFORD.

THE COURT: GOOD MORNING.

MS. HURST: LESLIE HURST FOR PLAINTIFF BRANSFORD.

THE COURT: GOOD MORNING.

MR. LUCKENBACHER: MORNING, YOUR HONOR. MANNING, MANNING AND LUCKENBACHER, BY GARY LUCKENBACHER, ATTORNEY FOR PLAINTIFF MORSKI.

THE COURT: GOOD MORNING.

MS. WADE: GOOD MORNING, YOUR HONOR. GILLIAN WADE ON BEHALF OF THE BRANSFORD PLAINTIFFS.

THE COURT: GOOD MORNING.

MR. BOWER: GOOD MORNING, YOUR HONOR. DAVID BOWER FROM FARUQI AND FARUQI, FOR FONTAINE, PLAINTIFF.

THE COURT: GOOD MORNING.

MS. ROHR: GOOD MORNING, YOUR HONOR. BARBARA ROHR FROM FARUQI AND FARUQI, FOR FONTAINE PLAINTIFF.

THE COURT: GOOD MORNING.

ANYONE ELSE, COUNSEL?

MR. KIESEL: YOUR HONOR, GOOD MORNING.

PAUL KIESEL. I'M APPEARING ON BEHALF OF THE CITY IN THE CITY VERSUS PWC MATTER. THAT'S NOT BEFORE THE COURT TODAY.

AND I JUST WANT TO STATE FOR THE RECORD I THOUGHT THE INTRODUCTION TO THE COURT THIS MORNING IN RECOGNITION OF 9/11 WAS TOUCHING AND THANK YOU FOR THAT.

THE COURT: THANK YOU.

MR. PARADIS: GOOD MORNING, YOUR HONOR.

PAUL PARADIS ON BEHALF OF THE CITY, IN THE PWC CASE AS WELL.

THE COURT: GOOD MORNING.

MS. TUFARO: GOOD MORNING, YOUR HONOR.

GINA TUFARO ON BEHALF OF THE CITY.

THE COURT: GOOD MORNING.

MS. DORNY: GOOD MORNING, YOUR HONOR.

DEBORAH DORNY, DEPUTY CITY ATTORNEY.

THE COURT: GOOD MORNING.

MS. DORNY: AND THIS IS OUR CLIENTS, DAVE WRIGHT AND MARK TOWNSEND.

THE COURT: GOOD MORNING.

MR. JARDINI: GOOD MORNING, YOUR HONOR. I'M ANDRE JARDINI FOR THE KIMHI PLAINTIFFS. IT'S THE CASE PENDING BEFORE JUDGE JOHNSON, OF INTEREST IN THIS DEPARTMENT.

THE COURT: GOOD MORNING.

ANYONE ELSE? ANYONE ON COURTCALL?

THE CLERK: NO, YOUR HONOR.

THE COURT: THANK YOU.

I'VE RECEIVED A PROPOSED ORDER FOR THE APPOINTMENT OF MS. RHONA REDDIX AS COURT REPORTER PRO TEM. ANY OBJECTION?

MR. KIESEL: NO OBJECTION, YOUR HONOR.

THE COURT: NOT HEARING ANY OBJECTION, MS. REDDIX IS HEREBY APPOINTED COURT REPORTER PRO TEM.

GOOD MORNING, MS. REDDIX.

THE REPORTER: GOOD MORNING.

THE COURT: AND THE MATTER IS HERE TODAY FOR HEARING ON PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT. WE ALSO HAVE KIMHI PLAINTIFF'S JOINDER IN THE MOTION. ANYONE WISH TO BE HEARD ON THAT?

MR. LANDSKRONER: YES, YOUR HONOR. JACK LANDSKRONER FOR PLAINTIFF ANTWON JONES AND PROPOSED CLASS.

YOUR HONOR, I'M SORT OF NURSING A HERNIATED DISK. IS IT OKAY IF I SPEAK FROM THE PODIUM?

THE COURT: YES, CERTAINLY.

MR. LANDSKRONER: APOLOGIZE IF I'M ANTSY TODAY. IT'S HARD TO SIT STILL.

THANK YOU, YOUR HONOR. AGAIN, JACK LANDSKRONER FOR PLAINTIFF ANTWON JONES AND THE PROPOSED SETTLEMENT CLASS. WE ARE VERY PLEASED TO BE HERE THIS MORNING TO PRESENT TO YOU THIS CLASS ACTION SETTLEMENT FOR PRELIMINARY APPROVAL.

THIS CASE RESOLVES THE CLAIMS OF ANTWON

JONES VERSUS THE CITY OF LOS ANGELES AND RELATED CASES BRANSFORD VERSUS LOS ANGELES, FONTAINE VERSUS LOS ANGELES, AND KIMHI VERSUS CITY OF LOS ANGELES, ALL OF WHICH ARISE OUT OF THE WRONGFUL BILLING PRACTICES UNDERTAKEN BY THE LOS ANGELES DEPARTMENT OF WATER AND POWER RELATED TO ITS INSTALLATION OF A CUSTOMER CARE AND BILLING SOFTWARE AND IN CONNECTION WITH ITS SOLAR INCENTIVE PROGRAMS.

THIS, AS A SETTLEMENT, PROVIDES AN EXCELLENT RESULT FOR CLASS MEMBERS, WHICH NOT ONLY SERVES TO MAKE ALL CLASS MEMBERS WHOLE, YOUR HONOR, BUT IN ADDITION PROVIDES COMPREHENSIVE REFORMS, TO INCLUDE REMEDIAL CONCESSIONS, WHICH WILL SUBSTANTIALLY IMPROVE OPERATIONS AT L.A.D.W.P., AND IT WILL SERVE TO STABILIZE THE DEPARTMENT'S BILLING PRACTICES, PERFORMANCE METRICS, WITH COMPLIANCE TIME LINES, GOVERNANCE CHANGES TO PROVIDE CLASS MEMBER PROTECTIONS AND ACCOUNTABILITY GOING FORWARD, AND INDEPENDENT SYSTEM ON IT TO ASSURE BILLING ACCURACY INTO THE FUTURE.

MOST IMPORTANTLY, THIS SETTLEMENT WILL BE EFFECTUATED UNDER THE WATCHFUL EYE OF A HIGHLY QUALIFIED, INDEPENDENT BILLING EXPERT MONITOR TO ASSURE THE ACCURACY OF A D.W.P. AUDIT, WHICH WILL BE PART OF THE SETTLEMENT OF ALL 1.6 MILLION OF ITS CUSTOMER ACCOUNTS, THE METHODOLOGY USED TO IDENTIFY CLASS MEMBERS AND HOW THEY WERE IMPACTED, TO CONFIRM THE METHODOLOGY AND ACCURACY OF CREDIT REFUNDS THAT WILL BE ISSUED TO CUSTOMERS, AS WELL AS TO MONITOR THE REMEDIATION EFFORTS

AND THE COMPLIANCE WITH THE TERMS OF THE SETTLEMENT, AND WHICH, I MIGHT ADD, WILL INVOLVE A QUARTERLY REPORTING WHICH WILL BE FILED WITH THIS COURT TO ASSURE TRANSPARENCY.

THE RESULT ACHIEVED FOR THE CLASS IN THIS SETTLEMENT IS NOT ONLY WITHIN THE RANGE OF REASONABLENESS FOR PURPOSES OF PRELIMINARY APPROVAL IN MAKING CLASS MEMBERS A HUNDRED PERCENT WHOLE, BUT ALSO PROVIDES RELIEF THAT WILL SERVE TO REMEDY PROBLEMS AT THE HEART OF THIS BILLING NIGHTMARE, WHICH WILL ENURE TO THE BENEFIT OF ALL D.W.P. CUSTOMERS. ACCORDINGLY, WE BELIEVE THE SETTLEMENT IS IN THE BEST INTERESTS OF THE CLASS AND MORE THAN SATISFIES THE THRESHOLD REQUIREMENT FOR PRELIMINARY APPROVAL BY THIS COURT.

BY WAY OF BACKGROUND, IN SEPTEMBER 2013, D.W.P., IN CONJUNCTION WITH ITS CONSULTANT PRICEWATERHOUSECOOPERS, INSTALLED A NEW UTILITY BILLING SOFTWARE SYSTEM KNOWN AS THE CUSTOMER CARE AND BILLING SYSTEM, OR C.C. AND B. FROM THE GET-GO, THIS SYSTEM FAILED AND CREATED A BILLING CATASTROPHE RESULTING IN WHAT AMOUNTED TO APPROXIMATELY $44 MILLION IN OVERBILLING.

MOREOVER, SOME CUSTOMERS WERE NOT GETTING BILLS, OTHER CUSTOMERS WERE NOT GETTING REFUNDS AND CREDITS WHICH THEY WERE OWED, AND STILL OTHER CUSTOMERS INCURRED ADDITIONAL COSTS FOR OTHER OUT-OF-POCKET CHARGES, SUCH AS OVERDRAFT FEES, WHERE THEY HAD AN AUTOMATIC WITHDRAWAL FROM THEIR BANK ACCOUNT.

IN ADDITION TO THIS, BECAUSE OF THE BACKLOG AND INEFFICIENCY IN OPERATIONS AT D.W.P., SOLAR CUSTOMERS' BILLING WAS AFFECTED SUCH THAT CUSTOMERS DID NOT GET THEIR SOLAR INCENTIVE SYSTEM APPLICATIONS PROCESSED, SYSTEMS WERE NOT TIMELY ENERGIZED, AND CREDITS WERE NOT PROPERLY RECEIVED BY THOSE CUSTOMERS.

IN APRIL OF 2015, PLAINTIFF FILED THIS CLASS ACTION LAWSUIT SEEKING A REMEDY UNDER MULTIPLE THEORIES OF RECOVERY FOR THESE WRONGFUL BILLING PRACTICES. THE FOUNDATION OF PLAINTIFFS' CLAIMS WERE BASED NOT ONLY ON AN EXTENSIVE INVESTIGATION TO THE CLAIMS OF THE D.W.P. CUSTOMERS HERE IN LOS ANGELES BUT INCLUDED EXTENSIVE INVESTIGATION INTO A PRIOR FAILURE OF THE SAME C.C. AND B. INSTALLATION AT THE DEPARTMENT OF WATER IN CLEVELAND, OHIO, BY PRICEWATERHOUSECOOPERS.

IT'S NOT COINCIDENCE THAT I'M FROM CLEVELAND, AND I SPENT A CONSIDERABLE AMOUNT OF TIME INVESTIGATING THAT PARTICULAR INCIDENT, WHICH LARGELY MIRRORED THE PROBLEMS THAT WERE FACED BY THE LOS ANGELES DEPARTMENT OF WATER AND POWER.

THE INFORMATION GAINED IN THIS INVESTIGATION WAS INVALUABLE TO ASSISTING IN THE UNDERSTANDING OF THE C.C. AND B. SYSTEM DEFECTS AND THE WIDE-SCALE IMPACT UPON CUSTOMERS, NOT JUST IN CLEVELAND, BUT IN LOS ANGELES. OUR INVESTIGATION INCLUDED INTERVIEWS WITH CONFIDENTIAL WITNESSES, REVIEW OF DOCUMENTS, CONSULTATION WITH AND RETENTION OF NONTESTIFYING EXPERTS, ALL OF WHICH HELPED TO PROVIDE

THE UNDERSTANDING THAT WAS NECESSARY TO RECOGNIZE THE FUNCTIONALITY PROBLEMS OF THE C.C. AND B. SYSTEMS, ITS DEFECTS, AND HOW L.A.D.W.P. CUSTOMERS WERE HARMED. IT ALSO PROVIDED AN UNDERSTANDING OF HOW THE SOLAR CUSTOMERS WERE HARMED AND DELAYED IN GETTING INTO THE SYSTEM AND GETTING THE CREDITS THAT THEY WERE ENTITLED.

BASED ON THE RESULTS OF OUR INVESTIGATION AND THE STRENGTHS OF THESE CLAIMS, COUNSEL APPROACHED THE CITY AND D.W.P. TO DISCUSS SETTLEMENT AND PUT TOGETHER A SETTLEMENT PROPOSAL, INCLUDING A COMPREHENSIVE FRAMEWORK TO STRUCTURE A SETTLEMENT BASED ON THE INFORMATION AND KNOWLEDGE THAT WE HAD.

PROGRESS WAS MADE IN THESE DISCUSSIONS, BUT THEY STALLED. THEREAFTER, THE PARTIES AGREED TO CONTINUE DISCUSSIONS WITH THE ASSISTANCE OF A QUALIFIED MEDIATOR. PARTIES SELECTED RETIRED FEDERAL JUDGE, JUDGE TEVRIZIAN AT JAMS HERE IN LOS ANGELES. JUDGE TEVRIZIAN SPENT MULTIPLE SESSIONS WITH THE PARTIES OVER A PERIOD OF WEEKS, REACHING AGREEMENT ON PRINCIPAL, ESSENTIAL TERMS OF THE SETTLEMENT, AND THEN CONTINUING TO WORK WITH THE PARTIES TO RESOLVE NONESSENTIAL TERMS, AND FINALLY TO DISCUSS AND ADDRESS FEES.

AS NOTED IN JUDGE TEVRIZIAN'S DECLARATION, WHICH HAS BEEN FILED IN SUPPORT OF THIS SETTLEMENT, THESE MEDIATION SESSIONS WERE CONTENTIOUS AND PROTRACTED. THE CLASS COUNSELS' IN-DEPTH INVESTIGATION AND PRIOR EXPERIENCE IN THIS FIELD PLAYED AN INTEGRAL ROLE IN ADVANCING THE SETTLEMENT DISCUSSIONS.

JUDGE TEVRIZIAN STATED THAT THE PROPOSED SETTLEMENT PROVIDES AN EXCELLENT RESULT AND RECOVERY FOR MEMBERS OF THE SETTLEMENT CLASS, THAT THE BENEFITS ULTIMATELY OBTAINED BY PLAINTIFF AND THE CLASS COUNSEL ARE EXTREMELY VALUABLE; THAT BASED ON HIS EXTENSIVE INVOLVEMENT IN THIS MATTER, IT WAS JUDGE TEVRIZIAN'S OPINION THAT THE SETTLEMENT WAS FAIR, REASONABLE, AND ADEQUATE, AND THAT THE WORK OF CLASS COUNSEL IN THIS MATTER RESULTED IN A VERY FAVORABLE SETTLEMENT BEING OBTAINED FOR THE SETTLEMENT CLASS.

THE SETTLEMENT CLASS WHICH WE SEEK TO CONDITIONALLY CERTIFY FOR THE PURPOSES OF PRELIMINARY APPROVAL INCLUDES ALL L.A.D.W.P. CUSTOMERS WHO WERE IMPROPERLY OVERCHARGED FOR ELECTRIC, WATER, SEWER, OR SANITATION SERVICES --

THE COURT: LET ME ASK YOU ABOUT THAT.

MR. LANDSKRONER: YES, SIR.

THE COURT: AS I UNDERSTAND, THE PROPOSED SETTLEMENT IS TO REIMBURSE ALL OF THOSE WHO ARE OVERCHARGED; IS THAT RIGHT?

MR. LANDSKRONER: CORRECT. ALL APPROVED CUSTOMER STATEMENTS.

THE COURT: WHAT DOES THE WORD "IMPROPERLY" ADD TO IT? IS THERE SOME WIGGLE ROOM? IS THERE SOME ARGUMENT ABOUT WHAT IS A PROPER OVERCHARGE AND WHAT IS AN IMPROPER OVERCHARGE?

MR. LANDSKRONER: NO, SIR. IT IS A WORD THAT IS IN ESSENCE REDUNDANT IN THE SENSE THAT --

THE COURT: SO DO WE NEED THAT WORD?

MR. LANDSKRONER: IF THE COURT WOULD PREFER, WE CERTAINLY CAN TAKE THAT WORD OUT. IT DOESN'T ADD ANYTHING, DOESN'T CHANGE ANYTHING. THE PARTIES --

THE COURT: 'CAUSE I DIDN'T SEE THAT WORD IN ANY OF THE SUBCLASSES, BUT I DID NOTICE IN THE OVERARCHING CLASS DESCRIPTION THE WORD CREEPS OUT IN -- SEVERAL TIMES OF IMPROPER OVERCHARGES, SOME KIND OF IMPLICATION OF -- ESTABLISHED SOME BURDEN OF WRONGDOING. SO I JUST -- I UNDERSTAND WHAT YOU'RE TELLING ME THEN, THAT IT IS NOT INSERTED FOR THE PURPOSE OF ANY LIMITATION OF REIMBURSEMENT OVERCHARGES.

MR. LANDSKRONER: NO, SIR.

THE COURT: IT'S AN UNNECESSARY WORD.

MR. LANDSKRONER: YES. SIR, WE COULD CERTAINLY REMOVE THAT. THE CLASS DEFINITION IS AGREED TO. THIS ISN'T A DISPUTED DEFINITION. THERE'S NO ADJUDICATION OF THAT ISSUE THAT NEEDS TO BE UNDERTAKEN.

THE RATES ARE INDEPENDENTLY VERIFIED AND, MORE IMPORTANTLY, WE HAVE AN INDEPENDENT MONITOR THAT WILL BE ASSESSING THE IDENTIFICATION OF CLASS MEMBERS, AS WELL AS THE AMOUNTS THAT THEY'RE OWED. SO THESE ARE ALL INDEPENDENT FACTORS THAT CAN BE VERIFIED AND TESTED AND WILL BE TESTED BY THE INDEPENDENT MONITOR IN TERMS OF IDENTIFICATION OF CLASS MEMBERS.

ENCOMPASSED IN THE CLASS DEFINITION ARE THE SUBCLASS TIER, SUBCLASS GROUPS. THERE'S NINE. THEY'RE REFERENCED IN DETAIL IN OUR PAPERS. HOWEVER, THEY

INCLUDE THE TIERED BILLING SUBCLASS, TREND ESTIMATE SUBCLASS --

THE COURT: LET ME ASK YOU ABOUT THE TIERED BILLING, BECAUSE THERE IS OBJECTION -- HOPING TO HEAR FROM THE OBJECTOR LATER ON. BUT THERE IS, AS I UNDERSTAND FROM THE PAPERS THAT HAVE BEEN FILED, THAT THE SETTLEMENT IS NOT INTENDED TO COVER THE MORSKI CASE.

MR. LANDSKRONER: IT IS NOT, YOUR HONOR.

THE COURT: THE MORSKI CASE INVOLVES CLAIMS ABOUT THE TIERED BILLING, DOES IT NOT?

MR. LANDSKRONER: IT CHALLENGES THE CONSTITUTIONALITY OF THE TIERED BILLING. WE DO NOT ADDRESS THAT ISSUE IN OUR --

THE COURT: IS THERE GOING TO BE SOME INCONSISTENCY BETWEEN THE EXCLUSION OF THE MORSKI AND THE FACT THAT THERE'S A SUBCLASS THAT IS DEFINED AS INCLUDING CLAIMS WITH REGARD TO TIERED BILLING?

MR. LANDSKRONER: NO, SIR. THE TIERED BILLING SUBCLASS THAT WE DEFINED ADDRESSES WHETHER THE CALCULATION MADE AS TO HOW PEOPLE PAID THEIR BILLS WAS PROPER. THE MORSKI CLAIMS ADDRESS THE CONSTITUTIONALITY IN GENERAL OF WHAT TIERED BILLING IS AND HOW IT'S APPLIED. SO OURS IS SIMPLY A MATTER OF CALCULATION. THEIR CLAIMS QUESTION THE VERY ISSUE OF WHETHER TIERED BILLING IS APPROPRIATE.

THE COURT: WELL, I AM CONCERNED THAT THERE MAY BE SOME MISINTERPRETATION OF WHAT'S INCLUDED IN THE MORSKI CASE AND WHAT'S INCLUDED IN THE SUBCLASS HERE WHEN YOU

SAY THAT IT'S GOING TO INCLUDE ALL CORRECTIONS OF BILLING WITH REGARD TO TIERED CALCULUS AND WHETHER OR NOT IT'S GOING TO CREATE A PROBLEM, AN ARGUMENT WHETHER SOME OF THOSE CLAIMS MAY BE EXCLUDED FROM MORSKI BECAUSE THEY'RE INCLUDED IN HERE.

AND THAT RAISES A SECOND ISSUE AS TO, IF THE MORSKI CLAIMS ARE GOING TO BE EXCLUDED, WHY SHOULDN'T THERE BE AN EXPLICIT STATEMENT IN THE RELEASE THAT THE MORSKI CLAIMS AND THE DESCRIPTION OF THOSE CLAIMS ARE NOT INCLUDED IN THE RELEASE AND THE SETTLEMENT?

MR. LANDSKRONER: WELL, YOUR HONOR, THE SETTLEMENT AGREEMENT ITSELF MAKES CLEAR THAT THE MORSKI CLAIMS ARE NOT INCLUDED BECAUSE THEY ARE EXCLUDED FROM THE CLAIMS THAT ARE IDENTIFIED AS BEING SETTLED AS PART OF THIS CASE.

THE COURT: WHERE IS IT SET FORTH THAT THEY'RE EXCLUDED?

MR. LANDSKRONER: IT IS IN THE SETTLEMENT AGREEMENT. IT'S NOT LISTED AS ONE OF THE ACTIONS AS THE SETTLED CLAIMS --

THE COURT: IT'S NOT SPECIFICALLY LISTED, BUT I AM CONCERNED IT MAY CREATE SOME AMBIGUITY. AT SOME LATER DATE SOMEBODY, WHO MAY OR MAY NOT BE HERE, WOULD SAY, WELL, IT'S THE INTENT OF THE PARTIES IN THE DESCRIPTION OF THE CLAIMS RELEASED OR THE CLASS -- THE DESCRIPTION OF THE CLASS, AND THEY MAY INCLUDE SOME OF THE MORSKI CLAIMS. SO WOULDN'T IT BE BETTER IF IT'S EXPLICITLY

STATED THAT IT DOES NOT INCLUDE THE MORSKI CLAIMS AND TO BE SPECIFIC AS TO WHAT THOSE CLAIMS ARE?

MR. LANDSKRONER: WE CERTAINLY COULD INCLUDE THAT LANGUAGE. AGAIN, I DON'T THINK THE INTENT OF THE PARTIES HAS ALWAYS BEEN TO EXCLUDE THOSE CLAIMS THAT ARE SET FORTH IN MORSKI.

AND MOREOVER, YOUR HONOR, I BELIEVE THE MORSKI COMPLAINT WAS AMENDED, AFTER THESE CASES WERE RELATED, TO SPECIFICALLY DISTANCE ITSELF FROM THE CLAIMS THAT WERE BROUGHT IN BRANSFORD AND IN JONES. AND SO I THINK THERE WAS AN EFFORT BY COUNSEL, IN FACT, TO DEFINE AND DEFINE OUT MORSKI AWAY FROM THESE CLAIMS, BUT IF THE COURT WOULD PREFER US TO DEFINE THAT AND MAKE IT A DEFINED TERM, I DON'T THINK IT CHANGES ANYTHING IN THE AGREEMENT AND THE INTENT OF THE PARTIES, BUT WE CERTAINLY COULD DO THAT.

THE COURT: I UNDERSTAND THAT WAS YOUR INTENT. I JUST THINK IT MAY BE A GOOD IDEA TO MAKE IT EXPLICIT SO WE DON'T HAVE ANY MISUNDERSTANDINGS AT SOME LATER DATE, AND THAT WOULD GO ALSO FOR THE BANE CLAIMS, WHICH I UNDERSTAND ARE EXCLUDED --

MR. LANDSKRONER: YES, YES.

THE COURT: -- FROM THE SETTLEMENT.

MR. LANDSKRONER: WE CERTAINLY HAVE NOT ALLEGED BANE CLAIMS IN OUR COMPLAINT, AND THEY'RE NOT PART OF THE RELATED CLAIMS THAT WE ARE ATTEMPTING TO SETTLE. AS I UNDERSTAND BANE CLAIMS, YOUR HONOR, I THINK IT'S A CONSTITUTIONAL CLAIM WHERE SOMEONE USES PHYSICAL FORCE

TO DEPRIVE YOU OF CONSTITUTIONAL RIGHTS. THOSE ARE NOT THE CLAIMS THAT WE'VE BROUGHT.

IN TERMS OF THE OTHER SUBCLASSES, YOUR HONOR, YOU KNOW, THEY'RE PROVIDED IN OUR PAPERS. DO YOU HAVE ANY QUESTIONS ABOUT ANY OTHER PARTICULAR SUBCLASSES THAT I CAN ANSWER, OR I CAN JUST MOVE FORWARD?

THE COURT: NO. GO AHEAD.

MR. LANDSKRONER: OKAY. THANKS.

THE SCOPE OF THE SETTLEMENT INCLUDES BOTH MONETARY RELIEF AND NONMONETARY RELIEF. TO BEGIN WITH, THE DEPARTMENT WILL UNDERTAKE AN AUDIT OF 1.6 MILLION CUSTOMER ACCOUNTS TO ID CLASS MEMBERS AND TO DETERMINE WHO WAS OVERBILLED. THAT WILL BE OVERSEEN BY THE INDEPENDENT MONITOR. THE MONETARY RELIEF INCLUDES 100 PERCENT OF RECOVERY FOR EACH CUSTOMER FOR AMOUNTS THAT THEY WERE OVERBILLED BY D.W.P., THAT WILL RESULT IN $44 MILLION IN REFUNDS AND CREDITS, AS A STARTING POINT.

I THINK THERE WILL BE ADDITIONAL RECOVERY BEYOND THAT BECAUSE THERE'S A CLAIMS PROCESS FOR PEOPLE WHO HAVE TO SUBMIT ADDITIONAL INFORMATION FOR THINGS LIKE NONSUFFICIENT FUND CHARGES THAT THEY HAVE FROM THEIR BANK ACCOUNT IF THERE WAS A WITHDRAWAL ON AN AUTOBILL ACCOUNT AND THEY TOOK MORE MONEY THAN THEY SHOULD HAVE OUT OF THE ACCOUNT. SO THERE WILL BE ADDITIONAL RECOVERY OF A HUNDRED PERCENT ON THOSE CLAIMS AS WELL FOR ALL CUSTOMERS.

FOR MOST CUSTOMERS, CREDITS AND REFUNDS WILL BE AUTOMATICALLY ISSUED WITH NO CLAIM REQUIRED;

HOWEVER, WHERE THERE IS ADDITIONAL INFORMATION REQUIRED, SUCH AS THE NONSUFFICIENT FUND CHARGE SUBCLASS, THEY WILL BE ASKED TO SUBMIT ADDITIONAL INFORMATION AND A CLAIM FORM. THOSE SUBCLASSES ARE THE PREMISE CONDITION ESTIMATED BILL SUBCLASS, AUTOBILL PAYMENT, OVERDRAFT SUBCLASS, SOLAR CUSTOMERS, AND SELF-IDENTIFIED OMNIBUS CLAIMS.

IN ADDITION, THE NONMONETARY RELIEF WILL INCLUDE CERTAIN REMEDIAL AND CORRECTIVE MEASURES, SPECIFICALLY THE ADOPTION OF CERTAIN BILLING SYSTEM METRICS, THE CREATION OF D.W.P. TEAMS TO ADDRESS UNIQUE OR COMPLEX BILLING ISSUES, THE CREATION OF TECHNOLOGY IMPLEMENTATION, PROJECT MANAGEMENT OFFICE, AUDITS OF THE BILLING SYSTEM TO CONFIRM ACCURACY, THE ADOPTION OF GOVERNMENT'S CHANGES TO L.A.D.W.P. RULES GOVERNING WATER AND ELECTRIC SERVICE BILLING TO PROTECT CUSTOMERS FROM EXCESSIVE BACK BILLING BECAUSE OF BILLING ERRORS, AND INCLUDE THE APPOINTMENT OF THIS INDEPENDENT BILLING SYSTEM MONITORING EXPERT TO OVERSEE THE SETTLEMENT PROCESS. HE'LL LOOK AT THE IDENTIFICATION OF CLASS MEMBERS, THE ACCURACY OF CREDITS AND REFUNDS, AND ASSURE THE PROGRESSION TOWARDS MEETING THESE BILLING METRICS THAT ARE PUT IN PLACE. THIS EXPERT WILL REPORT TO THE COURT.

I'D LIKE TO GIVE THE COURT SOME BACKGROUND. THIS EXPERT, PAUL BENDER CONSULTING, IS PROBABLY THE FOREMOST EXPERT IN THE COUNTRY ON THE C.C. AND B. BILLING SYSTEM. MR. BENDER WAS HIRED AS THE ARCHITECT

OF THE TURNAROUND PROJECT IN CLEVELAND WHEN THEIR SYSTEM FAILED AND, AS A RESULT OF HIS EFFORTS, HE WAS ABLE TO IDENTIFY THE DEFECTS AND FIX THEM. HE STAYED ON WITH CLEVELAND FOR A PERIOD OF TIME AND HAS NOW MOVED ON, AND HAS AGREED TO SERVE IN THIS CAPACITY AS THE MONITOR IN THIS CASE.

THE REMEDIAL MEASURES ARE ESTIMATED -- THAT ARE GOING TO BE PUT IN PLACE ARE ESTIMATED TO COME AT A COST OF APPROXIMATELY $20 MILLION, WHICH WILL ADD SUBSTANTIAL VALUE TO THE SETTLEMENT LONG TERM FOR CLASS MEMBERS.

AT THIS STAGE, THE COURT HAS TO ASSESS THE FAIRNESS, REASONABLENESS, AND ADEQUACY OF THE SETTLEMENT. THE PRESUMPTIVE FAIRNESS OF THE SETTLEMENT EXISTS WHEN THE SETTLEMENT IS REACHED THROUGH ARM'S LENGTH BARGAINING, INVESTIGATION AND DISCOVERY ARE SUFFICIENT TO ALLOW COUNSEL AND THE COURT TO ACT INTELLIGENTLY, AND COUNSEL IS EXPERIENCED IN SIMILAR LITIGATION.

THIS SETTLEMENT WAS UNQUESTIONABLY REACHED THROUGH ARM'S LENGTH NEGOTIATION. WHILE INITIALLY WE ATTEMPTED TO MAKE HEADWAY INDEPENDENTLY, THAT FAILED AND WE WERE CALLED TO REQUIRE THE ASSISTANCE OF A MEDIATOR TO BRING THE PARTIES TOGETHER.

JUDGE TEVRIZIAN HAS PROVIDED HIS DECLARATION DESCRIBING THE NATURE OF THESE NEGOTIATIONS THAT THEY WERE CONTENTIOUS AND PROTRACTED. THE FACT THAT A MEDIATION WAS OVERSEEN BY JUDGE TEVRIZIAN AS A

NEUTRAL THIRD PARTY IS PROOF OF NONCOLLUSION AND THE NATURE OF THE FAIR NEGOTIATIONS THAT WERE UNDERTAKEN.

MOREOVER, THERE'S NO QUESTION THAT THE CLASS MEMBERS' INTEREST WAS NOT COMPROMISED IN THIS SITUATION, BECAUSE PLAINTIFFS WERE ABLE TO OBTAIN NOT ONLY 100 PERCENT RECOVERY FOR ALL CUSTOMERS THAT WERE OVERBILLED, BUT THESE REMEDIATION PROCEDURES THAT WILL HELP TO ASSURE THAT CUSTOMERS WILL BE PROTECTED IN THE FUTURE FROM BILLING ERRORS BY THE DEPARTMENT.

NEXT QUESTION: IS INFORMATION AVAILABLE SUCH THAT THE COURT AND COUNSEL CAN MAKE AN INTELLIGENT DECISION ABOUT WHETHER THIS IS A FAIR AND REASONABLE SETTLEMENT?

PLAINTIFF ENGAGED IN SUFFICIENT PRETRIAL INVESTIGATION TO DISCOVER THE STRENGTHS AND WEAKNESSES OF THE CASE AND THE PROPRIETY OF THE SETTLEMENT. AS NOTED IN OUR PAPERS AND AS DISCUSSED, THERE WAS A SIGNIFICANT AND LONG-TERM INVESTIGATION THAT WAS UNDERTAKEN INTO NOT ONLY THE LOS ANGELES DEPARTMENT BILLING ISSUES, BUT ALSO CLEVELAND, WHICH REALLY LAID THE FOUNDATION FOR US TO UNDERSTAND WHAT THESE DEFECTS WERE AND HOW THEY WOULD -- HOW THEY AFFECTED THE CUSTOMER BASE, AND HOW THEY COULD BE FIXED SO THAT WE COULD SOLVE THIS PROBLEM MOVING FORWARD AND NOT JUST GET PEOPLE THEIR MONEY BACK BUT MAKE SURE THE SYSTEM WAS CORRECTED AND SO THAT THIS DOESN'T BECOME A LONG-TERM PROBLEM.

OBVIOUSLY, THE D.W.P. IS SOMEWHAT NOTORIOUS

HERE IN LOS ANGELES, AND NOBODY WANTS THIS SETTLEMENT TO BE SUCCESSFUL MORE THAN THEY DO, BECAUSE THEY KNOW THEY HAVE TO REPAIR THE REPUTATION. THAT'S WHY WE WORKED SO HARD TO PUT THESE REMEDIATION PROCEDURES IN PLACE AND TO BRING IN THE TOP EXPERTS THAT CAN HELP CREATE TRANSPARENCY AND ASSURE THAT THE DEPARTMENT MEETS THEIR OBLIGATIONS UNDER THE SETTLEMENT.

THE INVESTIGATION THAT WE UNDERTOOK WAS CRITICAL TO UNDERSTANDING THE WIDESPREAD NATURE OF THE DEFECTS AFFECTING CUSTOMERS, AND IT ALLOWED US TO CREATE THE FRAMEWORK FOR THE SETTLEMENT AND HAVE INFORMED DISCUSSIONS ABOUT HOW WE COULD GET THIS CASE RESOLVED.

IN ADDITION, OUR INVESTIGATION OF ALL -- SPEAKING WITH CUSTOMERS, CONFIDENTIAL WITNESSES, RETAINING CONSULTING, NONTESTIFYING EXPERTS, THAT ALL GAVE US THE ABILITY TO WORK CLOSELY WITH THE DEPARTMENT'S STAFF TO BE ABLE TO COME TO AN AGREEMENT ON THE APPROPRIATE REMEDY AND TO BE -- AND TO UNDERSTAND WHAT THE CONSEQUENCES WOULD BE FROM THE REMEDIATION, AS WELL AS GETTING CUSTOMERS ALL THEIR MONEY BACK AND HOW WE NEEDED TO GO ABOUT DOING THAT.

CLASS COUNSEL CONTINUED THE INVESTIGATION AFTER FILING THE CASE, TALKING TO -- AGAIN, CONTINUING TO TALK TO INSIDER WITNESSES, CONFIDENTIAL WITNESSES AND CUSTOMERS AND OUR EXPERTS, AND OUR TEAM REVIEWED DATA AND DOCUMENTS DURING THE COURSE OF MEDIATION THAT WERE PROVIDED BY THE DEPARTMENT, AS DID OUR CONSULTING, NONTESTIFYING EXPERTS, TO GIVE US INSIGHT AND

UNDERSTANDING AS TO THE SIGNIFICANCE OF THOSE DOCUMENTS. IT WAS THROUGH THESE EFFORTS THAT WE WERE ABLE TO HAVE THESE INFORMED DISCUSSIONS WITH DEFENDANTS TO IDENTIFY THE SUBCLASSES AND TO ENTER INTO THE SETTLEMENT AGREEMENT THAT WE PRESENT TO YOU TODAY.

IT WAS -- AS NOTED BY JUDGE TEVRIZIAN, IT WAS THESE EFFORTS OF COUNSEL TAKEN AT ADVANCE MEDIATION, TO INCLUDE OUR INVESTIGATION AND OUR EXPERIENCE WITH THESE BILLING ISSUES, THAT SERVED AS AN INTEGRAL ROLE IN ADVANCING THE SETTLEMENT DISCUSSIONS.

MOREOVER, IN AN ABUNDANCE OF CAUTION, COUNSEL HAS NEGOTIATED FOR THE ABILITY TO UNDERTAKE CONFIRMATORY DISCOVERY FROM THE DEFENDANTS ON THE CRITICAL ISSUES TO ASSURE THAT CUSTOMERS ARE MADE WHOLE AND TO ASSURE THAT WE HAVE NOT LEFT ANYBODY OUT.

IT'S OUR RECOMMENDATION THAT THIS IS A GOOD SETTLEMENT, IF NOT A GREAT SETTLEMENT, FOR CUSTOMERS, AND THAT OUR EXPERIENCE LEADS US TO BELIEVE THAT HAD WE LITIGATED THIS CASE FOR YEARS, WE COULD NOT HAVE OBTAINED A BETTER RESULT. WE PRESENT THIS SETTLEMENT BECAUSE WE BELIEVE IT TO BE FAIR, REASONABLE, AND ADEQUATE, AND A SUBSTANTIAL WIN FOR D.W.P. CUSTOMERS.

I WOULD POINT OUT IN TERMS OF MY EXPERIENCE, I HAD THE OPPORTUNITY TO WORK ON A CASE THAT WAS A CONSUMER CLASS CASE RELATED TO BILLING FRAUD SOME YEARS AGO. IT HAD A CASE FILED IN -- RELATED CASE FILED IN OHIO AND CALIFORNIA AND STATE COURT IN SAN DIEGO. WE LITIGATED THAT CASE FOR EIGHT YEARS. WE HAD THREE

APPEALS. WE SPENT CLOSE TO A MILLION DOLLARS BEFORE OBTAINING FULL RECOVERY FOR OUR CLIENTS IN RELATED LITIGATION EXPENSES.

IN THIS INSTANCE, WE HAVE OBTAINED A FULL RECOVERY FOR THE CLASS BY WAY OF A SETTLEMENT, IN A FRACTION OF THE TIME AND AT A FRACTION OF THE LITIGATION COST, AND THAT MEANS THE CUSTOMERS WILL GET THEIR MONEY BACK SOONER, AND THAT MEANS THESE REFORMS WILL GET INTO PLACE QUICKER, AND THAT MEANS HOPEFULLY THE PROBLEMS WITH D.W.P. WILL BE SOLVED AND WE CAN MOVE FORWARD.

IN THIS INSTANCE, WE BELIEVE THE SETTLEMENT IS IN THE BEST INTEREST OF THE CLASS, AND I WOULD ADD THAT SO DOES JUDGE TEVRIZIAN, WHO NOTED THAT, IN HIS OPINION, THIS WAS A VERY FAVORABLE RESULT WHICH HAD BEEN OBTAINED FOR THE SETTLEMENT CLASS; THAT THE SETTLEMENT WAS FAIR AND REASONABLE AND ADEQUATE; AND THAT COUNSELS' IN-DEPTH INVESTIGATION PLAYED A CRITICAL ROLE IN ADVANCING SETTLEMENT DISCUSSIONS.

NEXT, WE WOULD MOVE TO THE REQUEST TO CONDITIONALLY CERTIFY THIS CLASS FOR THE PURPOSES OF SETTLEMENT. THE COURT WILL LOOK TO THE FACTORS, VERACITY, ASCERTAINABILITY, COMMUNITY OF INTEREST, SUPERIORITY, IN MAKING THAT DETERMINATION.

CLEARLY, THIS IS A CASE THAT SATISFIES THE NUMEROSITY REQUIREMENT. THERE ARE $1.6 MILLION CUSTOMERS AT L.A.D.W.P. WHO HAVE BEEN AFFECTED. JOINDER OF THOSE PARTICIPANTS OR THOSE CLASS MEMBERS WOULD BE IMPRACTICAL.

IMPLICIT IN THE NUMEROSITY IS THE ASCERTAINABILITY OF CLASS MEMBERS. IN THIS INSTANCE, THE OFFICIAL RECORDS OF D.W.P. ALLOW US TO IDENTIFY EACH OF THE CLASS MEMBERS, AND WE CAN ALSO IDENTIFY HOW THEY'VE BEEN HARMED. WE USE THE INDEPENDENT OVERSIGHT OF BENDER CONSULTING AS A MEANS AND METHOD OF DETERMINING CLASS MEMBERS AND VERIFYING THEM AND THEIR LOSSES.

COMMONALITY. THERE'S CERTAINLY A COMMON INTEREST AMONGST CLASS MEMBERS. THESE QUESTIONS OF LAW, IN FACT, PREDOMINATE OVER INDIVIDUALIZED QUESTIONS. WHETHER L.A.D.W.P. BILLING PRACTICES CONSTITUTE FRAUD OR VIOLATION OF PROTECTION STATUTES IS CERTAINLY COMMON, AS IS THE QUESTION OF WHETHER D.W.P. BREACHED CONTRACTS WITH CUSTOMERS BY OVERBILLING THEM, WHETHER THE C.C. AND B. SYSTEM WAS DEFECTIVE, WHETHER THE C.C. AND B. CUSTOMERS INCURRED DAMAGES, WHETHER SOLAR CUSTOMERS WERE DELAYED IN THEIR ENTRY IN THE SYSTEM, AND WHETHER THEY WERE BILLED AT PROPER RATES. THESE QUESTIONS SATISFY THE COMMUNITY OF INTEREST PRONG.

TYPICALITY ONLY REQUIRES THAT THE PROPOSED CLASS REPRESENTATIVE BE SIGNIFICANTLY SIMILAR AND THEIR INTEREST BE SIGNIFICANTLY SIMILAR TO THE OTHER MEMBERS OF THE PROPOSED CLASS; FURTHER, THAT THE CLASS REPRESENTATIVE IS SIMILARLY SITUATED AND HAS MOTIVE TO LITIGATE ON BEHALF OF ALL CLASS MEMBERS.

AS ADDRESSED IN THE PLEADINGS, PLAINTIFF'S INJURIES ARISE OUT OF DEFENDANT'S WRONGFUL BILLING

PRACTICES. IN THIS INSTANCE, HE'S PURSUED CLAIMS RECOVERING 100 PERCENT OF DAMAGES FOR ALL CUSTOMERS WHO WERE IMPROPERLY BILLED AS A RESULT OF THE DEFECTIVE C.C. AND B. SYSTEM AND THOSE DELAYED IN GETTING INTO THE SOLAR SYSTEM OR BILLED AT IMPROPER RATES. AND IN ADDITION, HE'S OBTAINED REMEDIAL REFORMS THAT WILL SERVE TO BENEFIT ALL D.W.P. CUSTOMERS.

IN TERMS OF ADEQUACY, IN ORDER TO FAIRLY AND ADEQUATELY PROTECT THE CLASS, PLAINTIFF MUST BE REPRESENTED BY COUNSEL WHO IS QUALIFIED TO LITIGATE THE CASE AND MUST NOT HAVE AN INTEREST THAT IS ANTAGONISTIC TO ANY OTHER MEMBERS OF THE CLASS.

IN THIS INSTANCE, THE RESULT SPEAKS FOR ITSELF, YOUR HONOR, AND NOT ONLY IN TERMS OF THE COMMON INTEREST OF THE CLASS REPRESENTATIVE, MR. JONES, BUT ALSO AS TO THE ADEQUACY OF COUNSEL IN RECOVERING 100 PERCENT FOR ALL CLASS MEMBERS. THERE JUST SIMPLY CAN'T BE A CONFLICT.

REMEDIATION AND INSTITUTIONAL CHANGES THAT HELP SOLVE BILLING PROBLEMS ALSO BENEFIT ALL CLASS MEMBERS AND CUSTOMERS OF D.W.P. AND, MOREOVER, COUNSEL HAS ASSURED, BY NEGOTIATING FOR CONFIRMATORY DISCOVERY, THAT THEY WILL STAY WITH THE CASE AND MAKE SURE THAT CUSTOMERS GET WHAT THEY ARE ENTITLED TO AND THAT THE SETTLEMENT TERMS ARE HONORED.

SUPERIORITY. WHETHER THE CLASS RESOLUTION IS A SUPERIOR METHOD TO ADJUDICATE THESE CLAIMS I THINK IS SATISFIED HERE. IT IS WITHOUT QUESTION THE MOST

EFFECTIVE, EFFICIENT, AND FAIR WAY TO ADJUDICATE A CONTROVERSY OF 1.6 MILLION CUSTOMERS.

IN THIS INSTANCE, WITH THAT MANY CUSTOMERS, THE AMOUNT OF OVERBILLING FOR EACH INDIVIDUAL CUSTOMER MIGHT NOT -- LIKELY NOT BE ECONOMICALLY FEASIBLE TO PURSUE IN INDIVIDUAL LITIGATION. ACCORDINGLY, WE THINK THAT THIS IS THE BEST WAY AND THE MOST EFFICIENT, SUPERIOR WAY TO RESOLVE THIS CASE.

BASED ON THIS ANALYSIS, WE BELIEVE WE HAVE MET THE CRITERIA FOR CERTIFICATION UNDER 382 OF CALIFORNIA -- SECTION 382 OF CALIFORNIA CIVIL PROCEDURE CODE. WE RESPECTFULLY REQUEST THE COURT CERTIFY THE CLASS AS WE PRESENTED IT AND APPOINT ANTWON JONES AS CLASS REPRESENTATIVE, AND MY OFFICE, LANDSKRONER, GRIECO, MERRIMAN, AND MYSELF AS LEAD CLASS COUNSEL, WITH ATTORNEY MICHAEL LIBMAN AS ASSOCIATE, LIAISON COUNSEL.

FINALLY, YOUR HONOR, WE WOULD ASK THE COURT APPROVE THE PLAINTIFFS' NOTICE PLAN. STANDARDS IN CALIFORNIA COURTS FOR CLASS NOTICE IS WHETHER THE NOTICE HAS A REASONABLE CHANCE OF REACHING SUBSTANTIAL PERCENTAGE OF THE CLASS MEMBERS.

THIS CLASS WILL BE NOTIFIED, AND THE NOTICE WILL GO OUT AND BE ACCOMPLISHED BY DIRECT NOTICE, DIRECT MAIL, E-MAIL, PUBLICATION IN THE L.A. TIMES, THE L.A. OPINION, AND WILL BE ONLINE THROUGH A DEDICATED WEBSITE ESTABLISHED BY THE CLAIMS ADMINISTRATOR, AND ALSO ONLINE AT THE L.A.D.W.P. WEBSITE. THE NOTICE PROGRAM WILL PROVIDE DIRECT NOTICE TO D.W.P. CUSTOMERS,

SATISFIES CALIFORNIA RULES, AND MEETS DUE PROCESS REQUIREMENTS, AND IS THE BEST NOTICE PRACTICAL.

THE NOTICE COMPLAINT CONTAINS A SHORT, PLAIN STATEMENT OF THE BACKGROUND OF THE ACTION AND THE SETTLEMENT. IT DESCRIBES THE RELIEF OUTLINE, IT DESCRIBES THE RIGHT TO OPT OUT OR OBJECT, AND IT INFORMS OF THE BINDING NATURE OF THE SETTLEMENT UPON THE CLASS MEMBERS. THUS WE REQUEST THE COURT APPROVE NOTICE.

SO IN CONCLUSION, YOUR HONOR, WE WOULD REQUEST CONSOLIDATION OF THE BRANSFORD, FONTAINE, AND KIMHI ACTIONS WITH THE JONES ACTION. WE REQUEST PRELIMINARY APPROVAL OF THE PROPOSED SETTLEMENT AND CERTIFICATION OF THE SETTLEMENT CLASS. WE REQUEST THE COURT APPOINT ANTWON JONES AS CLASS REPRESENTATIVE; JACK LANDSKRONER, LANDSKRONER, GRIECO, MERRIMAN, AS CLASS COUNSEL; MICHAEL LIBMAN, LAW OFFICES OF MICHAEL LIBMAN, AS LIAISON COUNSEL; APPROVE THE FORM OF NOTICE AND THE PLAN OF NOTICE TO THE SETTLEMENT CLASS, AND SET A SCHEDULE FOR BRIEFING AND HEARING ON FINAL APPROVAL OF THE SETTLEMENT. THANK YOU, SIR.

THE COURT: LET ME ASK YOU THIS: WHAT'S YOUR RESPONSE TO THE ARGUMENT THAT THE PLAINTIFF IN THE KIMHI ACTION DOES NOT HAVE STANDING WITH REGARD TO THE SOLAR PANELS?

MR. LANDSKRONER: WELL, I THINK FIRST OF ALL, YOUR HONOR --

THE COURT: AND NOT A PROPER REPRESENTATIVE BECAUSE THAT PLAINTIFF DID NOT GET INVOLVED IN THE

INSTALLATION OF SOLAR PANELS.

MR. LANDSKRONER: FIRST, YOUR HONOR, I THINK THAT THERE IS A COMMUNITY OF INTEREST OF ALL CUSTOMERS OF D.W.P. WHO WERE AFFECTED BY THE BILLING ISSUES ALLEGED IN THE OPERATIVE COMPLAINT, AND CERTAINLY ANTWON JONES SATISFIES THAT. MOREOVER, HE HAS NO ANTAGONISTIC POSITION TO THOSE SOLAR CUSTOMERS. IN FACT, HE'S NEGOTIATED ON THEIR BEHALF VERY EFFECTIVELY, GETTING THEM 100 PERCENT RECOVERY ON THEIR LOSSES.

FINALLY, TO THE EXTENT THAT THE COURT HAS ANY CONCERN ABOUT THAT, THE KIMHI PLAINTIFFS JOIN IN SUPPORT OF THIS MOTION FOR PRELIMINARY APPROVAL. TO THE EXTENT THAT THE COURT WOULD BE MORE COMFORTABLE WITH A REPRESENTATIVE OF THE SOLAR CLASS AND DEEMS THAT MR. JONES IS NOT CAPABLE OF REPRESENTING THAT INTEREST DESPITE THE OUTCOME, THAT WE BELIEVE THE KIMHI PLAINTIFF COULD SERVE IN THAT CAPACITY IF THE COURT WOULD PREFER.

THE COURT: I SAW IN THE PAPERS SUGGESTING THAT THE KIMHI PLAINTIFFS WERE GOING TO SUBMIT A STIPULATION FOR THE TRANSFER OF THE CASE TO THIS DEPARTMENT. HAS THAT BEEN ACCOMPLISHED?

MR. JARDINI: MAY I ADDRESS THAT, YOUR HONOR? ANDRE JARDINI. WE'VE PROPOSED A STIPULATION TO COUNSEL FOR THE CITY. IT HASN'T BEEN SIGNED YET. IT'S MY HOPE THAT IT WILL BE SIGNED AND THAT IT WILL BE APPROVED BY JUDGE JOHNSON, BUT IT HAS NOT HAPPENED YET.

THE COURT: I DON'T THINK THERE'S PROBLEM WITH IT, BUT I DO THINK, MATTER OF COURTESY AND COMPETENCY, AT

THE MINIMUM, THAT YOU SHOULD SUBMIT A STIPULATION FOR JUDGE JOHNSON'S SIGNATURE.

MR. JARDINI: WE INTEND TO DO THAT, YOUR HONOR.

THE COURT: THANK YOU.

MR. JARDINI: IN FACT, WE ALREADY HAVE SUBMITTED IT TO COUNSEL.

THE COURT: THANK YOU.

MR. LANDSKRONER: ANYTHING FURTHER, YOUR HONOR?

THE COURT: ANYONE ELSE WISH TO ADDRESS ANY ISSUES?

MR. KIESEL: ONE QUESTION, YOUR HONOR. AS FAR AS THE STIPULATION IS CONCERNED, IS IT POSSIBLE TO SIMPLY PUT ON THE RECORD THAT IT WILL BE MOVED TO THIS DEPARTMENT AND ADVISE JUDGE JOHNSON THAT, BY STIPULATION OF COUNSEL, IT'S BEEN MOVED?

THE COURT: I THINK IT WOULD BE MORE APPROPRIATE TO PRESENT IT TO JUDGE JOHNSON FOR HER SIGNATURE.

MR. KIESEL: BE DONE.

THE COURT: ALL RIGHT. THANK YOU.

COUNSEL WANT TO ADDRESS ANY ISSUES?

MS. AGRUSA: BRIEFLY, YOUR HONOR. I'D LIKE TO -- MR. LANDSKRONER DID A THOROUGH JOB OF PRESENTING TO THE COURT THE SETTLEMENT THAT IS BEFORE IT. I WOULD LIKE TO SIMPLY STATE THAT THE CITY IS VERY PROUD OF ITS ACCOMPLISHMENT TODAY. IT BELIEVES THAT IT HAS REACHED A HISTORIC SETTLEMENT AND ONE THAT HAS SIGNIFICANT IMPACT.

SINCE THE DEFICIENCIES IN THE IMPLEMENTATION OF THE BILLING SYSTEM WERE REVEALED, IT

HAS UNDERTAKEN A VERY COMPREHENSIVE EFFORT TO REMEDIATE PROBLEMS AND TO BRING ABOUT TRUST TO THE CUSTOMERS OF THE D.W.P.

BUT MORE SIGNIFICANTLY, THIS SETTLEMENT, THE 47-PAGE SETTLEMENT, THE HUNDREDS OF HOURS THAT HAVE BEEN SPENT BY EMPLOYEES OF THE CITY IN HELPING REACH THE SETTLEMENT, IS THE CULMINATION OF THE EFFORTS BY THE CITY TO RESTORE THE CONFIDENCE AND THE TRUST FROM ITS CUSTOMERS, AND IT DOES SO IN THREE VERY SIGNIFICANT WAYS.

FIRST, IT HAS AGREED TO UNDERTAKE A REVIEW OF ALL 1.6 MILLION ACCOUNTS FOR A PERIOD OF ALMOST TWO YEARS. IT IS PROVIDING 100 PERCENT RECOVERY OF ANY AMOUNTS OVERCHARGED.

BUT IMPORTANTLY, AND AN ISSUE THAT CANNOT BE OVERLOOKED HERE TODAY, IS THAT TO ASSURE ACCOUNTABILITY AND TRANSPARENCY, IT HAS AGREED TO A COMPREHENSIVE AND ROBUST CHECKS AND BALANCES PROCESS AS PART OF THE SETTLEMENT, WHICH INCLUDES NOT ONLY THE ABILITY FOR COUNSEL TO CONTINUE TO REVIEW THOUSANDS OF PAGES OF CONFIRMATORY INFORMATION, BUT ALSO TO BRING IN A CONSULTANT, AN EXPERT WITH SPECIALIZATION IN THIS SYSTEM, WHO WILL HAVE OVERSIGHT AND REPORTING OBLIGATIONS FOR THE IMPLEMENTATION OF THIS VERY COMPREHENSIVE AND COMPLEX SETTLEMENT.

IN ADDITION TO THAT, TWO INDEPENDENT AUDITS WILL TAKE PLACE, FIRST, 18 MONTHS AFTER THE IMPLEMENTATION HAS -- WELL, 18 MONTHS ONCE THE

IMPLEMENTATION HAS COMPLETED AND AN ADDITIONAL 18 MONTHS LATER. THEN, OF COURSE, THE COURT WILL RETAIN JURISDICTION UP TO FINAL APPROVAL.

EACH OF THESE STEPS ARE SIGNIFICANT AND IMPORTANT TO ASSURE THAT THE CUSTOMERS OF THE DEPARTMENT'S INTERESTS HAVE BEEN PROTECTED AND THAT THE RECOVERY HAS BEEN MADE. AND FOR THAT REASON, AMONG MANY OTHERS, WE REITERATE MR. LANDSKRONER'S COMMENTS AND ASK THAT THE COURT PRELIMINARILY APPROVE THE SETTLEMENT.

THE COURT: THANK YOU. ANYONE ELSE WISH TO SPEAK?

MR. BLOOD: YES, YOUR HONOR. TIMOTHY BLOOD ON BEHALF OF THE BRANSFORD PLAINTIFFS. WE FILED AN OPPOSITION ON BEHALF -- THREE OUT OF THE FOUR RELATED CASES ARE OPPOSED TO THE SETTLEMENT, AS THE COURT IS AWARE. WE FILED AN OPPOSITION ON BEHALF OF TWO OF THOSE PLAINTIFFS.

THE COURT -- THIS SETTLEMENT IS SO DEEPLY FLAWED IT'S ALMOST HARD WHERE TO BEGIN, BUT I THINK THE BEST PLACE TO BEGIN IS WITH THE COURT'S QUESTION ABOUT WHETHER THERE'S ANY WIGGLE ROOM IN THE CALCULATION OF RELIEF. AND THAT'S AN IMPORTANT QUESTION. IT'S REALLY THE BIG QUESTION, BECAUSE UNDER THIS SETTLEMENT, MR. LANDSKRONER DOESN'T KNOW WHAT THE SECRET FORMULA IS ON HOW CLASS MEMBERS WILL BE PAID. THE COURT DOESN'T KNOW, BECAUSE IT'S NOT --

THE COURT: WELL, I HAVE HEARD FROM COUNSEL IT'S GOING TO BE 100 PERCENT, 100 PERCENT REIMBURSEMENT OF ANY OVERCHARGES.

MR. BLOOD: THAT'S RIGHT. AND THE QUESTION IS --

THE COURT: IS THERE A PROBLEM WITH THAT?

MR. BLOOD: ABSOLUTELY.

THE COURT: WHAT'S THE PROBLEM?

MR. BLOOD: AND MR. LANDSKRONER'S RESPONSE WAS THERE'S NO WIGGLE ROOM BECAUSE THE RATES WILL BE VERIFIED. BUT IT'S IMPORTANT TO UNDERSTAND THAT A CUSTOMER'S BILL IS THE RESULT OF THE APPLICATION OF A RATE, WHICH NOBODY DISPUTES HAS BEEN CORRECT, TO THE USAGE, TO THE CUSTOMER'S USAGE.

THE PROBLEM WITH THE BILLING SYSTEM HAS NOTHING TO DO WITH THE RATE. IT HAS EVERYTHING TO DO WITH THE USAGE. AND IT'S UNDISPUTED THAT FOR MANY, MANY PEOPLE WHO HAVE BEEN OVERCHARGED, NOBODY KNOWS WHAT THE CORRECT USAGE NUMBER IS; THEREFORE, ASSUMPTIONS HAVE TO BE MADE ABOUT WHAT THE AMOUNT OF USE IS FOR EITHER ELECTRICITY OR WATER.

LET ME GIVE YOU AN EXAMPLE. FOR MANY, MANY, MANY OF THESE CLASS MEMBERS THE PROBLEM WAS THAT THE BILLING SYSTEM FROZE AND THEY DID NOT RECEIVE BILLS FOR A VERY LONG PERIOD OF TIME. THEY CONTINUED TO USE POWER. THEY CONTINUED TO USE WATER. THEN WHEN THEY WENT BACK TO BILL THEM, THEY BILLED THEM AT THE WRONG AMOUNTS, EITHER TIERING OR OTHER SCREW-UPS IN THE SOFTWARE THAT ARE ALL SORT OF REFLECTED IN THE VARIOUS SUBCLASSES.

BUT IN ORDER TO GO BACK AND DETERMINE WHAT THE ACTUAL USAGE WAS FOR A GIVEN TIME PERIOD THAT THE

RATE WOULD BE APPLIED TO, NOBODY HAS THAT DATA BECAUSE IT WAS -- BECAUSE THE USAGE RATES WERE NEVER CAPTURED AT THE APPROPRIATE PERIODS OF TIME; SO YOU HAVE TO GO BACK IN AND ESTIMATE WHAT THE USAGE ACTUALLY WAS.

SO, FOR EXAMPLE, WITH TIERED WATER, OKAY -- THAT'S JUST ONE OF MANY EXAMPLES. WITH TIERED WATER, YOU HAVE A SITUATION WHERE THE D.W.P., WHEN THEY BILLED EVERYBODY AFTER THE EXTENDED PERIOD OF NOT BILLING, THEY BILLED PEOPLE AS IF THEY USED TIER ONE, THE LOW RATE, DURING THE FIRST NUMBER OF MONTHS, AND THEN USED ALL THE ADDITIONAL WATER AT THE VERY -- IN THE VERY LAST MONTH. SO THE RATES --

THE COURT: AS I UNDERSTAND IT, THE CITY HAS AGREED TO -- D.W.P. HAS AGREED TO CORRECT ALL THOSE BILLINGS --

MR. BLOOD: AND THE QUESTION IS --

THE COURT: -- SO THE BILLINGS ARE NOT ON A CUMULATIVE BASIS, BUT THAT THE BILLINGS WOULD REFLECT A USAGE ON THE MONTHLY CHARGES RATHER THAN BUNCH THE USAGE UP IN ONE PARTICULAR MONTH.

MR. BLOOD: THAT'S RIGHT; SO IT'S GOING TO BE SPREAD OUT OVER THE PERIOD OF TIME. BUT HOW DOES ONE KNOW -- HOW DOES THE D.W.P. KNOW HOW MUCH WAS USED DURING ONE BILLING PERIOD VERSUS ANOTHER BILLING PERIOD VERSUS ANOTHER BILLING PERIOD? THEY DON'T KNOW; SO THAT HAS TO BE ESTIMATED. IT HAS TO BE -- ASSUMPTIONS HAVE TO BE MADE.

AND NOBODY -- PERHAPS D.W.P., BUT CERTAINLY

NOT PLAINTIFFS' COUNSEL, NOT THE COURT, NOT US, HAS ANY WAY OF KNOWING WHAT THOSE ASSUMPTIONS ARE, HOW THOSE ESTIMATES ARE BEING DONE. AND THAT'S JUST FOR THAT ONE SUBCLASS, AND IT'S REPEATED THROUGH ALL OF THE SUBCLASSES. NOBODY KNOWS.

AND SO THE PROBLEM IS IT'S THE DEFENDANT WHO IS DECIDING WHO'S IN THE CLASS BASED ON WHETHER OR NOT THEY WERE OVERCHARGED, AND THEN HOW MUCH THE DEFENDANT SHOULD BE PAYING BACK TO THE CLASS MEMBER. AND THERE IS NO TRANSPARENCY. NOBODY HAS ANY IDEA HOW THAT'S GOING TO BE DONE.

THEY RELY A LOT ON PAUL BENDER CONSULTING. I DON'T KNOW MR. BENDER. HE MAY BE PERFECTLY FINE, BUT THERE'S ABSOLUTELY NOTHING IN THE RECORD FOR THE COURT TO DETERMINE THAT PAUL BENDER CONSULTING IS ADEQUATE TO DO THIS JOB.

AT ONE POINT, THEY EVEN HAVE PAUL BENDER CONSULTING MAKE THE DETERMINATION ABOUT WHETHER THE RATE CALCULATIONS, THE BILLING CALCULATIONS ARE FAIR AND REASONABLE, WHICH, OF COURSE, IS THE OBLIGATION OF CLASS COUNSEL AND THE COURT. WE DON'T HAVE ANY INFORMATION ABOUT PAUL BENDER.

BUT THEN LET'S LOOK FURTHER AT THE SETTLEMENT LANGUAGE, ABOUT WHAT MR. BENDER IS SUPPOSED TO DO, ASSUMING HE IS THE RIGHT PERSON TO DO IT. AND HE MAY BE. I DON'T KNOW. NOBODY KNOWS. WE DON'T HAVE ANY INFORMATION ON HIM.

THIS IS WHAT, AT PAGE 10 AND 11, MR. BENDER

IS SUPPOSED TO DO: "THE METHODOLOGY USED TO DETERMINE THE AMOUNTS SHALL BE VERIFIED BY THE C.C. AND B. SYSTEM MONITORING EXPERT -- THAT'S MR. BENDER -- AND SUBJECT TO COURT APPROVAL."

WELL, NOW IS THE TIME FOR COURT APPROVAL AND IT'S NOT BEING PRESENTED. AND I'M NOT QUITE SURE WHAT IT MEANS THAT THE METHODOLOGY USED TO DETERMINE THE AMOUNTS WILL BE VERIFIED. VERIFIED FOR WHAT PURPOSE? JUST THAT A METHODOLOGY WAS USED? THAT'S AN AWFULLY LOW BAR, AND IT CERTAINTY DOESN'T MEAN THAT IT IS FAIR OR REASONABLE. AND THERE'S NO WAY FOR CLASS MEMBERS, FOR THIS COURT, FOR ANYBODY ELSE TO DETERMINE WHETHER THE METHODOLOGY ACTUALLY BEING USED IS FAIR AND REASONABLE.

IN ANOTHER SECTION OF THE SETTLEMENT AGREEMENT, AT PAGE 27 -- AND I BELIEVE THESE ARE THE ONLY TWO REFERENCES TO WHAT THE -- MR. BENDER DOES -- SAYS THAT PAUL BENDER CONSULTING WILL, QUOTE, "ESTABLISH THAT THE MECHANISM FOR IDENTIFYING AFFECTED AMOUNTS IS FAIR AND REASONABLE."

"ESTABLISH," WHAT DOES THAT MEAN? IT DOES NOT SAY, AS YOU WOULD THINK IT WOULD SAY -- IT DOES NOT SAY DETERMINE WHETHER OR NOT THE MECHANISM FOR IDENTIFYING AFFECTED ACCOUNTS IS FAIR AND REASONABLE.

IN THE ORDINARY PROCESS, YOU COULD CERTAINLY HAVE AN EXPERT DETERMINE WHETHER OR NOT SOMETHING WAS FAIR AND REASONABLE AND THEN PRESENT TO THE COURT AT PRELIMINARY APPROVAL THE REASONS WHY IT'S FAIR AND REASONABLE.

THE COURT: WELL, THE COURT IS GOING TO RETAIN JURISDICTION TO SUPERVISE THE ENFORCEMENT OF THE SETTLEMENT. IN THIS CASE, THE DEFENDANT HAS AGREED TO FULFILL REIMBURSEMENT, RECOMPENSE OF ANY OVERCHARGES. AND YOU DON'T THINK A MECHANISM WOULD WORK WHERE YOU HAVE AN INDEPENDENT ADMINISTRATOR ADMINISTER THE SETTLEMENT, AND IF ANYONE THINKS THAT THE METHODOLOGY USED OR THE INDIVIDUAL CLAIM IS NOT APPROPRIATELY TREATED, THAT THEY COULD COME INTO COURT?

SOUNDS LIKE WHAT YOU SUGGEST IS THAT WHEN YOU HAVE THOUSANDS AND THOUSANDS OF CLAIMANTS, WE SHOULD START GOING OVER AND FIGURING OUT WHAT EACH CLAIMANT IS DUE, RATHER THAN HAVE AN OVERARCHING SETTLEMENT IN WHICH WE IDENTIFY WHAT THE FLAWS ARE, AND THAT THE CITY AGREES TO COMPENSATE ALL CUSTOMERS FOR OVERCHARGES AND IMPLEMENT A SYSTEM OF CORRECTIONS AND MONITORING FUTURE CONDUCT.

IS THERE SOME PROBLEM IN THAT PROTOCOL?

MR. BLOOD: YES. THAT'S NOT WHAT I'M SAYING, YOUR HONOR. WHAT I'M SAYING IS THAT THE METHODOLOGY USED TO DETERMINE HOW MUCH PEOPLE RECEIVE UNDER THE SETTLEMENT SHOULD NOT BE DETERMINED SOLELY BY THE DEFENDANT, WHO IS PAYING THE MONEY, BUT SHOULD BE KNOWN -- SHOULD BE TRANSPARENT, SHOULD BE KNOWN TO THE PUBLIC, SHOULD BE KNOWN TO THE COURT.

THE COURT COULDN'T POSSIBLY DETERMINE WHETHER THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE WITHOUT KNOWING WHAT THE METHODOLOGY IS AND HAVING SOME

UNDERSTANDING OF WHAT 100 PERCENT MEANS, BECAUSE IT'S NOT -- REASONABLE MINDS COULD DIFFER ON WHAT 100 PERCENT RECOVERY MEANS BECAUSE THESE CALCULATIONS REQUIRE ASSUMPTIONS BE MADE, BECAUSE WE DON'T KNOW THAT -- THERE IS NO HISTORICAL RECORD OF WHAT THE EXACT AMOUNT IS.

THE COURT: WELL, IF YOU'RE NOT SATISFIED WITH THE METHODOLOGY, YOU CAN COME BACK INTO COURT. IS THERE A PROBLEM WITH THAT?

MR. BLOOD: ABSOLUTELY. I MEAN, AFTER FINAL APPROVAL, THERE IS NO COMING BACK INTO COURT.

THE COURT: THERE IS NOT?

MR. BLOOD: THIS IS THE SETTLEMENT THAT -- THIS IS THE SETTLEMENT --

THE COURT: SO YOU'RE SAYING THE COURT DOESN'T HAVE JURISDICTION TO OVERSEE THE IMPLEMENTATION? WE'RE TALKING ABOUT SETTLEMENT WHICH A DEFENDANT HAS AGREED TO PAY 100 PERCENT, AND YOU'RE SAYING THAT THE COURT HAS NO SUPERVISION AS TO WHETHER 100 PERCENT IS TAKING PLACE OR NOT?

MR. BLOOD: BUT NOW IS THE TIME TO DETERMINE WHETHER WHAT THE CITY THINKS IS 100 PERCENT IS WHAT THE COURT AND THE PARTIES AND THE PUBLIC BELIEVE IS A FAIR AND REASONABLE AND ADEQUATE DETERMINATION OF 100 PERCENT.

THERE IS NO 100 PERCENT. THERE'S NO NUMBER THAT SAYS, AH HAH, THIS IS THE AMOUNT THAT THE PERSON LIVING AT THIS ADDRESS GETS BACK. THERE IS A RANGE THAT -- THAT IS DISPUTED.

THE COURT: AND HOW LONG IS THAT GOING TO TAKE TO DETERMINE THAT?

MR. BLOOD: WELL, THE COURT SHOULD DETERMINE -- AS THE COURT SUGGESTS, THAT IT CAN BE DONE THROUGH METHODOLOGIES. THOSE METHODOLOGIES OUGHT TO BE KNOWN.

PRESUMABLY, I WOULD HOPE THAT THE CITY HAS THE METHODOLOGIES THAT ARE USED, THAT TRACK THOSE VARIOUS TIERS, THE VARIOUS SUBCLASSES, AND THAT THAT COULD BE MADE KNOWN TO PEOPLE SO THEY WOULD KNOW WHAT THE METHODOLOGY IS AND WHAT THE CITY BELIEVES IS 100 PERCENT.

BUT WE DON'T KNOW THAT. THAT'S THE PROBLEM WITH THE SETTLEMENT. AND THAT DETERMINES WHO IS IN THE CLASS AND WHO'S NOT IN THE CLASS, AND IT DETERMINES THE AMOUNT OF MONEY EACH PERSON IS GOING TO RECEIVE, AND WE JUST -- WE DON'T KNOW THE ANSWER TO THAT AND THAT'S THE PROBLEM.

AND MR. BENDER'S DUTIES, WHOEVER MR. BENDER IS, ARE AT BEST UNCLEAR. THE SETTLEMENT AGREEMENT DOESN'T ACTUALLY SAY THAT WE'RE GOING TO HAVE AN OUTSIDE, THIRD-PARTY CONSULTANT DETERMINE WHETHER OR NOT THE METHODOLOGY USED IS ACTUALLY FAIR AND REASONABLE AND WHAT THAT MEANS. THAT WOULD BE APPROPRIATE.

AND IT SHOULD BE DONE AND BE PRESENTED AT THIS TIME IN THE PROCEDURE, AT PRELIMINARY APPROVAL. THEN THE COURT CAN DETERMINE WHETHER OR NOT THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE, BUT THAT HAS NOT BEEN DONE AND THAT'S ONE OF THE PROBLEMS.

THAT'S THE PRIMARY PROBLEM WITH THE LARGEST AMOUNT OF RELIEF.

THE COURT: OKAY. ANYTHING ELSE YOU WISH TO ADDRESS?

MR. BLOOD: YES, YOUR HONOR. SO THE OTHER PROBLEM IS WITH THE CLAIMS PROCESS. NOW, FIRST OF ALL, THERE ACTUALLY HAS BEEN ALMOST NO DOCUMENTARY DISCOVERY DONE WHATSOEVER. AS THE COURT MAY RECALL, THE COURT ORDERED THE CITY TO PRODUCE ALL DOCUMENTS TO OTHER PLAINTIFFS' COUNSEL, THE OTHER THREE RELATED CASES.

ALL THE DISCOVERY THAT HAD BEEN -- ALL THE DOCUMENTS THAT HAVE BEEN PROVIDED TO MR. LANDSKRONER, THAT WAS DONE UNTIMELY. WE FINALLY GOT IN TO SEE IT. ALL THAT WAS PRODUCED TO MR. LANDSKRONER, THE ONLY THING WERE SOME DATA RUNS THAT WERE PREPARED FOR LITIGATION, THAT CORRESPOND TO THE SUBCLASSES, NOTHING ELSE. SO MR. BENDER, MR. LANDSKRONER, NOBODY HAS ANY BASIS TO MAKE A DETERMINATION THEMSELVES ABOUT WHETHER OR NOT THE METHODOLOGIES USED WERE FAIR, REASONABLE, AND ADEQUATE.

WITH REGARD TO THE CLAIMS PROCESS -- AND THIS IS CRITICAL TO THE SETTLEMENT. I MEAN, THIS SINKS THE BROAD RELEASE, AND IT'S A VERY BROAD RELEASE. IN AND OF ITSELF, THAT'S ACCEPTABLE.

HERE'S HOW THE CLAIMS PROCESS WORKS, AND WHAT IT ACTUALLY DOES IS SIGNIFICANTLY CUTS OFF THE RIGHTS OF CLASS MEMBERS. SO THE CLAIMS PROCESS -- PEOPLE HAVE 120 DAYS FROM THE DATE NOTICE GOES OUT TO SUBMIT A CLAIM, AND THESE ARE CLAIMS EITHER FOR BILLING

ISSUES THAT ARE NOT -- THAT THE CITY DOESN'T RECOGNIZE OR JUST ANY OTHER ISSUES THAT PEOPLE HAVE.

AND WE'VE SPOKEN TO HUNDREDS OF CLASS MEMBERS, AND THE D.W.P. DOESN'T JUST MESS UP THIS ONE AREA; THEY MESS UP A LOT OF THINGS, AND A LOT OF PEOPLE HAVE CLAIMS. THEY HAVE FOUR MONTHS TO SUBMIT A CLAIM. AFTER THAT TIME PERIOD, THEIR CLAIM IS BARRED. THEY HAVE NO ABILITY TO FILE ANY LAWSUIT, ANYTHING, OKAY?

MEANWHILE, THERE'S A BACKLOG OF WHAT'S CALLED FIELD INVESTIGATIONS, HUGE BACKLOG, WHERE CUSTOMERS CALL UP AND SAY, I HAVE A PROBLEM, I HAVE A BILLING PROBLEM, I DISPUTE MY BILL. AND THE CITY IS TO GO -- IS SUPPOSED TO GO OUT AND LOOK AT THOSE PROBLEMS AND DO AN INVESTIGATION TO DETERMINE WHETHER OR NOT THE CLASS MEMBER'S CORRECT OR NOT.

NOW, THE D.W.P., BECAUSE OF THESE BILLING PROBLEMS, HAS AN ENORMOUS BACKLOG, AND THEY'VE GIVEN THEMSELVES 18 MONTHS, A YEAR AND A HALF FROM THE DATE OF FINAL APPROVAL TO DO THAT INVESTIGATION, TO COMPLETE THOSE INVESTIGATIONS. THOSE INVESTIGATIONS, AND EVERYBODY AGREES ON THIS, ARE GOING TO UNCOVER MANY, MANY, MANY CLAIMS, BOTH C.C. AND B. BILLING CLAIMS THAT ARE THE DIRECT SUBJECT OF THIS LAWSUIT AND A LOT OF OTHER BILLING CLAIMS THAT POP UP. AND YET UNDER THIS SETTLEMENT AGREEMENT, THE CONSUMER'S RIGHT TO SUBMIT CLAIMS IS GONE. IT'S OVER WITH.

AND THERE'S TWO PLACES THAT THE CITY MAKES CLEAR THAT THEY --

THE COURT: WELL, ISN'T THE -- THE DEADLINE WILL TAKE PLACE AFTER THE CONSUMER IS NOTIFIED OF THE RESULT OF THE FIELD INVESTIGATION?

MR. BLOOD: NO. THE SETTLEMENT AGREEMENT SAYS --

THE COURT: SO YOU'RE TELLING ME THAT THE TIME BAR IS GOING TO TAKE PLACE BEFORE THE FIELD INVESTIGATION?

MR. BLOOD: BEFORE THE FIELD INVESTIGATION IS COMPLETE. IT MAY BE DEPENDING ON HOW FAST FINAL APPROVAL TAKES --

THE COURT: AS I READ IT, I THOUGHT THERE WAS A TIME FRAME IN TERMS OF NOTICE TO THE CONSUMER AFTER THE COMPLETION OF THE FIELD INVESTIGATION, AND THE 120 DAYS RUNS FROM THAT NOTICE PERIOD, AFTER COMPLETION OF THE FIELD INVESTIGATION. IF THE FIELD INVESTIGATION DOESN'T TAKE PLACE FOR A WHILE, THEN THE TIME WOULD NOT BE RUNNING.

MR. BLOOD: NO. IT'S 120 DAYS FROM THE NOTICE PERIOD.

THE COURT: THE NOTICE OF WHAT?

MR. BLOOD: THE NOTICE OF THE CLASS ACTION.

THE COURT: NOTICE OF THE FIELD INVESTIGATION REPORT, NOT NOTICE OF THE CLASS ACTION.

MR. BLOOD: I BELIEVE IT'S NOTICE OF CLASS ACTION, YOUR HONOR.

THE COURT: THAT'S NOT HOW I READ IT.

COUNSEL, CAN YOU HELP ON THAT?

MR. LANDSKRONER: YOUR HONOR, YOU READ IT AS WE INTENDED TO WRITE IT. OUR BELIEF IS THAT -- AND IT

WOULD BE -- IT WOULD NOT MAKE SENSE TO HAVE SOMEBODY WHO DID NOT HAVE NOTICE BE --

THE COURT: ALSO, MY UNDERSTANDING IS GOING TO -- IT WOULD NOT SEEM CONCEIVABLE THAT IN -- THE TIME IS GOING TO RUN AND ALL FIELD INVESTIGATION GOING TO TAKE PLACE WITHIN 120 DAYS OF FINAL APPROVAL.

MR. LANDSKRONER: THAT IS -- YOUR HONOR, THE INTENT OF THE PARTIES WAS THAT EVERYBODY WOULD BE MADE 100 PERCENT WHOLE. THAT INCLUDES SOMEONE WHO FINDS OUT AFTER THE FIELD INVESTIGATION, FINDS THE NOTICE THAT THERE WAS A PROBLEM. THEY WILL HAVE 120 DAYS FROM THAT TIME PERIOD TO MAKE THEIR CLAIM.

MR. BLOOD: IT'S JUST NOT WHAT THE SETTLEMENT AGREEMENT SAYS. IT'S WHAT MR. LANDSKRONER WROTE IN HIS PAPERS, THAT'S CORRECT, BUT IT'S NOT --

THE COURT: ALL RIGHT. SHOW ME WHERE THE SETTLEMENT AGREEMENT SAYS SOMETHING CONTRARY.

MR. BLOOD: YES. IT IS -- THE NOTICE PERIOD IS AT PAGE 6, IN THE DEFINITION SECTION. AND THEN THE CLAIM PERIOD IS IN THE DEFINITION SECTION AT PAGE 5.

AND IT READS, "CLAIM PERIOD MEANS THE FOUR-MONTH, 120-DAY PERIOD OF TIME DURING WHICH CLAIM FORMS MAY BE SUBMITTED TO THE CLAIMS ADMINISTRATOR COMMENCING ON THE NOTICE DATE." AND THEN THE NOTICE DATE IS THE DATE THAT CLASS NOTICE IS -- NOTICE TO THE CLASS IS COMPLETED.

THE COURT: ALL RIGHT. WELL, IF THERE'S ANY AMBIGUITY ABOUT THAT, THEN THAT SHOULD BE CORRECTED.

MR. LANDSKRONER: YOUR HONOR, AS I INDICATED, THE INTENT OF THE PARTIES, AND CERTAINLY THE CITY WOULD AGREE, WAS NEGOTIATED SO THAT THE CLAIMANTS WOULD HAVE 120 DAYS FROM THE DATE THEY ARE PUT ON NOTICE OF THE DEFECT. TO THE EXTENT THAT WE NEED TO MAKE THAT CLARIFICATION, I DON'T THINK IT CHANGES ANYTHING IN THE SETTLEMENT, BUT WE CERTAINLY CAN DO THAT IF IT'S UNCLEAR.

THE COURT: YES. I THINK THERE IS TWO NOTICES BEING TALKED ABOUT HERE; SO IN ORDER THAT THERE SHOULD NOT BE ANY AMBIGUITY, MAYBE IT SHOULD BE SPELLED OUT FURTHER. THERE'S NOTICE AS FAR AS NOTICE OF THE CLASS ACTION SETTLEMENT, AND THEN THERE'S NOTICE WITH REGARD TO THE DISSEMINATION OF THE INFORMATION AFTER THE FIELD INVESTIGATION.

(PAUSE IN THE PROCEEDINGS.)

THE COURT: COUNSEL, PLEASE PROCEED.

MR. BLOOD: OKAY. ANOTHER PROBLEM WITH THE CLAIMS SYSTEM -- WELL, ALSO ANOTHER AREA THAT LIMITS THE TIME IN WHICH THE CITY HAS TO PAY OUT ANY MONEY IS IN SECTION 3(A), AT PAGE 9, WHERE ALL MONEY TO BE PAID OUT IS TO BE PAID OUT BY JUNE 30TH, 2016. THAT MAY BE ABOUT A THIRD OF THE WAY THROUGH THE FIELD INVESTIGATION PERIOD; SO EVEN IF THEY WERE ALLOWED TO SUBMIT CLAIMS, IT WOULD BE FOR NAUGHT BECAUSE THE CITY WOULD BE DONE PAYING MONEY BY THAT DATE.

ANOTHER PROBLEM WITH THE CLAIM SYSTEM IS THAT FOR THE OMNIBUS CATEGORY -- AND WE BELIEVE, BASED ON THE HUNDREDS OF PEOPLE WE'VE SPOKEN TO, THERE ARE GOING TO BE -- THE HUNDREDS OF PEOPLE WE'VE SPOKEN TO, PEOPLE'S STRONG DISLIKE OF THE D.W.P., AND THE FACT THAT THIS IS ALL WITHIN A GEOGRAPHICALLY CONCENTRATED AREA, THAT TENDS TO GENERATE A LOT OF CLAIMS, THOSE TYPES OF FACTORS.

THE CLAIMS, HOWEVER, ARE GOING TO BE DECIDED BY -- THE SETTLEMENT SAYS GILARDI & COMPANY. GILARDI & COMPANY NO LONGER EXISTS. IT WAS PURCHASED BY K.C.C. SO I ASSUME THAT WILL BE FIXED IN THE SETTLEMENT AGREEMENT. BUT GILARDI & COMPANY WON'T BE MAKING THE DETERMINATIONS.

THE CLAIM ADMINISTRATORS, THE PEOPLE WHO PROCESS CLAIMS, ARE MINIMUM WAGE WORKERS WHO HAVE ABSOLUTELY NO EXPERTISE, NO ABILITY TO DECIDE BILLING DISPUTES. HOW YOU WOULD HAVE BILLING DISPUTES SENT TO A CLAIM ADMINISTRATOR AND HAVE THEM HANDLE IT WITHOUT ANY PROTOCOLS, WITHOUT ANY WAY OF DETERMINING HOW TO DECIDE A CLAIM IS UNANSWERED IN THE SETTLEMENT AGREEMENT.

NOW, AT ONE POINT IN THE SETTLEMENT AGREEMENT, IT SAYS THAT THE DEFENDANT WILL CALCULATE THE AMOUNT FOR THE CLAIM ADMINISTRATOR OF A DISPUTED CLAIM. BUT, OF COURSE, THESE ARE CLAIMS THAT THE D.W.P. DISPUTES IN THE FIRST INSTANCE; SO I THINK WE ALL KNOW HOW THAT CALCULATION WILL TURN OUT. IT'S GOING TO BE ZERO.

SO LET ME GIVE YOU AN EXAMPLE, AND THERE'S SO MANY DIFFERENT TYPES OF BILLING DISPUTES THAT ARE OUT THERE. ONE CALLER -- THERE WAS A PERSON WHO WENT INTO A NURSING HOME FOR AN EXTENDED PERIOD OF TIME. BEFORE GOING INTO THE NURSING HOME, CONTACTED THE D.W.P. AND SAID I'M GOING INTO A NURSING HOME, SHUT MY POWER OFF, I DON'T WANT TO BE BILLED ANYMORE. THE D.W.P. CONTINUED TO BILL THAT PERSON. PERSON GETS OUT OF THE NURSING HOME, HAS A CLAIM THAT'S DISPUTED BY THE D.W.P.

IN THIS PROCESS, ULTIMATELY EITHER THE CLAIM ADMINISTRATOR WILL BE DECIDING WHETHER OR NOT THIS PERSON'S CLAIM IS VALID OR NOT AND THE AMOUNT THAT WILL BE PAID, AND THE CLAIM ADMINISTRATOR HAS NO EXPERTISE TO DO THIS AND HAS NO GUIDANCE ON HOW TO DO IT, OR THE CLAIMS ADMINISTRATOR WILL KICK IT TO THE D.W.P. AND THE D.W.P. WILL DETERMINE, WHICH IT ALREADY HAS DONE, WHETHER OR NOT THIS PERSON'S CLAIM IS VALID AND, IF SO, HOW MUCH. SO WITH ALL OF THESE PEOPLE WE KNOW WHAT THE OUTCOME IS GOING TO BE BEFORE THEY EVER GO THROUGH THE PROCESS.

THERE ARE SO MANY DIFFERENT BILLING CLAIMS. ONE CLAIM THAT CAME UP QUITE FREQUENTLY IS RESIDENTIAL CUSTOMERS CALLING UP BECAUSE THEY ARE BEING BILLED AT THE HIGHER COMMERCIAL RATE AND YET THEY'RE DOING -- IT'S HAPPENING AT THEIR HOUSE. MAYBE THEY'RE RIGHT; MAYBE THEY'RE WRONG. BUT THERE'S A LOT OF PEOPLE THAT HAVE THOSE TYPES OF CLAIMS. HOW WILL A CLAIM ADMINISTRATOR MAKE THAT DETERMINATION ABOUT WHO WINS AND WHO LOSES?

AND, AGAIN, IF IT GOES TO THE D.W.P., IT'S THE DEFENDANT WHO IS GOING TO BE DECIDING WHETHER THE DEFENDANT IS GOING TO BE PAYING OUT MONEY ON THESE CLAIMS. THE CLAIMS PROCESS IS A SHAM, AND IT'S THE ONLY WAY THAT THE BROAD RELEASE CAN BE SUPPORTED, BECAUSE IT'S CLASS CONSIDERATION. THE CLASS MEMBERS RECEIVE -- THE RATES ARE CURTAILED, AND THERE'S NO WAY THEY'RE GOING TO GET A FAIR HEARING, AND THERE'S ABSOLUTELY NOTHING THAT DESCRIBES HOW THE CLAIMS PROCESS IS GOING TO BE HANDLED.

IT IS HISTORY REPEATING ITSELF BECAUSE NOW D.W.P. IS GOING TO -- IF THE CLAIMS ADMINISTRATOR SENDS THEM TO THE D.W.P., THEN THE D.W.P. IS GOING TO HAVE A WHOLE BUNCH OF CLAIMS THAT THEY'RE NOT PREPARED TO DEAL WITH, THAT THEY DON'T KNOW HOW TO DEAL WITH, AND THEN WE'RE GOING TO BE RIGHT BACK INTO THE SAME PROBLEMS THAT BROUGHT US THIS LAWSUIT TO BEGIN WITH, WHICH, OF COURSE, IS THE OVERALL PROBLEM WITH THE WHOLE SETTLEMENT. JUST TRUST THE D.W.P. THEY'LL DO ALL THE CALCULATIONS. THERE'S NO TRANSPARENCY. THE PUBLIC DOESN'T NEED TO KNOW, COURT DOESN'T NEED TO KNOW, CLASS COUNSEL DOESN'T NEED TO KNOW. WE'LL JUST TAKE CARE OF IT. AND THAT'S THE PROBLEM WITH THE SETTLEMENT, IN ADDITION TO THE MANY, MANY, MANY OTHER PROBLEMS THAT WE JUST SCRATCHED THE SURFACE ON WITH THIS SETTLEMENT.

NOW, IS IT A REVERSIONARY SETTLEMENT? WHAT HAPPENS TO UNCLAIMED CHECKS? WHAT HAPPENS TO IT IF THE COURT DOESN'T AWARD MR. LANDSKRONER $13 MILLION FOR

87 DAYS OF WORK IN THE CASE? WHAT HAPPENS TO THAT MONEY? DOES IT GO BACK TO THE D.W.P. OR DOES IT GO TO PAY BENEFITS? NOBODY KNOWS. THE SETTLEMENT'S SILENT ON IT.

AND THE LIST OF PROBLEMS WITH THIS SETTLEMENT GOES ON AND ON AND ON AND ON. IT LITERALLY -- ABOUT TWO-THIRDS OF THE SUPERIOR COURT'S CHECKLIST, THE QUESTIONS ARE EITHER UNANSWERED OR THEY'RE ANSWERED IN A WAY THAT DOES NOT PROVIDE SUPPORT FOR THE SETTLEMENT.

AND, JUDGE, I DO HAVE A LOT OF EXPERIENCE IN THESE KINDS OF CASES, AND IF WE LAUNCH A NOTICE PROGRAM AND A CLAIMS PROCESS LIKE THE ONE PROPOSED IN THIS SETTLEMENT WITHOUT THINKING THIS THROUGH, THIS IS GOING TO BE D.W.P. BILLING CRISIS ALL OVER AGAIN. IT IS A MESS OF A SYSTEM. THIS IS NOT A WELL THOUGHT OUT SETTLEMENT. THE CLAIMS PROBLEMS ARE GOING TO BE ENORMOUS. THE NOTICES ARE CONFUSING.

I AM TOLD THAT THEY'RE ACTUALLY -- DESPITE THE SETTLEMENT AGREEMENT, THEY'RE GOING TO DEVIATE FROM THE SETTLEMENT AGREEMENT AND HAVE THE NOTICES IN DIFFERENT LANGUAGES. THAT'S GOOD.

WHY DO PEOPLE WHO DON'T NEED TO SUBMIT EVIDENCE HAVE TO SUBMIT EVIDENCE, THOUGH, IN ORDER TO MAKE A CLAIM? THE CLAIM FORMS ARE CONFUSING. WHY CAN'T PEOPLE SUBMIT CLAIMS ONLINE? MAYBE THERE'S GOOD REASONS, MAYBE NOT. I CAN'T IMAGINE WHAT THE GOOD REASONS ARE. BUT THIS IS A PAPER PROCESS WHICH IS

INEFFICIENT. IT'S EXPENSIVE, LOTS OF ROOM FOR ERROR.

IT'S MORE DIFFICULT FOR PEOPLE TO COMPLY WITH THE SETTLEMENT REQUIREMENTS, TO THE EXTENT THAT ANY SETTLEMENT REQUIREMENTS -- OR CLAIM REQUIREMENTS ARE ACTUALLY EVEN SPELLED OUT IN THE SETTLEMENT AGREEMENT. THIS IS NOT THE WAY TO DO ONE OF THESE TYPES OF CASES.

THE COURT: HAVE YOU SENT A LETTER TO THE CITY OR TO COUNSEL WITH ALL YOUR SUGGESTIONS HOW THE SETTLEMENT AGREEMENT COULD BE IMPROVED?

MR. BLOOD: YEAH. WE BOTH -- YOU KNOW, FROM SHORTLY AFTER WE RECEIVED THE SETTLEMENT DOCUMENTS, WE SENT A LETTER. WE'VE BEEN TALKING TO THE CITY AND WE'VE SENT A LETTER TO THE CITY DISCUSSING SOME OF THE, YOU KNOW, REALLY BIG, LARGE, GLOBAL ISSUES, AND THOSE HAVE BEEN UNRESOLVED. THAT'S WHY WE'RE HERE TODAY.

AND SO THOSE ISSUES HAVE BEEN UNRESOLVED AND IT'S -- AND, YOU KNOW, THINGS LIKE CLASS DEFINITIONS AND METHODOLOGIES AND CLAIMS PROCESSES, THOSE ARE IMPORTANT. THERE ARE GOING TO BE A LOT OF PEOPLE WHO HAVE QUESTIONS. PEOPLE ARE GOING TO WONDER, IS MY CLAIM CORRECT? AND THEY HAVE THE RIGHT TO BE ABLE TO GO AND HAVE A VALID PROCESS THAT THEY CAN LOOK AT TO SEE WHETHER OR NOT THEIR CLAIM IS CORRECT. OR IF IT'S CHALLENGED, THE COURT HAS SOME ABILITY, SOME SET OF RULES TO APPLY TO SEE IF THE SETTLEMENT WAS COMPLIED WITH.

THIS SETTLEMENT IS ABSOLUTELY DEVOID OF ANY RULES. IT'S, WE'LL FIGURE IT OUT. WE'RE THE D.W.P.

WE'RE NOT GOING TO TELL ANYONE WHAT THE METHODOLOGY IS. IT'S A BIG SECRET. CLASS COUNSEL DOESN'T KNOW IT. THE COURT DOESN'T KNOW IT. JUST TRUST US. AND IF SOMEBODY IS GOING TO CHALLENGE IT, WHAT ARE THEY CHALLENGING? WE DON'T KNOW. NOBODY KNOWS WHAT THEY'RE CHALLENGING. NOBODY KNOWS WHETHER OR NOT THE SETTLEMENT IS GOING TO BE DONE CORRECTLY OR NOT.

AND THE NOTION THAT THERE'S NO WIGGLE ROOM IN THESE NUMBERS IS ABSOLUTELY FALSE. I MEAN, THAT IS EITHER AN OUTRIGHT UNTRUTH TO THE COURT OR COUNSEL SIMPLY DOESN'T UNDERSTAND THIS CASE, BECAUSE IT'S NOT TRUE. AND THE CLAIMS PROCESS IS A DISASTER WAITING TO HAPPEN.

THE COURT: ALL RIGHT. THANK YOU.

ANYONE ELSE WISH TO BE HEARD?

MR. PARADIS: YOUR HONOR, PAUL PARADIS ON BEHALF OF THE CITY. I WAS IMPORTED BY JIM CLARK TO DEAL WITH MR. BLOOD IN CONNECTION WITH THE ISSUES THAT HE'S RAISED WITH THE COURT. I REPEATEDLY ASKED HIM, BOTH VERBALLY, ON THE TELEPHONE, AND IN WRITING AS TO WHETHER HE WANTED TO MEET AND DISCUSS ANY OF THESE ISSUES AND HE REFUSED. I'VE GOT E-MAIL TO CONFIRM IT IF YOU'D LIKE TO SEE THEM.

UNIDENTIFIED SPEAKER: YOUR HONOR, CAN I SPEAK TO THAT?

MR. BLOOD: GO AHEAD. THAT'S PRETTY OUTRAGEOUS.

UNIDENTIFIED SPEAKER: THAT'S SUCH AN OUTRAGEOUSLY --

THE REPORTER: YOUR NAME, PLEASE?

THE COURT: NAME, PLEASE.

MR. BOWER: MY NAME IS DAVID BOWER. I REPRESENT THE FONTAINE PLAINTIFFS, AND I HAVE JOINED WITH MR. BLOOD IN THE OPPOSITION OF THIS SETTLEMENT.

THIS SETTLEMENT FROM THE SETTLEMENT PROPOSAL, FROM THE OUTSET, WAS HELD IN CLOSED SESSION, WITH JUST ONE PLAINTIFF, JONES, AND THE CITY INVOLVED IN THE PROCESS. WHEN WE ASKED WHAT THE PROCESS WAS ABOUT, WE WERE TOLD THAT WE WERE NOT GOING TO BE GIVEN THAT INFORMATION, UNDER A MEDIATION PRIVILEGE.

WE WERE NOT PROVIDED THAT INFORMATION UNTIL THIS COURT ORDERED THAT INFORMATION BE PROVIDED TO THE REMAINDER OF THE PLAINTIFFS IN THIS CASE. WE WERE PROVIDED IT THEN LATE. WE WERE GIVEN BASICALLY 48 HOURS TO RESPOND AND TELL THEM WHAT WE FELT WAS WRONG WITH THE SETTLEMENT AGREEMENT.

MR. BLOOD, WITH THE ASSISTANCE OF THE OTHER TWO PLAINTIFFS, REVISED A LETTER WITHIN THAT 48-HOUR PERIOD AND SENT IT TO THEM, TELLING THEM EXACTLY WHAT WE FELT WAS WRONG IN A BROAD STROKE. WE COULD NOT IN ANY FATHOMABLE WAY, WITHIN 48 HOURS, TELL THEM EVERYTHING THAT WAS WRONG WITH THIS AGREEMENT.

MR. BLOOD: YOUR HONOR, HERE'S THE LETTER IF THE COURT WOULD LIKE TO SEE IT. IT'S DATED AUGUST 14TH.

MR. BOWER: FROM THAT LETTER ON, AND WE EVEN HAD A MEDIATION SESSION, WE SAID THAT OUR BASIC PREMISE, OUR BASIC PROBLEM IS THAT THIS AGREEMENT DOES NOT PROVIDE FOR TRANSPARENCY. IT DOES NOT PROVIDE FOR ANY

COMPUTATIONS THAT ARE KNOWN TO THE PUBLIC OR KNOWN TO THE OTHER PLAINTIFFS AS TO HOW THEY'RE GOING TO FIGURE OUT WHAT 100 PERCENT IS.

WE DON'T KNOW WHAT 100 PERCENT IS BECAUSE ONLY THE D.W.P. HAS THE FORMULA FOR FIGURING THAT OUT, AND THEY'VE REFUSED TO PROVIDE THAT TO PLAINTIFFS' COUNSEL. THEY'VE REFUSED TO PROVIDE IT TO THE COURT.

SO WE'RE NOW FACED WITH A SITUATION WHERE IN MOVING PAPERS FOR THE PRELIMINARY APPROVAL, THERE'S THINGS IN THOSE MOVING PAPERS THAT JUST DON'T SHOW UP IN THE SETTLEMENT AGREEMENT. THERE'S NUMBERS LIKE $44 MILLION THAT'S GOING TO BE PAID OUT. WHERE DOES THAT NUMBER COME FROM? THE ONLY PLACE I'VE EVER SEEN THAT NUMBER IS -- THAT WAS A NUMBER THAT D.W.P. TOLD THE LOS ANGELES TIMES THEY WERE GOING TO PAY OUT.

THERE'S NOWHERE IN ANY OF THE SETTLEMENT DOCUMENTS THAT ACTUALLY DEFINES HOW THEY CAME UP WITH THAT $44 MILLION NUMBER, NOR IS THERE ANYTHING IN THE SETTLEMENT DOCUMENTS THAT SAYS THERE'S GOING TO BE 1.6 MILLION PEOPLE IN THE CLASS. WHERE DO THEY COME UP WITH THAT?

IF THEY ACTUALLY HAVE THAT NUMBER, THEN THEY KNOW HOW THEY COMPUTED IT, AND IF THEY KNOW HOW THEY COMPUTED IT, IT SHOULD BE IN THE SETTLEMENT AGREEMENT. IT SHOULD BE SOMETHING THAT'S REVEALED TO THE PARTIES. IT SHOULD BE TRANSPARENT AND IT'S NOT, AND IT'S NOT BECAUSE NO DISCOVERY WAS DONE IN THIS CASE, YOUR HONOR, NOT ONE IOTA OF DISCOVERY.

WHEN WE WERE GIVEN ALL THE DOCUMENTS, AS ORDERED BY THE COURT, THOSE DOCUMENTS WERE JUST PREPARED BY THE D.W.P. FOR THIS LITIGATION. THERE IS NO UNDERLYING DISCOVERY. NOBODY'S BEEN DEPOSED. NO DOCUMENTS HAVE BEEN PRODUCED. WE HAVE NO WAY OF KNOWING HOW D.W.P. HAS COME UP WITH THIS MAGICAL $44 MILLION NUMBER. MY GUESS IS IF WE REALLY HAD THE DISCOVERY TO DO THAT, 44 MILLION WOULD BE A LOT MORE.

MR. BLOOD: YOUR HONOR, I'D ALSO LIKE TO --

THE COURT: LET COUNSEL FINISH.

MR. BOWER: BASICALLY, THAT'S THE BROAD STROKE, YOUR HONOR. I THINK THAT -- AND FOR SOMEONE TO SAY WE HAVE NOT BEEN WILLING TO DISCUSS HOW THIS CAN BE FIXED, THAT'S SO FAR FROM THE TRUTH IT'S EMBARRASSING.

I'LL TURN IT OVER TO HIM.

MR. BLOOD: IT'S JUST THE NOTION THAT WE WOULD NOT BE WILLING TO MEET -- WE HAVE BEEN BEGGING TO MEET WITH THE CITY. WE TURNED A MEDIATION THAT WE WERE INVITED TO GO TO FOR SOME GOOFY FEE THING INTO AN OPPORTUNITY TO TALK TO JUDGE TEVRIZIAN. MR. KIESEL AND I HAD AN CONVERSATION THERE.

RIGHT, MR. KIESEL?

MR. KIESEL: I WILL CONFIRM WE HAD --

THE COURT: ALL RIGHT. LET'S NOT START THESE CROSS CONVERSATIONS.

MR. BLOOD: THE MEETING THAT WE WOULD NOT HAVE WITH THE CITY WAS NOT A MEETING THAT WE REFUSED TO ATTEND WITH THE CITY. WHAT THE CITY TOLD US -- THIS IS

THE DAY THAT OUR OPPOSITION WAS DUE. MR. PARADIS SAID, WELL, THE CITY IS WILLING TO MEET WITH YOU BUT ON ONE CONDITION; THAT CONDITION IS THAT YOU DON'T FILE AN OPPOSITION TO THE PRELIMINARY APPROVAL MOTION. IF YOU DON'T FILE AN OPPOSITION, THEN I'LL SEE IF WE CAN MEET NEXT WEEK. NOW, ONLY A FOOL, ONLY A FOOL WOULD TAKE THAT KIND OF DEAL.

AFTER WORKING -- AFTER SPENDING LITERALLY -- IT WAS USUALLY DAILY WE HAD CONVERSATIONS WITH THE CITY, TRYING TO CONVINCE THEM THAT THESE ARE FUNDAMENTAL FLAWS IN THE SETTLEMENT AND THAT THE SETTLEMENT DOCUMENTS ITSELF -- NOT WHAT THE PAPERS SAY, BECAUSE THE PAPERS SAY SOMETHING VERY DIFFERENT THAN THE ACTUAL SETTLEMENT DOCUMENTS. THE SETTLEMENT DOCUMENTS ARE SO DEEPLY FLAWED. AND WE TRIED AND WE TRIED AND WE TRIED, TO NO AVAIL.

I DON'T KNOW WHY THE CITY'S DOING IT. IT MAY JUST BE THAT THEY NEEDED AN ORDER FROM THE COURT NOT APPROVING THE SETTLEMENT IN ORDER TO GO BACK AND DO IT RIGHT, BECAUSE THE CITY HAS A LOT OF CONSTITUENCIES INTERNALLY TO DEAL WITH. I DON'T KNOW THE REASON.

BUT THE NOTION THAT WE WOULDN'T MEET WITH THE CITY TO TRY TO WORK OUT THESE THINGS IS ABSOLUTELY FALSE. IF THE COURT WANTS TO SEE THE AUGUST 14TH LETTER THAT WE PUT TOGETHER VERY SHORTLY AFTER LATE RECEIPT OF THE SETTLEMENT DOCUMENT, I'M HAPPY TO PROVIDE IT TO THE COURT.

THE COURT: YES, COUNSEL.

MS. AGRUSA: THANK YOU, YOUR HONOR.

THIS IS NOT A DEBATE ABOUT WHO WAS INVOLVED IN CREATING THE SETTLEMENT AGREEMENT AND WHO SHOULD HAVE BEEN INVOLVED IN CREATING THE SETTLEMENT AGREEMENT. THIS IS ABOUT WHETHER THIS SETTLEMENT AGREEMENT IS FUNDAMENTALLY FAIR, AND THAT IS WHAT -- THAT DECISION IS SOLELY WITHIN THE BROAD POWERS OF THIS COURT. SO LET'S TALK FACTS. LET'S TALK ABOUT WHAT THE SETTLEMENT AGREEMENT PROVIDES AND WHAT THE MECHANISMS ARE TO ASSURE TRANSPARENCY AND FAIRNESS.

WE KNOW THAT THE LOS ANGELES DEPARTMENT OF WATER AND POWER BILLS ARE MANDATED BY WELL-ESTABLISHED, LEGALLY AUTHORIZED RATES SET BY THE CITY ORDINANCES AND RULES PROMULGATED BY THE L.A.D.W.P. BOARD. THEY ARE PUBLICLY AVAILABLE, THEY ARE OBJECTIVELY APPLIED, AND THEY HAVE BEEN IN EXISTENCE FOR DECADES.

WHEN PWC STEPPED IN AND APPLIED A FAULTY IMPLEMENTATION OF THE BILLING SYSTEM, THERE WAS A DEVIATION FROM THOSE WELL-ESTABLISHED PARAMETERS. THE SETTLEMENT AGREEMENT IS INTENDED TO AND DOES PROVIDE THE MECHANISMS FOR CREDITS AND REFUNDS OF AMOUNTS BASED ON THOSE DEVIATIONS.

YOU'RE RIGHT, THE SETTLEMENT AGREEMENT HAS TO HAVE A METHODOLOGY UPON WHICH TO APPLY THOSE RATES TO EACH OF THE SEPARATE SUBCLASSES THAT HAVE BEEN IMPACTED. THAT METHODOLOGY IS SUBJECT TO REVIEW AND IMPLEMENTATION THROUGH VARIOUS MECHANISMS IN THE SETTLEMENT AGREEMENT.

AT PAGE 27 OF THE SETTLEMENT AGREEMENT, IT

IS DETAILED THAT MR. BENDER, AN EXPERT WITH THE SYSTEM, WILL INDEPENDENTLY VERIFY THE MECHANISMS FOR IDENTIFYING AFFECTED ACCOUNTS. HE WILL CONFIRM THE ACCURACY OF CREDITS AND REFUNDS DUE. HE WILL ALSO VERIFY AND TEST THE METHODOLOGY USED BY THE L.A.D.W.P. TO IDENTIFY MEMBERS OF THE CLASS AND THE AMOUNTS DUE TO THEM UNDER THE SETTLEMENT. MR. BENDER AND HIS TEAM HAVE QUARTERLY REPORTING OBLIGATIONS TO CLASS COUNSEL AND TO THE COURT.

MOREOVER, IT'S FALSE THAT THEY WERE -- THAT THE NONSETTLING PLAINTIFFS' COUNSEL AND PLAINTIFFS' CLASS REPRESENTATIVES DIDN'T HAVE ACCESS TO INFORMATION THE CITY HAD MADE AVAILABLE TO MR. LANDSKRONER, WHO SPENT A SIGNIFICANT AMOUNT OF TIME REVIEWING DATA, AND WAS MADE AVAILABLE ALSO TO THE OTHER COUNSEL.

WHAT WAS MADE AVAILABLE WAS A SYSTEM CONTAINING TENS OF THOUSANDS OF DATA RUNS. AND WHAT ARE DATA RUNS? THEY CONTAIN THE VERY INFORMATION THAT COUNSEL SAYS HAS NOT BEEN MADE AVAILABLE, THAT HAS NOT BEEN TRANSPARENT AND AVAILABLE; THE COMPUTER ALGORITHMS THAT WERE DEVELOPED FOR EACH OF THE SUBCLASSES THAT WERE USED TO RUN THE PROGRAMS TO IDENTIFY THE SUBCLASS MEMBERS AND THE IMPACTED AMOUNTS. THEY WERE PROVIDED ACCESS TO ACCOUNT NUMBERS THAT BELONG IN EACH OF THE SUBCLASSES AND THE AMOUNTS DUE FOR EACH ACCOUNT.

ON SEPTEMBER 4TH, THE DATE UPON WHICH COUNSEL FINALLY DECIDED TO HAVE SOMEONE PRESENT TO REVIEW THIS IMPORTANT INFORMATION, THE VERY INFORMATION THAT THEY SAY THEY HAVE NO ACCESS TO, PRESENT WERE THE

CITY ATTORNEY'S OFFICE, AN I.T. REPRESENTATIVE FROM THE DEPARTMENT OF WATER AND POWER, AS WELL AS COUNSEL FOR THE DEFENDANT. PLAINTIFFS' COUNSEL COLLECTIVELY SENT ONE LEGAL ASSISTANT WHO, FOR 19 MINUTES, FLIPPED THROUGH THE DOCUMENTS, TAKING NO NOTES, NOT BRINGING ANY CONSULTANT, NOT EVEN BRINGING AN ATTORNEY.

TO SUGGEST THERE HAS BEEN SOME WITHHOLDING OR LACK OF TRANSPARENCY IS PATENTLY FALSE, YOUR HONOR. AND THE MECHANISMS THAT ARE REQUIRED TO ASSURE THE METHODOLOGY IS FAIR, ACCURATE, TESTED, IS WITHIN THE SETTLEMENT AGREEMENT'S FOUR CORNERS.

MR. LANDSKRONER: YOUR HONOR, JACK LANDSKRONER.

I WOULD ADD TO WHAT COUNSEL INDICATED JUST TO INFORM THE COURT, WHILE I THINK IT'S WHOLLY INAPPROPRIATE TO INCLUDE THIS IN A SETTLEMENT AGREEMENT, FOR THE COURT'S EDIFICATION, THE TEAM OF EXPERTS THAT HAVE BEEN COMPILED BY MR. BENDER FOR THE PURPOSES OF SERVING HIS ROLE AS OVERSIGHT MONITOR OF THIS CASE INCLUDE A PROJECT MANAGEMENT TEAM, QUALITY ASSURANCE EXPERT, FUNCTIONAL OPERATIONS AND SOLUTIONS ARCHITECT, AND ANALYSIS AND TEST SUPPORT TEAM. THESE ARE THE PEOPLE THAT ARE WORKING TO MAKE SURE THAT WHAT THE D.W.P. IS DOING IS PROPER, REASONABLE, AND VERIFIED.

THE CLAIMS ADMINISTRATION PROCESS REQUIRES THAT MR. BENDER OVERSEE THE CLAIMS PROCESS AND THAT HE VERIFIES THE AMOUNTS AND THE IDENTITIES OF THE INDIVIDUALS THAT ARE IDENTIFIED AS CLASS MEMBERS IN THIS CASE. THAT IS HIS ROLE. THAT IS HIS OBLIGATION. AND

HE IS REQUIRED TO DO SO AS PART OF -- REQUIRED TO REPORT TO THE COUNSEL, AND THAT REPORT WILL BE FILED WITH THE COURT. IT WILL BE TRANSPARENT NOT ONLY FOR THE COURT TO SEE BUT FOR THE GENERAL PUBLIC TO SEE IN THE COURT'S RECORD.

THE COURT: THANK YOU. YES, COUNSEL.

MR. HIMMELFARB: YES, YOUR HONOR. ALAN HIMMELFARB REPRESENTING DANIEL MORSKI AND THE CONSTITUTIONAL CLAIMS.

I DON'T WANT TO LOSE SIGHT OF WHAT IS PRESENTLY BEFORE THE COURT. THE COURT IS BEING ASKED TO GRANT PRELIMINARY APPROVAL TO THE SETTLEMENT AGREEMENT AS SUBMITTED TO THE PROPOSED NOTICE THAT HAS BEEN SUBMITTED. AND UNDER THOSE CONDITIONS, WHEN THE D.W.P. REPRESENTS THAT THERE IS A 100 PERCENT RECOVERY HERE, THAT STATEMENT IS NOT CORRECT WITH RESPECT TO THE RELEASE, WITH RESPECT TO THE CLAIMS, AND WITH RESPECT TO THE CLASS DEFINITIONS.

I WOULD SAY THAT THE PERCENTAGE OF RECOVERY IS ACCURATELY CLOSER TO 5 PERCENT OF ACTUAL CLAIMS OF CUSTOMERS THAT EXIST, THAT ARE REAL CLAIMS. WE HAVE FILED A COMPLAINT YESTERDAY MEMORIALIZING THOSE CLAIMS AND SOLIDIFYING CLAIMS ON BEHALF OF CUSTOMERS.

SO WHEN THE D.W.P. TALKS ABOUT 100 PERCENT, THEY'RE NOT TALKING ABOUT 100 PERCENT OF ALL CLAIMS THAT ARE SUBJECT TO THE SETTLEMENT AND SUBJECT TO THIS RELEASE. IT'S ACTUALLY A VERY SMALL PERCENTAGE OF ACTUAL CLAIMS THAT EXIST OUT THERE.

BECAUSE WHAT IS PRESENTLY BEFORE THE COURT IS THE SETTLEMENT AGREEMENT THAT THEY HAVE SUBMITTED, WITH THE CLASS DEFINITIONS THEY HAVE SUBMITTED, WITH THE PROPOSED RELEASE THEY HAVE SUBMITTED. THAT'S WHAT THEY'RE ASKING THIS COURT TO APPROVE. AND THAT SETTLEMENT AGREEMENT AND RELEASE AND CLASS DEFINITIONS ARE FAR BROADER THAN THE HUNDRED PERCENT THAT IS BEING DISCUSSED TODAY BY ALL THE ATTORNEYS WHO HAVE BEEN TALKING ABOUT IT. THERE'S FAR MORE PEOPLE IN THE CLASS, WITH FAR MORE CLAIMS THAT ARE GOING TO BE SWEPT UP INTO THIS.

NOW, THE COURT HAS CORRECTLY POINTED OUT THAT THERE ARE ISSUES WITH THE PROPOSED CLASS DEFINITIONS, AND THERE ARE SIMILAR ISSUES WITH THE PROPOSED RELEASE. THOSE NEED TO GO BACK TO THE DRAWING TABLE. THEY NEED TO BE DISCUSSED. THEY NEED TO BE REFINED. THEY NEED TO BE CLARIFIED SO THAT THE COURT AND THE PARTIES AND THE PUBLIC ARE VERY CLEAR AS TO WHAT THIS SETTLEMENT ENCOMPASSES.

SO THE PAPERS PRESENTLY BEFORE THE COURT ARE NOT IN A STATE TO BE SUBJECT TO PRELIMINARY APPROVAL BECAUSE, AS THE COURT HAS POINTED OUT AND AS HAS BEEN DISCUSSED, THERE ARE DETAILS IN THIS PROPOSED MOTION FOR PRELIMINARY APPROVAL THAT SIMPLY HAVE NOT BEEN RESOLVED.

NOW, ONE OF THE REASONS THAT WE FILED OUR CLAIM YESTERDAY ON BEHALF OF 13 ADDITIONAL PLAINTIFFS IS BECAUSE WE WERE SO CONCERNED WITH THE WAY THAT THE SETTLEMENT WAS CONSTRUCTED AND THE WAY THIS HAS BEEN

JAMMED THROUGH IN HASTE, TO TRY AND RAM THIS SETTLEMENT THROUGH THE COURT IN A WAY THAT DID NOT PROTECT THE 13 ADDITIONAL PLAINTIFFS WHOSE CLAIMS WERE FILED YESTERDAY. THEIR CLAIMS WERE PLACED AT RISK, AND WE FILED AN ADDITIONAL ACTION TO MAKE SURE THEIR CLAIMS WOULD BE PROTECTED OR AT LEAST PRESENTED AND EMBODIED BEFORE THIS COURT FOR EVALUATION.

NOW, I PERSONALLY POINTED OUT DEFECTS IN THE PROPOSED CLASS SETTLEMENT DEFINITIONS AND THE CLASS -- DEFINITIONS AND IN THE RELEASE TO THE D.W.P. THE D.W.P. IGNORED THOSE DEFECTS. THEY CHOSE TO FORGE AHEAD WITH THIS MOTION AS IT IS, WITH THE DEFECTS, WITH THE OVERBREADTH THAT'S INVOLVED AND INHERENT IN THE SETTLEMENT AGREEMENT.

AND THAT IN AND OF ITSELF RAISES SERIOUS QUESTIONS ABOUT ADEQUACY OF COUNSEL AND WHETHER OR NOT THIS SETTLEMENT, AS PUT TOGETHER, AS RAMMED THROUGH TO TRY AND RUSH THROUGH THIS COURT INTO MAKING A DETERMINATION, HAS BEEN ADEQUATELY THOUGHT THROUGH AND HAS BEEN ADEQUATELY ADDRESSED IN TERMS OF THE DETAILS THAT NEED TO BE DEALT WITH.

BEFORE WE GO AHEAD AND NOTIFY THE PUBLIC, BEFORE THE CLASS MEMBERS -- AND THERE'S MILLIONS OF THEM -- BEFORE THEY'RE TOLD WHAT THIS SETTLEMENT EMBODIES AND WHAT IT COVERS AND HOW THEY'RE SUPPOSED TO KNOW WHETHER OR NOT THEY'RE INCLUDED, BEFORE THAT HAS TO HAPPEN, THERE SHOULD BE AT LEAST SOME SPECIFICITY AND CLARITY SO THAT THE CLASS MEMBERS THEMSELVES ARE CLEAR

ABOUT WHAT THIS INVOLVES AND WHETHER IT INVOLVES THEM OR NOT.

THE COURT: ALL RIGHT. THANK YOU.

ALL RIGHT. A COUPLE OF OBSERVATIONS. FIRST, THE COURT IS GOING TO DIRECT COUNSEL TO MAKE SOME CHANGES IN THE PROPOSAL, AND WE'LL TALK ABOUT THAT IN A MOMENT.

AS FAR AS THE CASE, THE KIMHI ACTION, AS ALREADY MENTIONED, THE COURT IS GOING TO ASK THE PARTIES TO SUBMIT THE STIPULATION TO JUDGE JOHNSON AND HAVE JUDGE JOHNSON SIGN OFF ON TRANSFER OF THE CASE HERE.

THE COURT IS GOING TO REQUEST COUNSEL, AS ALREADY MENTIONED DURING THE ARGUMENT, THAT THE PARTIES SHOULD CONSIDER MAKING CHANGES WITH RESPECT TO THE CLASS DEFINITION THAT ELIMINATES THE WORD "IMPROPER" SO THAT THE DESCRIPTION OF THE CLASS COVERS ALL INDIVIDUALS WHO WERE OVERCHARGED.

SECONDLY, THE COURT IS GOING TO ASK THAT THE SETTLEMENT AGREEMENT BE REVISED TO MAKE IT EXPLICIT THAT THE MORSKI CASE IS EXCLUDED, THAT THE CLAIMS OF THE MORSKI ARE NOT INCLUDED IN THE RELEASE, AND NOT ONLY JUST SAYING THE MORSKI CASE CLAIMS, BUT MORE SPECIFIC, TO DESCRIBE THE MORSKI CLAIMS AND TO STATE SPECIFICALLY THAT THOSE CLAIMS ARE NOT INCLUDED IN THIS CASE AND THEY ARE NOT EXCLUDED BY THE RELEASE, AND THAT'S WITH SPECIFIC REFERENCE TO THE ISSUES CONCERNING TIERED BILLING. WE DON'T WANT TO HAVE ANY CONFUSION AS TO WHAT IS EXCLUDED BY THE MORSKI CASE AND THEN THE SUBCLASS

WHICH DOES COVER SOME TIERED BILLING ISSUES.

SECONDLY, THE AGREEMENT SHOULD BE MODIFIED TO MAKE IT EXPLICIT THAT THE BANE CLAIMS ARE NOT BEING RELEASED AND THAT THEY SHOULD BE SPECIFICALLY EXCLUDED.

IN ADDITION, I'M GOING TO ORDER COUNSEL TO MEET AND CONFER; THAT IS, NOT ONLY COUNSEL FOR PLAINTIFF JONES AND THE PUTATIVE CLASS IN THE JONES CASE, AND THE CITY, AS FAR AS D.W.P. IS CONCERNED, BUT ALSO TO MEET WITH COUNSEL FOR THE PLAINTIFFS IN THE OTHER ACTIONS TO GET THE BENEFIT OF THEIR THINKING AND INPUT WITH RESPECT TO HOW THE AGREEMENT CAN BE IMPROVED.

AND LET ME ASK COUNSEL, HOW MUCH TIME DO YOU THINK ALL THESE TASKS NEED TO BE ACCOMPLISHED?

MR. LANDSKRONER: YOUR HONOR, FIRST, IN TERMS OF THE FIRST FEW ITEMS --

THE COURT: EXCUSE ME. THERE'S ONE OTHER PART THAT I THINK UP FRONT NEEDS TO HAVE FURTHER CLARIFICATION SO THERE'S NO MISUNDERSTANDING, AND THAT IS THE TIME FRAME FOR SUBMITTING CLAIMS AFTER THE FIELD INVESTIGATIONS SO THAT THE CLARIFICATION -- BECAUSE THE TERM "NOTICE" IS USED IN DIFFERENT CONTEXTS, WITH DIFFERENT MEANINGS; SO IT'S NOT ONLY A TIME FRAME FOR RESPONDING TO THE NOTICE OF THE CLASS ACTION AND ANYONE WANTS TO OPT OUT OR OBJECT, BUT ALSO A SEPARATE CONSIDERATION OF HOW THE TERM "NOTICE" IS USED IN TERMS OF THE PERIOD FROM WHICH SOMEONE MAY BE ABLE TO SUBMIT A CLAIM OR AN OBJECTION AFTER RECEIVING INFORMATION AS A RESULT OF THE FIELD INVESTIGATION.

SO WITH ALL THAT IN MIND, IN TERMS OF MAKING THOSE MODIFICATIONS AND GIVING TIME FOR THE PARTIES TO MEET AND CONFER TO CONSIDER SUGGESTIONS ABOUT HOW THE SETTLEMENT AGREEMENT CAN BE IMPROVED, HOW MUCH TIME DO THE PARTIES THINK IS NECESSARY?

MR. LANDSKRONER: YOUR HONOR, I THINK I CAN BE DONE WITHIN A WEEK.

THE COURT: I'M SORRY?

MR. LANDSKRONER: I THINK I CAN BE DONE WITHIN A WEEK.

THE COURT: A WEEK? OKAY.

ANY OTHER SUGGESTIONS, COUNSEL?

MR. BLOOD: I WAS THINKING MORE 45 TO 60 DAYS.

THE COURT: WELL, I THINK A WEEK IS TOO SHORT. I DON'T KNOW THAT ANYBODY CAN GET ANYTHING DONE IN A WEEK, BUT I THINK 45 DAYS IS TOO LONG. SO REASONABLE MINDS CAN DIFFER, BUT THERE'S SOME TIME IN BETWEEN. LET ME LOOK ON MY CALENDAR AND SEE WHAT'S AVAILABLE.

MS. AGRUSA: YOUR HONOR, IN LOOKING AT TIME FRAMES, THE CITY WOULD LIKE TO PROPOSE THAT THE PARTIES, AS THE COURT HAS INDICATED, SHOULD UTILIZE THE SERVICES OF JUDGE TEVRIZIAN FOR PURPOSES OF ADDRESSING SOME OF THESE ISSUES THAT ARE NOW BEING PUT ON THE TABLE. I THINK THAT WOULD BE A PRODUCTIVE USE OF TIME.

THE COURT: WELL, I THINK ULTIMATELY MAYBE THAT WOULD BE NECESSARY, BUT BEFORE YOU GO TO JUDGE TEVRIZIAN, IT'S NOT THE PURPOSE FOR EVERYONE TO GET INTO A ROOM AND HAMMER OUT AND COMPROMISE. THE

FIRST THING IS TO MEET AND TALK LIKE PARTIES WHO ARE INTERESTED IN FINDING THE BEST POSSIBLE RESOLUTION FOR THE INTERESTS OF THE PUBLIC, THE CONSUMERS OF THE SERVICES OF THE D.W.P. SO I THINK IF THERE ULTIMATELY ARE DISAGREEMENTS, MAYBE SERVICES OF JUDGE TEVRIZIAN ARE USEFUL, BUT I THINK SIT DOWN WITH EXPERTS ON BOTH SIDES AND SEE WHAT -- A RATIONAL, POSITIVE APPROACH.

AND I REALIZE THERE'S SOME ANTAGONISM AND COMPETITIVENESS AND CONFLICT HERE BETWEEN COUNSEL, BUT I THINK THAT WITH THE ULTIMATE GOAL IN TRYING TO CONVINCE THE COURT WHETHER TO ACCEPT OR NOT TO ACCEPT ANY SUGGESTION, THE GOAL IS AND MY OBJECTIVE IS TO SUPERVISE A RESULT THAT IS IN THE BEST INTEREST OF THE PUBLIC, THE CONSUMERS OF D.W.P.

SO I THINK IN THE FIRST INSTANCE THAT, ASIDE FROM THE MODIFICATIONS THAT I'VE ALREADY SUGGESTED, IS THAT THE PARTIES SIT DOWN, AND IF THERE ARE OTHER PLAINTIFFS' COUNSEL WHO HAVE SUGGESTIONS, HOW CAN WE IMPROVE, TO OUTLINE IN A WRITTEN FORM BEFORE THE MEETING WHAT THOSE SUGGESTIONS ARE AND HAVE -- IF YOU HAVE EXPERTS, CONSULT ON BOTH SIDES AND SEE IF IT'S DOABLE OR NOT DOABLE. DOES IT MAKE SENSE OR DOES NOT MAKE SENSE? SIT DOWN AND GO OVER EACH SUGGESTION AND TALK ABOUT IT.

THAT DOESN'T MEAN THAT THERE HAS TO BE A BATTLE OF EGOS, OF WHO IS GOING TO WIN A POINT OR NOT WIN A POINT. WHAT MAKES SENSE? FIRST, WHAT IS IN THE BEST INTEREST OF THE CONSUMER, CLASS MEMBER, AND HOW

THAT CAN BE IMPLEMENTED? WHETHER THERE'S A RATIONAL APPROACH OF HOW IT'S GOING TO BE IMPLEMENTED IN TERMS OF THE ECONOMIC REALITIES AND THE LEGAL FRAMEWORK UNDER WHICH WE OPERATE.

COUNSEL?

MR. KIESEL: YOUR HONOR, WITH THAT IN MIND, AND JUST MY SUGGESTION IS IF IT'S POSSIBLE -- I DON'T WANT IT TO BE TOO QUICK. BUT WE'RE BACK HERE ON AUGUST 24TH. THAT'S THE DEMURRER TIME.

THE COURT: AUGUST WHAT YEAR?

MR. KIESEL: 19 -- SO WE'RE -- SEPTEMBER 24TH AT --

THE CLERK: 11.

MR. KIESEL: -- 11:00 A.M. 1:30? 11:00 A.M.

THE CLERK: 11.

MR. KIESEL: 11:00 A.M. ON THE DEMURRER WITH THE CITY. SO IF IT'S POSSIBLE, WE COULD PERHAPS USE THE 24TH OF SEPTEMBER AS OUR TARGET DATE TO COME BACK. AND OBVIOUSLY, THE CITY HAS AN INTEREST IN GETTING THIS DONE QUICKLY -- WILL MAKE THEMSELVES AVAILABLE WITH ALL COUNSEL TO MAKE IT AS GOOD AS POSSIBLE.

THE COURT: WELL, I THINK -- YOU KNOW, TWO WEEKS I THINK IS TOO SHORT OF A TIME.

MR. KIESEL: OKAY.

THE COURT: I THINK THE PARTIES NEED TIME TO THINK ABOUT IT OR READ IT OVER AND CONSIDER. AND THERE MAY BE SOME MISUNDERSTANDINGS. I THINK COUNSEL SHOULD WORK AND TALK TO EACH OTHER TO SEE IF COUNSEL FOR THE OTHER

PLAINTIFFS OUTSIDE THE JONES CASE FULLY UNDERSTAND THE DETAILS OF THE SETTLEMENT AGREEMENT AND THE COMPLEXITIES INVOLVED, NOT ONLY IN THE TERMS OF THE SETTLEMENT AGREEMENT BUT HOW IT WOULD BE IMPLEMENTED WITH THE INDEPENDENT ADMINISTRATOR, TO MAKE SURE EVERYONE IS ON THE SAME PAGE WITH UNDERSTANDING.

ONCE THEY HAVE A FULL UNDERSTANDING OF HOW THE AGREEMENT IS GOING TO PLAY OUT IN TERMS OF THE SETTLEMENT AND THE PROCESS, THE PROTOCOLS FOR THE ANALYSIS OF OVERCHARGES, AND PROTOCOLS FOR THE CREDITS AND ANY PAYMENTS, THEN WE COULD TALK ABOUT WHAT SUGGESTIONS THERE ARE, HOW THE PROCESS CAN BE IMPROVED.

MR. BOWER: YOUR HONOR, IN THAT REGARD -- I KNOW EVERYONE'S GOING TO CRINGE. BUT I THINK ONE OF THE FUNDAMENTAL PROBLEMS THAT I SEE WITH THE SETTLEMENT AGREEMENT IS THAT THERE REALLY WAS NO DISCOVERY DONE WHATSOEVER. AND I THINK THAT -- I DON'T KNOW WHAT THE STATUS OF THE STAY IS IN THIS CASE, BUT I THINK WE NEED TO HAVE AT LEAST LIMITED DISCOVERY SO THAT WE CAN --

THE COURT: WELL, WE'RE NOT GOING TO GET SIDETRACKED AND HAVE A YEAR OF DISCOVERY --

MR. BOWER: I DEFINITELY DON'T WANT --

THE COURT: -- WHILE CONSUMERS ARE WAITING TO GET REIMBURSEMENT.

MR. BOWER: I DON'T WANT THAT, YOUR HONOR, EITHER, BUT WE'RE ATTACKING THIS IN A -- WITH BLINDERS ON. WE DON'T KNOW THE FACTS WE NEED TO KNOW. NOW, MAYBE THAT'S SOMETHING WE CAN DISCUSS. I'M ALWAYS WILLING TO DISCUSS

WITH THE OTHER SIDE WHAT WE CAN DO INFORMALLY TO REMEDY THAT ISSUE, AND THAT SHOULD BE PART OF OUR DISCUSSIONS WHEN WE DO MEET AND CONFER.

MR. BLOOD: YOUR HONOR, I HAVE A SUGGESTION. MAYBE IF WE HAD 30 DAYS, BUT WE ALL COMMIT TO MEETING -- CERTAINLY A FIRST MEETING NEXT WEEK, AS EARLY AS POSSIBLE. YOU KNOW, THERE'S A LOT OF THESE ISSUES THAT WE CAN TALK ABOUT. IT MAY WELL BE WE SHOULD ALL KNOW A LITTLE BIT MORE ABOUT MR. BENDER, AND MAYBE MR. BENDER CAN WORK WITH PLAINTIFFS' COUNSEL, SINCE HE IS A PLAINTIFF'S EXPERT, AND HE CAN HELP US TO FIGURE OUT HOW TO MEMORIALIZE SOME OF THESE THINGS IN THE SETTLEMENT AGREEMENT.

THE COURT: WELL, I THINK THAT'S A GOOD IDEA. I MEAN, FIRST OF ALL, I DO THINK A 30-DAY FRAMEWORK IS APPROPRIATE TO GIVE THE PARTIES TIME TO MEET AND CONFER, AND CERTAINLY SHOULDN'T WAIT TILL DAY 29. SHOULD MEET AS EARLY AS NEXT WEEK.

AND IF MR. BENDER'S AVAILABLE, I THINK IT WOULD BE A GOOD IDEA IF HE ATTENDS THESE SESSIONS, AND EVERYONE CAN GET AN IDEA OF WHAT HIS VISION IS, HOW THIS IS GOING TO PLAY OUT.

LET ME LOOK FOR A TIME FRAME HERE.

(PAUSE IN THE PROCEEDINGS.)

MR. KIESEL: WHILE THE COURT'S LOOKING, I'VE BEEN ADVISED MR. BENDER IS GOING TO BE HERE ON

SEPTEMBER 25TH; SO IF YOU WANT TO JUST BLOCK OUT SEPTEMBER 25TH, I KNOW HE'S GOING TO BE HERE, AND SO WE CAN WORK TO ARRANGE A MEETING WITH BENDER ON THE 25TH OF SEPTEMBER.

THE COURT: I'M JUST LOOKING TO SQUEEZE SOMETHING IN. WE'RE FULLY BOOKED FOR A LONG PERIOD OF TIME HERE.

MR. HIMMELFARB: YOUR HONOR, I HAVE A SPACE RESERVED ON NOVEMBER 3RD IN THIS CASE THAT WOULD HAVE BEEN FOR A MOTION FOR LEAVE TO AMEND THE MORSKI ACTION.

THE COURT: OH, I SEE HERE. YEAH.

MR. HIMMELFARB: THAT IS NOW FREED UP, YOUR HONOR.

THE COURT: OKAY. I WAS TRYING TO BLOCK OUT TWO HOURS, BUT I THINK MAYBE THAT'S WORKABLE. ALL RIGHT. SO WHY DON'T WE DO THAT, AND I'LL TRY TO MOVE THE OTHER MATTER FOR ANOTHER DATE.

ANYWAY, 10 A.M. ON NOVEMBER 3RD, BUT THAT DOESN'T MEAN THAT EVERYONE SHOULD WAIT TILL THE END OF OCTOBER TO START TALKING TO EACH OTHER. YOU SHOULD START MEETING BEGINNING NEXT WEEK. AND IF MR. BENDER IS GOING TO BE IN TOWN THE END OF SEPTEMBER, SHOULD SET UP A MEETING THEN.

AND THEN I WOULD SUGGEST WE SET A DEADLINE FOR THE SUBMISSION OF ANY REVISED PAPERS. WHY DON'T WE THIS, THEN: ANY REVISED PAPERS IN TERMS OF THE SUGGESTIONS THAT I RAISED EARLIER, AS WELL AS THE RESULTS OF ANY MEET AND CONFER. THE PROCESS BY THE PARTIES TO IMPROVE THE PROPOSED SETTLEMENT SHOULD BE SUBMITTED NO LATER THAN OCTOBER 13TH. AND THEN ANY

OPPOSITION OR CRITICISM OF THOSE REVISIONS COULD BE SUBMITTED NO LATER THAN THE 23RD OF OCTOBER. AND THEN WE'LL CONTINUE THIS HEARING UNTIL NOVEMBER 3RD AT 10:00 A.M.

MR. KIESEL: ONE QUICK QUESTION, YOUR HONOR. I'M SORRY. IF WE ARE ABLE TO REACH AGREEMENT HYPOTHETICALLY SOONER AND WE ALL HAVE AGREEMENT ON THIS, ARE YOU OKAY IF WE SIMPLY SUBMIT MODIFICATIONS THAT WE'VE ALL AGREED TO WITHOUT HAVING NECESSITY OF A HEARING, OR DO YOU WANT TO GO FORWARD NO MATTER WHAT ON THAT DATE IN NOVEMBER?

THE COURT: WELL, LET'S SET THAT DATE. IF SOME MIRACLE OCCURS AND EVERYONE IS ON BOARD AND EVERYONE SIGNS OFF ON IT, WE'LL CONSIDER SUBMITTING AN EARLIER APPLICATION.

MR. KIESEL: THANK YOU, YOUR HONOR.

MR. HIMMELFARB: YOUR HONOR, MR. KIESEL AND I WERE ESSENTIALLY TRACKING ALONG THE SAME LINES OF THOUGHT.

IT IS POSSIBLE, GIVEN THE COURT'S ORDERS TODAY, THAT THE PARTIES AND ATTORNEYS, NOW THAT EVERYONE'S GOING TO BE SITTING AT THE SAME TABLE AND CONTRIBUTING TO A BETTER SETTLEMENT PROPOSAL, TO ONE THAT WORKS FOR EVERYBODY, IT MAY VERY WELL BE THAT THE PROPOSED REQUEST FOR PRELIMINARY APPROVAL MIGHT BE A JOINTLY SUBMITTED DOCUMENT ON BEHALF OF ALL OF THE CASES.

THE COURT: ALL RIGHT. WELL, IF YOU CAN COME TO A FULL AGREEMENT AND THERE ARE NO OBJECTIONS, THEN CALL THE CLERK. WE'LL SEE IF WE CAN SET IT UP ON AN EARLIER

DATE.

MR. HIMMELFARB: SO IN THAT CONNECTION, YOUR HONOR, IT MIGHT BE THAT IF THE PARTIES CAN GET TO A POINT WHERE EVERYBODY IS IN AGREEMENT AND ENDORSING A PROPOSED SETTLEMENT APPROVAL, THAT THE ISSUE OF LEAD COUNSEL MAY BE DEFERRED OR MAY BE SET FOR SEPARATE HEARING.

THE COURT: YES.

MR. HIMMELFARB: OKAY.

THE COURT: ALL RIGHT. THANK YOU, COUNSEL.

MR. HIMMELFARB: YES.

THE COURT: HAVE A GOOD AFTERNOON AND GOOD WEEKEND.

MR. LANDSKRONER: YOUR HONOR, JUST ONE THING. I AM -- JUST TO GIVE THE COURT NOTICE, I'M SCHEDULED FOR A BACK SURGERY ON THE 9TH OF OCTOBER. I THINK I'M CLEAR TO TRAVEL BY THE 11TH. IF NOT, I'LL BE BY PHONE AND I'LL HAVE SOMEONE HERE.

THE COURT: OKAY. YOU CAN APPEAR TELEPHONICALLY. BEST WISHES FOR A GOOD, SPEEDY RECOVERY.

MR. KIESEL: CITY WILL GIVE NOTICE, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU, MR. KIESEL.

WE'LL BE IN RECESS.

(PROCEEDINGS CONCLUDED.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 323 HON. ELIHU M. BERLE, JUDGE

SHARON BRANSFORD, ET AL., PLAINTIFFS, VS. CITY OF LOS ANGELES, DEFENDANT.	CASE NO. BC565618 REPORTER'S CERTIFICATE

I, RHONA S. REDDIX, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 69, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE ABOVE ENTITLED CAUSE ON SEPTEMBER 11, 2015.

DATED THIS 20TH OF SEPTEMBER, 2015.

Rhona S. Reddix

_____, CSR, RPR, CRR, RMR #10807
OFFICIAL REPORTER

Exhibit 8

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February 12, 2019

Via E-mail
Daniel Thomasch, Esq.
GIBSON, DUNN & CRUTCHER, LLP
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Re: *City of Los Angeles v. PricewaterhouseCoopers, LLP et al.*,
Case No. BC574690

Dear Counsel:

In accordance with the Court's January 24, 2019 Order, attached please find a copy of the caption and signature page of the Jones v. PwC draft Complaint (the "Jones Draft Complaint"), which is responsive to Request No. 1 set forth in the Amended Notice of Deposition of Plaintiff City of Los Angeles' Person Most Knowledgeable To Testify Regarding the Jones Draft Complaint (the "Amended Notice"). In addition to the caption and signature page, Request No. 1 calls for the production of a "service page" of the Jones Draft Complaint, which does not exist.

Additionally, Plaintiff has produced, under separate cover, a document which is responsive to Request Nos. 5 and 6 of the Amended Notice.

Sincerely,

Paul O. Paradis

cc: All counsel of record (via email)

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Attorneys for Plaintiff

[Additional Counsel appear on signature page]

CONFIDENTIAL DRAFT

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ANTWON JONES, on behalf of himself, and all other similarly situated, Plaintiff, v. **PRICE WATERHOUSE COOPERS, LLP,** Defendant.	Case No. CIV- **CLASS ACTION COMPLAINT FOR:** (1) TORTIOUS INTERFERENCE WITH CONTRACT **JURY TRIAL DEMANDED**

[redacted]

[redacted]

Dated: January __, 2015

KIESEL LAW LLP

By: _____

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Counsel for Plaintiff

CONFIDENTIAL

Exhibit 9

[Exempt From Filing F
Government Code § 6

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Jack Landskroner (Admitted *Pro Hac Vice*)
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1360 West 9th Street, Suite 200
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Attorneys for *Defendant*
THE CITY OF LOS ANGELES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

SHARON BRANSFORD, STEVEN SHRAGER and RACHEL TASH, Individually, and On behalf of All Other Similarly Situated,

Plaintiff,

vs.

CITY OF LOS ANGELES, and DOES 1 through 50, inclusive,

Defendants.

Case No. BC565618

[Related to Case Nos. BC577267, BC571664, and BC574690]

[CLASS ACTION

DECLARATION OF JACK LANDSKRONER IS SUPPORT OF JOINT OPPOSITION TO BRANSFORD AND FONTAINE PLAINTIFFS' EX PARTE APPLICATION TO LIFT DISCOVERY STAY TO ALLOW LIMITED DISCOVERY RE: PROCEDURAL FAIRNESS

Date: February 6, 2017
Time: 8:30 a.m.
Dept.: 323

Assigned for All Purposes to the Hon. Elihu M. Berle, Dept. 323

Action Filed: February 5, 2015
Trial Date: None Set

I, JACK LANDSKRONER, declare the following under the penalty of perjury:

1. I am over the age of 18 and have personal knowledge of the facts set forth herein, which are known to me to be true and correct. I could and would testify competently about the matters set forth herein if called upon to do so.

2. I am an attorney admitted to the practice of law in the State of Ohio and admitted pro hac vice in this matter. I am a partner at the law firm of Landskroner Grieco Merriman, LLC (the "Landskroner Firm"), which has been appointed Class Counsel in this matter.

3. I respectfully submit this declaration in support of the Parties' Joint Opposition to Bransford and Fontaine Plaintiffs' Ex Parte Application To Lift Discovery Stay To Allow Limited Discovery Re Procedural Fairness (the "*Ex Parte* Application").

4. On September 11, 2015, Plaintiff Jones ("Plaintiff") moved the Court for preliminary approval of a proposed class action settlement (the "Motion for Preliminary Approval") in the action, *Jones v. City of Los Angeles, by and through the Los Angeles Department of Water and Power*, BC577267 (the "Jones Action"). The City of Los Angeles (the "City") joined in this motion. After carefully considering all aspects of both the substantive and procedural fairness of the proposed settlement, the Court required a number of revisions to the proposed settlement. Plaintiff Jones and the City then filed a revised settlement agreement and requested that the Court preliminarily approve the revised settlement agreement and order the parties to send Notice to the proposed Class.

5. The Hon. Dickran Tevrizian (Ret.) was personally involved in, and oversaw the entirety of the mediation process that culminated in the settlement of the Jones Action. In connection with the Motion for Preliminary Approval, Judge Tevrizian provided the Declaration of Hon. Dickran Tevrizian In Support of Motion for Preliminary Approval (the "Tevrizian Declaration").

6. A true and correct copy of the Tevrizian Declaration is annexed hereto as Exhibit 1.

7. On December 30, 2016, the Court conducted the final day of hearings on the Motion for Preliminary Approval. After carefully considering both the substantive and procedural fairness of the proposed Settlement embodied in the revised settlement agreement, the Court found that the settlement was entitled to a presumption of fairness, preliminarily approved the settlement,

and ordered that class notices and individualized and customized letters be sent to Class members by no later than April 4, 2017.

8. On February 1, 2017, Timothy Blood of Blood, Hurst & O'Reardon LLP, counsel for Plaintiffs Bransford, Shrager and Tash sent me a letter that stated in relevant part:

> Pursuant to the terms of the Revised Class Action Settlement Agreement, Section III.L, Class Counsel is obligated to represent our interests as plaintiffs' counsel in Bransford. Please write to us to explain how you intend to proceed with regard to our request for an award of attorneys' fees and expenses.

9. A true and correct copy of Mr. Blood's February 1, 2017 letter is annexed hereto as Exhibit 2.

10. In the Ex Parte Application, the Bransford and Fontaine Plaintiffs (collectively, the "Bransford Objectors"), accuse the parties of having engaged in collusive conduct in connection with the settlement of the Jones Action because, among other reasons, certain inappropriate "relationships [exist] amongst opposing counsel." Ex Parte Application at 3.

11. Prior to the Jones Action, however, the Landskroner Firm had never worked on any matter with Liner LLP (the "Liner Firm") or the Office of the City Attorney of Los Angeles (defense counsel, here) either as co-counsel or as opposing counsel. Accordingly, the suggestion that the attorneys from the Landskroner Firm have an inappropriate relationship with any of the attorneys from the Liner Firm or the Office of the City Attorney of Los Angeles is false.

12. The Bransford Objectors also contend that the "conduct and timing of settlement negotiations" demonstrates that the parties have engaged in collusive conduct. Ex Parte Application at 3. In particular, the Bransford Objectors have accused the City of initiating settlement discussions with the Landskroner firm, allegedly the "weakest" of all of the various plaintiffs' firms to have filed a claim against the City.

13. Because the Landskroner Firm had conducted an extensive pre-filing investigation into the matters alleged in the Jones Action, the Landskroner Firm was able to develop a highly-detailed settlement proposal pursuant to which Plaintiff Jones proposed to resolve the claims asserted in the Jones Action, as well as in certain of the related actions. After providing the City with the comprehensive settlement proposal, the Landskroner Firm met and conferred with counsel for the City and commenced formal settlement negotiations shortly thereafter. The parties

advanced settlement discussions as far as they could go until these efforts stalled. After further consideration, the parties agreed to continue their settlement discussions in a more formal mediation environment and engaged the services of the Judge Tevrizian to conduct a formal mediation. Because of the nature of the claims at issue in the litigation and the complexity of the settlement terms Plaintiff Jones proposed, Judge Tevrizian scheduled the mediation to be conducted over a total of four days in June and July of 2015.

14. Accordingly, any suggestion that the City initiated settlement discussions with the Landskroner Firm because it was the "weakest" firm is false.

15. The Bransford Objectors also contend that "the possible beneficial effect the outsized fees have on others who stand to gain" demonstrates that the parties have engaged in collusive conduct. Ex Parte Application at 3. This statement possibly refers to the agreement that exists between Knapp, Petersen & Clarke (counsel for the Plaintiff Kimhi, the Solar Customers Subclass representative) whereby Class Counsel and counsel for Plaintiff Kimhi have agreed to work together to facilitate assisting members of the Solar Customer Subclass in identifying and processing their claims and responding to inquiries. Plaintiff Kihmi's counsel has agreed that the law firm to Knapp, Petersen & Clarke will submit a fee application to the Court for all work performed to benefit the Class in an amount not to exceed $1,999,999. Plaintiff Jones has approved this relationship.

16. In accordance with the Court's November 3, 2015 instructions regarding the foregoing matter, the parties have disclosed the existence of this agreement in the settlement, which states:

> There are no "fee splitting" agreements between the various counsel involved in this action, however, the law firm of Knapp, Petersen & Clark, counsel in the Kimhi Action, has agreed to work with Class Counsel to help answer questions and to identify and assist Solar Customer Subclass members in processing claims. . . . The Knapp, Petersen & Clark firm has agreed that . . . the fee application they submit to the Court, through Counsel for Plaintiff Jones, for consideration will not exceed $1,999,999 of fees applied for and/or awarded to Class Counsel at final approval.

Settlement at 58.

17. The Bransford Objectors also argue that the "increased role of the [Independent CC&B Monitoring Expert]" and the "delay in resolving the matter" demonstrate that the parties have engaged in collusive conduct.

18. As set forth in the: (i) Declaration of Paul L. Bender In Support of Parties' Stipulation to Continue Plaintiff's Motion for Preliminary Approval of Class Action Settlement dated April 8, 2016 (the "Bender Declaration"); (ii) Report of the Independent CC&B System Monitor Concerning Status of Class Action Settlement for First and Second Quarters of 2016 dated July 14, 2016 (the "First and Second Quarterly Report"); and (iii) Supplemental Declaration of the Independent CC&B System Monitor in Further Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement dated November 10, 2016 (the "Supplemental Declaration"), any additional time that the parties request be afforded by the Court was at the request of Mr. Bender, the Independent CC&B Monitoring Expert, and was necessary to complete all of the programming and testing required to confirm the accuracy of the mechanisms utilized by the City to identify customers who have been overcharged and quantify the amounts of such over charges.

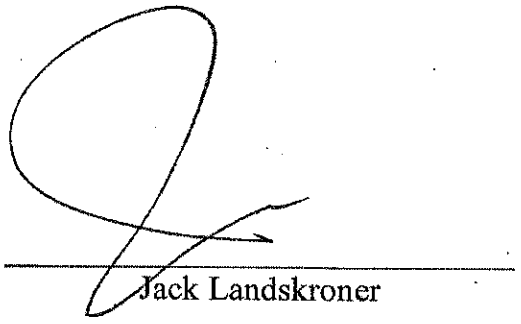
19. A true and correct copy of the Bender Declaration is annexed hereto as Exhibit 3.

20. A true and correct copy of the First and Second Quarterly Report is annexed hereto as Exhibit 4.

21. A true and correct copy of the Supplemental Declaration is annexed hereto as Exhibit 5.

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

Executed this 7th day of February, 2017, at Cleveland, Ohio.



Jack Landskroner

Exhibit 10

[Exempt From Filing Fe
Government Code § 6

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Jack Landskroner (Admitted *Pro Hac Vice*)
LANDSKRONER GRIECO MERRIMAN LLC
1360 West 9th Street, Suite 200
Cleveland, Ohio 44113
Telephone: (216) 522-9000

Class Counsel

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Maribeth Annaguey (SBN 228431)
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Telephone: (310) 500-3500

Attorneys for *Defendant*
THE CITY OF LOS ANGELES

LINER LLP
1100 Glendon Avenue | 14th Floor
Los Angeles, CA 90024.3518

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

SHARON BRANSFORD, STEVEN SHRAGER and RACHEL TASH, Individually, and On behalf of All Other Similarly Situated,

Plaintiff,

vs.

CITY OF LOS ANGELES; and DOES 1 through 50, inclusive,

Defendants.

Case No. BC565618

[Related to Case Nos. BC577267, BC571664, and BC574690]

[CLASS ACTION

DECLARATION OF MARIBETH ANNAGUEY IN SUPPORT OF JOINT OPPOSITION TO BRANSFORD AND FONTAINE PLAINTIFFS' EX PARTE APPLICATION TO LIFT DISCOVERY STAY TO ALLOW LIMITED DISCOVERY RE: PROCEDURAL FAIRNESS

Date: February 6, 2017
Time: 8:30 a.m.
Dept.: 323

[Joint Opposition to Ex Parte, and Declaration of Jack Landskroner filed concurrently]

Assigned for All Purposes to the Hon. Elihu M. Berle, Dept. 323

I, Maribeth Annaguey, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I make this declaration in support of the Joint Opposition To Bransford And Fontaine Plaintiffs' *Ex Parte* Application To Lift Discovery Stay To Allow Limited Discovery Re: Procedural Fairness. I have personal knowledge of the facts set forth herein. If called as a witness, I could and would competently testify to the matters stated herein.

2. I am a partner with Liner LLP. The Office of the City Attorney of Los Angeles and Liner LLP are the attorneys of record for defendant the City of Los Angeles in the action entitled *Jones v. City of Los Angeles*, Case No. BC577267 (the "*Jones* Action").

3. On April 23, 2015, at a special meeting that was open to the public, the Board of Water and Power Commissioners voted on and did adopt the Resolution authorizing execution of the proposed agreements between the City of Los Angeles, acting by and through the Los Angeles Department of Water and Power, and Kiesel Law LLP and Paradis Law Group, PLLC related to the lawsuit by the City of Los Angeles against PricewaterhouseCoopers ("*PwC* Action"). The Board Resolution and attached agreements with Kiesel Law LLP and Paradis Law Group, PLLC are available as a matter of public record.

4. I am informed and believe, and based thereon allege, that the City has not paid any attorneys' fees in the *PwC* Action to Kiesel Law LLP or Paradis Law Group, PLLC to date.

5. I understand the Bransford Objectors seek discovery into the relationships between and among counsel in the *Jones* Action and *PwC* Action, whether as co-counsel or opposing counsel. Such information is a matter of public record obtainable by a search of legal filings.

LINER LLP
1100 Glendon Avenue | 14th Floor
Los Angeles, CA 90024.3518

6. Attached as Exhibit 6 is a true and correct copy of the Declaration of Deborah Dorny, without exhibits, dated October 16, 2015, which was filed with this Court in support of Plaintiff's Motion for Preliminary Approval of the Settlement.

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

Executed February 7, 2017, at Los Angeles, California.

Maribeth Annaguey

LINER LLP
1100 Glendon Avenue | 14th Floor
Los Angeles, CA 90024.3518

Exhibit 11

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DEPARTMENT 323 HON. ELIHU M. BERLE, JUDGE

CITY OF LOS ANGELES, ACTING BY AND THROUGH ITS DEPARTMENT OF WATER AND POWER, PLAINTIFF, VS. PRICEWATERHOUSE COOPERS, LLP, ET AL., DEFENDANTS.	NO. BC574690

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, DECEMBER 4, 2017

APPEARANCES:

FOR THE PLAINTIFF CITY OF LOS ANGELES AND NON-PARTY TMG CONSULTING:

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NEW YORK, NEW YORK 10036

FOR THE PLAINTIFF CITY OF LOS ANGELES:

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NICOLE A. RAMIREZ, ESQ.
8648 WILSHIRE BOULEVARD
BEVERLY HILLS, CALIFORNIA 90211-2910

(APPEARANCES CONTINUED ON NEXT PAGE)

LINDA LEE, CSR NO. 13568
COURT REPORTER PRO TEMPORE

APPEARANCES: (CONTINUED)

FOR THE DEFENDANTS PRICEWATERHOUSE AND JAMES CURTIN, PHIL DANIELE, AND RAYMOND TULLOCH:

GIBSON, DUNN & CRUTCHER LLP
BY: DANIEL J. THOMASCH, ESQ.
THEODORE O'REILLY, ESQ.
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LOS ANGELES, CALIFORNIA 90071-3197

FOR THE DEFENDANT TREVOR LAROCQUE:

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FOR THE DEFENDANTS PAUL BUTLER AND DAVID GARCIA:

FARMER BROWNSTEIN JAEGER LLP
BY: CHARLES "CHUCK" JAEGER, ESQ.
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SUITE 835
SAN FRANCISCO, CALIFORNIA 94104

FOR THE DEFENDANT NASIR KHAN:

NASIR ALI KHAN, IN PRO PER
7288 WOODROW WILSON DRIVE
LOS ANGELES, CALIFORNIA 90068

I N D E X

DECEMBER 4, 2017

CHRONOLOGICAL INDEX OF WITNESSES

(NONE)

ALPHABETICAL INDEX OF WITNESSES

(NONE)

EXHIBITS

(NONE)

CASE NUMBER:	BC574690
CASE NAME:	CITY OF LOS ANGELES VS. PRICEWATERHOUSE COOPERS, LLP
LOS ANGELES, CALIFORNIA	MONDAY, DECEMBER 4, 2017
DEPARTMENT 323	HON. ELIHU M. BERLE, JUDGE
REPORTER:	LINDA LEE, CSR NO. 13568
TIME:	2:04 P.M.

THE COURT: GOOD AFTERNOON, COUNSEL.

CALLING THE CASE OF CITY OF LOS ANGELES VERSUS PRICEWATERHOUSE COOPERS.

COUNSEL, YOUR APPEARANCES, PLEASE.

MR. PARADIS: GOOD AFTERNOON, YOUR HONOR.

PAUL PARADIS ON BEHALF OF THE CITY.

THE COURT: GOOD AFTERNOON.

MS. TUFARO: GOOD AFTERNOON, YOUR HONOR.

GINA TUFARO ON BEHALF OF THE CITY.

THE COURT: GOOD AFTERNOON.

MR. THOMASCH: GOOD AFTERNOON, YOUR HONOR.

DANIEL THOMASCH ON BEHALF OF DEFENDANT AND CROSS-COMPLAINANT PRICEWATERHOUSE COOPERS, ALSO THE INDIVIDUAL DEFENDANTS, JAMES CURTIN, PHILLIP DANIELE, AND RANDY TULLOCH.

THE COURT: GOOD AFTERNOON.

MS. CARTER: GOOD AFTERNOON, YOUR HONOR.

MAGGIE CARTER ON BEHALF OF DEFENDANT TREVOR LAROCQUE.

THE COURT: GOOD AFTERNOON.

MR. KIESEL: YOUR HONOR, PAUL KIESEL ON BEHALF OF THE CITY OF LOS ANGELES.

THE COURT: GOOD AFTERNOON.

MS. RAMIREZ: GOOD AFTERNOON, YOUR HONOR.

NICOLE RAMIREZ FOR THE PLAINTIFF.

THE COURT: GOOD AFTERNOON.

MR. JAEGER: GOOD AFTERNOON, YOUR HONOR.

CHUCK JAEGER ON BEHALF OF DEFENDANTS BUTLER AND GARCIA.

THE COURT: GOOD AFTERNOON.

MR. O'REILLY: GOOD AFTERNOON, YOUR HONOR.

THEODORE O'REILLY ON BEHALF OF DEFENDANTS, PRICEWATERHOUSE COOPERS, CURTIN, DANIELE AND TULLOCH.

THE COURT: GOOD AFTERNOON.

MR. YANNIELLO: GOOD AFTERNOON, YOUR HONOR.

IAN YANNIELLO ON BEHALF OF DEFENDANT TREVOR LAROCQUE.

THE COURT: GOOD AFTERNOON.

PLEASE BE SEATED. MAKE YOURSELF COMFORTABLE.

ANYONE ON COURTCALL MAKING THEIR APPEARANCE?

THE CLERK: NO, YOUR HONOR.

THE COURT: WE HAVE RECEIVED THE PROPOSED ORDER FOR THE APPOINTMENT OF MS. LINDA LEE AS COURT REPORTER PRO TEM.

ANY OBJECTIONS?

(RESPONSES: NO OBJECTIONS.)

THE COURT: NOT HEARING ANY OBJECTIONS, MS. LEE IS HEREBY APPOINTED COURT REPORTER PRO TEM.

WE HAVE ON CALENDAR A MOTION BY PRICEWATERHOUSE TO COMPEL PRODUCTION OF DOCUMENTS, AND WE ALSO HAVE A STATUS CONFERENCE. SO WHY DON'T WE ADDRESS THE MOTION TO COMPEL.

FIRST, LET ME INQUIRE AS TO WHETHER THERE ARE ANY UPDATES IN TERMS OF ANY FURTHER DISCUSSIONS AMONG THE PARTIES TO RESOLVE SOME OF THESE DISCOVERY ISSUES.

MR. THOMASCH: NO, YOUR HONOR.

IT HAS WINNOWED DOWN AS THE MOTION HAS BEEN BRIEFED. WE ARE CURRENTLY AT AN IMPASSE OVER 155 DOCUMENTS. 131 OF THOSE DOCUMENTS WERE ORIGINALLY LOGGED AS PRIVILEGED. THEY HAVE SINCE BEEN REMOVED FROM THE PRIVILEGE LOG. THEY ARE NOT PRIVILEGED, BUT THEY HAVE BEEN PRODUCED. 24 OF THE DOCUMENTS AT ISSUE WERE PREVIOUSLY LOGGED. THEY HAVE BEEN RELOGGED AS PRIVILEGED, AND WE CHALLENGED THOSE.

ALL OTHER DISPUTES HAVE GONE EITHER BECAUSE THE DOCUMENT HAS BEEN PRODUCED OR WE HAVE GIVEN UP OUR CHALLENGE ON THEM.

I'D LIKE TO ADDRESS FIRST THE 131 DOCUMENTS, YOUR HONOR, BECAUSE --

THE COURT: OKAY.

MR. THOMASCH: -- THAT IS FAIRLY STRAIGHTFORWARD.

YOUR HONOR'S ORDER, WHICH WAS MARCH 4 OF THIS YEAR, MADE CLEAR THAT YOU WOULD OVERRULE THE PLAINTIFF'S OBJECTION BASED ON THE ATTORNEY WORK PRODUCT DOCTRINE, BOTH AS TO THE DOCUMENTS LISTED ON THE LOG AND AS TO INVESTIGATION OR REMEDIATION

DOCUMENTS THAT WERE NOT IDENTIFIED. YOU ORDERED THAT THOSE DOCUMENTS BE PRODUCED. IF THEY WERE NOT LOGGED, THEY WOULD BE PRODUCED.

PLAINTIFF DID NEITHER. AND THEY DIDN'T TELL US THAT THEY DID NEITHER. WE HAD NO WAY OF KNOWING FOR QUITE SOME TIME WHAT HAD ACTUALLY HAPPENED.

BUT IT APPEARS THAT -- YOUR HONOR'S ORDER WAS ON MARCH; WE HAD A HEARING ON MARCH 6. YOU ISSUED AN ORDER ON MARCH -- ON APRIL 4. AND ON THAT SAME DAY, ON APRIL 4, ACCORDING TO THE DECLARATION OF MS. TUFARO, SOMEONE AT P.W. -- PLAINTIFF, JUST SAYS PLAINTIFF. DOES NOT INDICATE WHETHER IT WAS COUNSEL AND, IF SO, WHAT COUNSEL -- BUT PLAINTIFF REVIEWED THE DOCUMENTS ON THE PRIVILEGE LOG AND APPEARED TO MAKE -- AND PURPORTED TO MAKE A DETERMINATION THAT 131 OF THOSE DOCUMENTS THAT HAD BEEN PREVIOUSLY BEEN WITHHELD FROM PRODUCTION -- THEY WERE RELEVANT; THEY WERE RESPONSIVE, BUT THEY WERE SAID TO BE PRIVILEGED -- WHEN YOU OVERRULED THEIR PRIVILEGE OBJECTION, THEY SIMPLY REDESIGNATED THEM AS NOT RESPONSIVE IN THE FIRST INSTANCE.

THEY DIDN'T HAVE THE RIGHT TO DO THAT, YOUR HONOR. AND WE ARE AT AN ENORMOUS DISADVANTAGE BECAUSE THERE'S NO WAY FOR US TO EVEN BRING TO YOUR ATTENTION WHICH DOCUMENTS ON THE ORIGINAL LOG THOSE 131 REPRESENT, BECAUSE, ORIGINALLY, IF YOU WILL RECALL, YOUR HONOR, THERE WERE MORE THAN 19,000 ENTRIES ON THE PRIVILEGE LOG. THAT WAS JUST ONE -- THAT WAS JUST THE

NON-RQM LOG. MORE THAN 19,000.

AFTER THE MARCH 6 ARGUMENT AND THE ORDER OF APRIL 4, OVER 18,000 OF THEM WERE PRODUCED. CURRENT LOG HAS 1,058 ENTRIES ON IT. WITH THE 1,058 ENTRIES THAT WE HAVE, WE CAN TELL WHICH WERE THE -- WHICH LOG ENTRIES WERE ON THE ORIGINAL LIST. THEY CORRESPOND TO THOSE 1,058. YOU ORDERED THAT TO BE DONE, AND PLAINTIFF HAS COMPLIED. SO WE KNOW WITH REGARD TO THOSE.

BUT WITH REGARD TO THE 18,000-PLUS DOCUMENTS THAT WERE REMOVED FROM THE LOG, WE DON'T KNOW WHICH ONES WERE PRODUCED AND WHICH ONES WERE SIMPLY DEEMED TO BE NONRESPONSIVE. SO WE CAN'T GO BACK TO THE LOG AND SHOW YOU WHAT THE SUBJECT MATTER OF THE DOCUMENT WAS, WHO IT WAS TO OR FROM. BUT WHAT WE KNOW, YOUR HONOR, IS THAT THEY SAID THESE DOCUMENTS WERE RESPONSIVE AND RELEVANT. THEY WERE WITHHELD FROM PRODUCTION ON THE BASIS OF A GROUND OF PRIVILEGE THAT YOU HAVE SINCE OVERRULED. AND THEN IN SECRET, THEY DE-DESIGNATED THE DOCUMENTS FROM AMONG THE RESPONSIVE DOCUMENTS.

WE ONLY FOUND OUT ABOUT IT -- WE INQUIRED. WE RECEIVED NO ANSWER. THE FIRST TIME WE FOUND OUT ABOUT THE APRIL 4 RE-REVIEW OF THE DOCUMENTS WAS IN THE DECLARATION SUBMITTED IN THE OPPOSITION TO THIS MOTION.

AT ANY RATE, THOSE 131 HAVE ALREADY BEEN ORDERED TO BE PRODUCED, AND THERE IS NO ISSUE OF PRIVILEGE WITH THEM. IF, FOR ANY REASON, THERE'S A CONCERN ABOUT WHETHER THEY WERE RESPONSIVE OR NOT, IN

THE CONTEXT OF A CASE IN WHICH TENS OF THOUSANDS OF DOCUMENTS BEING PRODUCED BY BOTH SIDES -- MANY DOCUMENTS ARE BEING PRODUCED BASED ON WORD SEARCHES -- THERE SHOULD BE NO CONCERN ABOUT THE FACT THAT, THEORETICALLY, A HUNDRED NONRESPONSIVE DOCUMENTS MIGHT BE PRODUCED. IF WE WASTE OUR TIME REVIEWING THEM, SO BE IT. BUT THEY SAW FIT TO PUT THEM ON A PRIVILEGE LOG. THEY LOST THEIR RULING. THEY LOST THEIR PRIVILEGE OBJECTION. THEY SHOULD NOW PRODUCE THE DOCUMENTS.

THE COURT: ALL RIGHT. THANK YOU.

COUNSEL FOR THE PLAINTIFF.

MR. PARADIS: YOUR HONOR, WITH RESPECT TO THE 131 DOCUMENTS, WE DID A RE-REVIEW; HE'S CORRECT. AND IN LOOKING AT THE DOCUMENTS -- WE HAD A HIGHER LEVEL OF ATTORNEYS LOOKING AT THE DOCUMENTS, FRANKLY, ON THE SECOND AND THIRD GO-ROUND. THEY'RE SIMPLY NOT RESPONSIVE. THEY'RE MOSTLY --

THE COURT: WHAT DIFFERENCE DOES IT MAKE? WHAT DIFFERENCE DOES IT MAKE IF YOU PRODUCED THEM? SOMEBODY MUST HAVE THOUGHT THEY WERE RESPONSIVE. THEY WERE ON A LOG.

MR. PARADIS: LOWER-LEVEL ATTORNEYS DID THINK THEY WERE RESPONSIVE. THEY TURNED OUT NOT TO BE, YOUR HONOR. THEY'RE BUDGET DOCUMENTS.

THE COURT: OKAY. LOW LEVEL -- LOWER ATTORNEYS DON'T COUNT. THEY'RE MEMBERS OF THE BAR; ARE THEY NOT?

MR. PARADIS: THEY ARE.

THE COURT: OKAY.

MR. PARADIS: IF YOU WANT US TO PRODUCE THEM, WE'LL PRODUCE THEM.

THE COURT: I'M SORRY?

MR. PARADIS: IF YOU WANT US TO PRODUCE THEM, WE'LL PRODUCE THEM.

THE COURT: THEY SHOULD BE PRODUCED.

MR. PARADIS: VERY WELL, JUDGE.

MR. THOMASCH: YOUR HONOR, THAT TAKES US TO THE LIST OF 24 DOCUMENTS THAT WERE ON THE PRIVILEGE LOG IN BOTH INSTANCES, ALTHOUGH THE GROUNDS FOR PRIVILEGE HAVE CHANGED IN ALL RESPECTS.

SO WE LOOK AT IT IN SEVERAL TRANCHES, YOUR HONOR, TO TRY TO AVOID GOING THROUGH 24 INDIVIDUALLY. BUT I WILL NOTE THAT EXHIBIT 24 TO THE ADDENDUM TO THE SUPPLEMENTAL DECLARATION OF THEODORE O'REILLY IDENTIFIES THE LOG ENTRY WITH REGARD TO THESE 24 DOCUMENTS.

THE LOG IS A MASSIVE DOCUMENT. THE COURT DOESN'T ACCEPT OVER-SIZED PRINTED DOCUMENTS, NOR WOULD IT TAKE A CD-ROM. AND SO WHAT YOU HAVE BEFORE YOU, BY WAY OF A PRIVILEGE LOG, IS ESSENTIALLY LIKE READING MICROFICHE. IT'S A FUTILE EXERCISE.

BUT WE HAVE SUBMITTED TO YOU -- AND, OF COURSE, PLAINTIFFS HAVE -- THE 24 SPECIFIC LINE ENTRIES THAT HAVE BEEN REFORMATTED SO THAT THEY'RE READABLE AND THAT'S EXHIBIT 24 TO THE THEODORE O'REILLY SUPPLEMENTAL DECLARATION TO THE ADDENDUM.

SO THE FIRST GROUP THAT WE LOOK AT IS HALF OF THEM. 12 OF THE 24 DOCUMENTS ARE DOCUMENTS THAT WERE ALL ORIGINALLY SAID TO BE REMEDIATION DOCUMENTS. IN EVERY INSTANCE, THE STATEMENT OF PRIVILEGE INITIALLY WAS COMMUNICATION CONCERNING INVESTIGATION PERFORMED AT THE DIRECTION OF COUNSEL TO ASSIST IN ANALYZING AND PREPARING ADVICE CONCERNING ATTORNEY DIRECTED REMEDIATION AND LADWP'S LEGAL RIGHTS.

THAT WAS WHAT WE ARGUED ON MARCH 6. YOU ORDERED THEM TO BE PRODUCED.

SO THE 12 DOCUMENTS THAT THEY HAVE NOW SIMPLY REDESIGNATED AS WORK PRODUCT AGAIN, THEY'RE STILL REMEDIATION RELATED, BUT THEY CHANGED THE JUSTIFICATION TO PUT IN A NONREMEDIATION JUSTIFICATION.

THOSE DOCUMENTS APPEAR IN CONNECTION WITH THE ENTRIES ON THE LOG AT ENTRY 49, 51 TO 54, 65, 66, 492, 557, 559, 709, AND 739.

TO TRY TO -- I'M WILLING TO GO THROUGH ANY OF THEM INDIVIDUALLY. WE CAN ADDRESS THEM AS A GROUP, BECAUSE NONE OF THESE DOCUMENTS ARE TO AN ATTORNEY. NONE OF THESE DOCUMENTS ARE FROM AN ATTORNEY. NONE OF THESE DOCUMENTS IS A COMMUNICATION WITH AN ATTORNEY WHO WAS CC'D. AND NONE OF THE PRIVILEGE DESCRIPTIONS INDICATE THAT THE CONTENT OF THE DOCUMENT REVEALS AN ATTORNEY'S MENTAL IMPRESSIONS. THOSE ARE THE WAYS THAT A DOCUMENT MIGHT BE WORK PRODUCT PRIVILEGED.

THESE ARE NOT SUCH DOCUMENTS. THESE ARE FACTUAL DOCUMENTS. AND WHAT THE PLAINTIFF HAS DONE IS

THEY'VE TRIED TO SUGGEST THAT THE KEY ISSUE HERE IS, WHY WERE THEY CREATED IN THE FIRST INSTANCE? WERE THEY CREATED AT THE REQUEST OF A COUNSEL?

THE QUESTION IS, WHAT IS THE DOCUMENT? IF THE DOCUMENT IS A FACTUAL DOCUMENT THAT DOES NOT SAY ANYTHING ABOUT A LEGAL REQUEST, LEGAL ADVICE, LEGAL JUDGMENT, IT DOESN'T BECOME PRIVILEGED BY VIRTUE OF SENDING IT TO COUNSEL.

I THINK TO PUT THIS INTO CLEAR FOCUS, WE CAN LOOK AT EXHIBIT 739. IT'S INTERESTING THAT 739 IS ONE THAT IS REFERENCED IN A CAPTION TO THE OPPOSITION, BUT THERE IS NO DISCUSSION OF IT. BUT EXHIBIT 739 IS A LOG. IT'S A LOG CREATED BY A NONLAWYER; SPECIFICALLY, A GENTLEMAN BY THE NAME OF TERRY HALBERG WHO WAS ACTUALLY DEPOSED IN THIS CASE AS A 30(B)(6) WITNESS ON RQM.

THE DOCUMENT FILE NAME IS "TMG INCIDENT LOG.DOCX." IT'S DATED NOVEMBER 26, 2015. THE AUTHOR IS TERRY HALBERG. IT DOESN'T HAVE ANY RECIPIENTS BECAUSE IT'S NOT A COMMUNICATION TO ANYONE. IT'S JUST A LOG OF TMG INCIDENTS.

NOW, WE'LL SEE IN REGARD TO ANOTHER DOCUMENT THAT'S PARTICULARLY RELEVANT THAT THIS IS AN INSTANCE IN WHICH MR. PARADIS WAS WORKING IN HIS FUNCTION AS THE REMEDIATION MANAGER RETAINED PURSUANT TO AN ENTIRELY SEPARATE CONTRACT THAT WE DETAILED IN OUR MOTION PAPERS. THERE WERE TWO CONTRACTS: ONE FOR LEGAL SERVICES; ONE FOR ADMINISTRATIVE PROJECT ADMINISTRATION

SERVICES.

AND IT WAS IN THIS LATTER FUNCTION THAT MR. PARADIS WRITES AN E-MAIL THREE WEEKS AFTER THIS TMG INCIDENT. THAT E-MAIL GOES TO, AMONG OTHERS, TERRY HALBERG, WHO IS THE AUTHOR OF THE TMG INCIDENT LOG. AND THE E-MAIL SAYS -- AND I QUOTE MR. PARADIS -- "I BOOTED TMG LAST WEEK."

NOW, WHAT HAPPENED IS THERE WAS BOTH TMG AND AN INTERNAL LADWP GROUP THAT WERE BOTH INVOLVED IN TESTING IN THE REMEDIATION. APPARENTLY, NEITHER WAS DOING WORK SATISFACTORY TO MR. PARADIS, WITH HIS REMEDIATION MANAGER HAT ON, HIS PROJECT MANAGER HAT ON, AND HE FIRED TMG.

HIS FIRM IN A LEGAL CAPACITY NOW REPRESENTS TMG, BUT HE FIRED THEM AT THAT TIME, RIGHT AFTER, AND HE NOTIFIED MR. HALBERG OF IT.

IT'S THREE WEEKS AFTER HE RECEIVES FROM MR. HALBERG A LIST OF INCIDENTS FROM TMG. THERE IS NOTHING ABOUT AN INCIDENT LIST BY AN OUTSIDE VENDOR THAT IS POSSIBLY PRIVILEGED, AND, YET, THEY HAVE WITHHELD IT FROM PRIVILEGE BECAUSE THEY SAY THAT IT WAS GOING TO MR. PARADIS. THEY SAY DOCUMENTS CREATED AT THE DIRECTION OF ATTORNEY PARADIS CONTAINING WORK PRODUCT, BUT IT'S -- HE WAS NOT IN A LEGAL CAPACITY AT THAT TIME, IN THAT CONTEXT.

THE COURT: WHICH ITEM NUMBER IS THAT?

MR. THOMASCH: THAT IS ITEM 739, TMG INCIDENT LOG, 11/26/2015 --

THE COURT: YES. OKAY.

MR. THOMASCH: -- FROM HALBERG.

THE COURT: I SEE. ALL RIGHT. THANK YOU.

MR. THOMASCH: SO THOSE ARE THE FIRST 12 DOCUMENTS, YOUR HONOR. AS I SAY, THEY WERE ORIGINALLY WORK PRODUCT.

YOUR HONOR, IN PARAGRAPH 3 OF YOUR APRIL 4 ORDER, SIMPLY OVERRULED ALL OBJECTIONS BASED ON WORK PRODUCT. YOU ALLOWED, IN PARAGRAPH 5, DOCUMENTS THAT WERE LISTED AS WITHHELD FOR ATTORNEY-CLIENT PRIVILEGE TO BE RELOGGED. YOU ALLOWED THAT. YOU DIDN'T ALLOW THE RELOGGING OF DOCUMENTS THAT HAD BEEN WITHHELD AS ATTORNEY WORK PRODUCT.

THESE WERE ATTORNEY WORK PRODUCT DOCUMENTS. THEY WERE SAID TO BE REMEDIATION RELATED. THEY'RE NOW SAYING THEY WEREN'T REMEDIATION RELATED. BUT A TMG LIST OF INCIDENTS AND THE OTHER DOCUMENTS ON HERE ARE IN SOME WAY, SHAPE, OR FORM RELATED TO THE REMEDIATION, RELATED TO CLAIMS THAT ARE BEING ADVANCED AGAINST PWC IN THE LITIGATION.

AND WE WOULD SAY, FIRST, THEY DO NOT HAVE THE RIGHT TO RELOG THEM AS WORK PRODUCT WHEN THOSE OBJECTIONS WERE OVERRULED; AND, SECONDLY, THE WORK PRODUCT CLAIM FAILS, IN LIGHT OF THE FACT THAT THE DOCUMENTS ARE NOT FROM OR TO AN ATTORNEY AND DO NOT DISCLOSE ATTORNEY ADVICE.

THANK YOU ON THOSE 12. IF YOU WOULD LIKE TO --

THE COURT: YEAH, WHY DON'T YOU FINISH.

MR. THOMASCH: GO ON WITH THE OTHERS; SURE.

THE COURT: YES. YES.

MR. THOMASCH: THE NEXT GROUP IS A GROUP OF EIGHT, YOUR HONOR.

THOSE, AGAIN, ALL HAD THE EXACT SAME REMEDIATION RELATED WORK PRODUCT PRIVILEGE ATTACHED TO THEM ON THE FIRST LOG. THESE EIGHT DOCUMENTS ARE DOCUMENTS 26, 27, 28, 758, 866, 867, 882, AND 1025.

THE DIFFERENCE BETWEEN THIS GROUP AND THE LAST GROUP OF 12 IS THAT, WHILE THEY ALSO BEGAN IN THE ORIGINAL LOG IN JANUARY OF 2017 AS REMEDIATION RELATED WORK PRODUCT, LADWP SUBSEQUENTLY RECLASSIFIED THEM AND CLAIMS THAT THEY ARE ATTORNEY CLIENT PRIVILEGED.

AGAIN, YOU ALLOWED A NEW LOG AND ALLOWED THEM TO REVISE THE DESCRIPTION OF THE LOG WITH REGARD TO DOCUMENTS LISTED AS WITHHELD FOR ATTORNEY-CLIENT PRIVILEGE. THESE WERE NOT AMONG THEM. SO THEY'VE NOW DECIDED THE WORK PRODUCT ISN'T GOING TO WORK; THEY WANT TO CALL THESE ATTORNEY-CLIENT PRIVILEGED.

ONCE AGAIN, THEY ARE DOCUMENTS THAT AREN'T FROM OR TO ATTORNEYS. YOU CAN'T HAVE ATTORNEY-CLIENT PRIVILEGE WHERE THE DOCUMENT ITSELF IS NOT FROM OR TO AN ATTORNEY.

IT APPEARS THAT IN FOUR OF THE EIGHT, WHAT I SURMISE HAPPENED, IS THAT AT SOME POINT THERE WAS AN E-MAIL THAT INVOLVED AN ATTORNEY. LATER ON, THAT E-MAIL MOVED AROUND BETWEEN FROM A NONATTORNEY TO A

NONATTORNEY.

THE E-MAIL CHAIN, LOWER DOWN IN IT, MAY CONTAIN THE ATTORNEY-CLIENT PRIVILEGED MATTER. THAT CAN BE REDACTED OUT. BUT THE COMMUNICATION FROM A NONATTORNEY TO A NONATTORNEY THAT DOES NOT DISCLOSE WITHIN IT THE ATTORNEY'S ADVICE IS SIMPLY NOT A PRIVILEGED DOCUMENT; IT'S CERTAINLY NOT AN ATTORNEY-CLIENT PRIVILEGE DOCUMENT. AND THAT'S WHAT HAPPENED HERE.

THEY HAVE ADDED THIS BETWEEN THE FIRST PRIVILEGE LOG AND THE SECOND -- IT'S ACTUALLY THE FOURTH PRIVILEGE LOG -- BUT AS THE PRIVILEGE LOGS HAVE GONE ALONG, THEY HAVE ADDED A COLUMN THAT THEY CALL ADDITIONAL ATTORNEY COMMUNI- -- YOU CAN LOOK THROUGH ALL THE CASES; THERE'S NO SUCH ANIMAL RECOGNIZED UNDER CALIFORNIA LAW.

IT'S SORT OF A CREATED COLUMN TO TRY TO BRING AN ATTORNEY INTO A DOCUMENT WHERE THE ATTORNEY ACTUALLY HAS NOTHING TO DO WITH THE SPECIFIC COMMUNICATION. SO WE ARE LOOKING AT COMMUNICATIONS BETWEEN TWO NONLAWYERS ON WHICH THEY ARE CLAIMING PRIVILEGE, AND WE WOULD INDICATE THAT THAT, AGAIN, CANNOT STAND.

THE THIRD GROUP OF THESE 24 ARE ALSO DOCUMENTS THAT WERE ORIGINALLY CLAIMED AS WORK PRODUCT. NOW THERE IS A CLAIM OF ATTORNEY-CLIENT PRIVILEGE, AND THERE IS NO LAWYER ON THESE DOCUMENTS ACTING AS A LAWYER, BUT THEY TRY TO IMPLICATE A LAWYER ON THESE THREE, AS OPPOSED TO THE PRECEDING EIGHT. THESE THREE

DOCUMENTS ARE DOCUMENTS 40, 594, AND 359.

FORTY AND 594 ARE E-MAILS EXCHANGED BETWEEN NONLAWYERS AT LADWP AND MR. FRED PICKEL, WHO IS THE RATEPAYER ADVOCATE OUT OF THE OFFICE OF PUBLIC ACCOUNTABILITY. HE'S SUPPOSED TO BE THE WATCHDOG OVER LADWP, AND HE WAS MAKING INQUIRIES IN HIS WATCHDOG CAPACITY. AND NOW THEY'RE CLAIMING THAT, OH, IN DOING SO, THAT CONVERSATION BETWEEN NONLAWYERS AT LADWP AND MR. PICKEL WERE SOMEHOW PRIVILEGED -- HE'S NOT A LAWYER; THE PERSON THAT IT WAS COMING FROM WAS NOT A LAWYER.

NOW, ON TWO OF THESE DOCUMENTS, 40 AND 594, APPARENTLY, THERE IS A REFERENCE TO SENDING THE DOCUMENT TO MR. TOM -- MR. TOM IS AN ATTORNEY WHO IS AT THE CITY -- FOR THE PURPOSE OF MAINTAINING ITS CONFIDENTIALITY.

WELL, THAT'S ACTUALLY VERY HELPFUL TO US. I MEAN, NOTHING MORE CLEARLY SHOWS A DOCUMENT IS NOT CONFIDENTIAL THAN TO SERVE IT -- TO SEND IT TO AN ATTORNEY FOR THE PURPOSE OF TRYING TO AVOID IT BEING PRODUCED.

THEY WEREN'T SENDING IT TO THE ATTORNEY FOR LEGAL ADVICE. THEY WERE SENDING IT TO AN ATTORNEY TO TRY TO MAINTAIN CONFIDENTIALITY, AND THE CASES ARE LEGION IN DOING THAT. YOU CANNOT TAKE A NONPRIVILEGED DOCUMENT, WHICH IS AN LADWP EMPLOYEE SENDING SOMETHING TO THE RATE ADVOCATE; YOU CANNOT CC COUNSEL, AND, THUS, MAKE IT PRIVILEGED.

THE THIRD DOCUMENT IN THIS GROUP IN WHICH THEY TRY TO IMPLICATE AN ATTORNEY IS DOCUMENT 739 -- I'M SORRY; IT'S DOCUMENT 359. 359 IS LIKE 739 IN THAT IT IS A DOCUMENT IN WHICH MR. PARADIS IS WEARING HIS PROJECT MANAGER OVER THE REMEDIATION HAT.

AND IF WE LOOK AT 359, IT'S VERY MUCH RELATED TO 739 THAT WE TALKED ABOUT. 359 IS DATED DECEMBER 16, 2015. THE LAST ONE WAS THE END OF NOVEMBER.

DECEMBER 16, 2015, IT'S FROM MR. PARADIS TO MR. TOWNSEND. AND WHAT WE KNOW IS THAT ON DECEMBER 18TH, TWO DAYS LATER, WAS WHEN MR. PARADIS WROTE MR. TOWNSEND AND MR. HALBERG AND SAID, "I BOOTED TMG LAST WEEK." THIS DOCUMENT IS CALLED "TMG WORK IN PROGRESS."

SO WHAT WE HAVE IS, IN LATE NOVEMBER TMG HAS AN INCIDENT LOG. WE WOULD SAY THOSE ARE THE MISTAKES THAT TMG MADE, HAVE BEEN COLLECTED AND LISTED OUT BY MR. HALBERG.

THEN ON THE 16TH OF DECEMBER, WE HAVE THIS DOCUMENT, DOCUMENT 359, WHICH IS THE TMG WORK IN PROGRESS, BECAUSE THE MEMO ON THE 18TH INDICATES THAT BY "BOOTING," BY FIRING TMG, THEY WERE DELAYING SOME OF THE SCHEDULED DEADLINES FOR THE REMEDIATION.

AND SO IT WAS ALL TIED TOGETHER, WHAT'S THE STATUS OF WHAT THEY'RE DOING SO WE CAN SEE HOW TO ACCOMPLISH THE REMEDIATION WITHOUT THEM WHEN THEY'RE GOING TO BE FIRED.

THE DOCUMENTS ABOUT THE PERFORMANCE OF TMG --

THAT'S WHAT THESE TWO ARE; IT'S ABOUT THE PERFORMANCE OF TMG ON THE REMEDIATION. AND, REMEMBER, TMG ALSO IS IN THIS CASE BECAUSE THEY WERE THE QUALITY ASSURANCE ADVISER WHO OVERSAW PWC'S WORK. THEY DID THE ROOT CAUSE ANALYSIS IN 2014 THAT SOUGHT TO PLACE BLAME ON PWC FOR CERTAIN FAILURES.

THEY THEN WERE INVOLVED IN THE REMEDIATION, AND THEY APPARENTLY DID SO POORLY IN THE REMEDIATION THAT THEY WERE FIRED. THEY WERE FIRED BY COUNSEL FOR THE CITY, WEARING HIS PROJECT MANAGER'S HAT. THEY ARE NOW REPRESENTED BY COUNSEL FOR THE CITY, WEARING HIS LAWYER FOR THE CITY HAT. IT'S A VERY INTERESTING SITUATION. BUT WE CERTAINLY NEED TO EXPLORE WHY TMG WAS REMOVED FROM THE PROJECT, BECAUSE IF THEY WERE REMOVED FOR ERRORS THEY WERE MAKING WHEN THEY WERE ACTUALLY INVOLVED IN THE PROJECT FROM THE GET-GO, THAT WOULD BE RELEVANT TO THE ATTEMPT BY LADWP TO SHADOW -- CAST ALL BLAME FOR THE PROJECT ON PWC.

YOUR HONOR, THE LAST OF THE DOCUMENTS, NO. 24 -- THE LIST OF 24, IS DOCUMENT NO. 71. DOCUMENT 71 IS THE DRAFT OF A PLEADING, A COMPLAINT CAPTIONED JONES VERSUS PWC, MAINTAINED IN THE FILES OF LADWP. WE EXTENSIVELY DEAL WITH THAT AT PAGES 3 TO 8 OF OUR REPLY BRIEF. AND I DON'T WANT TO --

THE COURT: WELL, ONE THING I'M NOT CLEAR --

MR. THOMASCH: YEAH.

THE COURT: -- IS THE COMPLAINT IN THE JONES MATTER OR THE COMPLAINT IN THIS MATTER OR SOME OTHER CASE

WHICH LADWP IS THE PLAINTIFF.

MR. THOMASCH: IT'S SOME OTHER CASE. IT'S JONES VERSUS PWC. NO SUCH FILING EVER TOOK PLACE.

LADWP SUED PWC; JONES SUED LADWP. THIS OCCURS BEFORE EITHER OF THE TWO ACTUAL LAWSUITS, AND IT APPEARS TO BE -- IS DRAFTED BY SOMEONE -- I BELIEVE THE CITY IS NOW TAKING OWNERSHIP OF IT AND SAYING IT WAS DRAFTED BY A LAWYER FOR THE CITY.

AND IT WAS -- BUT IT WASN'T FOR LEGAL ACTION BY THE CITY OF LOS ANGELES. IT WAS FOR LEGAL ACTION BY ANTWON JONES WHO LATER SUED THE CITY. HE DID NOT SUE THE CITY AT THAT POINT.

SOMEHOW THE CITY UNDERSTOOD THAT HE WAS THINKING ABOUT IT, AND THE CITY TRIED TO DIRECT HIM TO SUE PWC AND DRAFTED A COMPLAINT FOR THAT PURPOSE. AND THE CITY SAYS, THIS IS LEGAL ADVICE FOR THE CITY OF LOS ANGELES BECAUSE WE WERE EVALUATING HOW WE MIGHT, EITHER DIRECTLY THROUGH A LAWSUIT AGAINST PWC OR INDIRECTLY THROUGH A RATEPAYER LAWSUIT, RECOVER MILLIONS OF DOLLARS.

THE COURT: LET ME ASK JUST ON THIS ISSUE, WHAT'S THE PLAINTIFF'S VIEW? WHO WAS THE ATTORNEY IN THIS CASE DRAFTING THE PLEADING?

MR. PARADIS: I DRAFTED THE PLEADING, YOUR HONOR, ON BEHALF OF THE CITY, AT THE REQUEST OF THE CITY.

THE COURT: YOU DRAFTED THEM ON BEHALF OF THE CITY?

MR. PARADIS: YES, SIR.

THE COURT: AND SO WHY IS JONES THE PLAINTIFF?

MR. PARADIS: WITHOUT DISCLOSING ATTORNEY-CLIENT PRIVILEGED COMMUNICATION, YOUR HONOR, WE WERE ASKED TO PREPARE TWO DIFFERENT COMPLAINTS. AND IF YOU CARE TO, I'D LIKE TO HAND UP THE LOGS SO YOU CAN HAND IT --

THE COURT: GIVE IT TO THE CLERK, PLEASE. NOT --

THE CLERK: THIS WAY.

MR. PARADIS: YOUR HONOR, I APOLOGIZE FOR THE SIZE.

I DIRECT YOUR ATTENTION TO THE LOG ITEM 70, 71 --

THE COURT: YEAH, I SEE IT.

MR. PARADIS: -- 72, 73. I'VE HIGHLIGHTED THEM THERE.

AND I'VE GOT 70, 71, 72, AND 73, THE ACTUAL DOCUMENTS HERE, YOUR HONOR, IF YOU'D LIKE TO SEE THEM AS WELL.

I THINK IT WOULD RESOLVE A LOT OF THE QUESTIONS --

THE COURT: I DON'T WANT TO SEE THEM UNLESS YOU'RE GOING TO SHOW THEM TO OPPOSING COUNSEL.

BUT EXPLAIN TO ME THE PROCESS. YOU'RE TELLING ME THAT YOU, AS THE ATTORNEY FOR THE CITY, ARE DRAFTING A COMPLAINT FOR A PLAINTIFF THAT'S NOT THE CITY.

MR. PARADIS: CORRECT. WE WERE ASKED -- ACTUALLY, WE DRAFTED IT FOR THE CITY, FOR THE CITY. THAT'S A MISTAKE ON MR. THOMASCH'S --

THE COURT: WHO ARE YOU REPRESENTING IN THAT CASE?

MR. PARADIS: WE REPRESENTED THE CITY, YOUR HONOR. WE WERE ACTUALLY CONTEMPLATING DIFFERENT LEGAL

STRATEGIES, DIFFERENT LEGAL THEORIES. AND THE CITY REQUESTED THAT WE PREPARE TWO DIFFERENT DRAFT COMPLAINTS: ONE WHICH WAS A DIRECT COMPLAINT BY THE CITY AGAINST PWC; THE OTHER ON BEHALF OF MR. JONES AGAINST PWC.

WE HAD DISCUSSIONS --

THE COURT: I HEAR YOU, BUT I DON'T UNDERSTAND IT.

WHAT ARE YOU DOING AS A CITY ATTORNEY DRAFTING A COMPLAINT ON BEHALF OF MR. JONES?

MR. PARADIS: AGAIN, WITHOUT GETTING INTO THE DETAILS, TO WAIVE ANYTHING, THERE WAS CONCERN ON THE CITY'S PART THAT PEOPLE WHO WERE CUSTOMERS BE ENTITLED TO RECOVER. SO THE IDEA WAS, WHAT ARE THE TYPES OF LEGAL THEORIES THAT MIGHT BE OUT THERE THAT COULD BE USED BY THE CLASS MEMBERS IF THEY WANTED TO RECOVER? WHAT ARE THE THEORIES? THEY WANTED TO EXPLORE AND UNDERSTAND THAT.

THAT DRAFT COMPLAINT HAD A SINGLE ALLEGATION, SINGLE CAUSE OF ACTION. IT WAS NEVER PROVIDED TO ANYONE OTHER THAN THE CITY. AND YOU'VE GOT A 16-COUNT COMPLAINT THAT WAS FILED BY MR. JONES, WHICH IS VERY DIFFERENT. DOESN'T HAVE ANYTHING TO DO --

THE COURT: I UNDERSTAND THE COMPLAINT BY MR. JONES AGAINST THE CITY. I DON'T QUITE UNDERSTAND -- IS THE CITY AUTHORIZED TO -- OR IS THE CITY ATTORNEY'S OFFICE AUTHORIZED TO FILE COMPLAINTS ON BEHALF OF RATEPAYERS?

MR. PARADIS: IT WAS NOT TO BE FILED ON BEHALF OF THE RATEPAYERS, YOUR HONOR. IT WAS SOMETHING THEY

WANTED TO ANALYZE AND DISCUSS WITH US INTERNALLY TO SEE WHAT THE KINDS OF CLAIMS MIGHT BE, TO UNDERSTAND WHAT TYPE OF CLAIMS RATEPAYERS MIGHT BRING IF THEY DECIDED TO DO THAT.

THE COURT: IS THERE A REASON WHY MR. JONES'S NAME IS ON IT? NOW, I UNDERSTAND YOU PUT "JOHN DOE" OR "XYZ" AS A FICTIONAL, POTENTIAL PLAINTIFF.

HOW DID IT END UP WITH ANTWON JONES AS THE PLAINTIFF?

MR. PARADIS: AGAIN, YOUR HONOR, WITHOUT DISCLOSING PRIVILEGED COMMUNICATION, THERE WERE SEVERAL PEOPLE WHO HAD BEEN COMPLAINING TO THE DEPARTMENT, AT THAT POINT IN TIME HAD BEEN IN TOUCH WITH THE DEPARTMENT, AND MR. JONES'S NAME WAS ONE OF THEM.

THE COURT: ALL RIGHT. WE'LL HAVE TO DISCUSS THIS FURTHER.

DO YOU WANT TO FINISH YOUR PRESENTATION?

MR. THOMASCH: I WOULD LIKE TO MAKE A POINT ON THIS LAST ARGUMENT, YOUR HONOR.

PAGE 6 OF THE OPPOSITION BY THE CITY, WITH REGARD TO DOCUMENT 71, THE JONES VERSUS PWC COMPLAINT, IT INDICATES IN LINES 6 TO 7 THAT THE CONVERSATIONS THAT PRECIPITATED THIS DRAFT COMPLAINT, QUOTE, "WERE CONCERNING POSSIBLE WAYS IN WHICH THE CITY/LADWP MIGHT PURSUE ITS DAMAGE CLAIMS AGAINST PWC."

THEY'RE TALKING ABOUT A -- ONE AVENUE OF RECOVERY AGAINST PWC FOR THE CITY.

THERE IS NO WAY, YOUR HONOR -- AND I INVITE

YOU TO LOOK AT THE PLEADING 71. THAT'S THE ONLY ONE THAT WE'RE ASKING ABOUT. WE'RE NOT LOOKING FOR THE COMMUNICATIONS ABOUT IT. BUT IT'S NOT A LEGAL MEMO. IT'S NOT LEGAL ADVICE AT ALL. IT'S A DRAFT PLEADING IN WHICH THE CITY CONTEMPLATED WRITING A COMPLAINT AND HANDING IT OVER TO A RATEPAYER WHO WAS ABOUT TO SUE IT AND SAY, GO SUE PWC INSTEAD. WE MAY INDIRECTLY -- THAT'S WHAT THEY SAY -- DIRECTLY OR INDIRECTLY RECOVER MONEY AS A RESULT OF YOUR LAWSUIT.

NOW, YOUR HONOR, THERE IS NO WAY THAT A NONPARTY CAN INDIRECTLY RECOVER MONEY UNLESS MR. JONES IS A STALKING HORSE OR A PROXY OR HAS AN AGREEMENT WITH THE CITY.

THE COURT: WELL, THAT'S MY CONCERN HERE, THAT I'M NOT SURE THAT WE HAVE ALL THE FACTS. I DON'T QUITE UNDERSTAND THE SETUP HERE AS TO WHAT THE ATTORNEY WAS DRAFTING, ON BEHALF OF WHOM. SO I THINK SOME MORE SUBMISSION OUGHT TO BE MADE ON THAT.

MR. THOMASCH: AND I WOULD NOTE AT THAT TIME MR. LANDSKRONER ULTIMATELY CAME INTO THE CASE AS MR. JONES'S COUNSEL. AND HE, OF COURSE, HAS SUBMITTED A FEE PETITION. HE WAS WORKING AS MR. JONES'S COUNSEL IN DECEMBER OF '15, WHEN THIS DOCUMENT WAS PREPARED -- IN DECEMBER '14, WHEN THE DOCUMENT WAS PREPARED, HE WAS WORKING AS JONES'S COUNSEL.

AT THAT VERY SAME TIME, HE AND MR. PARADIS WERE COCOUNSEL REPRESENTING THE SAME PLAINTIFF, A MR. REED (PHONETIC), IN A CASE ABOUT THE TELEPHONE

COMMUNICATIONS PRIVACY ACT. THEY HAD A BIG CLASS ACTION TOGETHER.

SO THEY WERE COCOUNSEL IN ONE ACTION. AT THE SAME TIME, MR. LANDSKRONER WAS GOING TO SUE MR. PARADIS' CLIENT. AND MR. PARADIS PREPARES A COMPLAINT IN THE NAME OF MR. LANDSKRONER'S CLIENT TO SUE PWC TO INDIRECTLY RECOVER AGAINST PWC MONEY FOR THE CITY WHICH, IN MY MIND, CLEARLY ESTABLISHES THAT THERE WAS SOME DEAL BETWEEN THE CITY AND MR. JONES'S COUNSEL.

NONE OF THAT WAS DISCLOSED TO YOUR HONOR, BECAUSE WHEN OTHER COUNSEL CAME IN AND SAID THERE MAY HAVE BEEN SOME FORM OF COLLUSION AND THERE WAS AN INDEPENDENCE OF COUNSEL, MR. LANDSKRONER PUT IN A DECLARATION -- IT'S QUOTED IN OUR REPLY PAPERS. MR. LANDSKRONER'S DECLARATION SAYS, I HAVE NOT BEEN COCOUNSEL OR EVEN OPPOSING COUNSEL WITH EITHER LINER, LLP, OR ANYONE IN THE CITY ATTORNEY'S OFFICE.

HE LEAVES MR. PARADIS' FIRM OUT OF THAT. HE CAREFULLY DRAFTS IT NOT TO DISCLOSE THAT RELATIONSHIP, WHILE MR. PARADIS IS WORKING ON A COMPLAINT IN THE NAME OF MR. LANDSKRONER'S CLIENT.

THE COURT: WELL, I THINK THAT'S GOT TO BE FLESHED OUT MORE, BECAUSE ON THIS RECORD I REVIEWED, IT'S UNCLEAR. I THINK YOU'RE GOING TO HAVE TO LAY A FOUNDATION AS TO THE PARTY ON BEHALF OF WHOM THE COMPLAINT WAS DRAFTED AND THE REASONS FOR IT, THE DRAFT, WHETHER IT IS AN EFFORT BY THE CITY TO HAVE A FORMAL COMPLAINT TO SEE WHAT THEORETICALLY COULD BE

CLAIMED OR WHAT'S AT WORK ON BEHALF OF A NON-CITY ENTITY OR AN INDIVIDUAL HELPING SOMEBODY OUTSIDE THE CITY TO FILE A LAWSUIT, EITHER TO ASSIST THE CITY OR JUST AS INDEPENDENT. I THINK THAT'S ALL GOT TO BE FLESHED OUT.

MR. THOMASCH: YOUR HONOR, OBVIOUSLY, AS A MATTER OF CALIFORNIA LAW, THE BURDEN TO PROVE THE EXISTENCE OF THE PRIVILEGE IS ON THE PARTY THAT ASSERTS THE PRIVILEGE.

SO GOING FORWARD, IT SEEMS TO ME THAT THE MATTER OF PRODUCTION IS IN THE CITY'S HANDS TO COME FORWARD WITH MORE -- ALTHOUGH WE ARE PREPARED TO TAKE A DEPOSITION OF A PMQ ON THE CIRCUMSTANCES SURROUNDING THE CREATION OF THAT DOCUMENT.

THE COURT: I THINK YOU HAVE TO DO IT, BECAUSE WHAT WE HEARD TODAY WAS THAT THE CITY ATTORNEY HIMSELF DRAFTED THE COMPLAINT. NOW WE HAVE TO FIND OUT ON BEHALF OF WHOM OR WHAT WERE THE CIRCUMSTANCES.

MR. THOMASCH: WE WILL PUT OUT A PMQ NOTICE.

THE COURT: ALL RIGHT. THANK YOU.

MR. THOMASCH: THANK YOU, YOUR HONOR.

THE COURT: COUNSEL FOR THE CITY?

MR. PARADIS: WITH RESPECT TO THE DOCUMENTS, YOUR HONOR, I THINK 12, THE 8 AND THE OTHERS, OTHER THAN THIS LAST ONE, OUR POSITIONS ARE SET FORTH IN THE PAPERS.

WITH RESPECT TO THE FIRST GROUP, WE'VE GOT 12 DOCUMENTS. THESE DOCUMENTS ARE ATTORNEY WORK

PRODUCT. FOR EXAMPLE, NO. 49 IS A REQUEST FOR LITIGATION HOLD SENT OUT BY AN ATTORNEY, IDENTIFYING THE PEOPLE WHO ARE GOING TO BE THE SUBJECT OF THE HOLD.

739, FOR EXAMPLE, WAS CREATED AT THE REQUEST OF COUNSEL. THE COURT, TO THE CONTRARY, NEVER RULED, ACTUALLY, ON THE ATTORNEY WORK PRODUCT CLAIMS AND NEVER OVERRULED THE ATTORNEY WORK PRODUCT CLAIM. THEY WERE ONLY WITH RESPECT TO THE REMEDIATION DOCUMENTS.

THAT WAS YOUR RULING, YOUR HONOR, NOT ANY BROADER THAN THAT.

WITH RESPECT TO THE SECOND GROUP, THOSE DOCUMENTS ALSO CONTAIN ATTORNEY-CLIENT FORWARDS. AT THE DIRECTION OF COUNSEL -- THEY WERE CREATED AT THE DIRECTION OF COUNSEL. FOR EXAMPLE, EXHIBIT 26, THE DOCUMENT 26 IS AN E-MAIL THAT WAS CREATED AT MY REQUEST CONCERNING INFORMATION THAT I USED TO DRAFT THE COMPLAINT AGAINST PWC.

WITH RESPECT TO THE THIRD GROUP, 45, 94 WERE ALREADY PRODUCED IN REDACTED FORM. THE OTHER DOCUMENT WAS CONCERNING REQUEST FOR LEGAL ADVICE CONCERNING AN AUDIT REQUEST.

SO WE'VE TAKEN VERY CLEAR POSITIONS. AT THIS POINT, WE BELIEVE THAT IF THERE'S ANY FURTHER REVIEW, IT SHOULD BE BY YOUR HONOR IN CAMERA TO ASSESS THE 23, 24 DOCUMENTS.

THE COURT: ALL RIGHT. THANK YOU.

MR. THOMASCH: YOUR HONOR, VERY BRIEFLY.

PARAGRAPH 3 OF YOUR HONOR'S PRIOR RULING ON

APRIL 4TH OVERRULED THE OBJECTION WITH DOCUMENTS LISTED IN PLAINTIFF'S PRIVILEGE LOGS AS TO THE INVESTIGATION. THEY WERE REMEDIATION DOCUMENTS THAT WERE IN THE LOGS OR THAT WERE IN THE RQM SAMPLING LOG. YOU OVERRULED THOSE ALREADY.

RIGHT NOW, THEY'RE SAYING, FOR INSTANCE, THAT DOCUMENT 49 -- JUST PICK ONE -- THEY SAY THAT WAS RELATED TO LITIGATION HOLDS. THE NAME ON THE DOCUMENT IS "EMPLOYEE WORK SCHEDULES." THAT'S IT. THE DOCUMENT AUTHOR IS DOWN AS A-C-H-A-V-E. THAT'S -- WE DON'T KNOW WHAT THAT IS. IT DOESN'T APPEAR TO BE AN INDIVIDUAL. IT IS CERTAINLY NOT AN ATTORNEY. ATTORNEYS WERE DESIGNATED. THERE IS NO ATTORNEY THAT CREATED THIS DOCUMENT.

IT'S A FACTUAL DOCUMENT. IF YOU TAKE A FACTUAL DOCUMENT AND YOU USE IT FOR A LEGAL PURPOSE, THEN DOCUMENTS DISCUSSING YOUR USE AND WHAT SIGNIFICANCE YOU THINK IT HAS, THOSE ARE PRIVILEGED. AND WE DIDN'T SEEK THOSE. WE DIDN'T GO AFTER ANY OF THE COMMUNICATIONS THAT INVOLVED THESE DOCUMENTS.

BUT THE UNDERLYING FACTUAL ISSUE, THERE IS NOTHING PRIVILEGED ABOUT THE WORK SCHEDULE OF LADWP EMPLOYEES; THERE IS NOTHING PRIVILEGED ABOUT A LIST OF INCIDENTS THAT TMG WAS INVOLVED IN.

WE ARE NOT -- WE ARE AFTER FACTS. WE ARE NOT AFTER COMMUNICATIONS THAT DELVE INTO THE SIGNIFICANCE OF THOSE FACTS. WE'LL DRAW OUR OWN CONCLUSIONS.

THANK YOU.

THE COURT: ALL RIGHT. THANK YOU.

IN THIS CASE, PRESENT MOTION TO COMPEL THAT'S BEFORE THE COURT IS, IN EFFECT, AN EXTENSION OF THE LAST MOTION TO COMPEL.

IN THE COURT'S PRIOR ORDER, THE COURT ORDERED MANY OF THE DOCUMENTS BE PRODUCED BUT ALLOWED CERTAIN DOCUMENTS TO BE VIEWED AND A NEW PRIVILEGE LOG TO BE CREATED IN ORDER FOR THE LADWP TO JUSTIFY ITS OBJECTIONS, IF THEY REMAINED, AND TO ALLOW FOR MEANINGFUL REVIEW BY THE COURT.

AND, IN ESSENCE, AFTER THE PARTIES HAVE MET AND CONFERRED, THERE ARE THREE CATEGORIES OF DOCUMENTS THAT REMAIN IN DISPUTE. THE FIRST, THE DRAFT COMPLAINT, WHICH WE HAVE ALREADY TOUCHED ON, AND THE COURT IS GOING TO JUST TAKE THAT PART OF IT OFF CALENDAR, TO BE RESCHEDULED AFTER ADDITIONAL DISCOVERY IS TAKEN, TO ESTABLISH THE FOUNDATION AS TO HOW THE DOCUMENT WAS PREPARED AND THE CIRCUMSTANCES SURROUNDING THE DOCUMENT.

THE SECOND CATEGORY IS THE 23 OTHER DOCUMENTS WHICH HAVE BEEN ADDRESSED BY COUNSEL. AND THE THIRD CATEGORY IS 131 MISSING DOCUMENTS WHICH WE HAVE ALREADY ADDRESSED AND COUNSEL FOR THE PLAINTIFF'S GOING TO PRODUCE.

FIRST, WITH REGARD TO ITEMS NO. 49, 51 THROUGH 54, THESE FIVE DOCUMENTS RELATE TO LITIGATION HOLD LETTER, ITEM 50, WHICH WAS UNCHALLENGED BY PWC, WHICH ESSENTIALLY CONCEDES THE PRIVILEGED NATURE OF THE

COMMUNICATION IN ITEM NO. 50.

HOWEVER, SIMPLY BECAUSE DOCUMENTS WERE ATTACHED TO A CONFIDENTIAL COMMUNICATION DOES NOT RENDER THE ATTACHMENT AS PRIVILEGED.

BASED ON A PRIVILEGE LOG, THE FIVE DOCUMENTS CONCERNING IDENTITY AND SCHEDULE OF LADWP CUSTOMER SERVICE DIVISION EMPLOYEES DO NOT INVOLVE COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT. THE ONLY WORK PRODUCT PRIVILEGE HAS BEEN CLAIMED ON THE PRIVILEGE LOG AND THE DESCRIPTION ONLY ALLEGES THAT THE DOCUMENTS WERE PREPARED AT THE DIRECTION OF AN ATTORNEY.

THESE DOCUMENTS FALL WITHIN THE PURVIEW OF THE COURT'S PREVIOUS ORDER. THE COURT ISSUED ITS ORDER AND THE SAME REASONING APPLIES; THE FIVE DOCUMENTS SHOULD BE DISCLOSED.

TURNING TO ITEMS 557 AND 559, THOSE ARE DOCUMENTS SENT TO ATTORNEY TOM SEEKING LEGAL ADVICE. PWC'S ARGUMENT THAT THE ATTORNEY-CLIENT PRIVILEGE SHOULD HAVE BEEN RAISED INITIALLY AS TO THESE DOCUMENTS IS WELL-TAKEN AS IT APPEARS TO BE A MOVING TARGET HERE IN TERMS OF WHAT'S HAPPENING WITH THE DESCRIPTION OF THESE DOCUMENTS OR CATEGORIZATION.

THAT SAID, THE LADWP'S RECLASSIFICATION OF CERTAIN DOCUMENTS AT ISSUE IS STILL IN COMPLIANCE WITH THE OVERALL SPIRIT OF THE PREVIOUS COURT ORDER. BASED UPON THE PRIVILEGE CLAIM, THE COURT WILL NOT REQUIRE A DISCLOSURE OF ITEMS 557 AND 559.

ITEMS 65 AND 66. THERE'S AN ISSUE OF DISCREPANCY CONCERNING THOSE DOCUMENTS. UNDER THE PRIVILEGE DESCRIPTION COLUMN OF THE LOG, PLAINTIFF STATES THE DOCUMENTS WERE CREATED BY ATTORNEYS BROWN AND TOM. HOWEVER, ON THE DOCUMENT AUTHOR COLUMN, THE NAMES SABOURY AND JRAMAL, ALSO KNOWN AS JOSEPH RAMALLO, APPEAR, INDIVIDUALS WHO ARE NONATTORNEY LADWP EMPLOYEES. SABOURY'S KNOWN TO HAVE PLAYED A MANAGING ROLE IN REMEDIATION, AND NOTHING IS BEFORE THE COURT AS TO MR. RAMALLO'S ROLE.

THE COURT WILL DEFER RULING ON THESE DOCUMENTS TO ALLOW LADWP TO REVISE ITS LOG, TO ELIMINATE THE AMBIGUITY, AND PROVIDE ADDITIONAL DETAIL AS TO THE AUTHORS OF THE DOCUMENTS, THE SPECIFIC INDIVIDUALS WHO WROTE THE CONTENTS OF THE DOCUMENTS, NOT THOSE INDIVIDUALS WHO MAY HAVE RECEIVED COPIES. AND THAT SHOULD BE ACCOMPLISHED WITHIN THE NEXT 10 DAYS. AND THEN IF PWC IS NOT SATISFIED WITH THE DISCLOSURE, THEN PWC MAY RENEW ITS MOTION TO COMPEL THOSE DOCUMENTS TO BE DISCLOSED.

TURNING TO ITEMS NO. 40, 359, AND 594, THESE DOCUMENTS HAVE BEEN IDENTIFIED AS FORWARDING E-MAILS CONTAINING ATTORNEY CONFIDENTIAL COMMUNICATIONS. TO THE EXTENT THAT THERE ARE ATTORNEY COMMUNICATIONS WITHIN THESE DOCUMENTS, THAT INFORMATION MAY BE REDACTED, BUT THE REMAINDER OF THE E-MAILS SHOULD BE PRODUCED.

TURNING TO ITEMS NO. 26 THROUGH 28, 758, AND

739, WHICH ARE E-MAILS BETWEEN TERRY HALBERG AND MATT LAMPE, AND TERRY HALBERG AND RUBY CHEUNG AND MICHAEL DANG, THEY ARE NOT COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT. THEY APPEAR TO BE REMEDIATION DOCUMENTS THAT FALL INTO THE PURVIEW OF THE PREVIOUS COURT ORDER. THERE'S NO DISTINCTION THAT HAS BEEN DRAWN BETWEEN THESE DOCUMENTS OR ANY OTHER REMEDIATION DOCUMENTS TO JUSTIFY A RECHARACTERIZATION OF THESE DOCUMENTS. THE DOCUMENTS SHOULD BE PRODUCED.

ITEM NO. 739 IS THE TMG INCIDENT LOG CREATED BY TERRY HALBERG. THIS ITEM DOES NOT HAVE ANY DISTINCTION FROM THE OTHER REMEDIATION DOCUMENTS THAT WERE ORDERED TO BE PRODUCED AT THE PREVIOUS DISCOVERY HEARING. THE DOCUMENT APPEARS TO BE A REMEDIATION DOCUMENT, WHICH FALLS SQUARELY WITHIN THE SCOPE OF THE COURT'S PREVIOUS ORDER, AND, THEREFORE, IT SHOULD BE PRODUCED.

ITEMS NO. 462, 866, 867, 882 HAVE BEEN EXPLAINED BY THE LADWP. THESE DOCUMENTS CONCERN THE SUBJECT OF HOT FIXES. LADWP EXPLAINED THAT THESE DOCUMENTS WERE CREATED TO AID LADWP'S COUNSEL WITH RENDERING LEGAL ADVICE CONCERNING DEVELOPMENT OF HOT FIXES, INCLUDING THE LADWP'S RESPONSE TO SPECIAL INTERROGATORY NO. 3.

SO BASED UPON THE EVIDENCE SUBMITTED, THE COURT WILL FIND THAT THESE DOCUMENTS ARE PROTECTED BY THE PRIVILEGE.

AS FAR AS ITEMS NO. 709 AND 1025, LADWP CLAIMS

THAT THESE DOCUMENTS CONTAIN CONFIDENTIAL COMMUNICATIONS BETWEEN THE FORMER LADWP EMPLOYEE MR. LAMPE AND LADWP COUNSEL, GINA TUFARO. ACCORDING TO PLAINTIFF, THESE COMMUNICATIONS REFLECT DISCUSSIONS REGARDING POTENTIAL WITNESSES AND LEGAL STRATEGY IN THIS ACTION.

THE PRIVILEGE LOG REFLECTS THAT THIS MAY BE THE CASE WITH REGARD TO ITEM NO. 1025; HOWEVER, THE LOG DOES NOT REFLECT THIS CLAIM AS TO ITEM NO. 709.

709 APPEARS TO BE A POWERPOINT PRESENTATION CREATED BY MR. WRIGHT, OTHERWISE AN ORDINARY REMEDIATION OR DOCUMENT; AND, THEREFORE, 709 SHOULD BE PRODUCED, BUT 1025 APPEARS TO BE PRIVILEGED.

SO I'D ASK DEFENDANT TO GIVE NOTICE AND POST IT ON THE WEBSITE.

MR. THOMASCH: YES, YOUR HONOR.

THE COURT: WE DO ALSO HAVE A STATUS REPORT.

AND I RECEIVED A NOTE THAT THERE'S A GENTLEMAN WHO WAS HERE WISHES TO RAISE SOME ISSUE AND SPEAK TO THE COURT. SOMEONE HERE WHO HAS A CLAIM, WHO'S NOT REPRESENTED BY COUNSEL?

MR. KHAN: YES, YOUR HONOR. I'M READY.

THE COURT: PLEASE COME FORWARD.

WHAT IS YOUR NAME, SIR?

MR. KHAN: NASIR KHAN, YOUR HONOR.

THE COURT: WOULD YOU LIKE TO TELL ME SOMETHING TODAY?

MR. KHAN: YES, YOUR HONOR.

I DON'T HAVE AN ATTORNEY, YOUR HONOR. I'M REQUESTING, YOUR HONOR, FOR YOU TO GIVE ME UNTIL FRIDAY FOR ME TO FIND AN ATTORNEY. I'M HERE OUT OF RESPECT FOR YOU, FOR THE COURT, TO SHOW THAT I AM HERE, AND I'M TAKING THIS SERIOUS, YOUR HONOR. SO THAT'S WHY I'M HERE. I REPRESENT MYSELF FOR TODAY.

THE COURT: IS MR. ALI KHAN A DEFENDANT IN THIS CASE?

MR. PARADIS: HE WAS, YOUR HONOR, BUT WE RECENTLY REACHED AN AGREEMENT THAT SETTLED THE CLAIMS AGAINST HIM ABOUT THE CITY, BUT NOW HE'S THE SUBJECT OF ANOTHER ACTION THAT'S RECENTLY BROUGHT BY PWC. I'LL LET MR. THOMASCH SPEAK TO THAT.

MR. THOMASCH: YES. THERE'S A CROSS-COMPLAINT THAT WE HAVE FILED AGAINST --

THE COURT: IN THIS CASE?

MR. THOMASCH: IN THIS CASE, YES.

THE COURT: OKAY. MR. ALI KHAN, HOW MUCH TIME DO YOU NEED TO RESPOND TO THE CROSS-COMPLAINT?

MR. KHAN: YOUR HONOR, ONCE AGAIN, I NEED AN ATTORNEY BECAUSE I READ THROUGH THOSE QUESTIONNAIRES. I DON'T UNDERSTAND HALF OF THEM, AND I NEED LEGAL ADVICE TO RESPOND TO THEM.

SO, ONCE AGAIN, I NEED AN ATTORNEY TO HELP ME GUIDE WITH THAT.

MR. THOMASCH: YOUR HONOR, IF I MIGHT.

PREVIOUSLY, MR. KHAN WAS IN DEFAULT ON ANSWERING THE CITY'S COMPLAINT. YOU INSTRUCTED THE

CITY THAT THEY WERE NOT PERMITTED TO GIVE HIM ANY FURTHER EXTENSIONS OF TIME TO ANSWER THAT. NOW IT APPEARS THE CITY HAS ELECTED TO SETTLE WITH MR. KHAN, WHO IS, OF COURSE, THEIR KEY WITNESS ON ONE PART OF THE CASE.

WE HAVE FILED A CROSS-COMPLAINT. THE DATE ON WHICH THE ANSWER TO THAT WAS DUE WAS LAST WEEK. MR. KHAN WAS REPRESENTED BY COUNSEL, MR. JOHN RICE, WHO APPEARED BEFORE YOUR HONOR AT THE LAST CONFERENCE.

MR. RICE WAS TO RESPOND TO CERTAIN DISCOVERY, AND HE WAS TO ANSWER THE COMPLAINT. THE TIME TO DO THAT WAS, I BELIEVE, THE LAST DAY IN NOVEMBER, BUT ON THE DAY THAT HE WAS TO ANSWER THE COMPLAINT, HE APPARENTLY WAS LET GO.

AND FIRST WE FOUND OUT THAT MR. KHAN FILED A SUBSTITUTION OF COUNSEL FORM, INDICATING THAT HE WOULD REPRESENT HIMSELF. NOW HE'S INDICATING HE'S GOING TO BE REPRESENTED BY COUNSEL.

WE OBVIOUSLY DO NOT HAVE ANY PROBLEM WITH ALLOWING A SHORT PERIOD OF TIME FOR MR. KHAN TO GET REPLACEMENT COUNSEL. HE HAS HAD COUNSEL WHO DISCHARGED HIM, BUT IF HE WISHES TO GET REPLACEMENT COUNSEL, WE DON'T OBJECT TO A SHORT PERIOD OF TIME TO DO SO.

BUT WE WOULD LIKE TWO THINGS, YOUR HONOR: A DATE CERTAIN ON WHICH MR. KHAN WILL RESPOND TO THE PLEADING AGAINST HIM AND A DATE ON WHICH HE WILL AGREE TO BE DEPOSED, BECAUSE WE HELD OFF DOING THAT IN A CONVERSATION WITH MR. RICE AT THE OCTOBER HEARING

BECAUSE WE THOUGHT WE SHOULD GET EVERYTHING OUT OF THE WAY, GET THE PLEADINGS CLOSED; HE WOULD THEN PRODUCE DOCUMENTS.

THEY'RE -- THE CODEFENDANT, MR. LAROCQUE, HAS SUBSTANTIAL REQUESTS OUT TO MR. KHAN. ALL THAT WAS TO COME IN, AND WE WERE TO HAVE THAT BY NOW, AND THEN WE WERE GOING TO BE IN A POSITION TO HAVE HIS DEPOSITION.

SO WE'D LIKE TO MOVE THE CASE FORWARD WITH REGARD TO HIM.

THE COURT: WELL, HERE'S WHAT WE'RE GOING TO DO: MR. KHAN, WE'RE GOING TO GIVE YOU AN EXTENSION OF TIME UNTIL JANUARY 5 TO RESPOND TO THE CROSS-COMPLAINT. SO IF YOU WANT TO RETAIN AN ATTORNEY, YOU SHOULD DO SO IMMEDIATELY.

AND, CERTAINLY, IT'S IN YOUR BEST INTEREST TO RETAIN AN ATTORNEY TO REPRESENT YOU BECAUSE IN THIS CASE THERE ARE MANY SOPHISTICATED ATTORNEYS AND IT'S VERY DIFFICULT, IF YOU'RE NOT AN ATTORNEY YOURSELF, TO BE ABLE TO DEAL WITH THE ISSUES OF THIS CASE WITHOUT HAVING AN ATTORNEY REPRESENT YOU.

SO YOU'RE URGED TO RETAIN THE SERVICES OF AN ATTORNEY. BUT, IN ANY EVENT, THE COURT WILL GRANT YOU AN EXTENSION OF TIME UNTIL JANUARY 5 TO RESPOND TO THE COMPLAINT.

I'M NOT GOING TO ADDRESS THE ISSUE OF DEPOSITION AT THIS TIME. WHEN MR. KHAN OBTAINS SERVICES OF AN ATTORNEY, THEN YOU CAN DISCUSS IT WITH THE ATTORNEY ABOUT A DATE. AND IF MR. KAHN APPEARS TO

CONTINUE AS PRO PER, WE'LL DISCUSS A DEPOSITION AT A FUTURE DATE.

AND, MR. KHAN, I WOULD URGE YOU TO HAVE YOUR ATTORNEY CALL MR. THOMASCH AS SOON AS YOU'VE MADE ARRANGEMENTS. AND IF YOU'RE NOT GOING TO RETAIN AN ATTORNEY, TO CALL MR. THOMASCH TO ADVISE HIM OF THAT FACT SO THAT WE COULD PROCEED.

THANK YOU.

MS. CARTER: YOUR HONOR, I WOULD JUST NOTE THAT DEFENDANT LAROCQUE HAS BEEN SEEKING DISCOVERY FROM MR. KAHN SINCE LATE JUNE OF THIS YEAR AND HAVE SERVED RFP'S, FORM INTERROGATORIES, AND SPECIAL INTERROGATORIES ON HIM.

AGAIN, THIS WAS THE SUBJECT OF OUR LAST STATUS CONFERENCE ON OCTOBER 17TH, WHEN MR. KHAN WAS REPRESENTED BY COUNSEL. WE HAVE FILED A MOTION TO COMPEL THAT'S SCHEDULED TO BE HEARD ON JANUARY 22ND.

THE COURT: WELL, AND YOU START DISCOVERY BASED ON WHAT STATUS OF MR. KHAN?

MS. CARTER: WELL, YOUR HONOR, AT THE TIME, HE WAS A DEFENDANT. NOW HE IS --

THE COURT: HE IS NO LONGER A DEFENDANT.

MS. CARTER: NOW HE'S A CROSS -- HE'S BEING CROSS-COMPLAINED AGAINST BY PWC.

THE COURT: OKAY.

MS. CARTER: HE'S STILL IN THE CASE.

THE COURT: YOU STARTED DISCOVERY AS A DEFENDANT. HE'S NO LONGER A DEFENDANT.

MR. THOMASCH: YOUR HONOR, MAY WE INQUIRE AS TO WHETHER OR NOT THE SETTLEMENT BETWEEN MR. KHAN AND THE CITY, WHICH WE WERE TOLD WAS IN THE PROCESS OF BEING CONSUMMATED, WHETHER THAT'S BEEN DONE? BECAUSE WE HAVE AN OUTSTANDING REQUEST FOR ALL AGREEMENTS BETWEEN THE CITY AND MR. KHAN, AND CERTAINLY A SETTLEMENT AGREEMENT WOULD FALL INTO THAT CATEGORY.

THE COURT: WELL, WHAT'S THE STATUS OF SETTLEMENT?

MR. PARADIS: YOUR HONOR, I HAVE A COPY OF THE SIGNED SETTLEMENT AGREEMENT RIGHT HERE. WE'VE BEEN HOLDING OFF TILL MR. KHAN HIRES A NEW ATTORNEY, AS A COURTESY TO MR. KHAN.

THE COURT: OKAY. HAS THE SETTLEMENT AGREEMENT BEEN SIGNED?

MR. PARADIS: YES, YOUR HONOR.

THE COURT: AND HAVE YOU FILED A DISMISSAL?

MR. PARADIS: WE HAVE NOT. WE'VE BEEN WAITING FOR HIM TO RETAIN COUNSEL. HE DOESN'T KNOW HOW TO DO THAT --

THE COURT: OKAY. WELL, THERE'S NOTHING TO DECIDE AND WE'LL WAIT.

COUNSEL, YOU'LL BE ABLE TO PRODUCE A COPY TO MR. THOMASCH?

MR. PARADIS: YES, YOUR HONOR. THIS WEEK.

THE COURT: ALL RIGHT. THANK YOU.

MS. CARTER: THIS IS SOMETHING THAT DEFENDANT LAROCQUE HAS ALSO REQUESTED, ALL AGREEMENTS BETWEEN --

THE COURT: COUNSEL, TALK TO EACH OTHER ABOUT THAT.

MR. PARADIS: NO PROBLEM.

MR. THOMASCH: IS THERE ANY REASON NOT TO HAVE A COPY EXCHANGE NOW?

THE COURT: AFTER THE HEARING, TALK TO EACH OTHER.

MR. THOMASCH: OKAY. THANK YOU.

THE COURT: ALL RIGHT. THANK YOU FOR APPEARING TODAY.

ALL RIGHT. THE MATTER IS ALSO HERE TODAY FOR A STATUS CONFERENCE. AND I DO SEE THAT PWC PROPOSES TO FILE A MOTION FOR SUMMARY JUDGMENT BY FEBRUARY 28TH. IS THAT RIGHT?

MR. THOMASCH: YES, YOUR HONOR, ASSUMING THAT WE COMPLETE THE DISCOVERY THAT NEEDS TO BE DONE, BUT WE THINK WE'RE ON TRACK TO DO THAT.

THE COURT: ALL RIGHT. THEN WE'LL SET A STATUS CONFERENCE SHORTLY THEREAFTER.

WE'LL SET A FURTHER STATUS CONFERENCE FOR ...

MR. THOMASCH: THERE IS ONE SPECIFIC SET OF DOCUMENTS THAT RELATE TO THE PLAINTIFFS THAT WE WOULD LIKE TO RAISE, THAT IS RELEVANT TO THAT SUMMARY JUDGMENT MOTION, THAT HAVE NOT BEEN PRODUCED TO DATE.

THERE ARE SOME DEPOSITIONS TO BE TAKEN, BUT THEY'RE NONEMPLOYEES OF THE CITY. AND SO, AS I SAY, I DON'T THINK THAT SHOULD --

THE COURT: NO, I UNDERSTAND YOU HAVE A WHOLE BUNCH -- A LITANY OF DISCOVERY TO PROCEED AND IF THERE'S GOING TO BE DISPUTES, THEN I'M NOT GOING TO ADD IT ON TODAY, BUT IF THERE'S DISPUTES, THEN YOU SHOULD

FILE A MOTION TO COMPEL. BECAUSE THE INFORMAL CONFERENCES HAVEN'T YIELDED MUCH POSITIVE RESULTS, BETTER IF WE GO THROUGH A FORMAL MOTION.

MR. THOMASCH: WE WILL DO THAT WITH RESPECT TO THE CONTRACT ADMINISTRATION FILE, YOUR HONOR, SPECIFIC DOCUMENTS SET FORTH TO BE MAINTAINED BY THE CITY IN THE CONTRACT ADMINISTRATOR'S MANUAL THAT WAS RECENTLY PRODUCED TO US.

IT, BY ITS DESCRIPTION, SHOULD HAVE ABSOLUTELY CRITICAL DOCUMENTS CONTAINED IN IT. IT HAS NOT BEEN PRODUCED TO DATE. WE'VE REQUESTED IT. WE HAVEN'T RECEIVED ANY --

THE COURT: ALL RIGHT. WE'LL SET A FURTHER STATUS CONFERENCE ON MARCH 12 AT 1:30 IN THE AFTERNOON.

AND I'D ORDER THE PARTIES TO MEET AND CONFER AND SUBMIT A JOINT REPORT NO LATER THAN MARCH 5 WHICH WILL ADVISE THE COURT HOW MUCH ADDITIONAL TIME, IF ANY, THE PLAINTIFF NEEDS TO RESPOND TO THE MOTION AND PROPOSE DATES FOR FILING OPPOSITION, REPLY, AND A HEARING DATE ON THE SUMMARY JUDGMENT.

ANY OTHER ISSUES ANYONE ELSE WISHES TO DISCUSS --

MR. PARADIS: NOTHING FROM PLAINTIFF.

THE COURT: -- IN CONNECTION WITH THE STATUS CONFERENCE?

MR. THOMASCH: YOUR HONOR, WE'LL MAKE A MOTION TO COMPEL WITH REGARD TO THE DOCUMENTS I JUST MENTIONED.

THE COURT: ALL RIGHT. THANK YOU.

I'D ASK, THEN, DEFENDANT, WHO'S GOING TO GIVE NOTICE ON THE RULING, SO I'D ASK THAT YOU GIVE NOTICE ALSO ON THE NEXT STATUS CONFERENCE.

MR. THOMASCH: YES, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

AND MY BEST WISHES TO EVERYONE FOR A GOOD HOLIDAY.

MR. THOMASCH: THANK YOU, YOUR HONOR. SAME TO YOU.

THE COURT: WE'RE IN RECESS.

(PROCEEDINGS ADJOURNED AT 2:58 P.M.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DEPARTMENT 323 HON. ELIHU M. BERLE, JUDGE

CITY OF LOS ANGELES, ACTING BY AND THROUGH ITS DEPARTMENT OF WATER AND POWER, PLAINTIFF, VS. PRICEWATERHOUSE COOPERS, LLP, ET AL., DEFENDANTS.	NO. BC574690

I, LINDA LEE, CSR NO. 13568, COURT REPORTER PRO TEMPORE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 38, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS IN THE MATTER OF THE ABOVE-ENTITLED CAUSE ON MONDAY, DECEMBER 4, 2017.

DATED THIS 7TH DAY OF DECEMBER 2017.

Linda Lee

LINDA LEE, CSR NO. 13568
COURT REPORTER PRO TEMPORE

Exhibit 12

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

SPRING STREET COURTHOUSE

DEPARTMENT SSC6 HON. ELIHU M. BERLE, JUDGE

CITY OF LOS ANGELES, PLAINTIFF, VS. PRICEWATERHOUSE COOPERS, LLP DEFENDANT.	SUPERIOR COURT CASE NO. BC574690

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, DECEMBER 12, 2018

APPEARANCES:

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(APPEARANCES CONTINUED.)

ANITA B. ALDERSON, CSR. NO. 11843
OFFICIAL COURT REPORTER PRO TEMPORE
JOB NO. 149582

(APPEARANCES CONTINUED.)

SPECIALLY APPEARING FOR NON PARTY JACK LANDSKRONER:

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FOR DEFENDANTS:

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I N D E X

DECEMBER 12, 2018

ALPHABETICAL/CHRONOLOGICAL LIST OF WITNESSES

(NONE.)

EXHIBITS

(NONE.)

CASE NUMBER: BC574690
CASE NAME: CITY OF LOS ANGELES VS. PRICEWATERHOUSE COOPERS
LOS ANGELES, CALIFORNIA WEDNESDAY, DECEMBER 12, 2018
DEPARTMENT SSC6 HON. ELIHU M. BERLE, JUDGE
REPORTER: ANITA B. ALDERSON, CSR NO. 11843
TIME: P.M. SESSION
APPEARANCES: (AS HERETOFORE NOTED.)

THE COURT: GOOD AFTERNOON COUNSEL.

MR. PARADIS: GOOD AFTERNOON, YOUR HONOR.

MR. THOMASCH: GOOD AFTERNOON.

THE COURT: CALLING THE CASE OF CITY OF LOS ANGELES VERSUS PRICEWATERHOUSE COOPERS.

COUNSEL YOUR OTHER APPEARANCES PLEASE.

MR. KIESEL: YOUR HONOR, GOOD AFTERNOON. PAUL KIESEL APPEARING ON BEHALF OF PLAINTIFFS.

THE COURT: GOOD AFTERNOON.

MS. TUFARO: GOOD AFTERNOON, YOUR HONOR, GINA TUFARO FROM PARADIS LAW GROUP FOR PLAINTIFF.

THE COURT: GOOD AFTERNOON.

MR. PARADIS: GOOD AFTERNOON, JUDGE, PAUL PARADIS ON BEHALF OF THE CITY.

THE COURT: GOOD AFTERNOON.

MR. OSHER: GOOD AFTERNOON, YOUR HONOR, JEREMY

OSHER SPECIALLY APPEARING ON BEHALF OF NON PARTY JACK LANDSKRONER.

THE COURT: GOOD AFTERNOON.

MR. THOMASCH: GOOD AFTERNOON, YOUR HONOR, DANIEL THOMASCH APPEARING ON BEHALF OF DEFENDANTS PRICEWATERHOUSE COOPERS AND JAMES CURTIN.

THE COURT: GOOD AFTERNOON.

MR. SANTIAGO: GOOD AFTERNOON, YOUR HONOR, JAMES SANTIAGO ON BEHALF OF DEFENDANTS PRICEWATERHOUSE COOPERS AND JAMES CURTIN.

THE COURT: GOOD AFTERNOON.

PLEASE HAVE A SEAT AND MAKE YOURSELF COMFORTABLE. I HAVE RECEIVED A PROPOSED ORDER FOR THE APPOINTMENT OF MS. ANITA ALDERSON AS COURT REPORTER PRO TEMPORE, ANY OBJECTIONS?

MR. THOMASCH: NO OBJECTION.

MR. PARADIS: NO OBJECTION.

THE COURT: NOT HEARING ANY OBJECTION, MS. ALDERSON IS HEREBY APPOINTED COURT REPORTER PRO TEM.

GOOD AFTERNOON.

COURT REPORTER: GOOD AFTERNOON.

THE COURT: OKAY. THE MATTERS ON CALENDAR BEFORE THE COURT TODAY ARE THE MOTION FOR PROTECTIVE ORDER FILED BY THE CITY OF LOS ANGELES, AND ALSO WE HAVE THE MOTION OF DEFENDANT PRICEWATERHOUSE TO COMPEL AND FOR SANCTIONS REGARDING THE PERSON MOST QUALIFIED DEPOSITION.

ANYONE WISH TO BE HEARD ON THESE MOTIONS?

MR. KIESEL: YOUR HONOR, OBVIOUSLY AT THE LAST

HEARING WE DISCUSSED THE DEFENDANT'S MOTION TO COMPEL. WE HAD POINTED OUT TO THE COURT WE FILED THE MOTION FOR PROTECTIVE ORDER. WE FULLY BRIEFED THE ISSUE BEFORE THE COURT.

UNLESS THE COURT HAS ANY QUESTIONS, WE SUBMIT ON OUR MOTION FOR PROTECTIVE ORDER.

THE COURT: THANK YOU.

MR. THOMASCH: YOUR HONOR, MAY I BE HEARD?

THE COURT: YES.

MR. THOMASCH: YOUR HONOR, AS I INDICATED A WEEK AGO, THE MOTION FOR A PROTECTIVE ORDER FILED BY LADWP IS ESSENTIALLY A MIRROR IMAGE OF THE OPPOSITION THEY MADE TO PWC'S MOTION TO COMPEL FOR SANCTIONS, SO I'M NOT GOING TO REPEAT THE ARGUMENTS THAT WE HAD LAST WEEK.

I DID WANT TO INFORM THE COURT THAT IN THE INTERVENING WEEKS SOME THINGS HAVE HAPPENED. I HAD THREE CONVERSATIONS WITH MR. KIESEL AND TWO SUBSTANTIVE CONVERSATIONS. MS. TUFARO JOINED IN THOSE IN THE FORM OF A MEET AND CONFER.

WITH RESPECT TO THE DOCUMENT REQUESTS, YOUR HONOR, NO AGREEMENTS WERE MADE AS FAR AS THE PRODUCTION OF DOCUMENTS IN THE REQUEST ATTACHED TO THE APRIL DEPOSITION NOTICE.

THE COURT: ALL RIGHT. WELL, LET'S TAKE ONE THING AT A TIME. SO NO AGREEMENT ON THE DOCUMENT PRODUCTION.

FIRST, LET ME ASK MR. LANDSKRONER'S COUNSEL IS HERE, I'M SORRY I MISPRONOUNCED THE NAME. MR. OSHER, WOULD YOU LIKE TO JOIN IN THE DISCUSSION? YOU WANT TO TELL ME

ANYTHING ABOUT THE MOTIONS?

MR. OSHER: YOUR HONOR, I WOULD APPRECIATE A MOMENT OF YOUR TIME AFTER THE MOTIONS ARE HEARD. I WANTED TO RAISE SOME ISSUE ABOUT AN ORDER YOUR HONOR ISSUED AT THE LAST HEARING WITH RESPECT TO MR. LANDSKRONER.

THE COURT: YES. I ISSUED AN ORDER ADVISING COUNSEL OF THE DEFENDANT THAT THEY ARE ENTITLED TO GO FORWARD AND TAKE THE DEPOSITION OF MR. LANDSKRONER.

MR. OSHER: I DID SEE THAT, YOUR HONOR, AND I WANTED TO RAISE SOME CONCERNS.

THE COURT: ALL RIGHT, TELL ME WHAT YOUR CONCERNS ARE.

MR. OSHER: THE FIRST ISSUE, YOUR HONOR, IS THAT HEARING WAS ON A MOTION TO COMPEL THE PMQ FOR LADWP. MY CLIENT HAS NOT BEEN SERVED WITH --

THE COURT: HE WILL BE.

MR. OSHER: THAT WAS THE FIRST ISSUE. I THINK WE DID IT A LITTLE BACKWARDS. IF THERE WAS --

THE COURT: APPARENTLY HE'S INVOLVED AS A MATTER OF INTEREST IN CONNECTION WITH THIS LITIGATION. AND I TOLD COUNSEL THAT HE COULD GO AHEAD AND TAKE THE DEPOSITION OF MR. LANDSKRONER. IF HE DOESN'T RESPOND TO THE SUBPOENA OR REFUSES TO TESTIFY THEN I GUESS WE'LL HAVE TO ADDRESS THE ISSUE.

MR. OSHER: I APPRECIATE THAT, YOUR HONOR.

WHAT WE WANTED WAS THE OPPORTUNITY TO HAVE A SUBPOENA ISSUED SO THAT WE COULD REVIEW IT. I HAD A CONVERSATION WITH MR. THOMASCH YESTERDAY.

I KNOW THERE ARE GOING TO BE SOME DOCUMENT REQUESTS. SO WE WANT TO HAVE THE OPPORTUNITY TO REVIEW THE DOCUMENT REQUESTS, MEET AND CONFER REGARDING PRIVILEGE ISSUES I THINK ARE IMPLICATED, AND I DID HAVE A BRIEF CONVERSATION WITH COUNSEL YESTERDAY ABOUT THOSE PRIVILEGE ISSUES.

AND THEN TO THE EXTENT THAT WE NEED YOUR HONOR TO HELP US NARROW THE SCOPE OR ADDRESS ANY PRIVILEGE ISSUES, I WOULD WANT TO HAVE THE OPPORTUNITY TO BRING A MOTION FOR PROTECTIVE ORDER OR SOME SORT OF LIMINE MOTION SO I HAVE THAT OPPORTUNITY TO PRESENT YOUR HONOR WITH ANY ARGUMENT THAT IS NECESSARY.

AS IT STANDS NOW, YOUR HONOR ISSUED AN ORDER WITHOUT THE SUBPOENA BEING ISSUED. AND THERE IS REALLY NO DIRECTION AS TO SCOPE, AND I DON'T KNOW WHAT THE DOCUMENT REQUESTS ARE AT THIS POINT IN TIME.

I DID DISCUSS WITH COUNSEL SOME IDEAS ABOUT ADDRESSING THE DOCUMENT REQUEST AND SCOPE TO THE EXTENT THERE IS GOING TO BE A DEPOSITION. WE ALSO TALKED ABOUT PERHAPS WAITING UNTIL THE CITY ISSUES A RESULT FIRST AND SEE IF THERE IS STILL A NEED FOR MR. LANDSKRONER'S DEPOSITION.

WE ALSO TALKED ABOUT DOING A DEPOSITION BY INTERROGATORY. WE DIDN'T REACH ANY AGREEMENTS. IT WAS JUST A PRELIMINARY CONVERSATION, BUT I CAME HERE TO SPECIALLY APPEAR JUST TO RAISE THESE ISSUES TO YOUR HONOR BECAUSE MR. LANDSKRONER IS NOT A PARTY TO THIS CASE. I KNOW HE WAS A PARTY TO A CLASS ACTION THAT WAS IN FRONT OF

YOUR HONOR.

HE'S NOT A PARTY TO THIS CASE AND AT THIS POINT THERE IS REALLY NOTHING OUT THERE, NO SUBPOENA AND NO MECHANISM FOR US TO REALLY GET THESE ISSUES RESOLVED AND TO BRING IT TO YOUR HONOR'S ATTENTION.

SO THAT IS WHAT WE WANTED TO BRING TO YOUR HONOR'S ATTENTION TODAY, SO IT'S DONE IN AN ORDERLY PROCESS AND WE HAVE ALL THE OPPORTUNITIES WE NEED TO ADDRESS ANY PRIVILEGE BECAUSE THERE ARE A LOT OF PRIVILEGE ISSUES THAT ARE IMPLICATED.

THERE IS A PRIVILEGE BETWEEN MR. LANDSKRONER AND HIS CLIENT, ANTWON JONES. THERE MAY BE OTHER PRIVILEGES, MEDIATION PRIVILEGE, ET CETERA.

THE COURT: IS THERE GOING TO BE A PRIVILEGE ASSERTED THAT COMMUNICATION WITH MR. LANDSKRONER AND THE CITY OF LOS ANGELES ARE PRIVILEGED?

MR. OSHER: I DON'T KNOW WHAT THEY ARE ASKING FOR.

THE COURT: I'M ASKING YOU NOW.

MR. OSHER: I HAVEN'T EVALUATED THAT, YOUR HONOR. I WAS JUST RETAINED TWO DAYS AGO. I KNOW THAT IS SOMETHING YOUR HONOR WAS CONCERNED ABOUT OR INTERESTED IN. THAT IS SOMETHING I WILL MEET AND CONFER WITH COUNSEL ON ONCE I GET A SUBPOENA LETTING ME KNOW WHAT IT IS HE'S LOOKING FOR.

THE COURT: CERTAINLY WILL HAVE A FULL OPPORTUNITY TO PRESENT ANY OBJECTIONS AND TO RAISE ANY ISSUES OR RAISE YOUR CONCERNS.

BUT LET ME ASK A VERY DIRECT QUESTION IS THAT WILL YOU ACCEPT A SUBPOENA? OR MR. LANDSKRONER PRACTICES IN

OHIO, AS I RECALL, ALTHOUGH HE DID APPEAR PRO HAC VICE IN THIS COURT.

SO IS THERE ANY PROBLEM ABOUT HIM APPEARING FOR A DEPOSITION?

MR. OSHER: YOUR HONOR, I HAVE NOT HAD A CHANCE TO LOOK AT THAT ISSUE OR TO DISCUSS IT WITH MY CLIENT THAT IS AN ISSUE.

THE COURT: THAT IS WHY I'M ASKING. IS HE GOING TO REFUSE TO APPEAR?

MR. OSHER: I DON'T HAVE THAT ANSWER HERE RIGHT NOW, YOUR HONOR. I KNOW IN A SITUATION WHERE YOU HAVE A NON-PARTY IN ANOTHER STATE THERE ARE PROCEDURES.

THE COURT: RIGHT.

MR. OSHER: I DON'T KNOW IF WE'RE GOING TO TALK TO COUNSEL ABOUT NEEDING TO GO THROUGH THOSE PROCEDURES, GET THE OHIO COURT TO ISSUE SOMETHING. I DON'T KNOW AS WE SIT HERE, BUT THAT IS SOMETHING I WANTED TO RAISE WITH YOU AS WELL. THERE ARE MECHANISMS IN PLACE. I JUST DON'T KNOW AT THIS POINT IN TIME.

THE COURT: I JUST ENCOURAGE THE PARTIES TO MEET AND CONFER AND SEEK A RESOLVE OF ANY ISSUES WITH REGARD TO A POTENTIAL DEPOSITION OF MR. LANDSKRONER AND POTENTIAL DEPOSITION OF MR. JONES.

MR. JONES IS A RESIDENT OF LOS ANGELES, IS HE NOT?

MR. THOMASCH: THAT IS OUR UNDERSTANDING, YOUR HONOR.

THE COURT: I'M SORRY?

MR. OSHER: I'M NOT REPRESENTING HIM.

MR. THOMASCH: THAT IS OUR UNDERSTANDING.

THE COURT: I WOULD ASSUME SO IF HE MADE A CLAIM FOR CREDIT ON HIS WATER BILL.

MR. THOMASCH: YES.

THE COURT: ELECTRICAL BILL. ALL RIGHT. THANK YOU.

SO IN SUM, COUNSEL FOR MR. LANDSKRONER WILL CERTAINLY HAVE AN OPPORTUNITY TO RAISE ANY OBJECTIONS, ANY ISSUES OF CONCERN, AND I DO ENCOURAGE THE PARTIES TO MEET AND CONFER TO TRY TO RESOLVE THOSE ISSUES.

MR. THOMASCH: YES.

MR. OSHER: I APPRECIATE THAT, YOUR HONOR.

THE COURT: OKAY. I THINK WE OUGHT TO CUT THROUGH SOME OF IT. I KNOW I INTERRUPTED YOU, MR. THOMASCH, BUT I WANT TO GO DIRECTLY TO THE POINT. I'LL GIVE YOU AN OPPORTUNITY TO CONTINUE FURTHER ON.

BUT GOING DIRECTLY TO THE REQUEST FOR PRODUCTION OF DOCUMENTS, WE MIGHT AS WELL GET THROUGH IT RIGHT NOW. YOU ADVISED ME THAT THE CITY HAS NOT COME TO ANY AGREEMENT WITH REGARD TO PRODUCING ANY OF THOSE DOCUMENTS; IS THAT RIGHT?

MR. THOMASCH: THAT IS CORRECT, YOUR HONOR.

I WILL NOTE, JUST PRELIMINARILY, I HAVE SINCE THE LAST CONFERENCE HERE A WEEK AGO, I HAVE EMAILED AND SPOKEN WITH MR. LANDSKRONER, AND I HAD A CONVERSATION WITH MR. OSHER.

I DID RAISE THE ISSUE OF WHETHER OR NOT MR. OSHER WOULD BE WILLING TO ACCEPT A SUBPOENA RESERVING ALL OBJECTIONS OTHER THAN TO SERVICE. IF WE COULD EXPEDITE

THIS, IF IT'S NECESSARY FOR US TO JUMP THROUGH HOOPS TO GET A PROCESS SERVER IN OHIO, WE WILL DO SO. I DON'T SEE WHY THAT SHOULD BE NECESSARY, BUT WE WILL DO WHAT WE NEED TO DO.

WE DID NOT REACH ANY AGREEMENT, BUT I DID MAKE CLEAR THAT A FOCUS OF THE DEPOSITION WOULD BE WITH RESPECT TO THE TIME PERIOD PRIOR TO APRIL 1, 2015, WHICH IS THE DATE ON WHICH MR. JONES, REPRESENTED BY MR. LANDSKRONER, SUED THE CITY.

AND I HAVE ASKED MR. OSHER, AND I HAVE ASKED ON MULTIPLE OCCASIONS TO THE CITY, ARE THEY CLAIMING IN THAT TIME PERIOD WHERE MR. JONES WAS A DISAFFECTED CUSTOMER ULTIMATELY SUING THE CITY, ARE THEY CLAIMING A PRIVILEGE BETWEEN MR. JONES' COUNSEL AND THE CITY AND THE CITY'S COUNSEL DURING THAT TIME PERIOD.

NO ONE HAS RESPONDED TO THAT, YOUR HONOR, AND IT'S A CENTRAL FEATURE HERE. WE DO NOT UNDERSTAND THE POSSIBILITY OF ANY PRIVILEGE IN THAT TIME PERIOD THAT IS NOT A MEDIATION PRIVILEGE IF THERE IS SUCH A THING. IT IS NOT A PRIVILEGE DURING THE TIME PERIOD WHEN THEY WERE PREPARING TO SUE THE CITY AND ULTIMATELY DID SUE THE CITY.

YET WE HAVE NOT BEEN ABLE TO GET EVEN A COMMITMENT THEY ARE NOT ASSERTING SUCH A PRIVILEGE. THEY SIMPLY WON'T ANSWER THE QUESTION.

THE COURT: OF COURSE, THAT RAISES OTHER ISSUES SUCH AS A CONFLICT OF INTEREST AND FIDUCIARY OBLIGATIONS ON THE PART OF COUNSEL TO A CLASS REPRESENTATIVE AND COUNSEL FOR THE CLASS IF COUNSEL FOR THE CLASS WAS AT THE SAME TIME

HAVING A RELATIONSHIP WITH HIS ADVERSARY.

MR. THOMASCH: THAT IS ABSOLUTELY TRUE. I ASKED QUESTIONS AT THE DEPOSITION, WHICH WE WILL GET TO, ASKING THE PMQ WITNESS FOR THE CITY, IS IT PERMISSIBLE FOR THE CITY TO REPRESENT A POTENTIALLY ADVERSE PARTY WHO IS A PRIVATE CITIZEN AND TO PROVIDE WORK PRODUCT TO THAT INDIVIDUAL TO BE USED AS THAT INDIVIDUAL'S ATTORNEY SEES FIT?

I WAS TOLD THAT WAS A PRIVILEGED MATTER AND WOULD NOT BE RESPONDED TO.

THE COURT: WE'LL GET TO THE DEPOSITION QUESTIONS, BUT LET'S DEAL WITH THE REQUEST FOR PRODUCTION RIGHT NOW BEFORE WE GET TO THE DEPOSITION.

REQUEST NO. 1 IS A COPY OF THE CAPTION, SIGNATURE, AND SERVICE PAGES ON JONES VERSUS PWC DRAFT COMPLAINT.

DOES THE CITY HAVE A PROBLEM PRODUCING THOSE DOCUMENTS?

MR. KIESEL: WE DO, YOUR HONOR, WE HAVE OBJECTED BECAUSE IT'S AN ATTORNEY-CLIENT --

THE COURT: ON WHAT BASIS IS IT AN ATTORNEY-CLIENT PRIVILEGE?

WHO IS THE CLIENT?

MR. KIESEL: YOUR HONOR, THIS IS THE CITY OF LOS ANGELES.

THE COURT: IS THERE A COMMUNICATION WITH SOME CLIENT?

MR. KIESEL: MR. PETERS TESTIFIED IN HIS DEPOSITION AT THIS COURT'S REQUEST WHY THIS DOCUMENT WAS PREPARED.

THE COURT: I'M ASKING NOT FOR A COPY OF THE COMPLAINT, NOT FOR THE ATTORNEY'S THOUGHTS, IMPRESSIONS, OR CONCLUSIONS. A COPY OF THE CAPTION, SIGNATURE, AND SERVICE PAGE WHICH WAS REQUEST NO. 1.

MS. TUFARO: YES, YOUR HONOR, WE'RE OBJECTING. NOT JUST ON THE GROUNDS OF ATTORNEY-CLIENT PRIVILEGE, BUT ALSO ON THE GROUNDS OF ATTORNEY WORK PRODUCT.

THE COURT: ATTORNEY WORK-PRODUCT PRIVILEGE IS LIMITED. IF YOU TAKE A LOOK AT CCP SECTION 2018.030 TO ATTORNEY'S IMPRESSIONS, CONCLUSIONS, OPINIONS, LEGAL RESEARCH, OR THEORIES.

A CAPTION PAGE, A SIGNATURE PAGE, AND A SERVICE PAGE DOES NOT INCLUDE IMPRESSIONS, CONCLUSIONS, OR OPINIONS OR LEGAL RESEARCH, SO IS THE CITY GOING TO PRODUCE THAT?

MS. TUFARO: NO, YOUR HONOR.

THE COURT: THE CITY IS NOT GOING TO PRODUCE THAT?

MS. TUFARO: NO, YOUR HONOR.

THE COURT: OKAY. LET'S GO ON TO CATEGORY NO. 2.

MR. THOMASCH: YOUR HONOR, MAY I JUST NOTE SOME OF THE THINGS THAT WOULD BE REFLECTED ON THAT WOULD BE THINGS SUCH AS WHO IS IDENTIFIED AS JONES' COUNSEL?

IS THERE A NO-FEE GOVERNMENT CODE STAMP ON THE DOCUMENT?

IS IT IDENTIFIED AS A RELATED CASE TO SOME OTHER CASE?

THERE IS INFORMATION THAT COULD HAVE RELEVANCE THAT IS COMPLETELY NON PRIVILEGED AND NOT REFLECTING ANY IMPRESSIONS OF COUNSEL AND THAT IS THE REASON WHY WE'RE

ASKING FOR IT.

THE COURT: ALL RIGHT.

REQUEST NO. 2, ALL WRITTEN AGREEMENTS OR UNDERSTANDINGS BETWEEN LADWP AND ANTWON JONES AND/OR JONES' COUNSEL PRIOR TO APRIL 1, 2015.

IS THE CITY GOING TO PRODUCE THOSE DOCUMENTS?

MS. TUFARO: NO, YOUR HONOR.

THE COURT: WHY NOT?

MS. TUFARO: WE'RE OBJECTING ON GROUNDS -- FIRST OF ALL, WE ARE OBJECTING TO ALL OF THESE.

THE COURT: I UNDERSTAND. WHAT IS THE GROUNDS FOR OBJECTION BETWEEN WRITTEN AGREEMENTS BETWEEN THE CITY AND MR. JONES?

MS. TUFARO: OVERBREADTH.

THE COURT: IS THERE A RELATIONSHIP BETWEEN THE CITY AND MR. JONES?

MS. TUFARO: YOUR HONOR, WE'RE NOT GOING TO BE ANSWERING ANY OF THOSE QUESTIONS.

THE COURT: SO YOU'RE TELLING ME YOU'RE ASSERTING A PRIVILEGE FOR AN AGREEMENT BETWEEN THE CITY AND ITS ADVERSARY?

MS. TUFARO: YES.

THE COURT: WHAT AUTHORITY DO YOU HAVE FOR THAT?

MS. TUFARO: THAT IS MY INSTRUCTIONS.

THE COURT: I'M NOT TALKING ABOUT YOUR INSTRUCTIONS. YOU'RE AN ATTORNEY. YOU ARE A MEMBER OF THE BAR, ALTHOUGH YOU ARE A MEMBER OF A BAR IN NEW YORK. YOU'RE HERE AT THE PERMISSION OF THE COURT, PRO HAC VICE, I

ASSUME YOU'RE GOING TO BRING YOURSELF UP TO DATE ON CALIFORNIA LAW; IS THAT RIGHT?

MS. TUFARO: YES, YOUR HONOR.

THE COURT: TELL ME THE BASIS FOR ASSERTING A PRIVILEGE TO AGREEMENTS BETWEEN THE CITY AND IT'S ADVERSARY?

MS. TUFARO: JUDGE, THERE IS POTENTIAL MEDIATION PRIVILEGES --

THE COURT: AGREEMENTS BETWEEN THE CITY AND ITS ADVERSARY.

MS. TUFARO: YES, YOUR HONOR, THAT IS WHAT WE WERE SAYING.

THE COURT: AN AGREEMENT BETWEEN A CITY AND AN ADVERSARY IS SUBJECT TO THE MEDIATION PRIVILEGE, IS THAT WHAT YOU'RE TELLING ME?

MS. TUFARO: COULD BE, YES, YOUR HONOR.

THE COURT: DO YOU HAVE AUTHORITY FOR THAT?

MS. TUFARO: I'M TALKING AUTHORITY FROM MY CLIENT.

THE COURT: A MEDIATION PRIVILEGE FOR AN AGREEMENT.

MS. TUFARO: NO, YOUR HONOR, I DON'T HAVE A CASE THAT SAYS THAT.

MR. THOMASCH: YOUR HONOR, APRIL 1 --

THE COURT: WE'RE NOT FINISHED.

REQUEST NO. 3: ALL DOCUMENTS TRANSMITTED PRIOR TO APRIL 1, 2015, TO LADWP INCLUDING, BUT NOT LIMITED TO, RICHARD BROWN, DEBORAH DORNY, ESKEL SOLOMON, RICHARD TOM, PARADIS LAW GROUP, KIESEL LAW, LINER LLP, OR CITY ATTORNEY'S OFFICE BY ANTWON JONES, JONES' COUNSEL,

OTHERWISE ON BEHALF OF ANTWON JONES INDIVIDUALLY AND/OR ANTWON JONES' PUTATIVE CLASS, INCLUDING NOT LIMITED TO, COMMUNICATIONS SENT TO ESKEL SOLOMON THAT WERE LATER FORWARDED WITHIN LADWP OR AMONG ITS COUNSEL.

IS THE CITY GOING TO PRODUCE THOSE DOCUMENTS?

MS. TUFARO: NO, YOUR HONOR.

THE COURT: AND THE BASIS?

MS. TUFARO: THE BASIS IS GOING TO BE OVERBREADTH, ATTORNEY WORK PRODUCT, MEDIATION PRIVILEGE, AND POTENTIALLY ATTORNEY-CLIENT PRIVILEGE.

THE COURT: SO DOCUMENTS TRANSMITTED TO OPPOSING PARTY IS SUBJECT TO THE PRIVILEGE THAT YOU'RE ASSERTING?

MS. TUFARO: COULD BE MEDIATION PRIVILEGE, YES, YOUR HONOR.

THE COURT: MEDIATION PRIVILEGE.

MS. TUFARO: YES, YOUR HONOR.

THE COURT: SO YOU THINK EVERYTHING IS GOING TO BE BURIED UNDER A MEDIATION PRIVILEGE?

MS. TUFARO: NO, YOUR HONOR, BUT YOU'RE ASKING ME FOR MY OBJECTIONS AND THOSE ARE THEM.

THE COURT: I'M GOING TO GO THROUGH THE REST OF IT, BUT I THINK COUNSEL BETTER THINK THIS THROUGH BECAUSE PERHAPS WE SHOULD REOPEN THE SETTLEMENT AGREEMENT IN THE CLASS ACTION.

IT APPEARS TO ME FROM WHAT YOU'RE TELLING ME, THERE MAY NOT BE AN ADVERSARY RELATIONSHIP. THERE ARE SERIOUS ISSUES -- WERE YOU INVOLVED IN THE CLASS ACTION LITIGATION?

MS. TUFARO: NO.

THE COURT: THERE MAY BE SERIOUS QUESTIONS HERE AS TO WHETHER THERE WAS A BREACH OF FIDUCIARY OBLIGATIONS.

MS. TUFARO: WE DON'T BELIEVE THAT IS THE CASE, YOUR HONOR.

THE COURT: IF YOU'RE NOT INVOLVED, HOW DO YOU KNOW?

MS. TUFARO: I STILL HAVE MY OPINION THAT IS WHAT MY BELIEF IS.

MR. THOMASCH: YOUR HONOR, I JUST WANT TO POINT OUT THAT APRIL 1, 2015, IS THE DATE ON WHICH THE COMPLAINT WAS FILED.

WE INTENTIONALLY DID NOT SEEK IN THE DOCUMENT REQUEST LATER DOCUMENTS BECAUSE WE DIDN'T WANT TO GET INTO ANY CLAIM OF MEDIATION PRIVILEGE.

BUT THIS IS THE TIME PERIOD WHEN THE PARTIES WERE ADVERSE TO EACH OTHER AND THE DATE ON WHICH THE LAWSUIT WAS FILED, THERE WAS NO MEDIATION ONGOING, THERE WAS NO REQUEST FOR SETTLEMENT THAT WAS MADE BY ANY PARTY THAT HAS BEEN DISCLOSED.

IF THEY WERE SPEAKING AMONG THEMSELVES AS THAT TIME PERIOD, AND PARTICULARLY SPEAKING AMONG THEMSELVES ABOUT HOW THEY MIGHT HAVE COMMON CAUSE AGAINST MY CLIENT, THAT IS OF GREAT INTEREST TO US. IT SHOULD ALSO, OBVIOUSLY, BE OF INTEREST TO THE COURT SINCE THEY HELD THEMSELVES OUT AS ADVERSE PARTIES WHO WERE NEGOTIATING AT ARM'S LENGTH.

THE COURT: THAT IS RIGHT. THE PLAINTIFF AND COUNSEL REPRESENTING THE CLASS HELD THEMSELVES OUT AS HOLDERS OF FIDUCIARY OBLIGATIONS TO THE CLASS AND THAT WAS

BEFORE ANY CLASS WAS CERTIFIED. IT WAS ONLY CERTIFIED DURING THE SETTLEMENT PROCESS.

MR. THOMASCH: YES, YOUR HONOR.

THE COURT: AND IF HE WAS HAVING MEDIATION, I ASSUME IT WAS JUST FOR HIS BILL.

HOW MUCH WAS MR. JONES' BILL AT THE TIME OF THE FILING OF THE COMPLAINT, DOES ANYBODY REMEMBER?

MR. THOMASCH: IT WAS QUITE SMALL THAT WAS ONE OF THE ISSUES WE WERE GETTING AT. IN FACT WE ASKED WHETHER OR NOT HE HAD BEEN OVERCHARGED AT ALL SUBSEQUENT TO THE NEW SYSTEM GOING IN PLACE, AND WE WERE TOLD THAT WAS PRIVILEGED.

THE COURT: REQUEST NO. 4 IS ALL DOCUMENTS TRANSMITTED PRIOR TO APRIL 1, 2015, TO ANTWON JONES OR JONES' COUNSEL BY OR ON BEHALF OF LADWP, INCLUDED BUT NOT LIMITED TO RICHARD BROWN, DEBORAH DORNY, ESKEL SOLOMON, OR RICHARD TOM, PARADIS LAW GROUP, KIESEL LAW, LINER LLP OR THE LOS ANGELES CITY ATTORNEY'S OFFICE.

THE CITY IS GOING TO OBJECT TO PRODUCE THOSE DOCUMENTS?

MS. TUFARO: YES YOUR HONOR.

THE COURT: REQUEST NO. 5 IS DOCUMENTS SUFFICIENT TO IDENTIFY ALL LADWP CUSTOMERS WHO HAD BEEN COMPLAINING TO THE DEPARTMENT AND HAD BEEN IN TOUCH WITH THE DEPARTMENT PRIOR TO THE PREPARATION OF THE JONES V. PWC DRAFT COMPLAINT.

DO YOU HAVE AN OBJECTION TO THAT?

MS. TUFARO: NO, YOUR HONOR, WE WOULD BE PRODUCING

THOSE DOCUMENTS.

THE COURT: WHEN ARE YOU GOING TO PRODUCE THOSE?

MS. TUFARO: TWO WEEKS, YOUR HONOR.

THE COURT: THANK YOU.

REQUEST NO. 6 IS DOCUMENTS SUFFICIENT TO IDENTIFY ALL LADWP CUSTOMERS WHO PRIOR TO APRIL 1, 2015, HAD VOICED OUTRAGE OVER ELECTRICITY AND WATER BILLS.

IS THE CITY GOING TO PRODUCE THOSE DOCUMENTS?

MS. TUFARO: YES, YOUR HONOR.

THE COURT: SAME TIME FRAME?

MS. TUFARO: YES, YOUR HONOR.

THE COURT: OKAY. THANK YOU.

MR. THOMASCH, YOU WANT TO CONTINUE WITH THE DISCUSSION BEFORE GOING ON TO DEPOSITION?

MR. THOMASCH: YOUR HONOR, BEFORE WE LEAVE THE SUBJECT OF THE DOCUMENT REQUEST BECAUSE WE DO HAVE FOUR IMPORTANT ONES AS TO WHICH THERE IS A DISPUTE.

IN ADDITION TO NOT BELIEVING THERE IS A WELL TAKEN BASIS FOR PRIVILEGE, I DO WANT TO NOTE WE HAVE TAKEN THE POSITION UNDER CCP 2025.410(A) THE OBJECTIONS ARE UNTIMELY AND WAIVED. SPECIFIC OBJECTIONS NEEDED TO BE MADE IN WRITING AT LEAST THREE CALENDAR DAYS BEFORE THE DEPOSITION.

IN THE REPLY BRIEF BY THE CITY THEY SAY IT'S UNFATHOMABLE THAT WE TAKE THE POSITION THEY DIDN'T MAKE OBJECTIONS, AND THEY POINT TO THREE THINGS: A LETTER FROM MR. PARADIS DATED APRIL 23, 2018; A MOTION TO QUASH; AND THE COMMENTS MADE AT THE 6-21-18 HEARING.

NONE OF THOSE ARE IN ANY WAY IN COMPLIANCE WITH THE

REQUIREMENTS OF CCP 2025.410. THE LETTER IT'S DATED APRIL 25, 2018 SIMPLY ASKED FOR THE DEPOSITION NOTICE TO BE WITHDRAWN. IT INDICATED THAT THE INFORMATION THAT WAS REQUIRED TO BE PRODUCED HAD ALREADY BEEN PROVIDED TO THE PWC THROUGH THE NOVEMBER, 2017, DECLARATION OF MR. PARADIS.

THE LETTER DOES NOT REFERENCE CCP 2025.410 AND IT MAKES NO SPECIFIC OBJECTIONS TO, DOESN'T IDENTIFY THE DOCUMENT REQUEST, MAKES NO SPECIFIC OBJECTION AS TO ANY SINGLE DOCUMENT REQUEST.

THEN THE MOTION TO QUASH, THAT IS DISTINCT FROM OBJECTIONS. INDEED IN CCP 2025.410(C) READS, "IN ADDITION TO SERVING THE WRITTEN OBJECTION, A PARTY MAY ALSO MOVE FOR AN ORDER STAYING THE TAKING OF THE DEPOSITION AND QUASHING THE DEPOSITION NOTICE" THAT IS WHAT THEY DID THAT IS IN ADDITION TO SERVING THE WRITTEN OBJECTION.

IT'S NOT A SUBSTITUTE FOR AND DOES NOT SERVE AS THE WRITTEN OBJECTION AND OBVIOUSLY ORAL COMMENTS THAT WE RESERVE OUR RIGHT TO OBJECT ON SCOPE DO NOT CONSTITUTE WRITTEN OBJECTIONS.

THERE IS A REASON FOR THE RULE. AND THE REASON IS TO AVOID COUNSEL GOING TO THE DEPOSITION, PREPARING FOR THE DEPOSITION, RETAINING A COURT REPORTER, AND BEING TOLD THAT THE WITNESS WILL NOT SAY ANYTHING THAT HASN'T BEEN SAID ALREADY.

AT PAGE 14 OF OUR OPPOSITION WE CITE A RUTTER EXAMPLE WHICH IS DIRECTLY ON POINT WHERE A SERVICE OF A DEPOSITION NOTICE WITH A DOCUMENT REQUEST IS MADE. THE OBJECTION IS ONE OF SCOPE, BUT IT IS NOT MADE IN WRITING,

IT IS NOT ADVANCED UNTIL THE DEPOSITION, AND AS RUTTER SAYS, IT IS THEN WAIVED.

IN ADDITION TO, WE CAN BRIEF HAPPILY, THE QUESTION OF WHETHER THE MEDIATION PRIVILEGE OCCURS BEFORE THERE IS EVEN A LAWSUIT. WE CAN BRIEF THE ISSUE OF WHETHER OR NOT TWO ADVERSE PARTIES CAN CLAIM A PRIVILEGE BETWEEN EACH OTHER.

I'M VERY COMFORTABLE WITH OUR POSITION AS A MATTER OF LAW IN ALL OF THOSE, BUT AS A THRESHOLD MATTER, YOUR HONOR, THEY WAIVE THEIR RIGHT BY CHOOSING INTENTIONALLY NOT TO MAKE WRITTEN OBJECTIONS, WAITING UNTIL -- IT WAS WHEN I ASKED THE WITNESS WHETHER HE HAD REVIEWED THE DOCUMENT REQUEST THAT WAS THE FIRST TIME I KNEW. IN HIS RESPONSE, THE WITNESS' RESPONSE, WAS "MY POSITION IS THAT THE ORDER DOES SUPERSEDE IT" IT BEING THE NOTICE.

THE WITNESS TOOK THE POSITION HE HAD READ YOUR COURT ORDER. AND HE CONSIDERED THAT TO SUPERSEDE ANY NOTICE WE PUT OUT AND THAT YOUR COURT ORDER DIDN'T DEMAND THEY PRODUCE DOCUMENTS, SO THEY DIDN'T HAVE THAT. THAT IS THE KIND OF THING THAT SHOULD HAVE BEEN FLESHED OUT BEFORE WE TRAVELED ACROSS THE COUNTRY TO HAVE THAT DEPOSITION, YOUR HONOR.

THE COURT: MS. TUFARO, YOU WISH TO RESPOND?

MS. TUFARO: YES. JUST BRIEFLY, YOUR HONOR, THE APRIL 25 LETTER, WHICH IS PART OF THE RECORD HERE, IT DOES SPECIFY THAT THE DOCUMENT REQUESTS ARE OVERLY BROAD. AND ON THAT BASIS WE REQUESTED THAT THE DEFENDANTS PULL THE NOTICE OF DEPOSITION, AND IF THEY DID NOT, WE WOULD MOVE TO

QUASH.

WE DID MOVE TO QUASH AND 50 PERCENT OF THAT BRIEFING IS DEVOTED TO THE FACT THAT THE DOCUMENTS SOUGHT ARE OVERLY BROAD. WE ASK THE COURT AS PART OF THE RELIEF FOR THAT TO STRIKE THE DOCUMENT REQUEST.

I JUST CANNOT BELIEVE THAT DEFENSE COUNSEL WOULD COME HERE AND SAY HE DID NOT KNOW THAT PLAINTIFFS OBJECTED TO THOSE DOCUMENT REQUESTS.

MR. THOMASCH: YOUR HONOR, I WANT TO NOTE TWO THINGS. ONE, THE ONLY REFERENCE IN THE LETTER TO THE DOCUMENT REQUEST IS THE FOLLOWING SENTENCE: "THE NOTICE OF DEPOSITION, HOWEVER, SEEKS TESTIMONY AND DOCUMENTS THAT GO WELL BEYOND THE SCOPE OF THE COURT'S DECEMBER 4, 2017, ORDER" AND THEY THEN SAY THEY HAVE ALREADY COMPLIED WITH THE ORDER IN FULL THAT IS THE ONLY REFERENCE IN THAT LETTER.

THE MOTION QUASH, I WOULD DISPUTE THE CHARACTERIZATION OF THE 50 PERCENT, BUT WE DON'T NEED TO GO THERE BECAUSE THE MOTION TO QUASH WAS WITHDRAWN.

WITHDRAWING A MOTION HAS MEANING. IF THEY WANTED TO PRESS THEIR OBJECTIONS, THE TIME TO PRESS THEM WAS BEFORE THE DEPOSITION, NOT AT AND AFTER THE DEPOSITION. THEY KNEW WHAT WE WERE LOOKING FOR, AND THEY SIMPLY CHOSE NOT TO TALK TO US.

THERE WAS NO COMMUNICATION FROM THE DATE THEY WITHDREW THEIR MOTION TO QUASH UNTIL THE DAY OF THE DEPOSITION, THERE WAS NOT A SINGLE WORD ABOUT THIS DEPOSITION WITH ANYONE FROM LADWP EXCEPT MR. KIESEL CALLING

ME AND ASKING FOR ADJOURNMENTS AND TRYING TO WORK OUT A SCHEDULE WHICH HE WAS GRANTED.

THEN WE SHOWED UP ON SEPTEMBER 13, PER OUR AGREEMENT ON HIS CHOSEN DAY, AND WE WERE TOLD THE WITNESS IS NOT PRODUCING ANY DOCUMENTS THAT IS A WAIVER.

THE COURT: THANK YOU.

LET'S GO ON TO THE DEPOSITION QUESTION.

BEFORE WE DO THAT, LET ME ASK MR. KIESEL, DO YOU RECALL THE DATE FOR THE NEXT HEARING ON THE CLASS ACTION SETTLEMENT?

MR. KIESEL: YOU'RE ASKING IF THERE WAS ANOTHER DATE?

THE COURT: THERE IS ANOTHER DATE, WE HAVE PERIODIC REPORTS.

DO YOU RECALL WHAT THE DATE IS?

MR. KIESEL: I DO NOT, MR. PARADIS MIGHT, BUT I DO NOT RECALL.

THE COURT: COULD YOU LOOK IT UP?

THE CLERK: YES, YOUR HONOR, A FUTURE DATE ON THIS MATTER?

THE COURT: NO. IT'S A RELATED CASE OF JONES VERSUS CITY OF LOS ANGELES.

THE CLERK: DID ANYBODY HAVE A CASE NUMBER?

THE COURT: IT'S PREVIOUSLY RELATED.

COUNSEL, DO YOU WISH TO ADDRESS ISSUES WITH REGARDS TO THE DEPOSITION QUESTIONS?

MR. THOMASCH: YES, YOUR HONOR.

THERE WERE LITERALLY SCORES OF QUESTIONS THAT WERE

NOT ANSWERED AT THE DEPOSITION ON THE GROUNDS THAT EITHER THE WITNESS HAD NOT PREPARED HIMSELF, DID NOT KNOW THE ANSWER, OR IN LARGE PART THAT THE ISSUE WAS SAID TO BE PRIVILEGED WITHOUT EXPLANATION OF THE PRIVILEGE, BUT SAID IT WAS PRIVILEGED. ATTORNEY-CLIENT AND WORK PRODUCT WERE REFERENCED THROUGHOUT.

I THINK THAT THE ONE WAY TO GO THROUGH IT BECAUSE THE SEPARATE STATEMENT IDENTIFIES NUMEROUS QUESTIONS, SCORES OF QUESTIONS AS I SAY AT WHICH ONLY 12 HAD AGREED TO BE ANSWERED. THERE ARE AT LEAST SEVEN SORT OF QUICK CATEGORIES WE COULD HIT ABOUT WHAT AREAS THEY ARE TAKING THE POSITION ARE PRIVILEGED.

THE FIRST IS BASICS ABOUT THE DOCUMENT ITSELF WHICH DO NOT REFLECT WORK PRODUCT, DO NOT SHOW MENTAL IMPRESSIONS. AND I MENTIONED THAT BEFORE THINGS SUCH AS WHO ARE THE COUNSEL LISTED ON THE FACE PAGE? WHO ARE THE COUNSEL ON THE SERVICE PAGE? WHO IS IDENTIFIED AS JONES' COUNSEL? IS THERE A NO-FEE GOVERNMENT CODE STAMP ON THE DOCUMENT? IS IT IDENTIFIED AS A RELATED CASE?

THERE ARE OTHER THINGS THAT APPEAR ON THE FACE OF THE PLEADING THAT WOULD TELL YOU WHO WAS THE INTENDED PARTY TO FILE SUCH A PLEADING AND HOW FAR ALONG HAD IT GOTTEN. THOSE ARE RELEVANT QUESTIONS TO US.

THE COURT: BEFORE YOU GET TO THAT, I'M CONCERNED ABOUT WHETHER THE CITY PRODUCED THE RIGHT WITNESS. THIS WAS A PERSON SUPPOSED TO BE THE PERSON MOST KNOWLEDGEABLE. SO THIS WAS THE INDIVIDUAL AT THE CITY WHO KNOWS THE MOST ABOUT THIS CASE.

I SEE FROM THE QUESTIONS THAT APPARENTLY IS NOT THE MOST KNOWLEDGEABLE. AND MAYBE IT'S NOT THE RIGHT WITNESS BECAUSE THE QUESTION ON PAGE 6 OF THE SEPARATE STATEMENT:

"DO YOU KNOW WHETHER THE CITY POSSESSES ANY DOCUMENTS RESPONSIVE TO REQUEST NO. 2?"

THE WITNESS SAYS HE DOESN'T KNOW. WITHOUT VIOLATING ATTORNEY-CLIENT PRIVILEGE -- WHAT ATTORNEY-CLIENT PRIVILEGE IS THERE, AS TO WHETHER THE CITY HAS DOCUMENTS OR NOT.

QUESTION NO. 2 ON PAGE 6:

"AM I CORRECT, SIR, THAT YOU HAVE NO PERSONAL KNOWLEDGE WITHOUT REGARD TO SOURCE? YOU YOURSELF DO NOT KNOW WHETHER ANY WRITTEN AGREEMENTS OR UNDERSTANDINGS BETWEEN LADWP AND ANTWON JONES OR COUNSEL?"

SAME INSTRUCTION, REFUSES TO ANSWER.

"DO YOU HAVE ANY KNOWLEDGE WHETHER OR NOT" -- SAYS HE HAS NO KNOWLEDGE.

THE QUESTION AS WRITTEN, YOU CITED THE NEGATIVE:

"YOU HAVE NO KNOWLEDGE WHETHER OR NOT THERE ARE ANY AGREEMENTS?"

HE SAYS THAT IS TRUE.

IF THE WITNESS HAS NO KNOWLEDGE THEN WHY IS HE THE PMK?

THEN QUESTION:

"DID YOU DO ANY INVESTIGATION TO DETERMINE WHETHER LADWP POSSESSES ANY DOCUMENTS?"

HE SAID NO, HE DIDN'T DO ANY SEARCH FOR DOCUMENTS.

NEXT QUESTION DOES HE KNOW WHETHER THE CITY

POSSESSES ANY DOCUMENTS? HE DOESN'T REALLY ANSWER. IT SAYS ATTORNEY-CLIENT PRIVILEGE.

QUESTION: "DID YOU MAKE AN INVESTIGATION?"

"NO."

NEXT QUESTION: DOES HE KNOW WHETHER THE CITY POSSESSES ANY DOCUMENTS?

HE SAYS HE CANNOT ANSWER IT. PRIVILEGE.

"DID HE DO ANY INVESTIGATION?" AGAIN.

HE ALSO SAYS FINALLY HE BELIEVES THAT "A DOCUMENT EXISTS WHICH WILL IDENTIFY ALL THE CUSTOMERS WHO COMPLAINED," BUT I THINK THAT ISSUE HAS BEEN RESOLVED AS COUNSEL INDICATED AND SAID THEY WILL PRODUCE THOSE DOCUMENTS.

THEN HE'S ASKED AGAIN DID HE LOOK FOR ANY DOCUMENTS? HE SAYS "NO."

GOING BACK TO THE CITY, IS THE CITY GOING TO PRODUCE SOMEBODY ELSE WHO IS MORE KNOWLEDGEABLE?

MS. TUFARO: YOUR HONOR, TO THE BEST OF OUR INVESTIGATION, MR. PETERS IS THE CORRECT INDIVIDUAL.

DURING OUR MEET AND CONFER WITH DEFENSE COUNSEL, WE INDICATED THAT WE WOULD BE WILLING TO EITHER PROVIDE BY WAY OF DECLARATION OR POSSIBLY A DEPOSITION OF LIMITED PURPOSE TO DEMONSTRATE THAT MR. PETERS WILL HAVE IN FACT AT THAT TIME UNDERTAKEN THE REQUISITE INVESTIGATION NECESSARY FOR A PMQ WITNESS.

THE COURT: OKAY. COUNSEL.

MR. THOMASCH: YES, YOUR HONOR, WE DO BELIEVE THE ISSUE HERE WASN'T NECESSARILY THE CHOICE OF MR. PETERS, BUT

THE FACT THAT MR. PETERS DELIBERATELY AND INTENTIONALLY DID NO INVESTIGATION.

THE NOTICE IS NOT OF MR. PETERS. THE NOTICE IS OF LADWP. THE WITNESS NEEDS TO TALK ABOUT THE INFORMATION REASONABLY AVAILABLE TO LADWP EVEN IF HE DOES NOT PERSONALLY KNOW IT OR RECALL IT. HE HAS TO DO AN INVESTIGATION. HE CHOSE NOT TO DO THAT.

THE OTHER ISSUE IS THE WITNESS SEEMS TO THINK THAT ABSOLUTELY EVERYTHING THAT HE LEARNED FROM COUNSEL IS PRIVILEGED, EVEN IF IT'S SIMPLY A NON PRIVILEGED FACT TOLD HIM BY COUNSEL, WELL, THAT IS NOT CORRECT.

IT DOESN'T BECOME PRIVILEGED IN RESPONSE TO THE -- IF THE SOURCE OF KNOWLEDGE ABOUT WHETHER LADWP, FOR INSTANCE, WHETHER LADWP HAD SENT A BILL TO HIM IN THE WRONG AMOUNT. IF HE FINDS THAT OUT FROM COUNSEL, IT'S NOT A PRIVILEGED FACT. THE FACT ITSELF HAS NO LEGAL SIGNIFICANCE AS FAR AS THE ATTORNEY-CLIENT OR ATTORNEY WORK-PRODUCT PRIVILEGE GOES. THEY HAVE TAKEN THAT POSITION.

I HAVE ASKED THEM OVER AND OVER AGAIN IN PREPARING MR. PETERS, WILL MR. PETERS SPEAK WITH THE OTHER COUNSEL IN THE OFFICE AND SPEAK WITH SPECIAL COUNSEL SITTING AT TABLE TO SEE WHAT THEY KNOW. BECAUSE IF THEY KNOW FACTS, FACTS DO NOT BECOME PRIVILEGED BECAUSE THEY ARE RECEIVED FROM THE ATTORNEY.

I HAVE RECEIVED NO ANSWER TO THOSE INQUIRIES. IT'S A CONTINUING PROBLEM.

THE COURT: LET ME JUST ADVISE COUNSEL. THE CLERK HANDED ME A NOTE INDICATING THAT IN THE CLASS ACTION CASE,

THAT IS JONES VERSUS CITY OF LOS ANGELES IS WHICH MR. LANDSKRONER IS COUNSEL FOR THE PLAINTIFF, MR. ANTWON JONES, IT'S BC 577267. WE HAVE A STATUS CONFERENCE ON JANUARY 30, 2019.

AND THE ISSUE AS TO CONFLICT OF INTEREST AND FIDUCIARY OBLIGATIONS AND THE SETTLEMENT THAT WAS REACHED BETWEEN THE PARTIES MAY COME UP DURING THAT HEARING.

MR. THOMASCH: YOUR HONOR, OUR NEXT TOPIC TO DISCUSS APPEARS AT PAGE 13 OF OUR SPECIAL STATEMENT AND WAS AT PAGE 50 OF THE DEPOSITION TRANSCRIPT.

THE QUESTION WAS:

"IF THE CITY ATTORNEY'S OFFICE FELT THAT THE CITY AND A RECIPIENT OF CITY SERVICES HAD INTEREST IN COMMON, VIS-A-VIS A THIRD PARTY, WOULD IT BE PERMISSIBLE FOR ATTORNEYS FROM THE CITY ATTORNEY'S OFFICE TO DRAFT PLEADINGS AND PROVIDE THAT WORK PRODUCT TO A PRIVATE ATTORNEY TO USE AS HE OR SHE SAW FIT?"

MR. PARADIS OBJECTED TO FORM. SAME OBJECTION. SAME INSTRUCTION. THE SAME OBJECTION, SAME INSTRUCTION REFERS BACK TO PRIVILEGE, AND THE WITNESS DID NOT ANSWER THE QUESTION.

THE NEXT TOPIC IS ONE WE HAVE TALKED ABOUT BEFORE AND IS TERRIBLY IMPORTANT WHICH IS THE QUESTION ASKED AT PAGE 52 OF THE TRANSCRIPT.

QUOTE "WHO MADE THE DECISION TO IDENTIFY MR. JONES AS THE NAMED PLAINTIFF IN THE DRAFT JONES VERSUS PWC COMPLAINT?"

AT PAGE 3 OF PLAINTIFF'S MEMO OF LAW THEY SAY THAT

MR. PETERS TESTIFIED TO THAT SUBJECT THAT IS SIMPLY FALSE.

THE ANSWER WAS:

"I'M AFRAID I CANNOT RESPOND TO THAT WITHOUT VIOLATING THE ATTORNEY-CLIENT PRIVILEGE."

LINE 16, PAGE 52 OF THE DEPOSITION TRANSCRIPT. THE NEXT QUESTION:

"WHAT WAS THE BASIS FOR THE DECISION TO PUT MR. JONES' NAME IN THE CAPTION?"

AGAIN PRIVILEGE ASSERTED, NO ANSWER.

NEXT:

"WHY WAS MR. JONES, AS OPPOSED TO ONE OF THE OTHERS, SELECTED AS THE NAMED PLAINTIFF IN THE JONES V. PWC COMPLAINT?"

PRIVILEGE ASSERTED. NO ANSWER.

FINALLY:

"DID THE AMOUNT OF TIME MR. JONES HAD BEEN LIVING IN HIS THEN CURRENT APARTMENT HAVE A ROLE IN THE IDENTIFICATION OF MR. JONES AS THE NAMED PLAINTIFF?"

ANSWER:

"I CAN'T RESPOND TO THAT WITHOUT VIOLATING THE PRIVILEGES."

AGAIN, MR. JONES IS NOT REPRESENTED BY THE CITY. AND WE DO NOT BELIEVE THAT -- THEY COULD HAVE USED A JOHN DOE PLAINTIFF, OR IF THIS REALLY WAS THE FUNCTIONAL EQUIVALENT OF A LEGAL MEMORANDUM, WHICH I DON'T ACCEPT, BUT THAT IS WHAT HAS BEEN POSTULATED, IF IT REALLY WAS IN EFFECT THAT, THERE WOULD NOT NEED TO BE. YOU COULD JUST HAVE PLAINTIFF VERSUS PWC.

THE COURT: MAYBE WE OUGHT TO CLARIFY THIS.

DOES THE CITY TAKE THE POSITION THAT MR. JONES WAS AT SOME TIME REPRESENTED BY THE CITY ATTORNEY'S OFFICE? OR COUNSEL FOR THE CITY?

MS. TUFARO: NO, YOUR HONOR.

THE COURT: AT NO TIME WAS MR. JONES REPRESENTED BY COUNSEL FOR THE CITY; IS THAT RIGHT?

MS. TUFARO: NO, YOUR HONOR. NO.

THE COURT: OKAY.

MR. THOMASCH: THAT WAS ISSUE NO. 3, YOUR HONOR. I DON'T WANT TO BE LABOR IT.

ISSUE NO. 4 IS WHETHER THE WITNESS INQUIRED OF OTHER COUNSEL AT LADWP OR IN THE CITY ATTORNEY'S OFFICE AS TO WHETHER ANYONE PROVIDED A COPY OF THE COMPLAINT TO MR. JONES OR MR. LANDSKRONER.

THE WITNESS SAID HE DIDN'T HAVE ANY KNOWLEDGE AS TO WHETHER THAT WOULD HAPPEN. AND THAT HE HIMSELF DID NOT DO SO OR ASK ANYONE ELSE TO DO.

BUT HE MADE NO INQUIRY OF OTHERS. HE DOESN'T KNOW WHAT IS KNOWN TO THE DEPARTMENT, WHAT IS KNOWN TO LADWP, THAT KNOWLEDGE IS THERE. ALL HE HAS TO DO IS DO AN INVESTIGATION AND ASK PEOPLE, AND WE CAN FIND OUT WHETHER OR NOT ANYONE GAVE THAT INFORMATION TO MR. LANDSKRONER OR MR. JONES.

THE NEXT TOPIC IS "ANY ORAL OR WRITTEN UNDERSTANDINGS BETWEEN THE CITY ON ONE HAND AND MR. JONES, MR. LANDSKRONER, OR OTHERS REPRESENTING MR. JONES ON THE OTHER."

THAT GOES DIRECTLY TO THE CONFLICT OF INTEREST AND THE QUESTION OF WHO WAS REPRESENTING WHO AND WHAT WERE THEY ATTEMPTING TO ACCOMPLISH.

IF THERE WERE ORAL OR WRITTEN UNDERSTANDINGS, THEY ARE JUST NOT PRIVILEGED. BUT WE CANNOT EVEN FIND OUT WHETHER THEY EXIST. WE ARE FIGHTING ABOUT A PRIVILEGE ON A DOCUMENT THEY MAY LATER SAY DOES NOT EXIST.

THE COURT: I WOULD CERTAINLY LIKE TO KNOW ABOUT THAT BECAUSE THAT WAS NOT DISCLOSED TO ME DURING THE HEARINGS ON THE MOTION TO APPROVE THE CLASS ACTION SETTLEMENT.

MR. THOMASCH: THAT GOES DIRECTLY TO THE NEXT TOPIC WHICH WAS WHETHER THE WITNESS SAW MR. LANDSKRONER'S DECLARATION DATED FEBRUARY 7, 2017, BEFORE IT WAS FILED.

NOW THAT WAS ONE QUESTION THAT WENT PAST THE PERIOD IN WHICH THE LAWSUIT WAS BEING DRAFTED OR THE FILING OF THE JONES QUESTION.

BUT OBVIOUSLY ON FEBRUARY 7, 2017, AFTER THERE WERE ISSUES ABOUT THE POSSIBLE INDEPENDENCE OF COUNSEL AND POSSIBLE COLLUSION, MR. LANDSKRONER PUT IN A DECLARATION. AND IN THAT DECLARATION HE WENT OUT OF HIS WAY TO SAY HE HAD NEVER WORKED WITH OR AGAINST ANYONE IN THE CITY ATTORNEY'S OFFICE. AND HE HAD NEVER WORKED WITH OR AGAINST ANYONE AT LINER LLP WHICH WAS THE COUNSEL OF RECORD.

WHAT WE DON'T KNOW IS HOW MUCH SPECIAL COUNSEL WAS WORKING BEHIND THE SCENES, IF AT ALL, WITH RESPECT TO THAT SETTLEMENT. BUT WE KNOW THAT MR. LANDSKRONER DID NOT INDICATE THAT HE HAD AN ONGOING RELATIONSHIP, ONE THAT HAD

BEEN FORMED BEFORE, VERY MUCH -- VERY SHORTLY BEFORE THE DECLARATION THAT HE PUT IN SAYING THAT HE HADN'T WORKED WITH THE CITY OR THE CITY ATTORNEY'S OFFICE OR LADWP.

BEFORE HE SAID THAT, HE WAS CO-COUNSEL WITH MR. PARADIS IN TWO DIFFERENT CLASS ACTIONS THAT WERE PENDING IN OTHER STATES. THOSE CASES, AS I UNDERSTAND IT, AND I DON'T HAVE COMPLETE KNOWLEDGE OF THIS, BUT THOSE CASES BY PUBLIC RECORD APPEAR TO BE ONGOING AT THE VERY TIME THAT MR. LANDSKRONER WAS SAYING I DON'T KNOW AND I DON'T WORK WITH ANYONE AND I HAVEN'T EVEN BEEN OPPOSITE ANYONE THAT IS IN THE CITY ATTORNEY'S OFFICE OR AT LINER.

BUT THE CITY AT THAT TIME IN 2017, MR. PARADIS WAS HEADING THE REMEDIATION WHOLLY OUTSIDE OF THE REALM OF COUNSEL. HE WAS HEADING THE REMEDIATION. HE IS INVOLVED IN EVERY ASPECT OF SOME OF THESE ISSUES AND COULD BE INVOLVED HEAVILY IN THE SETTLEMENT, BUT MR. LANDSKRONER DID NOT DISCLOSE THAT.

THAT HAS US VERY, VERY, CONCERNED AS TO THE FACT THAT MR. LANDSKRONER ISN'T DISCLOSING THE RELATIONSHIP WITH MR. PARADIS, BUT BACK IN 2015 MR. LANDSKRONER'S CLIENT IS IDENTIFIED BY MR. PARADIS IN A COMPLAINT THAT HE DRAFTS UP AND TRIES TO HAVE MR. JONES SUE US INSTEAD OF SUING THE CITY.

THE COURT: MR. PARADIS IS INVOLVED IN MEDIATION IN THE CLASS ACTION CASE --

MR. THOMASCH: I DO NOT KNOW.

THE COURT: -- OR THE OTHER ONE?

MR. THOMASCH: I DO NOT KNOW IF HE'S INVOLVED IN

THE MEDIATION.

THE COURT: I MEAN REMEDIATION.

MR. THOMASCH: REMEDIATION. IN REGARD TO THE REMEDIATION, MY UNDERSTANDING IS THAT PURSUANT TO A SEPARATE CITY CONTRACT, INDEPENDENT OF HIS SERVICE AS SPECIAL COUNSEL IN THIS CASE, THE CITY HAS AWARDED HIM A SEPARATE CONTRACT IN WHICH HIS LAW FIRM SERVES AS THE REMEDIATION ADMINISTRATOR; HE OVERSEES THE REMEDIATION.

YOU WILL REMEMBER EARLIER WHEN WE HAD DISCUSSIONS ABOUT TMG. WHEN MR. PARADIS TOOK OVER THE REMEDIATION, ONE OF THE FIRST THINGS HE DID WAS FIRE TMG THEN LATER TMG WAS BROUGHT BACK IN AND NOW MR. PARADIS REPRESENTS TMG AS WELL AS THE CITY IN THIS CASE.

HIS ROLE OF HEADING THE REMEDIATION IS CENTRAL TO THE PHASE OF THE CASE WE ARE ABOUT TO ENTER INTO BECAUSE THEY ARE CLAIMING, I BELIEVE, ALTHOUGH WE LOOKED FOR CLARITY, I BELIEVE THEY ARE CLAIMING THAT MONEY SPENT IN THE REMEDIATION, WHICH IS SUPPOSEDLY PURSUANT TO THE SETTLEMENT WITH MR. LANDSKRONER'S CLIENT, THAT THAT MONEY NOW IS THE RESPONSIBILITY OF PWC THAT THEY ARE GOING TO ASSERT AS DAMAGES IN THIS CASE REMEDIATION COSTS IN THAT CASE.

THE COURT: DIDN'T MR. LANDSKRONER WORK WITH MR. PARADIS, LET ME FINISH THE QUESTION, IN THE LAWSUIT INVOLVING THE CLEVELAND WATER AND POWER ISSUES?

MR. THOMASCH: THERE WAS NO LAWSUIT INVOLVING THE CLEVELAND WATER AND POWER ISSUES. ALTHOUGH MR. LANDSKRONER, I BELIEVE, HAS A RELATIONSHIP WITH

MR. BENDER WHO WAS INVOLVED IN CLEVELAND AND WHO THEN CAME TO BECOME, AS IN THIS CASE AS WELL, AND AS YOU MAY RECALL FROM LAST WEEK, IN THE AMENDED JONES COMPLAINT.

AFTER THE TIME OF THE DRAFT JONES V. PWC COMPLAINT, THE AMENDED JONES VERSUS LADWP COMPLAINT CONTAINS A WHOLE SECTION IN IT ABOUT HOW PWC SUPPOSEDLY MADE A MESS OF THE CLEVELAND IMPLEMENTATION. OF COURSE THAT HAS NOTHING TO DO WITH MR. JONES' INDIVIDUAL CLAIM.

IT WAS JUST JONES HAD A CLAIM AGAINST LADWP. HE FILED THE CLAIM ON THE 1ST OF APRIL, 2015, AND HIS LAWYERS SOUGHT TO SETTLE THE CASE ON THE 2ND, ONE DAY LATER. I BELIEVE THIS WAS PREPACKAGED, BUT I DON'T HAVE THE EVIDENCE YET.

THE COURT: MY QUESTION WAS DIRECTED WITH REGARD TO THE ISSUES CONCERNING THE WORK IN CLEVELAND.

WAS MR. LANDSKRONER INVOLVED IN ANY OF THAT EVEN THOUGH IT DIDN'T GO TO A LAWSUIT?

MR. THOMASCH: I DON'T KNOW. I DON'T KNOW.

I KNOW THAT MR. BENDER, AND I BELIEVE IT'S MR. LANDSKRONER THAT BRINGS MR. BENDER INTO THIS CASE, MR. BENDER WAS INVOLVED BY WORKING ON WHAT WAS CALLED THE BLACKENED BEACH TURNAROUND REPORT IN CONNECTION WITH CLEVELAND. THE RELATIONSHIPS BETWEEN CLEVELAND AND THIS CASE ARE EXTENSIVE, BUT EXACTLY MR. LANDSKRONER'S ROLE, I DO NOT KNOW.

WE DON'T KNOW EVEN THE MOST MUNDANE FACTS THAT SHOULD BE ON THE LOG ITSELF. MR. PARADIS, EVERY EXPLANATION FROM THE CITY SAYS MR. PARADIS DRAFTED THE

JONES PWC COMPLAINT. YET DOCUMENT 71 HAS BEEN ON FOUR, AT LEAST FOUR, DIFFERENT PRIVILEGE LOGS. ALWAYS DOWN AS JUST WORK PRODUCT UNTIL THE FOURTH LOG AND THEN SUDDENLY WORK PRODUCT AND ATTORNEY-CLIENT PRIVILEGE. BUT THAT HAS BEEN THERE SINCE THE FIRST LOG, AND IT DOES NOT REFERENCE MR. PARADIS IN ANY RESPECT.

NOW THERE IS THE LOG, WE HAVE BEEN THROUGH THIS IN PRIOR DISCUSSIONS BECAUSE OF THE WAY THEY WERE TREATING DOCUMENTS THAT HAD NO ATTORNEY CONNECTED TO THEM AS PRIVILEGED. AND THEY SAID, WELL, THAT IS BECAUSE THERE WAS AN ATTORNEY IN THE EMAIL CHAIN AT AN EARLIER POINT IN TIME, AND IT'S ALL PRIVILEGED AS A RESULT.

AND WE REACHED AN AGREEMENT THAT IF AN ATTORNEY HAD ANY INVOLVEMENT IN THE SERIES OF COMMUNICATIONS THAT THAT ATTORNEY HAD TO BE IDENTIFIED ON THE LOG AS WHAT IS CALLED, THEIR TERM, "ADDITIONAL ATTORNEY COMMUNICANT."

MR. PARADIS IS NOT IDENTIFIED AS SUCH. SO HOW IS IT THAT THE DOCUMENT THAT HE DRAFTED, IF WORK PRODUCT, DOES NOT SHOW HIM ON THE LOG. AND THE WITNESS WHO WAS PRODUCED SAID "I'VE NEVER SEEN THE PRIVILEGE LOG. I HAVEN'T REVIEWED THE COMPLAINT IN THREE YEARS, AND I HAVE NEVER LOOKED AT THE PRIVILEGE LOG."

SO WE DON'T HAVE ANY ANSWERS TO THE QUESTIONS AS TO WHY, BUT WE WOULD LIKE TO KNOW WHERE THE DOCUMENT WENT BECAUSE THAT IS STUFF THAT SHOULD BE ON A LOG. IT'S NOT PRIVILEGED IN AND OF ITSELF.

AND THE LOG IS OBVIOUSLY DEFICIENT IF THE GENESIS OF THE DOCUMENT IS SUPPOSED TO BE MR. PARADIS AND HIS NAME

IS NOT ON THE LOG. WHAT WE DO KNOW IS WHAT THE LOG REFLECTS IS ESKEL SOLOMON FORWARDED THE DOCUMENT, NO ONE HAS EVER SAID HE DRAFTED IT, HE FORWARDED THE DOCUMENT TO SEVEN OTHERS WITHIN THE CITY ATTORNEY'S OFFICE.

NOW JUST THE WAY THAT EMAIL WORKS, IF HE'S FORWARDING IT, IT MEANS IT CAME TO HIM FROM SOMEONE ELSE. HE THEN SEES IT, AND HE HITS FORWARD INSTEAD OF WRITING A NEW EMAIL AND THAT THEN GOES ON.

AND IF HE FORWARDS IT, IT WILL TAKE THE ATTACHMENT WITH IT, BUT WHERE DID HE GET IT FROM? WE DON'T KNOW. WE HAVE ASKED; WE DON'T KNOW. THEY WILL NOT PRODUCE A WITNESS THAT IS BOTH KNOWLEDGEABLE AND WILLING TO TESTIFY TO INFORMATION THAT SHOULD HAVE BEEN ON THE LOG IN THE FIRST INSTANCE, AND WE'VE BEEN AFTER THIS NOW FOR 12 MONTHS, MORE IF YOU GO BACK TO WHEN WE MADE THE MOTION.

YOUR HONOR, LADWP'S MOTION FOR A PROTECTIVE ORDER SHOULD BE DENIED. PWC'S MOTION TO COMPEL AND FOR SANCTIONS SHOULD BE GRANTED. THE DEPOSITION SHOULD BE RESUMED. THE WITNESS SHOULD BE REQUIRED TO DO AN INVESTIGATION TO LEARN WHAT IS REASONABLY AVAILABLE TO LADWP AND THAT SHOULD INCLUDE QUESTIONING MR. PARADIS AND OTHER COUNSEL FOR THE CITY ABOUT NON PRIVILEGED FACTS KNOWN TO HELP.

THE QUESTIONS ON THE TOPICS THAT WE HAVE JUST DISCUSSED SHOULD BE ANSWERED. THE DOCUMENTS SHOULD BE PRODUCED. AND, OF COURSE, WHEN WE REACH THE POINT OF THE DISCUSSION OF THE DEPOSITION IN WHICH I REFERENCED THE LANDSKRONER DECLARATION WHICH DENIES KNOWLEDGE OF ANYONE ON THE CITY'S SIDE, BUT DOESN'T REFERENCE THE PARADIS LAW FIRM

OR MR. PARADIS HIMSELF, AT THAT TIME MR. PARADIS ABRUPTLY TERMINATED THE DEPOSITION AND LEFT.

WE WOULD WANT TO NOW CONTINUE, AND I DON'T HAVE A SERIES OF QUESTIONS THAT HAVE BEEN ASKED AND OBJECTED TO BECAUSE THEY LEFT. WE SHOULD HAVE FULL REIN TO REACH OUT. AND IF THEY ARE GOING TO TAKE THE POSITION THAT MR. PARADIS AND MR. LANDSKRONER SHARE A PRIVILEGE THEN THEY SHOULD DEFINE WHEN THE PRIVILEGE BEGAN, WHAT THE PRIVILEGE IS, WHETHER IT'S STILL GOING ON EVER ENDED.

BUT WE WILL LITIGATE THE ISSUE OF PRIVILEGE IF THEY WANT, BUT WE HAVE TO KNOW WHAT PRIVILEGE THEY ARE ASSERTING AND THE CIRCUMSTANCES THEY ALLEGE GIVES RISE TO A PRIVILEGE BECAUSE IT'S A PRIVILEGE I HAVE NEVER HEARD OF.

WHEN PARTIES SUE MY CLIENT I'M NOT IN A PRIVILEGED RELATIONSHIP WITH OPPOSING COUNSEL, AND I TEND NOT TO WRITE THEIR PAPERS FOR THEM. SO I DON'T UNDERSTAND WHAT THE PRIVILEGE IS THEY ARE CLAIMING, BUT THEY REFUSE TO ARTICULATE IT. IT MAY BE THIS, IT MAY BE THAT.

THERE IS NO MEDIATION PRIVILEGE THAT GOES BACK TO 2015 WHEN THERE WASN'T EVEN A LAWSUIT. THE MEDIATION DOES NOT HAVE RETROACTIVE EFFECT. IT ONLY BEGINS AND IT'S PRETTY SIGNIFICANTLY LIMITED TO THE PAPERS THAT ARE EXCHANGED IN MEDIATION, AND WE HAVE NOT SOUGHT THOSE.

WE ARE SEEKING NOTHING THAT A MEDIATION PRIVILEGE WOULD COVER, AND IF THERE WAS ANOTHER PRIVILEGE BEING USED AGAINST US AS A SHIELD WE DESERVE TO KNOW WHAT IT IS SO WE CAN LITIGATE THE ISSUE TO CONCLUSION.

THANK YOU, YOUR HONOR.

THE COURT: THANK YOU.

ANY RESPONSE FROM PLAINTIFF?

MS. TUFARO: JUST VERY BRIEFLY, YOUR HONOR. I'LL JUST STAND OVER HERE.

IN ORDER TO DECIDE PLAINTIFF'S MOTION FOR PROTECTIVE ORDER, WHAT PLAINTIFF HAS ASKED THE COURT TO DO IS TAKE A LOOK AT THE COURT'S ORDER AND COMPARE IT TO THE DEPOSITION TESTIMONY THAT WAS GIVEN PURSUANT TO THAT ORDER.

THE JANUARY 11 ORDER IS VERY SPECIFIC. IT SAYS THAT PWC IS ALLOWED TO TAKE A PMQ DEPOSITION TO QUOTE "LAY A FOUNDATION AS TO THE PARTY ON BEHALF OF WHOM THE COMPLAINT WAS DRAFTED AND THE REASONS FOR IT INCLUDING, BUT NOT LIMITED TO, HOW THE DOCUMENT WAS PREPARED AND THE CIRCUMSTANCES SURROUNDING THAT DOCUMENT." THAT IS TWO TOPICS WHO THE COMPLAINT WAS DRAFTED FOR, AND WHY THE COMPLAINT WAS DRAFTED.

NOW WE HAVE TO TAKE A LOOK AT MR. PETERS' TESTIMONY, AND I THINK THAT WE'LL REALIZE THAT MR. PETERS DID IN FACT SATISFY THE COURT'S ORDER. SPECIFICALLY MR. PETERS TESTIFIED THAT AS THE CLIENT, HE IS THE CLIENT, INSTRUCTED OUTSIDE COUNSEL TO DRAFT THE JONES VERSUS PWC COMPLAINT THAT IS AN INSTRUCTION FROM A CLIENT TO AN ATTORNEY.

FURTHERMORE, MR. PETERS TESTIFIED THAT HE, AS THE CLIENT, GAVE THAT INSTRUCTION IN ORDER TO SEE IF THERE WAS A WAY FOR RATEPAYERS TO GET COMPENSATION DIRECTLY FROM THE ENTITY THAT HE BELIEVED WAS RESPONSIBLE FOR DWP'S BILLING PROBLEMS, OR IF THE CITY ITSELF WOULD HAVE TO FILE SUIT

THAT IS A REQUEST FOR LEGAL ADVICE.

ADDITIONALLY MR. PETERS TESTIFIED THAT JONES WAS IDENTIFIED IN THE DRAFT COMPLAINT BECAUSE HE WAS ONE LADWP CUSTOMER THAT HAD COMPLAINED TO LADWP ABOUT BEING OVERBILLED.

THE COURT: HIS NAME WAS JUST PULLED OUT OF A HAT? OR WAS THERE SOME EARLIER COMMUNICATIONS ABOUT IT WITH JONES?

MS. TUFARO: AGAIN, YOUR HONOR, THE ORDER IN THIS CASE ASKED ABOUT WHO THE COMPLAINT --

THE COURT: I'M ASKING YOU.

WAS THE NAME -- WHERE DID THEY COME UP WITH JONES' NAME AND SAID HE IS A RATEPAYER INSTEAD OF SMITH THEY PICKED OUT JONES.

HOW DID JONES EARN THE HONOR OF BEING NAMED?

MS. TUFARO: THAT IS CLEARLY A QUESTION WITHIN THE ATTORNEY WORK PRODUCT. IF THE CLIENT --

THE COURT: WHAT IS THE WORK PRODUCT IN CHOOSING YOUR ADVERSARY?

MS. TUFARO: THAT IS OBVIOUSLY -- THERE IS OBVIOUSLY A THOUGHT PROCESS THAT GOES ON BY COUNSEL PURSUANT TO A REQUEST FROM ITS CLIENT THAT IS OUR POSITION THAT IT'S COVERED BY THE ATTORNEY WORK PRODUCT.

THE COURT: WAIT A SECOND THAT IS IMPORTANT.

SO THE CLIENT MADE A DECISION WHO THE ADVERSARY IS GOING TO BE?

MS. TUFARO: NO, YOUR HONOR, THAT IS NOT WHAT I'M SAYING AT ALL.

THE COURT: IT'S AN INSTRUCTION TO USE JONES.

MS. TUFARO: YOUR HONOR, WHAT I'M SAYING IS THAT IF THE CLIENT REQUEST HIS COUNSEL PROVIDE HIM WITH INFORMATION THAT IS ABOUT LEGAL ADVICE, AND COUNSEL MAKES A DECISION, WHETHER IT'S IN COMMUNICATION WITH ITS CLIENT OR NOT, THAT IS COUNSEL'S THOUGHT PROCESS THAT IS ABSOLUTE WORK PRODUCT.

THE COURT: ABSOLUTE.

MS. TUFARO: YES.

THE COURT: ABSOLUTE.

WHO DECIDED THAT THE PLAINTIFF WAS GOING TO BE JONES?

MS. TUFARO: YOUR HONOR, WHAT I'M SAYING TO YOU IS ANYTHING BEYOND THE SCOPE OF YOUR HONOR'S ORDER IS NOT SOMETHING THAT MR. PETERS WOULD BE TESTIFYING ABOUT.

THE COURT: LET'S TAKE IT OUT OF THE REALM OF THIS CASE. LET'S TAKE IT OUT OF THE REALM OF THIS CASE.

A CLIENT COMES IN TO SEE AN ATTORNEY AND SAYS, THE CLIENT'S NAME IS SMITH, AND MR. SMITH SAYS "I WANT TO SUE BAKER."

YOU ARE TELLING ME THE DECISION ABOUT WHO SHOULD BE THE PLAINTIFF, AND WHO SHOULD BE THE DEFENDANT IS PRIVILEGED?

MS. TUFARO: YES, YOUR HONOR, I'M SAYING THAT.

THE COURT: REALLY?

MS. TUFARO: YES, I AM.

THE COURT: THAT'S INTERESTING. GO AHEAD.

MS. TUFARO: I'M SAYING IT'S ATTORNEY WORK PRODUCT.

THEN FINALLY MR. PETERS TESTIFIED THAT THE

COMPLAINT WAS CIRCULATED TO CITY PERSONNEL AND THAT MR. PETERS NEVER DIRECTED THAT THE JONES VERSUS PWC COMPLAINT BE DISSEMINATED TO ANY INDIVIDUAL NOT ASSOCIATED WITH THE CITY THAT GOES TO THE ISSUE OF WAIVER.

SO THE TESTIMONY OF MR. PETERS ESTABLISHES THREE VERY SALIENT FACTS. FIRST, IT ESTABLISHES THAT MR. PETERS BY AND THROUGH -- THE CITY BY AND THROUGH MR. PETERS DIRECTED COUNSEL TO DRAFT THE COMPLAINT;

SECOND, IT ESTABLISHES THAT THE COMPLAINT WAS DRAFTED FOR THE PURPOSES OF PROVIDING THE CITY WITH LEGAL ADVICE;

AND, FINALLY, IT ESTABLISHES THAT THERE HAD NOT BEEN ANY DISSEMINATION THAT MR. PETERS WAS AWARE OF TO ANY INDIVIDUAL NOT ASSOCIATED WITH THE CITY.

SO THAT DEMONSTRATES WHEN VIEWED TOGETHER THAT THE JONES VERSUS PWC COMPLAINT IS PROTECTED FROM DISCLOSURE BY THE ATTORNEY-CLIENT PRIVILEGE OR THE ATTORNEY WORK-PRODUCT DOCTRINE AND THAT NO WAIVER HAS OCCURRED.

BUT EVEN MORE IMPORTANTLY FOR OUR PURPOSES TODAY, IT DEMONSTRATES THAT MR. PETERS' TESTIMONY SATISFIED THE JANUARY 11 ORDER.

NOW ONE THING THAT MR. THOMASCH RAISED IS REALLY THE WHOLE BASIS WHY WE'RE HERE TODAY. THE WHOLE BASIS MR. THOMASCH HAS THEORIZED HAS TO DO WITH SOME SORT OF COLLUSION BASED UPON THE DECISION TO SEEK DAMAGES IN THIS CASE FOR OVERBILLING THAT HAD BEEN REFUNDED TO CONSUMERS IN CONNECTION WITH THE JONES CASE.

PLAINTIFF IS NOT AWARE OF ANY LEGAL THEORY THAT

WOULD PERMIT PLAINTIFF TO SEEK DAMAGES THAT WERE REFUNDED TO CONSUMERS FOR OVERBILLING IN CONNECTION WITH THAT CLASS ACTION THAT IS LEGALLY DEFICIENT.

AND NO. 2 IT'S FACTUALLY DEFICIENT BECAUSE PLAINTIFF IS NOT SEEKING DAMAGES FOR REFUNDS FOR OVERBILLING. BUT WE CANNOT GET TO THE DAMAGE PHASE IN THIS CASE SO WE CAN PRESENT THAT TO YOUR HONOR BECAUSE WE'RE TOO BUSY FIGHTING ABOUT COLLUSION THAT DID NOT EXIST.

THE COURT: I THINK IF THERE IS NO COLLUSION THEN IT'S VERY EASY TO PRODUCE EVIDENCE TO THAT EFFECT.

MS. TUFARO: YOUR HONOR, WHAT IS AT ISSUE HERE IS WHETHER OR NOT WE'VE SATISFIED THE COURT'S ORDER. WE COULD -- THERE ARE A MILLION THINGS THAT PEOPLE COULD FIND INTERESTING OR WANT TO KNOW MORE ABOUT. BUT THE REAL ISSUE AT THE END OF THE DAY IS WHETHER OR NOT PLAINTIFF SATISFIED THE COURT'S ORDER.

AND ON THAT BASIS, YOUR HONOR, WE'RE GOING TO LEAVE THE REST OF OUR ARGUMENTS TO OUR PAPERS AND THAT IS IT.

THE COURT: ALL RIGHT. THANK YOU.

MR. THOMASCH: YOUR HONOR, TWO VERY QUICK POINTS.

THE COURT: MR. KIESEL FIRST.

MR. KIESEL: THANK YOU, VERY MUCH.

TWO THINGS. NO. 1, I WANT TO POINT OUT THE REASON WHY WE WENT FORWARD WITH THE DEPOSITION WAS BECAUSE THE COURT WAS CONCERNED THAT WE MIGHT GET INTO PRIVILEGES AND WANTED TO KNOW HOW DEEP THE DEPOSITION WAS GOING TO GO TO MAKE SURE WE DIDN'T INFRINGE ON THE PRIVILEGE.

WE BELIEVE WHERE THE DEPOSITION WENT WAS INFRINGING

ON THAT ATTORNEY-CLIENT PRIVILEGE. SO, RESPECTFULLY, IF THE COURT WERE TO SAY, LOOK, I'M GOING TO ORDER THE DEPOSITION TO GO FORWARD, THIS DEPOSITION HAS TO GO FORWARD AND THESE QUESTIONS NEED TO BE ANSWERED. WHILE THERE ARE SOME QUESTIONS WHICH WE AGREE OUGHT TO BE ANSWERED, THERE ARE A NUMBER OF THEM WE HAVE GREAT CONCERN RESPONDING TO.

AND IF THE COURT WERE TO ORDER THE DEPOSITION TO GO FORWARD, WE WOULD ASK FOR TWO WEEKS, 14 DAYS, TO TAKE A WRIT, WHICH WOULD BE OUR CLIENT'S REQUEST, TO TAKE A WRIT TO CHALLENGE. WE DO NOT WANT TO JEOPARDIZE THE PRIVILEGE ISSUES THAT ARE HERE.

SO AGAIN, IF THE COURT WERE TO GRANT THE REQUEST, WE WOULD ASK FOR 14 DAYS TO BRING A WRIT IN THAT TIME TO SEEK THE APPELLATE COURT'S EITHER REVIEW OR REJECTION AND THEN PROCEED ACCORDINGLY.

ONE FINAL POINT, IF WE COULD TAKE A MOMENTARY BREAK BEFORE WE GET TO THE NEXT THING, I JUST NEED A TWO-SECOND BREAK.

THE COURT: ALL RIGHT. WE'LL TAKE A FIVE-MINUTE RECESS.

(BREAK IN PROCEEDING.)

THE COURT: ALL RIGHT.

ANY ADDITIONAL COMMENTS WITH REGARD TO ANYONE WITH REGARD TO THE MOTION TO COMPEL AND THE MOTION FOR PROTECTIVE ORDER?

MR. KIESEL: THANK YOU, YOUR HONOR, PAUL KIESEL.

I DO WANT TO CLARIFY ONE THING, AND I THANK YOU FOR LETTING ME TAKE A BREAK THERE.

THE COURT ASKED A QUESTION DURING YOUR HEARING WITH RESPECT TO MS. TUFARO WHETHER THE CITY ATTORNEY'S OFFICE EVER REPRESENTED ANTWON JONES OR HAD ANY RELATIONSHIP WITH ANTWON JONES.

MR. PARADIS: YES.

MR. KIESEL: AND THE ANSWER IS NO, THE CITY ATTORNEY NEVER REPRESENTED, NEVER HAD ANY RELATIONSHIP WITH ANTWON JONES. BUT, I WANT TO CLARIFY SOMETHING SO THERE IS NOTHING INACCURATE ABOUT THE RECORD, MR. JONES AT THE TIME HE WAS CONSIDERING A CASE AGAINST PWC HAD ACTUALLY RETAINED COUNSEL TO CONSIDER FILING SUIT AGAINST PWC, NOT THE CITY OF L. A., BUT PRICEWATERHOUSE COOPERS.

WHEN IT BECAME CLEAR THAT MR. JONES WANTED TO SUE THE CITY OF L. A., A CONFLICT IMMEDIATELY OCCURRED WHEN MR. JONES WAS GOING TO SUE THE CITY OF L. A. OR WANTED TO SEEK SUIT FROM THE CITY OF LOS ANGELES.

THE CITY ATTORNEY'S OFFICE NEVER HAD ANY RELATIONSHIP TO MR. JONES AT ALL. BUT I WILL REPRESENT THAT SPECIAL COUNSEL DID HAVE A RELATIONSHIP WITH MR. JONES THAT WAS NOT ADVERSE TO THE CITY OF LOS ANGELES UNTIL MR. JONES WANTED TO PURSUE AN ACTION AGAINST THE CITY AND THAT WAS THE END OF THAT RELATIONSHIP. THE CITY HAD NOTHING TO DO WITH THAT, BUT I WANTED TO CLARIFY THE RECORD IN THAT REGARD, YOUR HONOR.

THE COURT: THANK YOU.

AND WHERE DID MR. JONES COME UP WITH THIS IDEA OF

SUING PRICEWATERHOUSE?

MR. KIESEL: MR. JONES -- LET ME NOT GO ANY FURTHER, YOUR HONOR. I CERTAINLY DO NOT WANT TO INFRINGE UPON ANY ATTORNEY-CLIENT COMMUNICATION.

THE COURT: OKAY. ALL RIGHT. I GUESS I'LL FIND OUT WHERE A RATEPAYER HAS A DIRECT CAUSE OF -- HOW DID HE KNOW THAT PRICEWATERHOUSE DID ANY WORK FOR DWP?

MR. KIESEL: I'M GOING TO REST ON MY STATEMENT, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

MR. THOMASCH: YOUR HONOR, I JUST WANT TO NOTE THAT WE HAVE BEEN LABORING THROUGH THE FOUR YEARS OF THIS CASE UNDER THE ASSUMPTION THAT SPECIAL COUNSEL FOR THE CITY OF LOS ANGELES IS SUBSUMED WITHIN THE DEFINITION OF THE CITY.

AND THE NOTION THAT THE CITY DIDN'T DO SOMETHING, OR THE CITY DIDN'T KNOW SOMETHING, BUT SPECIAL COUNSEL DID, IS ONE THAT, FRANKLY, STUNS ME AND MEANS I HAVE TO GO BACK AND SORT OF LOOK THROUGH THE LAST FOUR YEARS OF STATEMENTS AND COMMUNICATIONS BECAUSE THAT IS A DISTINCTION WITHOUT A DIFFERENCE.

THE SPECIAL COUNSEL IS SPECIAL COUNSEL TO THE CITY OF LOS ANGELES. AND THEY SHOULD NOT BE ABLE TO SEPARATE THEMSELVES OUT FROM LADWP OR THE CITY ANYMORE THAN SOMEONE IN THE CITY ATTORNEY'S OFFICE COULD DO SO.

YOUR HONOR, THAT ASIDE, THERE ARE THREE BRIEF POINTS I WANTED TO MAKE THAT ARE PROMPTED BY COMMENTS OF MS. TUFARO.

FIRST, I DO WANT TO JUST CORRECT THE CHRONOLOGY

SLIGHTLY. AS WE KNOW, JANUARY 24, 2015, IS THE DATE OF THE JONES VERSUS PWC COMPLAINT THAT IS THE SUBJECT THAT BRINGS US HERE, JANUARY 24, 2015.

JUST OVER TWO WEEKS EARLIER DECEMBER 30, 2014, WAS THE FILING IN THE NORTHERN DISTRICT OF ILLINOIS OF WRIGHT VERSUS NATIONSTAR MORTGAGE, LLC ACTION NO. 14-CV-10457 IN WHICH MR. LANDSKRONER AND MR. PARADIS AND MS. TUFARO ARE ALL LISTED AS PLAINTIFF'S COUNSEL.

I BELIEVE THAT WAS A REFILING UNDER A DIFFERENT NAME OF AN AUGUST 4, 2014 ACTION ENTITLED REED VERSUS NATIONSTAR MORTGAGE, NO.14-CV-01701, NORTHERN DISTRICT OF OHIO COMPLAINT, AGAIN, SHOWING MR. LANDSKRONER, MR. PARADIS AND MS. TUFARO AS AMONG THE PLAINTIFF'S COUNSEL.

SO AUGUST 14 WAS THE FIRST COMPLAINT THEN DECEMBER 30, 2014, THE NEXT AND THEN JUST JANUARY 24, 2015, JONES VERSUS PWC. AND NOW WE HAVE NEW FACTS ABOUT THE RELATIONSHIP BETWEEN MR. PARADIS AND MR. JONES THAT OCCURS ON THAT DATE.

APRIL 1, 2015, IS THE JONES VERSUS CITY OF LOS ANGELES LAWSUIT FILING AND THEN ON OCTOBER 19 --

THE COURT: LET ME ASK YOU, DO YOU HAVE ANY INFORMATION HOW MR. JONES AND MR. LANDSKRONER FOUND EACH OTHER?

MR. THOMASCH: OH, NO, DO I WANT TO KNOW THAT, BUT I DON'T KNOW. AND I NOW WONDER WHETHER THE ANSWER IS THAT --

THE COURT: THE REASON I ASK THE QUESTION IS BECAUSE MR. JONES PRESUMABLY LIVES IN LOS ANGELES AS A

LADWP RATEPAYER, AND MR. PARADIS PRACTICES LAW IN NEW YORK. AND MR. LANDSKRONER I THINK PRACTICES, IS IT CLEVELAND OR SOMEPLACE IN OHIO?

MR. THOMASCH: THE UNUSUAL NATURE OF THAT HAS BEEN APPARENT TO ME FROM THE START, AND I HAVE NOT RECEIVED AN ANSWER. AND I DON'T KNOW THE INFORMATION, BUT I CAN TAKE THE POSITION WITH CERTAINTY THAT THESE ARE NOT PRIVILEGED PIECES OF INFORMATION.

COMMUNICATIONS -- THE FORMATION OF ATTORNEY-CLIENT RELATIONSHIP IS NOT THE PRIVILEGED FACT. WHAT IS PRIVILEGED IS AFTER IT'S FORMED, COMMUNICATIONS BETWEEN THEM, AND WE'RE NOT ASKING FOR THAT.

BUT FINDING OUT HOW THEY CAME TO FIND EACH OTHER WITH THIS PWC LINKED IN THE MIDDLE OF IT IS SOMETHING WE'RE VERY INTERESTED IN.

THE LAST DATE I WANTED TO BRING TO THE COURT'S ATTENTION WAS OCTOBER 19, 2015. SO THIS IS SHORTLY SIX MONTHS AFTER THE JONES VERSUS LADWP CASE GOT FILED IN APRIL AND THEN THE NEXT DAY THEY HAD A SETTLEMENT DEMAND, AND THEY ALL GOT TOGETHER TO WORK OUT A SETTLEMENT.

OCTOBER 19 OF 2015 THERE WAS A SIGNED AGREEMENT NO. 47361-6 FOR PROJECT MANAGEMENT SERVICES, CUSTOMER INFORMATION SYSTEM REMEDIATION BETWEEN THE EITHER THE CITY AND/OR LADWP ON ONE HAND AND PARADIS LAW GROUP ON THE OTHER. THAT AGREEMENT IS BACKDATED TO JULY 13, 2015.

THE SCOPE OF WORK INDICATES THAT CONTRACTOR, THAT IS MR. PARADIS AND HIS LAW FIRM, CONTRACTOR SHALL PROVIDE PROJECT MANAGEMENT SERVICES NECESSARY TO IMPLEMENT MEASURES

REQUIRED BY THE REVISED SETTLEMENT AGREEMENT IN THE JONES ACTION.

SO THAT WAS THE CONNECTION ABOUT HOW WHAT IS GOING ON IN THE REMEDIATION IS THE SUBJECT OF, APPARENTLY, DISCUSSIONS AND INTERPLAY BETWEEN PLAINTIFF'S COUNSEL, MR. LANDSKRONER, AND THE HEAD OF THE REMEDIATION FOR THE CITY, MR. PARADIS.

AND OUT OF THAT REMEDIATION, I BELIEVE, COMES CLAIMS FOR REMEDIATION COSTS TO BE CHARGED TO PWC AS A MATTER OF DAMAGES IN THIS CASE. MS. TUFARO SAID I WAS SPEAKING ABOUT A LINKAGE WITH RESPECT TO OVERBILLING, AND SHE SAID THERE IS NO LEGAL THEORY AND THERE IS NO FACTUAL THEORY. THERE IS NO CLAIM FOR OVERBILLING.

I WILL NOTE THAT EARLIER THE GENERAL MANAGER OF LADWP VERY PUBLICLY SAID ALL OF THE OVERBILLING WILL BE RECOUPED IN THE COURSE OF THIS LITIGATION.

THE LAWYERS HAVE WALKED AWAY FROM THAT POSITION AND THEY HAVE PUT IN, IN WRITING, THEY ARE NOT SEEKING OVERBILLING INFORMATION AND SO I WASN'T RAISING THAT.

THE ONLY REFERENCE I MADE TO BILLING WAS I ASKED A QUESTION AT THE DEPOSITION AS TO WHETHER MR. JONES EVER ACTUALLY RECEIVED AN INCORRECT BILL. BECAUSE I CANNOT FIGURE OUT HOW MR. JONES, WITH APPARENTLY A VERY SMALL TIME PERIOD THAT HE WAS EVEN A CUSTOMER, SUDDENLY WOUND UP AS THE LEAD PLAINTIFF IN A CASE THAT JUMPED TO THE HEAD OF THE LINE AND BECAME THE CASE THAT THE CITY REACHED OUT TO SETTLE THAT IS WHAT WAS BOTHERING ME.

AND I DON'T EVEN KNOW IF MR. JONES WAS OVERCHARGED

IN THE FIRST INSTANCE, BUT I ASKED THE QUESTION, AND I WAS TOLD THAT WAS PRIVILEGED.

IT'S THROUGH REMEDIATION, NOT THROUGH OVERBILLING, THAT THE RELATIONSHIP BETWEEN MR. LANDSKRONER AND MR. PARADIS MAY BE HIGHLY RELEVANT TO PWC.

THIRDLY, MS. TUFARO TALKED EXTENSIVELY ABOUT THE SO-CALLED NARROW ORDER THAT YOUR HONOR ISSUED IN JANUARY OF THIS YEAR AND APPARENTLY TAKES THE POSITION THAT THEY, NOT YOU, ARE BEST SITUATED TO INTERPRET THAT ORDER AND NOT GO BEYOND THAT ORDER. AND THAT IF YOU LOOK AT THE TESTIMONY OF MR. PETERS, YOU'LL SEE THAT HE FULFILLED YOUR HONOR'S ORDER.

FIRST, IT WASN'T A NARROW ORDER. WORDS LIKE "CIRCUMSTANCES" ARE AS OPEN-ENDED AS WORDS GET. THE PHRASE "INCLUDING, BUT NOT LIMITED TO" IS IN CONTRA DISTINCTION TO THE WORDS "LIMITED TO."

YOUR HONOR CHOSE "INCLUDING, BUT NOT LIMITED TO CIRCUMSTANCES SURROUNDING THE CREATION OF THE DOCUMENT." IT WAS OPEN-ENDED AND BROAD ORDER TO ALLOW FOR, AS THE CASE LAW REQUIRES, A FULL DEVELOPMENT OF THE FACTS TO ASCERTAIN WHETHER A POSITION OF PRIVILEGE IS WELL TAKEN OR NOT.

BUT IT IS ULTIMATELY NOT UP TO THEM TO DECIDE WHAT IT MEANS. AND THE STATEMENT, IF YOU JUST LOOK AT THE TRANSCRIPT, YOU'LL SEE THAT MR. PETERS TESTIFIED FULLY IN RESPONSE TO YOUR HONOR'S ORDER, MR. PETERS TESTIFIED EXACTLY IN LINE WITH THE DECLARATION THAT HE HAD PUT IN IN APRIL OF THIS YEAR BEFORE WE GOT TO THE JUNE HEARING AT WHICH THEY WITHDREW THE MOTION TO QUASH WHICH WAS THE

DECLARATION HAD BEEN SUBMITTED.

THE DECLARATION OF MR. PETERS IS THE SAME DECLARATION MR. PARADIS PUT IN IN NOVEMBER, 2017. IN THE COURSE OF 13 MONTHS THEY HAVE SIMPLY REPEATED OVER AND OVER AGAIN THE SAME THING AND HAVE SAID NEITHER I NOR YOU GET TO CAN ANYMORE QUESTIONS ABOUT THAT.

AND WE WOULD SUGGEST THEY HAVE NOT MADE THE SHOWING OF PRIVILEGE THAT WE SHOULD HAVE THE PRODUCTION OF THE DOCUMENT AND FULL DISCLOSURE. BUT WE ARE CERTAINLY PREPARED TO KEEP GOING WITH TRYING TO UNDERSTAND THE FACTS THAT WOULD ALLOW FOR A DETERMINATION.

BUT WHAT IS REALLY AT THIS POINT, MAKING ANY FURTHER DEPOSITION UNPRODUCTIVE IS THE APPARENT, BUT UNSTATED, CLAIM OF A PRIVILEGE THAT IS NOT BEING SPECIFIED AS BETWEEN AND AMONG MR. PARADIS, MR. LANDSKRONER, AND MR. JONES.

AND UNTIL AND UNLESS WE KNOW WHAT THAT ALLEGED PRIVILEGE IS, WE DON'T HAVE A BASIS TO PROCEED FURTHER ON THE MERITS. I DO, HOWEVER, REMIND THE COURT THAT THE ISSUES UNDER CCP 2025.410, THE ISSUES WITH REGARD TO WAIVER, APPLY TO THE DEPOSITION QUESTIONING AS WELL AS THE DOCUMENTS FOR PRODUCTION.

AND THERE ARE SPECIFIC RULES TO BE FOLLOWED AND THEY WERE IGNORED. AND THEY SHOULDN'T BE IGNORED WITH IMPUNITY. THERE WAS A WAIVER HERE, AND IT'S A WAIVER ABOUT A NONEXISTENT PRIVILEGE. SO IT SHOULDN'T TROUBLE ANYONE TO ORDER PRODUCTION AND FULL DISCOVERY, BUT I DO WANT TO NOTE THAT THE WAIVER WHICH I MENTIONED EARLIER IN RESPONSE TO

THE DOCUMENTS IS NOT LIMITED BY STATUTE TO THE DOCUMENTS. IT GOES TO THE NOTICE OF THE DEPOSITION ITSELF. AND THEIR ATTEMPT TO SAY THAT THE MOTION TO QUASH CONSTITUTES SPECIFIC WRITTEN OBJECTIONS IS SIMPLY WRONG UNDER SUBSECTION C.

THEIR CLAIM THAT A LETTER SUFFICE DOESN'T, JUST AS A TECHNICAL MATTER YOU ARE REQUIRED TO SERVE IT. THEY NEVER SERVED IT, BUT WHAT IT IS, IS BY NO MEANS A SPECIFIC STATEMENT OF OBJECTIONS.

AND MOST IMPORTANTLY ALL OF THAT PRECEDED THE JUNE HEARING AT WHICH POINT THEY WITHDREW THEIR MOTION. AND IF THEY WANTED TO COME BACK, IF THEY WANTED TO MEET AND CONFER WITH US, WHAT ARE YOU GOING TO ASK. IF THEY WANTED TO TAKE THE POSITION THAT WE'RE GOING TO GO BACK, AND WE ARE GOING TO ASSERT OBJECTIONS NOW OR WE ARE GOING TO MAKE ANOTHER MOTION, THEY COULD HAVE DONE SO.

BUT THERE WAS NO COMMUNICATION BETWEEN THE TIME OF THE HEARING IN JUNE AND THE TIME WHEN MR. PETERS SAID TO ME THAT ON THE RECORD, AND YOUR HONOR HAS THAT HE DIDN'T LOOK FOR DOCUMENTS BECAUSE HE READ YOUR HONOR'S ORDER AND YOUR HONOR'S ORDER IN JANUARY SUPERSEDED OUR NOTICE IN APRIL AND THAT IS SIMPLY WRONG.

THE COURT: ALL RIGHT. THANK YOU.

HERE IS WHAT WE'RE GOING TO DO.

FIRST OF ALL, THE COURT IS GOING TO ORDER THAT THE MOTION FOR PROTECTIVE ORDER IS DENIED.

FIRST, IT'S OVERBROAD, AMONG OTHER THINGS.

AND, SECONDLY, PRIVILEGE ASSERTED DOES NOT APPLY TO

THE DOCUMENTS REQUESTED.

AND WITH REGARD TO DEPOSITION QUESTIONS, I'LL HAVE SOME MORE COMMENTS, BUT IN GENERAL IT WAS AN OVERBROAD REQUEST FOR PROTECTION FROM HAVING A WITNESS TESTIFY TO A LOT OF THE QUESTIONS WHICH WERE APPROPRIATE.

SO THE ORDER FOR PROTECTION -- MOTION FOR PROTECTIVE ORDER IS DENIED.

WITH REGARD TO PRICEWATERHOUSE' MOTION TO COMPEL, THE COURT IS GOING TO GRANT THE MOTION TO COMPEL WITH REGARD TO THE DOCUMENTS REQUESTED.

THE COURT IS GOING TO OVERRULE THE OBJECTIONS MADE BY THE PLAINTIFF TO SOME KIND OF CLAIM OF PRIVILEGE TO THE DOCUMENTS REQUESTED. THE COURT DOES NOT BELIEVE THERE ARE PRIVILEGES THAT APPLY TO ANY OF THE CATEGORIES OF REQUESTED DOCUMENTS.

THIRD, WITH REGARD TO THE TESTIMONY TO COMPEL THE DEPOSITION OF MR. PETERS, THE COURT IS GOING TO ORDER IF MR. PETERS IS THE PERSON MOST KNOWLEDGEABLE, AND IF HE'S NOT THE PERSON MOST KNOWLEDGEABLE THEN AN ALTERNATIVE WITNESS SHOULD BE PRODUCED TO TESTIFY.

THE COURT IS GOING TO ORDER THAT THE WITNESS ANSWER THE QUESTIONS, MOST OF THE QUESTIONS. I'M NOT GOING TO SET FORTH SPECIFIC QUESTIONS AT THIS POINT, BUT I'LL SAY IN GENERAL THOSE QUESTIONS THAT ASK FOR INFORMATION ABOUT THE DOCUMENTS, INFORMATION ABOUT THE PROCESS, HOW IT CAME TO BE THAT THE COMPLAINT WAS DRAFTED, TO HOW IT CAME TO BE THAT JONES WAS NAMED AS A PLAINTIFF AND ALL THOSE RELATED QUESTIONS, BE ANSWERED.

I'M NOT GOING TO REQUIRE THE WITNESS TO ANSWER AS TO THE CONTENTS OF THE DRAFT COMPLAINT; THAT PLAINTIFFS ARE STILL ENTITLED TO ASSERT AN ATTORNEY-CLIENT PRIVILEGE TO COMMUNICATIONS, SPECIFICALLY COMMUNICATIONS BETWEEN AN ATTORNEY AND A CLIENT. PRIVILEGE CANNOT BE ASSERTED TO FACTS, INDEPENDENT FACTS.

WHAT I AM GOING TO PROPOSE IS THAT DEFENDANT PREPARE AN ORDER, A PROPOSED ORDER, DRAFT ORDER, OF THE RULING TODAY WITH REGARD TO NOT ONLY THE DENIAL OF THE MOTION FOR PROTECTIVE ORDER AND THE GRANTING OF THE MOTION TO COMPEL WITH REGARD TO DOCUMENTS AND DEPOSITION, BUT TO SET FORTH THOSE QUESTIONS, SPECIFIC QUESTIONS, THAT THE DEFENDANT BELIEVES SHOULD HAVE BEEN ANSWERED THAT PRIVILEGE DOES NOT APPLY.

AND THEN THE PLAINTIFF WILL HAVE AN OPPORTUNITY TO REVIEW THAT. AND SEE IF THEY AGREE AS TO WHETHER OR NOT THEY WILL ADVISE MR. PETERS TO ANSWER THOSE QUESTIONS OR WHETHER THEY STILL OBJECT. AND THEY WILL HAVE AN OPPORTUNITY TO SUBMIT OBJECTIONS TO THE ORDER, AND SO I WILL CONSIDER BOTH THE PROPOSED ORDER AND THE OBJECTIONS.

ONE FINAL WORD AND THAT IS THAT EVENTUALLY WE'RE GOING TO GET TO THE BOTTOM OF THIS. SO I DO SUGGEST COUNSEL MEET AND CONFER AND SEE IF THEY CAN RESOLVE THESE ISSUES.

SO LET ME SET SOME DATES.

MR. THOMASCH: YOUR HONOR, MAY I ASK YOU ONE CLARIFICATION?

THE COURT: YES.

MR. THOMASCH: WITH RESPECT TO YOUR STATEMENT ABOUT NOT GOING TO REQUIRE ANSWERS AS TO THE CONTENT OF THE DRAFT COMPLAINT, OBVIOUSLY REQUEST FOR PRODUCTION NO. 1 WAS A COPY OF THE CAPTION, SIGNATURE AND --

THE COURT: YES. I THINK THAT WAS OVERBROAD. WHEN I MEANT CONTENT, I'M TALKING ABOUT THE SPECIFIC ALLEGATIONS CONTAINED IN THE ALLEGED CAUSE OF ACTION, NOT THE FORMALITIES OF THE COMPLAINT, THE COVER PAGE, THE CAPTION, THE NAME OF COUNSEL, WHETHER A FEE WAIVER STAMP IS ON IT AS FAR AS GOVERNMENT NOT HAVING TO PAY A FILING FEE, OR WHETHER THE SIGNATURE PAGE OR PROOF OF SERVICE PAGE, NONE OF THAT IS PART OF THE IMPRESSIONS AND THINKING OF THE COUNSEL.

I SAID THAT THE WITNESS DOES NOT HAVE TO ANSWER QUESTIONS WITH REGARD TO THE SPECIFIC ALLEGATIONS.

MR. THOMASCH: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. SO I'M GOING TO ASK DEFENSE COUNSEL TO SUBMIT A PROPOSED ORDER BY DECEMBER 17 WHICH WILL LAY OUT WHAT I SUGGESTED. THE SPECIFIC QUESTIONS THAT NEED TO BE ANSWERED ACCORDING TO THE DEFENDANT AND ALSO ALL FOLLOW-UP QUESTIONS.

I MEAN YOU DON'T HAVE TO SET DOWN THE FOLLOW-UP QUESTIONS, BUT THE INTENT IS THOSE QUESTIONS THAT THE WITNESS WILL BE ORDERED TO ANSWER. THE WITNESS WILL ALSO BE ORDERED TO ANSWER FOLLOW-UP QUESTIONS ON THE SAME SUBJECT.

SO THE PROPOSED ORDER SHOULD BE SUBMITTED BY DECEMBER 17 AND THEN THE PLAINTIFF WILL HAVE UNTIL

DECEMBER 21 IN WHICH TO OBJECT TO ANY OF THE ITEMS OF THE ORDER.

ANYTHING ELSE YOU WISH TO ADDRESS TODAY?

THANK YOU. MY BEST WISHES FOR GOOD HOLIDAYS.

THE CLERK: YOUR HONOR, WE HAVE A STATUS CONFERENCE AND THIS CASE DOES NOT HAVE A FUTURE DATE RIGHT NOW.

THE COURT: WE DID HAVE A STATUS CONFERENCE. WE'LL HAVE TO RESOLVE THE CASE. THERE WAS A SPECIFIC ISSUE WE GOT INVOLVED IN THAT, BUT I DON'T KNOW WHETHER IT'S RIPE FOR DISCUSSION.

DEFENDANT RAISED THE ISSUE ABOUT DIFFERENT CAUSES OF ACTION AND THE PRIMARY RIGHTS, WHAT IS THE STATUS OF ALL THAT?

MR. THOMASCH: I BELIEVE, YOUR HONOR, YOU SAID WE'D TALK ABOUT IT TODAY. I BELIEVE YOU WERE INCLINED TO SAY, YOU SAID IF THERE WAS GOING TO BE A MOTION THERE WILL BE A MOTION. YOU ASKED US TO LOOK INTO ONE ISSUE WHICH WE DID LOOK INTO.

WE DO WISH TO MAKE THE MOTION WITH REGARD TO WHAT WE PERCEIVE AS THE INCONSISTENCY BETWEEN THE RESOLUTION OF THE DEMURRER THAT MR. CURTIN FILED AND THE RESOLUTION OF THE SUMMARY JUDGMENT MOTION AGAINST PWC UNLESS YOUR HONOR INSTRUCTS US NOT TO GO FORWARD WITH THAT.

THE COURT: ALL RIGHT. YOU CAN FILE A MOTION.

MR. THOMASCH: YOUR HONOR, WITH RESPECT TO THE LAST ROUND OF MOTIONS, THE SUMMARY ADJUDICATION AND SUMMARY JUDGMENT MOTIONS, THERE WAS SOME CONFUSION AND THERE REMAINS TO THIS DAY SOME CONFUSION ABOUT THE ORDERS.

WE SUBMITTED FOUR PROPOSED ORDERS. WE DID IT THE NORMAL WAY. WE PROVIDED IT TO THE OTHER SIDE. THEY OBJECTED TO OUR NOTICE OF LODGING. WE THEN SUBMITTED THEM AND WE INDICATED WHAT THEIR OBJECTION WAS AND HOW THEY SAID IT SHOULD READ.

THEY THEN SUBMITTED ON OUR PAPER AS IF IT WAS COMING FROM US USING THE WORD PROCESSING DOCUMENT WE GAVE THEM, THEY CHANGED IT, AND THEY SUBMITTED THEIR OWN VERSION.

WE RECEIVED BACK IN THE MAIL STAMPED COPIES OF THE ONES THAT WE SUBMITTED. WE ALSO RECEIVED SIGNED COPIES OF THE DIFFERENT ONES THEY SUBMITTED. AND WITH REGARD TO OUR PROPOSAL, WITH REGARD TO PWC, THERE WAS REFERENCE TO WHETHER THE COURT HAD FOUND THERE WAS ONE PRIMARY RIGHT OR TWO PRIMARY RIGHTS AT ISSUE.

YOUR HONOR BY MY READ OF THE TRANSCRIPT LEFT THAT OPEN. YOU HAD CLEARLY SAID THAT CAUSES OF ACTION ONE AND TWO WERE THE SAME PRIMARY RIGHT. AND CAUSES OF ACTION EIGHT AND NINE WERE, AND IMPLIED IT WAS ALL ONE, BUT SAID IT COULD BE ONE OR TWO. WE WERE LOOKING FOR CLARITY FOR THAT.

PART OF THE REASON FOR THAT IS, FOR INSTANCE, THE PLAINTIFF IS TAKING THE POSITION THAT THERE ARE TWO PRIMARY RIGHTS, AND THEY HAVE A VIEW OF WHAT THEY WERE. WE HAVE A VERY DIFFERENT VIEW. WE DON'T HAVE SIGNED ORDERS YET.

THE COURT: THAT IS CLEAR AS MUD.

MR. THOMASCH: I'M SORRY, YOUR HONOR. COMPETING ORDERS ON BOTH SIDE.

THE COURT: PERHAPS I DIDN'T REALIZE THE ORDERS WERE INCONSISTENT IF THEY HAD THE SAME --

MR. THOMASCH: WE SENT --

THE COURT: -- FILING INFORMATION.

MR. THOMASCH: YOU ASKED US TO SUBMIT, WHICH WE DID. WE DID. WE NOTICED THE LODGING WITH THEM FIRST, WITH THE PLAINTIFF'S COUNSEL, AND THEN WE SUBMITTED OURS. AND OURS SAID THIS IS WHAT WE SAY, THEY OBJECT, THIS IS WHAT THEY SAY. THEY THEN TOOK OUR WORD PROCESSING DOCUMENT, THEY CHANGED IT, AND THEY SUBMITTED IT, BUT IT STILL SHOWS ME AS SUBMITTING --

THE COURT: I UNDERSTAND. I UNDERSTAND. WE HAVE TO CORRECT IT IN SOME FASHION.

SEE IF YOU CAN EITHER ENTER INTO A STIPULATION TO EXPLAIN WHAT HAPPENED AND HAVE EACH OF THOSE DOCUMENTS AS EXHIBITS SO YOU CAN SEE IT IN ONE PLACE WHAT THE DISCREPANCY IS AND TRY TO RESOLVE IT.

MR. THOMASCH: WE WILL DO THAT.

I WOULD ASK, YOUR HONOR, ON THE RECORD I WOULD ASK THAT FROM NOW ON THAT THE PLAINTIFF'S COUNSEL DOES NOT SUBMIT ANY DOCUMENTS TO THE COURT WHERE THE COVER PAGE SHOWS THE ATTORNEYS FOR PWC ON THE FIRST PAGE.

THE COURT: THAT IS RIGHT. YOU SHOULD NOT SUBMIT DOCUMENTS WITH SOME OTHER COUNSEL'S NAME ON THE FRONT PAGE AND THEN THERE IS SOME CHANGE ON PAGE 3 THAT NO ONE KNOWS IT HAPPENED.

COUNSEL.

MR. KIESEL: MAYBE WE SHOULD SET A STATUS

CONFERENCE IN JANUARY, SO WE HAVE A RETURN DATE.

THE COURT: OKAY.

THE CLERK: YOUR HONOR, JANUARY 7 WE HAVE A NONAPPEARANCE CASE REVIEW FOR PRO HAC VICE RENEWAL. MAY I SUGGEST THAT DATE?

THE COURT: JANUARY 7 THAT IS TOO SOON.

THE CLERK: OKAY.

THE COURT: ALL RIGHT.

WE WILL SET A STATUS CONFERENCE ON JANUARY 23 AT 2:00 O'CLOCK IN THE AFTERNOON. AND I ASK COUNSEL TO SUBMIT A STATUS REPORT JANUARY 16 AND, OF COURSE, COUNSEL SHOULD ADDRESS WHETHER OR NOT THE ISSUES THAT WE RAISED TODAY HAVE BEEN RESOLVED AND THE SCHEDULE FOR ANY FUTURE DEPOSITIONS ON THE ISSUES THAT ARE SUBJECT TO TODAY'S ORDER.

ALL RIGHT. THANK YOU, COUNSEL.

MR. THOMASCH: THANK YOU, YOUR HONOR.

MR. KIESEL: THANK YOU, YOUR HONOR.

THE COURT: HAVE GOOD HOLIDAYS.

MR. THOMASCH: YOU TOO.

(WHEREBY THE PROCEEDING WAS CONCLUDED.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
SPRING STREET COURTHOUSE
DEPARTMENT SSC6 HON. ELIHU M. BERLE, JUDGE

CITY OF LOS ANGELES,
PLAINTIFF,
VS.
PRICEWATERHOUSE COOPERS, LLP
DEFENDANT.

CASE NO. BC574690
REPORTER'S CERTIFICATE

I, ANITA B. ALDERSON, OFFICIAL COURT REPORTER PRO TEMPORE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 56, COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED CAUSE ON WEDNESDAY, DECEMBER 12, 2018.

DATED THIS 13TH DAY OF DECEMBER, 2018.



_____,CSR 11843

ANITA B. ALDERSON
OFFICIAL COURT REPORTER PRO TEMPORE

Exhibit 13

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ANTWON JONES, on behalf of himself, and all other similarly situated, Plaintiff, vs. CITY OF LOS ANGELES, by and through the Los Angeles Department of Water and Power and DOES 1 through 50, inclusive, Defendants.	Case No. BC577267 [Related to Case Nos. BC565618 (Lead), BC568722, BC571664, and BC574690] [CLASS ACTION] **DECLARATION OF JACK LANDSKRONER IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL** Hearing Date: July 7, 2016 Time: Department: Dept. 323 Judge: Hon. Elihu M. Berle

I, JACK LANDSKRONER, declare the following under the penalty of perjury:

1. I am over the age of 18 and have personal knowledge of the facts set forth herein, which are known to me to be true and correct. I could and would testify competently about the matters set forth herein if called upon to do so.

2. I am an attorney admitted to the practice of law in the State of Ohio. I am a partner at the law firm of Landskroner Grieco Merriman, LLC, which represents Plaintiff Antwon Jones in this matter and is duly appointed class counsel.

3. I respectfully submit this Declaration in support of Plaintiff's Motion for Preliminary Approval.

I. Background

4. On April 1, 2015, Plaintiff filed a class action in the Superior Court of the State of California for the County of Los Angeles captioned, *Jones v. City of Los Angeles*, Case No. BC577267 (the "*Jones* Action"), which alleges claims involving customer over-billing and other billing errors by the Los Angeles Department of Water and Power (the "LADWP") that were caused by, and are related to, the defective implementation of the LADWP's new Customer Care & Billing System (the "CC&B System") or damages incurred by customers arising from their participation in the LADWP's Solar Incentive Program.

5. Five additional actions were filed against the City of Los Angeles, namely *Kimhi v. City of Los Angeles* BC536272 (the "*Kimhi* Action"), *Bransford, et al. v. City of Los Angeles*, Case No. BC565618 (the "*Bransford* Action"), *Fontaine v. City of Los Angeles, et al.*, Case No. BC571664 (the "*Fontaine* Action"), *Morski v. City of Los Angeles by, and though, the Los Angeles Department of Water & Power*, Case No. BC 568722 (the "*Morski* Action"), and *Macias v. City of Los Angeles erroneously sued as Los Angeles Department of Water and Power, et al*., Case No. BC 594094 (the "*Macias* Action"), all of which asserted allegations similar to those asserted in the *Jones* Action.

6. On May 22, 2015, the Court found that the *Jones*, *Fontaine, Bransford* and *Morski* Actions were related but did not consolidate these actions. Additionally, on September 10, 2015, Plaintiff Macias filed a Notice of Related Case, relating the *Macias* Action to the *Jones*, *Fontaine, Bransford* and *Morski* Actions. Subsequently, the Court related the Kimhi Action to the *Jones*, *Fontaine, Bransford* and *Morski* Actions.

7. Both prior to, and after, the filing of the Complaint in the *Jones* Action, Plaintiff Jones, by and through his counsel, undertook an extensive investigation into the failure of the CC&B system in order to understand the defects which directly resulted in the harms and losses experienced by LADWP customers.

8. This investigation included interviews with confidential witnesses, multiple reviews of documents and consultations with non- testifying experts, all of which confirmed the widespread nature of the defects in the CC&B System.

9. Plaintiff's counsel's investigation also revealed that customers of the LADWP's Solar Incentive Program had been damaged as a result of extensive delays in energizing their systems and by LADWP's failure to properly credit them for energy produced.

II. Mediation of Plaintiff and Settlement Class Members' Claims

10. Immediately after filing his Complaint, Plaintiff Jones submitted a comprehensive demand to Defendant, explaining the nature of the defects, as revealed by Plaintiff's counsel's investigation, discussing the strength and merits of the *Jones* Action and proposing a complex framework to structure a settlement.

11. Class Counsel and Counsel for Defendant met to further explore Plaintiff Jones' proposal and to initiate settlement negotiations of the class claims. These negotiations advanced somewhat, but eventually stalled.

12. Thereafter, the Parties agreed to continue their efforts to reach settlement by soliciting the assistance of well-respected Los Angeles based mediator, the Hon. Dickran M Tevrizian (Ret.).

13. Judge Tevrizian conducted the initial mediation sessions on June 11 and 12, 2015. *See Declaration of Hon. Dickran Tevrizian In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards* (the "Tevrizian Decl.") ¶7.

14. After two full hard fought days of mediation, the parties reached an agreement in principle on the essential terms of the proposed Settlement, which included the concession by Defendant that each and every LADWP customer that had been overcharged would receive either a credit or refund in the amount of 100% of the overcharge. Tevrizian Decl. ¶12.

15. The Parties' negotiations, although contentious, were undertaken in good faith and at arms' length with the assistance of and through the diligent efforts of Judge Tevrizian. Tevrizian Decl. ¶9.

16. On July 24, 2015, given the complexity of the Settlement and the detail necessary to verify the identity of the affected accounts and the accuracy of the refunds/credits due to customers, as well as defining the validation mechanisms for compliance and the progression of the negotiated remediation protocols, the Parties returned to mediation with Judge Tevrizian to continue discussions related to those and other non-material terms of proposed Settlement. Tevrizian Decl. ¶13.

17. On July 31, 2015, only after all essential and non-essential terms of the Settlement were resolved by the Parties, the Parties, with the assistance of Judge Tevrizian, mediated the amount of attorneys' fees and costs to a successful conclusion.

III. History of the Settlement

18. On or about August 7, 2015, the Parties executed a settlement agreement.

19. On September 11, 2015, Plaintiff moved the Court for preliminary approval of the Parties August 7, 2015 settlement agreement.

20. At the conclusion of this initial hearing on Plaintiff's Motion for Preliminary Approval, the Court directed that the Parties obtain input with respect to how the settlement could be improved on behalf of Settlement Class Members.

21. In response to the Court's directive, the Parties met and conferred with counsel in the related actions to solicit suggestions as well as take additional steps to improve the settlement. Class Counsel also actively sought out such input from the Office of Public Accountability (OPA) / Ratepayer Advocate for the City of Los Angeles for the purpose of allowing the Ratepayer Advocate to review the settlement and make any recommendation the Ratepayer Advocate might offer to improve the settlement on behalf of Settlement Class Members.

22. After reviewing the Parties August 7, 2015 settlement, the Ratepayer Advocate made only a single recommendation namely, that the settlement include a provision that provides for the extension of time for Payment Arrangement schedules for certain customers of the LADWP. Class Counsel then negotiated with the City and LADWP to obtain the benefit requested by the Ratepayer Advocate.

23. On November 3, 2015, the Court re-convened the hearing on Plaintiff Jones' Motion for Preliminary Approval, which had been commenced on September 11, 2015. During the November 3, 2015 hearing, the Court again heard argument from the Parties in support of Preliminary Approval.

24. At the conclusion of the November 3, 2015 hearing, the Court instructed the Parties to make twelve additional revisions to the settlement, in addition to the revisions that had been called for by the Court during the September 11th hearing.

25. On December 21, 2015, the Court re-convened the hearing on Plaintiff's Motion for Preliminary Approval. At the conclusion of the December 21, 2015 hearing, the Court: (i) conditionally preliminarily approved the settlement; (ii) appointed Antwon Jones as Class Representative; (iii) appointed Yaar Kimhi as the Class Representative for the Solar Customer Subclass; (iv) appointed Landskroner Grieco Merriman, LLC as Class Counsel; (v) appointed Mr. Paul Bender as the Independent CC&B Billing System Monitoring Expert; (vi) appointed Dr. Barbara Barkovich as the Special Master in this case; and (vii) instructed the parties to make four additional changes to the settlement. The Court also continued Plaintiff's Motion for Preliminary Approval to February 5, 2016, and then, again to April 15, 2016.

26. Since the December 21, 2015 hearing, the Independent CC&B Billing System Monitoring team, along with Class Counsel, has conducted numerous one and two day-site visits, document review and analysis sessions, and weekly conference calls with LADWP's personnel, Class Counsel and LADWP's Counsel. Since December 21, 2015, the Independent CC&B Billing System Monitoring team, acting on behalf of Plaintiff and the Settlement Class, has been provided unrestricted access to necessary data, information and personnel of the LADWP. Further, since the December 21, 2015, Class Counsel and Counsel for LADWP have worked cooperatively with the Independent CC&B Billing System Monitoring team to facilitate their efforts.

27. Despite having made great efforts with respect to identifying Settlement Class Members and the amount of damages incurred, on or about April 4, 2016, the Independent CC&B Billing System Monitor determined that it was necessary for his team to add additional human

resources and requested that the Court provide the Parties with time additional time to perform the work required of the Independent CC&B System Monitoring Expert under the settlement. Accordingly, the Independent CC&B Billing System Monitor requested that the Court continue the hearing on Plaintiff's Motion from April 15, 2016 to July 29, 2016.

28. As detailed in the ***Report of Independent CC&B Systems Monitor Concerning Status of Class Action Settlement for First and Second Quarters of 2016*** filed with the Court on July 14, 2016 (the "First and Second Quarter Report"), following an April 12th through April 29th, 2016 extended site visit, the Independent CC&B Billing System Monitor informed counsel for the Parties that the then-current Scope of Work and schedule would need to be significantly revised to allow additional time for the LADWP to undertake the additional work the Monitoring team requested. The Independent CC&B Billing System Monitor also stated that the Monitoring team would, itself, use this additional time to: (i) perform various verification tasks and data analyses required to ensure that the mechanisms and methodologies the LADWP utilized are accurate and reliable; and (ii) continue to work closely with LADWP IT Professionals to ensure that the Settlement's goal of refunding 100% of all overcharges to LADWP customers is achieved.

29. Significantly, the Independent CC&B Billing System Monitor also: (i) informed the Court that the amount to be refunded to Settlement Class Members would increase by at least $5.4 million dollars based on additional work the LADWP performed; and (ii) requested that the Court extend the deadline for the LADWP to complete the programming and testing necessary to identify all LADWP customers who have been overcharged and quantify the amounts of such overcharges to November 18, 2016.

30. On July 28, 2016, the Court granted the Independent CC&B Billing System Monitor's request and extended the deadline to November 18, 2016 to complete the programming and testing necessary for the LADWP to identify customers who have been overcharged and quantify the amounts of such overcharges.

31. Because the Court permitted the Parties until November 2016 to complete all of the programming and testing necessary to confirm the accuracy of the mechanisms utilized by

the LADWP to: (i) identify customers who have been overcharged; and (ii) quantify the amounts of such over charges -- and because the parties have worked in a highly cooperative and diligent manner under the watchful eye of the independent monitoring team, additional credits and refunds were identified totaling approximately $22.8 million dollars beyond the initial estimate of $44.7 million in refunds and credits identified to the Court at the December 21, 2015 hearing. As a result, the value of the original settlement increased to $67.5 million.

32. Due, in part to the identification of additional damages, on October 31, 2016, the Parties participated in another day-long mediation at JAMS in Los Angeles before the Judge Tevrizian. During the October 31st mediation, the Parties negotiated the following revisions to the settlement: (i) payment of an additional 22.8 million to Settlement Class members who were overcharged, (ii) a revision to Rule 17 of the Rules Governing Water and Electric Service; (iii) a revision to the 18 month Remediation Period; (iv) a revision to the date by which the Tiger Team will be operational; (v) a revision to the scope of work the Independent CC&B Billing System Monitor is to perform involving the Tiger Team and claims administration activities; (vi) a revision to the date by which the Information Technology Department Project Management Office will be operational; (vii) a revision to the claims process for certain Solar Subclass members; and (viii) a revision to the amount of attorneys' fees and expense reimbursement to be sought by Class Counsel. Tevrizian Decl. ¶¶23-25.

33. These changes were incorporated into the settlement agreement (the "Settlement"), which the Court preliminarily approved on December 31, 2016.

34. A true and correct copy of the Settlement Agreement is annexed hereto as Exhibit 1.

IV. Summary of the Proposed Settlement

A. The Settlement Class

35. The Settlement provides for certification of a Settlement Class, which consists of at least 1,600,000 LADWP customers, and is defined as follows:

> All LADWP customers who were over-charged for electric, water, sewage or sanitation services between the dates of September 3,

> 2013 and December 30, 2016, and who are entitled to credits or refunds for electric, water, sewage or sanitation services and/or for participation in the LADWP's solar incentive program between February 13, 2010 and December 30, 2016.
>
> Expressly excluded from the Settlement Class are the Judge to whom this case is assigned, any members of the Judge's immediate family, and counsel of record in this action.

Exhibit 1 at ¶44.

36. Furthermore, the Settlement Class is comprised of the following 7 Subclasses:

- **Overbilled Subclass** - The Overbilled Subclass is comprised of all LADWP customers that were overbilled as a result of being charged an incorrect rate, incorrect amount of consumption, incorrect utility tax rate or who did not have a discount applied.
- **Incorrect Fee Subclass** - The Incorrect Fee Subclass is comprised of all LADWP customers that were charged an incorrect fee, including but not limited to late payment fees, reconnect fees and/or start service fees.
- **Unrefunded Balance Subclass** - The Unrefunded Balance Subclass is comprised of all LADWP customers that: (i) have "Closed Accounts" with credit balances and (ii) are owed refunds that have been withheld by the LADWP during the period of September 3, 2013 to December 30, 2016.
- **Solar Subclass** - All LADWP that have installed solar systems and applied to participate in the LADWP's solar incentive program from February 13, 2010 to December 30, 2016 and were not: (i) timely included in the LADWP's solar incentive program or (ii) provided credit for excess energy generated.
- **Premise Condition/Estimated Bill Subclass** - The Premise Condition/Estimated Bill Subclass is comprised of all LADWP customers that: (i) unbeknownst to the customer, had a premise condition that caused excessive consumption of water and/or power; (ii) received estimated bills for multiple billing periods after September 3, 2013; (iii) because of these estimated bills, were prevented from timely discovering the premise condition; and (iv) were charged for greater quantities of water, power or sewage than they otherwise would have been charged.
- **Automatic Bill Payment/Bank Overdraft Charge Subclass** - The Automatic Bill Payment/Bank Overdraft Charge Subclass is comprised of all LADWP customers that: (i) were enrolled in an automatic bill payment plan with a bank and (ii) were charged overdraft fees because the LADWP charged the customer an incorrect amount, which, in turn, resulted in the customer's bank account being overdrawn.

- **Omnibus Subclass** - All LADWP customers that believe that they were incorrectly assessed a charge associated with their power, water, sewage or trash collection at any time from September 3, 2013 to December 30, 2016, that is not covered by any of the Subclasses listed herein; or (ii) otherwise damaged as a result from their participation in the LADWP's solar incentive program at any time from February 13, 2010 to December 30, 2016.

Exhibit 1 at 15.

B. Benefits to the Settlement Class

37. The proposed Settlement provides Settlement Class Members with two types of relief: (i) monetary relief and (ii) non-monetary remedial relief.

38. **Monetary Relief**

Settlement Class Members of the: (i) Overbilled Subclass; (ii) Incorrect Fee Subclass; (iii) Unrefunded Balance Subclass and (iv)Solar Subclass will be pre-identified as members of one or more of these Subclasses based upon internal records of the LADWP. The LADWP will credit (in the case of current customers) or refund (in the case of former customers) 100% of any damages incurred by these Subclass Members during the period September 3, 2013 through December 30, 2016 (for members of the Overbilled, Incorrect Fee and Unrefunded Balance Subclasses) or from February 13, 2010 through December 30, 2016 (for members of the Solar Subclass). The amounts to be credited or refunded shall be determined by the LADWP, and the methodology used to determine the amounts shall be verified by the Independent CC&B System Monitoring Expert and subject to Court approval. Members of these Subclasses will not be required to submit a Claim Form in order to recover any funds. Rather, any amounts owed to these Subclass Members will be automatically credited to their LADWP account or refunded by issuance of a check.

Settlement Class Members of the: (i) Premise Condition/Estimated Bill Subclass; and (ii) Automatic Bill Payment/Bank Overdraft Charge Subclass will be pre-identified as members of each of these Subclasses from the internal records of the LADWP. Members of these Subclasses must submit a valid claim form substantiated by the documentary evidence specified in the

Claim Form to the Court-appointed Claims Administrator in order to determine the amount by which they were overcharged by the LADWP. The LADWP will credit (in the case of current customers) or refund (in the case of former customers) 100% of any amounts that the LADWP overcharged these Subclass Members during the period September 3, 2013 through December 30, 2016. The amounts to be credited or refunded shall be determined by the LADWP, and the methodology used to determine the amounts shall be verified by the CC&B System monitoring expert and subject to Court approval.

Finally, in recognition of the possibility that some LADWP customers who have not been "pre-identified" through LADWP's internal records may believe that they were: (i) incorrectly assessed a charge associated with their power, water, sewage or trash collection at any time from September 3, 2013 to the present or (ii) otherwise damaged as a result from their participation in the LADWP's solar incentive program at any time from February 13, 2010 to December 30, 2016 (i.e., Omnibus Subclass Members), such Omnibus Subclass Members will receive a credit or refund of 100% of any amounts of which they were overcharged by the LADWP during the period September 3, 2013 through December 30, 2016. Exhibit 1 at 17-20.

39. As set forth in the *Declaration of the Independent CC&B System Monitor In Support of Plaintiff's Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards (the "Independent CC&B System Monitor Decl.")*, the value of this monetary relief portion of the Settlement is at over $67 million. Independent CC&B System Monitor Decl. ¶37.

40. **Non-monetary Remedial Relief** - The Settlement also provides non-monetary remedial relief including: (i) the creation and adoption of certain billing system metrics; (ii) the appointment of an independent billing system monitoring expert; (iii) audits of LADWP's billing system to confirm billing accuracy; (iv) the creation and implementation of a team at LADWP to address unique or complex billing issues; (v) the adoption of an amendment to the Rules Governing Water and Electric Service to provide for a shorter period of time for which LADWP may collect payment from customers whose bills are delayed due to billing errors; (vi) the

creation and implementation of an information technology Project Management Office; and (vii) a payment arrangement for back-billed customers allowing for up to 4 years to pay back the back-billed amount without penalty or interest, in equal monthly installments, provided such customers remain current on their most recent bill. Exhibit 1 at 21-42.

41. As explained in the Independent CC&B System Monitor Declaration, the value of these non-monetary remedial measures is at least $20 million. Independent CC&B System Monitor Decl. ¶37.

C. Scope of the Release

42. The Settlement designates the claims released against Defendant. For all claims other than solar, this Release is effective for claims that have accrued during the period of September 3, 2013 and December 30, 2016. For solar claims arising out of the solar incentive program and/or credit for excess energy, this Release is effective for claims accruing during the period from February 13, 2010 to December 30, 2016. Released claims include:

> any claims, damages, suits, demands, liabilities, judgments, losses and causes of action which have accrued as of the date of entry of the Order of Preliminary Approval relating to or arising from the billing issues alleged in the operative pleadings in the Actions, including:
>
> (i) overbilling as a result of charging an incorrect rate, incorrect amount of consumption, incorrect utility tax rate or the failing to apply a discount;
>
> (ii) billing incorrect fees, including but not limited to late payment fees, reconnect fees and/or start service fees;
>
> (iii) retaining refunds during the period of September 3, 2013 to December 30, 2016 that were due;
>
> (iv) billing for greater quantities of water, power or sewage than otherwise would have been charged but for the existence of a premise condition;
>
> (v) the assessment of overdraft fees resulting from the LADWP having charged customers an incorrect billing amount; and
>
> (vi) for solar customers, delay in providing a reservation confirmation to and/or connecting the solar system, and/or failure to bill for energy consumed and/or generated; and/or failure to credit for excess energy generated by the customer's solar power system at any time from February 13, 2010, through December 30, 2016

sounding in law or equity, seeking damages or any other relief, that are now recognized by law or that may be created or recognized in the future by statute, regulation, judicial decision or in any other manner, based upon any federal or state statutory or common law including but not limited to, claims sounding in tort, contract and the consumer protection laws of the United States or of any state or other jurisdiction within the United States, and all claims, damages, suits, demands, liabilities, judgments, losses or causes of action which have been, might have been, are now, or could be asserted by any plaintiff or any Settlement Class Member arising out of, based upon, or related to, in whole or in part, the facts and circumstances underlying the claims and causes of action set forth in the Actions.

Released Claims include claims, accrued during the time periods set forth above, for economic and non-economic damages that were proximately caused by the LADWP having overbilled its customers during the time periods set forth in the operative Complaint in the Jones Action. These economic and non-economic damages may be direct, incidental, or consequential and, by way of example, include: repair costs; services costs (e.g., the cost of a plumber or electrician to examine or repair a premise condition); finance, interest, or overdraft charges imposed by a third party; costs related to or arising from erroneous disconnections; reconnection fees; loss of perishable items; damage to personal property; or loss of wages or business income. All such losses and damages are expressly deemed Eligible Claims pursuant to this Revised Agreement and a Settlement Class Member is entitled to seek recovery of 100% of such losses and damages through the Omnibus claims process.

Released Claims also include claims for economic and non-economic damages that resulted in overbilling customers and were proximately caused by the LADWP's failure to: (i) timely undertake field investigations, conduct field maintenance, perform meter reads, or provide accurate information concerning actual utilization; (ii) prorate or allot utilization in accordance with applicable rate schedules; and (iii) comply with disconnection rules and the imposition of associated charges. All such losses and damage are expressly deemed Eligible Claims pursuant to this Revised Agreement and a Settlement Class Member is entitled to seek recovery of 100% of such losses and damages through the Omnibus claims process.

Released Claims do not include:

(i) the claims asserted in the action, Morski v. City of Los Angeles by, and through, the Los Angeles Department of Water & Power, Los Angeles Superior Court Case No BC 568722 (the "Morski Action"), which allege that the LADWP violated Ordinance Nos. 180127, 182273, and 170435 (as amended by Ordinance No. 171639, Ordinance No. 173017, Ordinance No. 175964, Ordinance No. 177968 and Ordinance No. 179802) by assessing tiered billing without obtaining actual monthly meter reads and without providing regular, timely, and accurate monthly bills to its customers ("Non-Monthly Tiered Billing Claims") This

released claims exclusion also includes within its scope the assessment of tiered billing without obtaining actual monthly meter reads and without providing regular, timely, and accurate monthly bills to its customers pursuant to Ordinance Nos. 184133 and 184130;

(ii) Causes of Action 27-32 in the Third Amended Complaint filed on November 10, 2016 in the action entitled *Macias v. City of Los Angeles erroneously sued as Los Angeles Department of Water and Power, et al*., Los Angeles Superior Court Case No. BC594049 (the "*Macias* Action");

(iii) claims for violations of California's Bane Act, Civil Code § 51.2;

(iv) claims arising out of field work investigations created after December 21, 2015;

(v) claims arising out of LADWP's failure to record or credit payments made by customers;

(vi) claims arising from the Back-Billing of customers during the period September 3, 2013 through September 10, 2015; and

(vii) claims for personal injury.

Exhibit 1 at ¶39.

D. Class Notice Complied Was Provided Pursuant to the Preliminary Approval Order

43. Pursuant to this Court's Preliminary Approval Order, Settlement Class Members received notice of the pendency of this Action and the Settlement.

44. Pursuant to the Preliminary Approval Order, Kurtzman Carson Consultants ("KCC"), an experienced class action administrator, was appointed to disseminate the Court-approved Class Notice and did so in the manner prescribed by this Court. As explained in the *Declaration of Ryanne Cozzi On Behalf of Claims Administrator In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards* (the "Cozzi Decl."), Class Notice was disseminated by: U.S. mail, email, publication in two widely circulated newspapers, *i.e.*, *The Los Angeles Times* and *La Opinion*, and on-line via a website dedicate to providing Settlement Class Members with information regarding the Settlement established by the Claims Administrator. *See, generally* Cozzi Decl.

45. As further explained in the Cozzi Declaration, on March 9, 2017, KCC received a dataset from Defendant for purpose of providing Class Notice to Settlement Class Members. This dataset included 2,330,435 records of contact information at the LADWP account level and 323,847 email addresses. On March 27, 2017, LADWP provided another dataset to KCC consisting of 8,030 additional account records. Cozzi Decl. ¶¶2,3.

46. Beginning on March 28, 2017 and ending on April 4, 2017, KCC mailed 2,322,405 Class Notices and account specific subclass letters (collectively, the "Claim Packets"). On April 4, 2017, KCC sent the Emailed Class Notice to 275,391 email addresses. On April 4, 2017, KCC sent via Federal Express, Claim Packets to 8,030 in additional accounts.

47. To date, the USPS has indicated that 108,557 Claim Packets have been returned as undeliverable. KCC ran a search for an updated address for these Claim Packets, and re-mailed 58,401 Claim Packets. Additionally, the USPS has indicated that 152 Claim Packets were forwarded to updated addresses and provided the updated addresses to KCC. Cozzi Decl. ¶4.

48. On April 4, 2017, the Summary Class Notice was published in the *Los Angeles Times* in English and *La Opinion* in Spanish. Subsequently, the Settlement website located at www.LADWPBillingSettlement.com was updated with copies of the Mailed Class Notice, subclass letters, and printable Claim Forms in English, Spanish, Korean, Chinese, Vietnamese, and Tagalog. The settlement website also allows claimants to submit claims electronically in English and Spanish and download important Court documents. To date, there have been 27,581 visitors to the website. Cozzi Decl. ¶¶6-8.

49. KCC has also established a toll free telephone number that Settlement Class Members can call to: (i) listen to answers to Frequently Asked Questions in English and Spanish; (ii) request a Claim Packet or (iii) speak to a live operator with multilingual support during business hours. To date, there have been 28,341 calls to the toll free settlement line. Cozzi Decl. ¶9.

50. Each Class Notice, whether mailed, emailed or published: (i) contained a short, plain statement of the background of the Action and the Settlement; (ii) described the relief outlined in the Settlement Agreement; (iii) informed Settlement Class Members that, if they did

not exclude themselves from the Settlement Class, they would be eligible to receive the relief under the Settlement; (iv) informed Settlement Class Members that they could exclude themselves from the Class by submitting a written exclusion request postmarked no later than June 5, 2017; (v) informed Settlement Class Members that they could object to the proposed Settlement by filing and serving a written statement of objections no later June 5, 2017; and (vi) informed Settlement Class Members that any Final Order and Judgment entered in the Action, whether favorable or unfavorable to the Settlement Class, would include, and would be binding on, all Settlement Class Members who have not been excluded from the Class, even if they have objected.

51. Defendant paid, and will continue to pay, all costs and expenses associated with disseminating and publishing the Class Notices, which is in addition to, and not deducted from, either the Settlement compensation, or the amount of attorneys' fees and expenses that will be awarded by the Court.

E. The Settlement Meets the Requirements for Final Approval

52. To be approved, the Court must determine whether the Settlement is fair, reasonable, and adequate.

53. Courts have found that a presumption of fairness is created where, a settlement has been reached through arm's-length bargaining, the investigation and discovery are sufficient to allow counsel and the court to act intelligently and counsel is experienced in similar litigation.

1. The Settlement is Entitled to a Presumption of Fairness

a. The Proposed Settlement Was Reached Through Arm's-Length Bargaining

54. The Settlement is presumptively fair because it was reached following protracted, and at times contentious, arms-length negotiations. *See* Tevrizian Decl. ¶¶9, 24.

55. Although the Parties initiated settlement discussions on their own, the Parties engaged the services of the Hon. Dickran Tevrizian (Ret.) once informal settlement conversations stalled. Tevrizian Decl. ¶5.

56. The fact that mediation was overseen by a neutral third party is proof of the non-collusive nature of the negotiations.

b. Plaintiff's Investigation and Discovery Favors a Finding that the Settlement is Presumptively Fair

57. Prior to and after the filing of the initial complaint, Class Counsel conducted an extensive and very lengthy investigation into the matters alleged in the initial complaint, which included, among other things, interviewing current and former LADWP employees and working closely with investigators and Plaintiff's non-testifying experts to diligently investigate the facts relevant to the merits of the claims asserted in the Action, including the functionality of the CC&B System and the LADWP's solar program.

58. Additionally, the Independent CC&B System Monitoring Expert, on behalf of Plaintiff and the Settlement Class, has spent hundreds of hours reviewing LADWP's internal protocols, SQL queries, and specific methodologies LADWP used to identify all Settlement Class Members and to calculate damages.

59. Finally, Class Counsel has worked with the monitoring team on confirming the following issues: (i) the internal methodology relied upon for the evaluation of all Settlement Class Members' accounts to determine credit or refund eligibility and amount of credit or refund; (ii) criteria used for identification of membership in each identified Subclass; (iii) the total payment of credits and/or refunds issued to customers and from ongoing remediation efforts; and (iv) remediation implementation protocols.

60. In light of Class Counsel's extensive investigation and access to discovery both through the Independent CC&B System Monitoring Expert and independently, Class Counsel has developed sufficient information to conclude that the Settlement is in the best interest of the Settlement Class, further confirming that the Settlement is entitled to a presumption of fairness.

c. The Recommendation of Experienced Counsel Favors a Finding that the Settlement is Presumptively Fair

61. Class Counsel, having carefully considered and evaluated, among other things, the relevant legal authorities and evidence to support the claims asserted against Defendant, the

likelihood of prevailing on Plaintiff's claims, the risk, expense and duration of continued litigation and the likelihood of appeals, has concluded that the proposed Settlement is fair, reasonable, and adequate and in the best interest of the Settlement Class.

F. The Settlement Satisfies the *Dunk* Factors

62. Beyond determining whether a settlement is entitled to a presumption of fairness, a court must further consider factors such as: (1) the strength of the plaintiffs' claims, (2) the risk and expense of further litigation, (3) the risk of maintaining class action status through trial, (4) the amount offered in settlement, (5) the extent of discovery completed, (6) the experience and views of counsel and (7) the presence of a government participant (the "*Dunk* Factors"). *Dunk*, 48 Cal. App. 4th at 1801.

1. The Strength of Plaintiff's Case Compared to the Risk, Expense, Complexity, and Likely Duration of Further Litigation Favors Final Approval

63. Although Plaintiff believes that it would have successfully prevailed on the merits of its claims against Defendant, there is no guarantee. Defendant could have asserted numerous factual and/or legal defenses that could have defeated Plaintiff's claims, in whole or in part. This is particularly true, here, because this Action is a complex class action that involves numerous novel factual and legal issues compounded by the complexity of Defendant's billing system and operations.

64. Even if Plaintiff had prevailed at trial, Defendant right to appeal, could lead to further expense, delay, and uncertainty. Thus, further adjudication of this case carried significant risks to Plaintiff and Settlement Class Members.

65. This Settlement, however, eliminates the possibility that Settlement Class Members might not recover anything at all. By obtaining a settlement that provides 100% of damages incurred, Plaintiff has secured a guaranteed victory for the Settlement Class Members without further delay.

2. The Risk of Maintaining Class Action Status Through Trial Favors Final Approval

66. Although Plaintiff believes that this case can be certified as a class action, Plaintiff recognizes that Defendant intended to zealously oppose class certification. Even if Plaintiff prevailed at trial, Defendant would have likely appealed the Court's class certification decision and judgment at trial. While Plaintiff is confident that this action could be properly maintained as a class action, these risks of maintaining class action status through trial weigh in favor of final approval of the Settlement.

3. The Amount Offered in Settlement Favors Final Approval

67. The Settlement provides Settlement Class Members with 100% of any amounts that Settlement Class Members were overcharged by the LADWP for services and/or damaged as a result of participation in LADWP's Solar Incentive Program. This monetary relief is valued at over $67 million. Independent CC&B System Monitor Decl. ¶37. Furthermore, the Settlement's non-monetary relief adds substantial value to the proposed Settlement, including an additional $20 million. *Id*. The amount of the recovery provided by the Settlement strongly favors final approval.

68. As set forth in the Cozzi Declaration, the Settlement stands to provide concrete relief to Settlement Class Members As set forth in the Cozzi Declaration, the Settlement stands to provide concrete relief to Settlement Class Members. To date, 83,652 subclass claims over $100 have been identified and quantified; 839,450 subclass claims under $100 have been identified and quantified; and the largest claim identified and quantified is in the amount of $1,036,007.35. Cozzi Decl. ¶13.

69. Additionally, Judge Tevrizian has opined that "a. the proposed Settlement with the City is fair, reasonable and adequate and the high quality of work performed by Class Counsel in this matter resulted in a very favorable Settlement." Tevrizian Decl. ¶ 32.

4. The Extent of Discovery Completed Favors Final Approval

70. As discussed above, Class Counsel, independently, and in conjunction with the Independent CC&B System Monitoring Expert, has conducted sufficient discovery to conclude that the Settlement is in the best interest of the Settlement Class.

5. The Experience and Views of Counsel Favors Final Approval

71. Also as discussed above, Class Counsel believes that this Settlement is fair and reasonable and, under the circumstances, represents the best possible recovery for Settlement Class Members.

6. Presence of a Governmental Participant Favors Final Approval

72. Finally, the fact that Defendant is a governmental entity weighs in favor of final approval.

G. The Overwhelmingly Positive Reaction of the Settlement Class Members to the Settlement Confirms that Final Approval is Warranted

73. The positive reaction of Settlement Class Members to the Settlement confirms that the Settlement should be finally approved.

74. As set forth in the Cozzi Declaration, 2,605,826 Class Notices were sent vial U.S. mail and email to Settlement Class Members by the Claims Administrator and as of the filing of this motion, only two customers have objected and only 417 customers have opted out. Stated differently, only .0001% of the Settlement Class Members have objected and only .0261% have opted out. Cozzi Decl. ¶¶3, 4, 10, 11.

75. Thus, the reaction of the Class to the Settlement has been overwhelmingly favorable and, therefore, favors final approval.

76. Furthermore, the two objections that have been filed; one by Mr. Stanley Furmanski and one by Mr. Marc Wutschke, are both without merit.

77. *The Furmanski Objection* – The crux of Mr. Furmanski's objection is that the Settlement purportedly does not prevent the LADWP from issuing bills that "demand money in excess of usage." Furmanski Obj. The Settlement, however, squarely addresses the concerns raised in Mr. Furmanski's objection. In particular, the Settlement provides for comprehensive

remediation measures to consistently deliver timely *and accurate* bills—the process for which will verified by the Independent CC&B System Monitoring Expert, subject to review by the Court. The Settlement also provides for audits of LADWP's CC&B system to ensure long-term results for timeliness and billing accuracy. Accordingly, these safeguards provided by the Settlement are designed to address the very concern of Mr. Furmanski. Accordingly, Mr. Furmanski's objection to the Settlement which does, indeed, address his very concerns, is without merit.

78. The *Wutschke Objection* – Mr. Wutschke objects, not to the Settlement, itself, but rather to the amount of attorneys' fees sought, which Mr. Wutschke "suspects" is "excessive." Wutschke Obj. at 1. As set forth below, however, the amount of attorneys' fees sought, $17,453,977, is not "excessive" but is reasonable, as demonstrated by application of the lodestar analysis of the work performed by the 4 contributing law firms included in this application. Also as explained below, because the requested attorneys' fees represents only 20% of the total value of the Settlement (at least $87 million constituting $67 million in pre-identified economic damages plus $20 million for remediation measures to stabilize performance and functioning of the CC&B system.), which is well below the 25% benchmark of reasonableness recognized by California courts, the requested attorneys' fee is not excessive. Accordingly, Mr. Wutchke's objection is without merit.

H. <u>The Court Should Certify the Settlement Class</u>

79. In addition to determining whether final approval is appropriate, the Court must determine whether the Settlement Class satisfies the requirements for class certification. Certification of a class under California law 'requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods.

1. <u>The Settlement Class is Sufficiently Numerous</u>

80. Here, there are at least 1.6 million Settlement Class Members, which easily satisfies the numerosity requirement.

81. Additionally, implicit in the requirement of numerosity is that the identities of class members be ascertained.

82. Here, the Settlement Class is ascertainable because Settlement Class Members have been identified through Defendant's internal records.

2. There is a Well-Defined Community of Interest Among the Class

83. The "community of interest" requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.

a. Common Questions of Law and Fact Predominate

84. Here, the Settlement Class satisfies the predominance requirement because this Action centers on common legal questions including whether: (i) the LADWP's billing practices constitute fraud and/or violations of consumer protection statutes; (ii) the LADWP breached its contracts with Settlement Class Members by overbilling them for services that they did not consume; (iii) the LADWP's billing system is defective; and (iii) defects in the billing system caused Settlement Class Members to incur damages, and the amount of such damages.

b. Plaintiffs Jones and Kimhi's Claims are Typical of the Settlement Class

85. Here, Plaintiff Jones' injuries arise out of the fact that Plaintiff Jones was overcharged as a result of Defendant's defective billing practices, including Defendant's use of its defective CC&B System. The injuries incurred by other members of the Settlement Class are also attributable to Defendant's defective billing practices, including Defendant's use of its defective CC&B System. *Declaration of Antwon Jones In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards* (the "Jones Decl.") ¶4.

86. Additionally, Plaintiff Kimhi, the representative of the Solar Subclass, has claims typical of other members of the Solar Subclass because Plaintiff Kimhi was damaged as a result of participation in Defendant's Solar Incentive Program. The damages incurred by other members of the Solar Subclass also arise out of their participation in Defendant's Solar Incentive

Program. *Declaration of Antwon Jones In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards* (the "Kimhi Decl.") ¶4 – 5.

c. Plaintiffs and Class Counsel are Adequate Representatives

87. Plaintiffs Jones and Kimhi have no antagonism or conflicts of interest with the Settlement Class. Plaintiffs' claims are typical of the claims of the other Settlement Class Members and arise from the same conduct by Defendant. Plaintiffs have embraced their responsibilities as class representatives by actively participating in the Action, including monitoring, supervising and directing Class Counsel and engaging in the settlement process.

88. Additionally, the Settlement Class is represented by qualified and competent counsel who have the experience and resources necessary to vigorously pursue this action.

89. Class Counsel is an AV rated attorney, is board certified by the National Board of Trial Advocacy, and has served as past president of the Public Justice Foundation, a 3,000 member public interest organization that litigates to protect the rights of consumers. Class Counsel has represented plaintiffs in dozens of consumer fraud, defective product and securities class actions, and are among the nation's most respected attorneys involved in complex litigation. A true and correct copy of the firm resume of Landskroner Grieco and Merriman, LLC is annexed as Exhibit A to the *Second Declaration of Jack Landskroner in Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards* (Exhibit 2 hereto).

90. Liaison Counsel is a trial attorney regularly practicing in the state and federal courts of California representing the rights of consumers. A true and correct copy of the firm resume of Law Offices of Michael J. Libman is annexed as Exhibit A to the *Declaration of Michael J. Libman In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards* (Exhibit 3 hereto).

91. The knowledge and experience of Plaintiff's Counsel was essential in ensuring that the Settlement Class Members' interests were protected in this Action.

3. A Class Action is the Superior Method for Adjudicating the Claims of Settlement Class Members

92. Particularly in the settlement context, class resolution is superior to other available methods for the fair and efficient adjudication of the controversy. Here, individual Settlement Class Members have incurred relatively small damages. Thus, it would not be economical to pursue their claims on an individual basis because the litigation costs would greatly exceed potential recovery.

I. Class Counsel's Request for Attorneys' Fees and Expenses Should be Granted

93. The Settlement provides that Class Counsel may make an application to the Court an award of attorneys' fees in an amount not to exceed $19,000,000 at the time of Final Approval, from which all Court-approved plaintiffs' attorneys' fees applications shall be paid.[1] Exhibit 1 at 58.

94. Class Counsel has applied to the Court for attorneys' fees in the amount of $17,453,977. This request includes compensation for work performed and the efforts of the 4 contributing Plaintiff's law firms. This amount is reasonable and falls within the range of fees approved by California state and federal courts.

1. Plaintiff's Counsel's Lodestar is Reasonable

a. The Number of Hours Spent Litigating this Action is Reasonable

95. As of May 5, 2017, Plaintiff's Counsel spent a total of 12,721.00 hours working on this case and incurred a combined lodestar of $8,118,129.00. *See* Exhibits 2 - 5 hereto

[1] Pursuant to the Settlement, Defendant has further agreed that, subject to Court approval, Class Counsel may make applications to the Court to be compensated at the rate of twenty-nine percent (29%) of all future recoveries by Class Members subsequent to Final Approval for: (i) Field Work claims; (ii) Pre-Identified Claims Made claims; (iii) Omnibus claims; and (iv) all claims paid in connection with the Settlement by, or on behalf of the City of Los Angeles, including all departments thereof. Class Counsel shall submit to the Court quarterly applications for additional awards of such attorneys' fees. The Parties have also agreed that the: (i) Defendant has agreed it will not object to such quarterly applications; and (ii) additional future attorneys' fees of $1 million shall be utilized to pay any future attorneys' fee awarded to Class Counsel by the Court and shall not be in addition to any future attorneys' fees awarded by the Court. Exhibit 1 at 59.

(*Declarations of Jack Landskroner, Michael Libman, K.L. Myles and Alan Himmelfarb In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs, and Service Awards*) (detailing Plaintiff's Counsel's lodestar).

96. A breakdown of these fees and hours between the law firms is set forth in the below chart:

Plaintiff's Counsel	**Hours**	**Lodestar**
Landskroner Grieco Merriman	8,117.50	$5,305,758.00
Law Offices of Michel J. Libman	1,444	$799,100.00
Knapp, Peterson & Clarke	1,708.3	$1,264,611.00
Law Offices of Alan Himmelfarb	1,361.20	$748,660.00
Total	12,721.00	**$8,118,129.00**

97. A more comprehensive breakdown of these hours, by task, is also provided in the accompanying declarations annexed hereto as Exhibits 2 - 5. *See* Exs. 2 – 5 at Exs. B - C. These Declarations and accompanying exhibits detail the amount of work that was necessary in order to obtain a successful result on behalf of the Settlement Class Members. Of great significance, is the fact that, given the complexity of this matter, Plaintiff's Counsel spent a considerable amount of time working alongside the Independent CC&B System Monitoring Expert in order to aid the Independent CC&B System Monitoring Expert in verifying data, and establishing that the mechanism for identifying affected accounts as accurate and reliable as well as in oversight of highly complex and involved notice process. Such efforts included, but were not limited to, participating in multiple on-site visits to the LADWP and participation in weekly and ultimately daily telephone conference calls over a period of 19 months and in providing independent experiential data from LADWP customers to crosscheck DWP reports.

98. Judge Tevrizian has concluded, after reviewing class counsel's lodestar and time records, that the number of hours spent by Counsel litigating and settling this Action is reasonable. *See* Tevrizian Decl. at ¶38.

b. Plaintiff's Counsel's Hourly Billing Rates are Reasonable

99. The hourly billing rates charged by Plaintiff's Counsel are in line with those that have been approved by California state and federal courts.

i. Landskroner Grieco Merriman

The hourly billing rate for partners ranges between $695 and $795. The hourly billing rate for associates ranges between $550 and $695. The hourly billing rate for paralegals ranges between $85 and $250. *See* Exhibit 2 hereto.

ii. The Libman Firm

The hourly billing rate for the firm's senior partner is $575 and the hourly billing rate for the senior paralegal is $275. *See* Exhibit 3 hereto.

iii. Knapp, Peterson & Clarke

The hourly billing rate for directors ranges between $702.47 and $847.06. The hourly billing rate for paralegals is $191.77. *See* Exhibit 4 hereto.

iv. The Himmelfarb Firm

The hourly billing rate for the firm's senior partner is $550. *See* Exhibit 5 hereto.

100. Plaintiff's Counsel's hourly billing rates for partners, associates and paralegals are in line with rates that have been approved by California state and federal courts. *See, e.g., Altavion, Inc. v. Konica Minolta Systems Laboratory Inc.*, 226 Cal.App.4th 26, 71 (2014) ($600 for attorneys admitted in 1986 in technology-related trade secret litigation). *See also Tait v. BSH Home Appliances Corp.* (C.D. Cal. July 27, 2015) No. SACV100711DOCANX, 2015 WL 4537463, at *12 (approving as reasonable $800 per hour for partners, associate time to a maximum of $550 per hour, and paralegal time to a maximum of $225 per hour); *United Desert Charities, et al., v. Sloane Valve Co., et al.,* 12cv06878 SJO (SHx) (C.D. Ca. Aug. 25, 2014) (finding partner hourly rate as high as $1500 reasonable); *Elliott v. Rolling Frito-Lay Sales,* LP, 2014 U.S. Dist. LEXIS 83796, *23 (C.D. Ca. June 12, 2014)(finding partner hourly rate as high as $700 reasonable); *Aarons,* 2014 U.S. Dist. LEXIS 118442, * 37 (finding partner hourly rate as high as $775 reasonable); *Vinh Nguyen v. Radient Pharm. Corp.,* (C.D. Cal.

May 6, 2014) No. 11-00406, 2014 WL 1802293, at *11 (approving 2014 rates up to $750 per hour for partners, $550 per hour for associates, and $225 per hour for paralegals); *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig.*, 2013 U.S. Dist. LEXIS 123298, *305, n. 13 (C.D. Ca. July 24, 2013) (finding partner hourly rate as high as $950 reasonable); *Redwen v. Sino Clean Energy, Inc*., 2013 U.S. Dist. LEXIS 100275, *29 (C.D. Ca. July 9, 2013)(finding partner hourly rate as high as $800 reasonable); *Kearney v. Hyundai Motor Co*., 2013 U.S. Dist. LEXIS 91636, *8 (C.D. Ca. 2013)(approving hourly rates between $650 and $800 for class counsel in a consumer class action); *Wren v. RGIS Inventory Specialists* (N.D. Cal. Apr. 1, 2011) 2011 U.S. Dist. LEXIS 38667 (finding as reasonable $650 per hour for a 1993 graduate); *Parkinson v. Hyundai Motor America,* 796 F.Supp.2d 1160, 1172 (C.D. Cal. 2010) (approving hourly rates between $445 and $675 for class counsel in consumer class action); *POM Wonderful, LLC v. Purely Juice, Inc*., No. CV 07-2633, 2008 U.S. Dist. LEXIS 110460, 2008 WL 4351842, *4 (C.D. Cal. Sept. 22, 2008) (finding rate of $750 for partners and $275 to $425 for associates reasonable in consumer class action); *Craft v. County of San Bernardino,* 624 F.Supp.2d 1113, 1122 (C.D. Cal. 2008) (finding a $225 rate reasonable for paralegals).

101. Furthermore, Judge Tevrizian has concluded, after reviewing Class Counsel's hourly rates, that Counsel's hourly rates are reasonable. *See* Tevrizian Decl. at ¶38.

2. <u>Enhancing Plaintiffs' Counsel's Lodestar by a Multiplier of 2.15 is Reasonable</u>

102. Once calculated, the Court may adjust counsel's lodestar upward using a "multiplier" or "enhancement" based on several factors, including: the quality of the results achieved; the novelty and difficulty of the litigation; class counsel's skill in handling it; the burdens imposed by taking on the case; and the contingent nature of the fee award.

a. <u>The Results Achieved Through the Settlement Favor a Multiplier</u>

103. As explained above, this landmark Settlement provides Settlement Class Members excellent benefits. In particular, Settlement Class Members will receive *100%* of the

amounts of that Settlement Class Members were overcharged by the LADWP for services and/or damaged as a result of their participation in Defendant's Solar Incentive Program. The monetary component of the Settlement is valued at over $67 million. Independent CC&B Monitor Decl. ¶37.

104. Furthermore, the non-monetary benefits provided by the Settlement, the value of which is more than $20 million, provide Settlement Class Members with additional benefits that address the very deficiencies that gave rise to the Actions in the first instance. *Id*.

b. The Novelty and Difficulty of the Litigation Favors a Multiplier

105. The litigation and settlement of this Action has presented extremely novel and difficult issues. The following facts have contributed to both this novelty and difficulty: (i) the number of Settlement Class Members; (ii) the number of accounts involved; (iii) the complex nature of Defendant's billing system; (iv) the number of services provided by Defendant to Settlement Class Members; (v) the impact that any one service may have on other services (i.e., the impact of water use on sewer charges); (vi) the presence of various rate schedules used by the LADWP; and (vii) the highly-customized Class Notice packets sent to Settlement Class Members. In light of these novel, complex and difficult issues, Class Counsel has devoted more time and effort to this Action and Settlement than Class Counsel would have devoted to similar litigations.

c. Class Counsel's Skill in Obtaining the Settlement Favors a Multiplier

106. Class Counsel was able to leverage the information learned in connection with Class Counsel's pre-suit investigation (which included interviews with confidential witnesses, a full analysis of prior CC&B software installation failure and multiple reviews of documents and consultations with non-testifying experts), as well as the information learned through confirmatory discovery (via the Independent CC&B System Monitoring Expert) to achieve the outstanding results provided by the Settlement.

d. The Burdens Imposed by the Action Favors a Multiplier

107. The prosecution of this Action was extremely time consuming. In light of the highly complex nature of Defendant's billing system and the degree of skill needed to accurately identify Settlement Class Members, as well as the amount of damages incurred, Class Counsel was required to devote an enormous amount of time to this Action and the Settlement process. As a result of the time consuming nature of this Action, Class Counsel had to refuse engagements in other matters and actions in order to ensure that Plaintiff and Settlement Class Members received superior representation.

e. The Contingent Nature of the Fee Favors a Multiplier

108. It is an established practice in the private legal market to reward attorneys for taking on the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases. Courts have recognized that the risk of receiving little or no recovery is a factor in considering an award of attorneys' fees.

109. Judge Tevrizian, who has overseen the entire mediation process, including performing a review of Plaintiff's Counsel's time records, has concluded that Class Counsel is entitled a reasonable "enhancement" or "multiplier" to counsel's time. *See* Tevrizian Decl. at ¶38.

3. The Requested Multiplier of 2.15 is Reasonable

110. In appropriate cases, "[m]ultipliers can range from 2 to 4 or even higher." *Wershba*, 91 Cal.App.4th at 225; *see also Chavez*, 162 Cal. App. 4th at 66 (affirming 2.5 multiplier); *Oakland Raiders*, 203 Cal. App. 3d at 83 (affirming 2.34 multiplier).

111. In fact, this Court recently awarded a multiplier of 3.39. *See Colin Higgins Prod. v. Universal City Studios*, BC499180 (Dec. 28, 2015)(awarding class counsel $4,333,333.33 based on a lodestar of $1,278,122.03).

112. Despite the fact that California courts have recognized the propriety of multipliers as high as four, Class Counsel seeks a multiplier of 2.15.

4. A Cross-Check" of the Requested Fee Under the Percentage-of-Recovery Approach Confirms that the Requested Fee is Reasonable

113. In evaluating Class Counsel's application, the Court may consider the requested fees as a percentage of the total settlement value.

114. As explained herein, the value of the monetary relief provided by the Settlement is valued at over $67 million. Additionally, the value of the non-monetary relief provided by the Settlement is at least $20 million. Accordingly, the value of the Settlement is at least $87 million. Independent CC&B Monitor Decl. ¶37.

115. Class Counsel has requested a fee of $17,453,977, which represents approximately 20% the value of the Settlement. The requested fee is well below the 25% benchmark recognized by California State courts.

J. Plaintiff's Counsel Should be Reimbursed Litigation Expenses

116. Under the Settlement, Class Counsel is entitled to apply to the Court for reimbursement of up to $3,000,000 constituting reimbursement of expenses incurred by the CC&B System Monitoring Expert to be capped at $2,500,000 and reimbursement of expenses incurred by all Plaintiffs' counsel to be capped at $500.000. Exhibit 1 at 58.

117. Plaintiff's Counsel has incurred $2,712,035.28 in expenses ($2.5 million in expenses which have been and will be incurred by the CC&B System Monitoring Expert and $212,035.28 in expenses incurred by all Plaintiff's Counsel) in litigation costs to date during the ordinary course of this litigation. These costs include filing fees, computerized legal research, travel expenses, and mediation-related expenses that were incurred in the normal course of business. *See* Exhibits 2 -5 hereto.

118. The costs incurred were essential to the successful prosecution of this lawsuit, and should be awarded by the Court.

K. The Court Should Granted the Requested Service Awards

119. Plaintiff requests a service award of $5,000 for Plaintiffs Jones and Yaar Kimhi, Tahl Beckerman Megerdichian and Yelena Novak. These awards are justified by the time and

effort the class representatives dedicated to this case and the reputational risks they faced in associating their names with a well-publicized class action lawsuit against a major movie studio. *See, generally, Declarations of Plaintiffs Jones, Kimhi, Tahl Beckerman Megerdichian and Yelena Novak In Support of Plaintiff's Unopposed Motion for Final Approval and Award of Attorneys' Fees, Costs and Service Awards.*

120. The requested service awards are in line with similar awards granted to class representatives by California courts. California state and federal courts have approved service awards of $5,000 or more, particularly in class actions that involved significant risk and substantial efforts expended by the class representatives. *See, e.g., Cellphone Fee Termination Cases*, 186 Cal. App. 4th at 1395 (approving $10,000 service awards to each of the four class representatives); *In re Warner Music Group Corp. Digital Downloads Litig.*, Case No. 12-cv-00559-RS (N.D. Cal. Jan. 12, 2015) (approving $10,000 service awards to each of the six current and former class representatives in a class action against a major music label alleging the underpayment of royalties); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, 2013 WL 1365900, at *17 (N.D. Cal. Apr. 3, 2013) (approving $15,000 service awards to each of the 40 court-appointed class representatives). Indeed, this Court approved $10,000 service awards in *Colin Higgins*, BC499180 (L.A. Sup. Ct.).

121. The $5,000 service awards sought here are reasonable and, accordingly, should be approved.

Executed this 5th day of May 2017, at Cleveland, Ohio.



Jack Landskroner

ELECTRONIC PROOF OF SERVICE

STATE OF OHIO, COUNTY OF CUYAHOGA

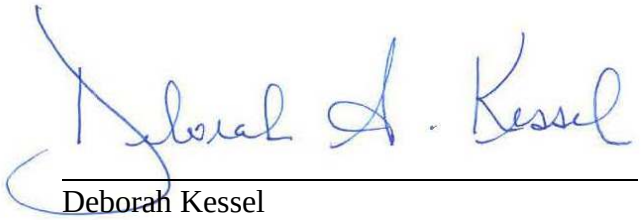
I am a paralegal with Landskroner Grieco Merriman, LLC in the County of Cuyahoga, State of Ohio. I am over the age of 18 and not a party to the within action. My business address is 1360 West 9th Street, Suite 200, Cleveland, OH 44113.

On May 5, 2017, I served the foregoing document(s) described as **DECLARATION OF JACK LANDSKRONER IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL** on the interested parties in this action as follows:

BY ELECTRONIC SERVICE VIA FILE & SERVEXPRESS: In accordance with the Court's Order Authorizing Electronic Service governing Case No. BC BC577267 and related matters requiring all documents to be served upon interested parties via the File & ServeXpress Service system.

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

Executed on May 5, 2017 at Cleveland, Ohio.



Deborah Kessel

EXHIBIT 2 TO DECLARATION OF JACK LANDSKRONER

Jack Landskroner (Admitted Pro Hac Vice)
LANDSKRONER GRIECO MERRIMAN, LLC
1360 West 9th Street, Suite 200
Cleveland, Ohio 44113
Telephone: (216) 522-9000

Michael J. Libman (SBN 222353)
LAW OFFICES OF MICHAEL J. LIBMAN
18321 Ventura Boulevard, Suite 700
Tarzana, California 91356
Telephone: (818) 995-7300

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ANTWON JONES, on behalf of himself, and all other similarly situated,

Plaintiff,

vs.

CITY OF LOS ANGELES, by and through the Los Angeles Department of Water and Power and DOES 1 through 50, inclusive,

Defendants.

Case No. BC577267

[Related to Case Nos. BC565618 (Lead), BC568722, BC571664, and BC574690]
[CLASS ACTION]

SECOND DECLARATION OF JACK LANDSKRONER IN SUPPORT OF PLAINTIFF'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES, COSTS AND SERVICE AWARDS

Hearing Date: July 7, 2017
Time: 9:00 a.m.
Department: Dept. 323
Judge: Hon. Elihu M. Berle

I, Jack Landskroner, under penalty of perjury, hereby declare that the following is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and am fully familiar with the facts and circumstances set forth herein and could competently testify thereto if called upon to do so.

2. I am a Partner of Landskroner Grieco Merriman, LLC ("LGM"), one of the counsel in this Action. I submit this Declaration in support of Class Counsels' Application for an Award of Attorneys' Fees, Costs and Service Awards and my firm's application for an award of attorneys' fees, costs and service awards in connection with services rendered in the above-entitled action.

3. My firm represents Antwon Jones, individually and all others similarly situated, in this Action.

4. The identification and background of my firm and its partners and associates is attached hereto as Exhibit A.

5. The total number of hours spent on this litigation by my firm is 8,117.50. The total lodestar amount for attorney and professional staff time in this matter is $5,306,058.75

6. The hourly rates shown in the following chart are the current usual and customary rates for each individual based on their experience and years of practice, and are in line with the prevailing rates in the community for similar services by lawyers of reasonably comparable skill, experience and reputation who handle complex class action litigation. A summary breakdown of the lodestar is set forth in the table immediately below.

NAME	TITLE	HOURS WORKED	HOURLY RATE	LODESTAR
Jack Landskroner	P	3,928.50	$795	$3,123,157.50
Tom Merriman	P	805.75	$695	$559,996.25
Paul Grieco	P	582.00	$695	$404,490.00
Drew Legando	A	198.25	$550	$109,037.50
Ed Jerse	A	1,096.00	$695	$761,720.00
Andres Diaz	PL	4.25	$100	$425.00
Brian Yusko	PL	9.50	$85	$807.50
Debra Spaller	PL	652.50	$250	$163,125.00
Debbie Kessel	PL	104.75	$225	$23,568.75
Don Sonney	PL	501.25	$225	$112,781.25
Anathea Brynak	PL	234.75	$200	$46,950.00
TOTALS		8,117.50		$5,306,058.75

(P) Partner
(A) Associate
(PL) Paralegal

7. Attached as Exhibit B are monthly time reports of the work performed and the lodestar incurred by each attorney and professional staff who performed services in this litigation for LGM.

8. Attached as Exhibit C is a task-based summary of the work performed and the lodestar incurred by each attorney and professional staff who performed services in this litigation for LGM. This chart includes the name of each attorney and professional staff who worked on the matter, their hourly billing rate, a breakdown of the hours they spent on the case, and a description of the work performed. The hourly rates show below are in line with the prevailing rates in the community for similar services by lawyers of reasonably comparable skill, experience and reputation who handle complex class action litigation. My law firm has prepared these charts from contemporaneous, daily time records that the firm regularly prepares and maintains.

9. LGM's compensation for the services rendered in this case were wholly contingent on the success of the Action.

10. Set forth below is a narrative description of the services rendered for each person for whom fees are claimed and a summary of their relevant qualifications:

(a) Jack Landskroner (Partner) – Lead Counsel maintaining primary responsibility on the file and responsible for the daily control and monitoring of the case file and all work by lawyers and staff in the firm and all tasks required of lead counsel. Responsible for spearheading all pre-suit investigation, communication with client(s) and absent class members, drafting/editing of all key pleadings, motions and settlement proposals, negotiations and drafting of agreements, as well as handling all interactions with the Court. Responsible for identification and retention of consulting experts, identification and retention of the Independent CC&B Billing Expert Monitor. Engaged working hand in hand on a weekly, and at times daily basis,

with the monitoring team in process of verifying data, testing methodology for accuracy and reliability. Primary responsibility for working with the Claims Administrator and Monitor to facilitate the highly complex Notice Plan and claims process for 2.4 million account holders. I am a 1989 graduate of Boston University and a 1992 graduate of Cleveland Marshall College of Law. I am an AV rated attorney and I am board certified by the National Board of Trial Advocacy as a consumer trial advocate. I have tried over 50 civil jury trials to verdict and I have successfully represented clients in dozens of complex consumer and securities class actions and multidistrict litigation actions across the country. I am also a past president of the Public Justice Foundation, a 3,000 member National Consumer Advocacy organization that litigates to protect consumer rights and access to justice. The details of my relevant qualifications are more fully set forth in Exhibit A attached hereto.

(b) Paul Grieco (Partner) – Responsible monitoring the status of the litigation and strategic decision making in conjunction with lead counsel. In addition, shared responsibility for investigation of claims, drafting, reviewing and editing pleadings, identifying qualified consulting experts, researching and investigating the prior failure of the CC&B software installation in the City of Cleveland on par with LADWP's CC&B failure, framing of the settlement proposal and attending mediations. Mr. Grieco is a graduate of Case Western University School of Law. He began practicing law in 1989 and has litigated complex matters including class action claims involving antitrust violations, as well as securities fraud and consumer fraud claims. Mr. Grieco is an AV rated attorney and presently serves as the president of the Ohio Association of Justice. The detail of his relevant qualifications are more fully set forth in Exhibit A attached hereto.

(c) Thomas C. Merriman (Partner) – Responsible for monitoring the status of the litigation and performing any tasks required or requested by Lead Counsel. Those tasks have

included but were not limited to negotiation and conferral with counsel in related actions, drafting of settlement documents, attending court proceedings, managing the firm's class member awareness and communication campaign and participating in multiple mediation proceedings. Mr. Merriman has been licensed to practice law since 1988. He is a graduate of Notre Dame University and Harvard Law School. At age 29 he was named Deputy Attorney General of the state of Ohio where he served from 1993-1994. A summary of Mr. Merriman's relevant qualifications and experience is attached hereto as Exhibit A.

(d) Edward Jerse (Sr. Associate) – Responsible for monitoring the daily status of the Independent Monitor's verification and testing processes and testing the Notice process and claims process. Those tasks included but were not limited to participation in weekly and what ultimately became daily calls/meetings with the Monitoring team, LADWP representatives and defense counsel. In addition, Mr. Jerse attended regularly scheduled in person meetings at LADWP for updates and presentations on status and progress. Mr. Jerse has been practicing law for over 30 years. He is a graduate of Georgetown University and a graduate of Harvard Law School. In addition to years of litigation experience, and serving as a prosecutor, Mr. Jerse has valuable experience working with governmental institutions having served as the director of 2 Ohio governmental relations agencies and as a state representative in the Ohio House of Representatives.

(e) Drew Legando (Associate) – Responsible for reviewing and editing pleadings and participating in settlement strategy and mediation. These tasks included review and commenting on mediation proposals, settlement agreement drafts and exhibits and other documents, attorney mediations, and conferring with counsel.

(f) Paralegals – Responsible for assisting with the investigation, research, review, communication with class members and DWP customers, finalization, filing as service

of pleadings and discovery. Those tasks included but were not limited to researching, obtaining documents and identifying witnesses with integral knowledge of the CC&B failure in Cleveland, Ohio, interviewing witnesses, preparing initial drafts of notices, stipulations, and supporting documents for motions, in addition to being responsible for daily case management through the review of incoming documents, updating the firm calendar, monitoring parallel litigation and ensuring the outgoing documents comply with relevant rules.

11. My firm incurred a total of $189,437.96 in expenses in connection with the prosecution of this litigation. **They are broken down as follows:**

EXPENSES

DISBURSEMENT	TOTAL
Experts, Consultants, Investigators, Professional Services	$56,550.83
Meals, Hotels & Transportation	$97,193.62
LEXIS, Westlaw, Online Library Research	$288.22
Mediation Fees	$22,430.84
Photocopies, Elec. Discovery & Data Mgmt.	$1,977.15
Telephone/Communication Services& Facsimile	$2,443.73
Messenger & Overnight Delivery	$642.88
Filing Fees & Court Costs	$7,910.69
TOTAL	$189,437.96

12. The expenses pertaining to this case are reflected in the books and records of the firm. These books and records are prepared from expense vouchers, check records and other documents and are an accurate record of the expenses.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 4th day of May, 2017 at Cleveland, Ohio.

JACK LANDSKRONER

EXHIBIT B

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY TIME SUMMARY

LANDSKRONER GRIECO MERRIMAN, LLC

Reporting Period January 1, 2014 Through December 31, 2014

PROFESSIONAL	CODE	Jan-14	Feb-14	Mar-14	Apr-14	May-14	June-14	July-14	Aug-14	Sept-14	Oct-14	Nov-14	Dec-14	RATE	TOTAL HOURS	TOTAL LODESTAR
Jack Landskroner	P	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	48.50	30.00	795.00	78.50	$62,407.50
Paul Grieco	P	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	54.50	34.50	695.00	89.00	$61,855.00
Tom Merriman	P	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	695.00	0.00	$0.00
Ed Jerse	A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	695.00	0.00	$0.00
Drew Legando	A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.50	0.00	550.00	1.50	$825.00
Debra Spaller	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4.75	2.00	250.00	6.75	$1,687.50
Debbie Kessel	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00	0.00	$0.00
Don Sonney	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	92.25	79.25	225.00	171.50	$38,587.50
Anathea Brynak	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	200.00	0.00	$0.00
Andres Diaz	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	$0.00
Brian Yusko	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85.00	0.00	$0.00
TOTALS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	201.50	145.75		347.25	$165,362.50

CODES	
Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY TIME SUMMARY

LANDSKRONER GRIECO MERRIMAN, LLC

Reporting Period January 1, 2015 Through December 31, 2015

PROFESSIONAL	CODE	Jan-15	Feb-15	Mar-15	Apr-15	May-15	June-15	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	RATE	TOTAL HOURS	TOTAL LODESTAR
Jack Landskroner	P	121.50	155.75	115.25	98.00	114.25	161.00	182.00	238.75	166.25	186.00	187.00	137.75	795.00	1863.50	$1,481,482.50
Paul Grieco	P	36.75	41.00	51.00	42.75	21.25	36.75	77.50	7.25	2.50	4.00	49.00	2.50	695.00	372.25	$258,713.75
Tom Merriman	P	0.00	0.00	0.00	2.25	5.25	6.75	51.75	42.00	9.25	14.00	142.75	71.75	695.00	345.75	$240,296.25
Ed Jerse	A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	44.25	98.00	125.25	69.75	695.00	337.25	$234,388.75
Drew Legando	A	0.00	0.00	13.50	12.50	10.25	67.75	38.50	36.75	0.00	2.00	12.25	2.25	550.00	195.75	$107,662.50
Debra Spaller	PL	16.75	14.50	24.50	45.50	27.75	52.00	61.25	65.25	40.50	51.25	72.75	27.00	250.00	499.00	$124,750.00
Debbie Kessel	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00	0.00	$0.00
Don Sonney	PL	107.75	108.75	39.50	57.50	14.75	0.00	0.00	0.00	0.00	0.00	0.00	1.50	225.00	329.75	$74,193.75
Anathea Brynak	PL	0.00	0.00	1.00	3.75	8.00	9.00	14.00	12.50	12.00	10.50	9.25	11.00	200.00	91.00	$18,200.00
Andres Diaz	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	$0.00
Brian Yusko	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85.00	0.00	$0.00
TOTALS		282.75	320.00	244.75	262.25	201.50	333.25	425.00	402.50	274.75	365.75	598.25	323.50		4034.25	$2,539,687.50

CODES	
Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY TIME SUMMARY

LANDSKRONER GRIECO MERRIMAN, LLC

Reporting Period January 1, 2016 Through December 31, 2016

PROFESSIONAL	CODE	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	July-16	Aug-16	Sept-16	Oct-16	Nov-16	Dec-16	RATE	TOTAL HOURS	TOTAL LODESTAR
Jack Landskroner	P	141.75	139.75	115.75	124.75	99.50	123.25	118.00	94.50	101.75	119.25	151.75	97.00	795.00	1427.00	$1,134,465.00
Paul Grieco	P	4.00	4.50	2.00	3.00	3.50	1.00	3.25	14.50	16.25	19.50	3.50	11.00	695.00	86.00	$59,770.00
Tom Merriman	P	69.25	23.50	26.50	8.00	2.75	0.00	73.25	0.25	5.50	48.75	100.25	4.50	695.00	362.50	$251,937.50
Ed Jerse	A	106.00	40.00	110.50	7.50	96.50	45.75	51.25	35.25	41.50	24.75	28.75	14.75	695.00	542.50	$377,037.50
Drew Legando	A	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	550.00	1.00	$550.00
Debra Spaller	PL	10.50	7.00	10.50	6.00	2.25	13.75	12.75	7.50	6.25	10.25	0.00	0.00	250.00	86.75	$21,687.50
Debbie Kessel	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.50	3.25	5.75	22.75	225.00	32.25	$7,256.25
Don Sonney	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00	0.00	$0.00
Anathea Brynak	PL	5.50	4.50	6.00	11.50	11.50	11.00	13.00	10.00	11.50	6.50	6.50	9.00	200.00	106.50	$21,300.00
Andres Diaz	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	$0.00
Brian Yusko	PL	3.50	1.00	5.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85.00	9.50	$807.50
TOTALS		341.50	220.25	276.25	160.75	156.00	194.75	271.50	162.00	183.25	232.25	296.50	159.00		2654.00	$1,874,811.25

CODES	
Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY TIME SUMMARY

LANDSKRONER GRIECO MERRIMAN, LLC

Reporting Period January 1, 2017 Through May 2, 2017

PROFESSIONAL	CODE	Jan-17	Feb-17	Mar-17	Apr-17	May-17	June-17	July-17	Aug-17	Sept-17	Oct-17	Nov-17	Dec-17	RATE	TOTAL HOURS	TOTAL LODESTAR
Jack Landskroner	P	93.50	127.00	154.75	161.25	23.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	795.00	559.50	$444,802.50
Paul Grieco	P	1.50	10.50	3.75	19.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	695.00	34.75	$24,151.25
Tom Merriman	P	5.25	3.00	14.25	60.00	15.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	695.00	97.50	$67,762.50
Ed Jerse	A	56.50	40.00	72.25	46.00	1.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	695.00	216.25	$150,293.75
Drew Legando	A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	550.00	0.00	$0.00
Debra Spaller	PL	0.00	0.00	16.50	38.00	5.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250.00	60.00	$15,000.00
Debbie Kessel	PL	16.50	12.00	21.75	20.50	1.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00	72.50	$16,312.50
Don Sonney	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00	0.00	$0.00
Anathea Brynak	PL	16.25	7.75	9.75	3.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	200.00	37.25	$7,450.00
Andres Diaz	PL	0.00	0.00	4.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	4.25	$425.00
Brian Yusko	PL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85.00	0.00	$0.00
TOTALS		189.50	200.25	297.25	348.25	46.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00		1082.00	$726,197.50

CODES	
Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

8117.50

EXHIBIT C

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
TASK BASED SUMMARY

LANDSKRONER GRIECO MERRIMAN, LLC

Reporting Period Inception Through May 2, 2017

Categories

(1) Factual Investigation
(2) Draft Initial and Amended Complaint
(3) Pleadings, Briefs and Motions
(4) Client/Class Member Communications
(5) Litigation/Settlement Strategy and Analysis
(6) Settlement Negotiations/Mediation
(7) Court Appearances
(8) Confirmatory Discovery
(9) Claims Administration and Processing
(10) Final Approval Hearing

[CATEGORIES]

PARTICIPANT	CODE	1	2	3	4	5	6	7	8	9	10	CURRENT HOURS	RATE	CURRENT LODESTAR
[NAME]														
Jack Landskroner	P	295.25	111.25	83.25	462.50	852.75	879.50	153.25	715.25	320.50	55.00	**3928.50**	**795.00**	**$3,123,157.50**
Paul Grieco	P	79.25	104.00	1.50	11.00	179.50	141.50	10.50	39.75	6.50	8.50	**582.00**	**695.00**	**$404,490.00**
Tom Merriman	P	12.75	0.00	4.50	15.00	396.00	185.25	88.00	73.50	2.25	28.50	**805.75**	**695.00**	**$559,996.25**
Ed Jerse	A	0.00	3.00	8.75	7.25	290.25	185.00	38.75	390.00	173.00	0.00	**1096.00**	**695.00**	**$761,720.00**
Drew Legando	A	1.50	47.50	0.00	0.00	31.25	114.75	1.00	2.25	0.00	0.00	**198.25**	**550.00**	**$109,037.50**
Debra Spaller	PL	28.75	26.25	40.50	5.25	144.00	281.50	35.00	33.00	0.00	58.25	**652.50**	**250.00**	**$163,125.00**
Debbie Kessel	PL	0.00	0.00	0.25	76.00	26.00	0.75	0.00	1.50	0.00	0.25	**104.75**	**225.00**	**$23,568.75**
Don Sonney	PL	471.00	0.00	0.00	0.00	30.25	0.00	0.00	0.00	0.00	0.00	**501.25**	**225.00**	**$112,781.25**
Anathea Brynak	PL	31.50	1.00	0.00	0.00	200.00	2.00	0.00	0.00	0.25	0.00	**234.75**	**200.00**	**$46,950.00**
Andres Diaz	PL	0.00	0.00	0.00	1.75	2.50	0.00	0.00	0.00	0.00	0.00	**4.25**	**100.00**	**$425.00**
Brian Yusko	PL	0.00	0.00	0.00	0.00	9.50	0.00	0.00	0.00	0.00	0.00	**9.50**	**85.00**	**$807.50**
TOTAL												**8117.50**		**$5,306,058.75**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

EXHIBIT 3 TO
DECLARATION OF JACK LANDSKRONER

Jack Landskroner (Admitted Pro Hac Vice)
LANDSKRONER GRIECO MERRIMAN, LLC
1360 West 9th Street, Suite 200
Cleveland, Ohio 44113
Telephone: (216) 522-9000

Michael J. Libman (SBN 222353)
LAW OFFICES OF MICHAEL J. LIBMAN
18321 Ventura Blvd., Suite 700
Tarzana, California 91356
Telephone: (818) 995-7300

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ANTWON JONES, on behalf of himself, and all other similarly situated,

Plaintiff,

vs.

CITY OF LOS ANGELES, by and through the Los Angeles Department of Water and Power and DOES 1 through 50, inclusive,

Defendants.

Case No. BC577267

[Related to Case Nos. BC565618 (Lead), BC568722, BC571664, and BC574690]
[CLASS ACTION]

DECLARATION OF MICHAEL J. LIBMAN IN SUPPORT OF LAW OFFICES OF MICHAEL J. LIBMAN'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES, COSTS AND SERVICE AWARDS

Hearing Date: July 7, 2017
Time: 9:00 a.m.
Department: Dept. 323
Judge: Hon. Elihu M. Berle

I, MICHAEL J. LIBMAN, under penalty of perjury, hereby declare that the following is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and am fully familiar with the facts and circumstances set forth herein and could competently testify thereto if called upon to do so.

2. I am a Partner of LAW OFFICES OF MICHAEL J. LIBMAN, one of the counsel in this Action. I submit this Declaration in support of Class Counsels' Application for an Award of

Attorneys' Fees, Costs and Service Awards and my firm's application for an award of attorneys' fees, costs and service awards in connection with services rendered in the above-entitled action.

3. My firm represents ANTWON JONES in this Action.

4. Law Offices of Michael J. Libman is a general litigation and trials firm, formed in 2003, representing individuals, businesses, groups and classes of persons throughout California in the areas of personal injury, products liability, commercial litigation toxic torts consumer protection, insurance bad faith and wage and hour violations. The Libman firm is known for its tenacious and skillful representation which allowed it to recover millions of dollars in settlements and verdicts for its clients. As a result, the Libman firm is often called upon by other lawyers and firms to co-counsel with it on a variety of cases. The Libman firm has also successfully co-counseled and co-ventured with the firm of Kingsley & Kingsley in wage and hour class actions and other labor related matters. The founding principal of the Libman firm, is Michael J. Libman, Esquire, admitted to practice in California 2002 and United States District Court Central District. Education: UCLA, BS 1997; Southwestern School of Law, J.D. 2000.

4. The identification and background of my firm and its partners and associates is presented in my firm resume attached hereto as Exhibit A.

5. The total number of hours spent on this litigation by my firm is 1,444.00. The total lodestar amount for attorney and professional staff time in this matter is $799,100.00.

6. The hourly rates shown in the following chart are the current usual and customary rates for each individual based on their experience and years of practice, and are in line with the prevailing rates in the community for similar services by lawyers of reasonably comparable skill, experience and reputation who handle complex class action litigation. A summary breakdown of the lodestar is set forth in the table immediately below.

NAME	TITLE	HOURS WORKED	HOURLY RATE	LODESTAR
Michael J. Libman	P	1,340.00	$ 575.00	$770,500.00
Julie Brantveyn	PL	104.00	$ 275.00	$ 28,600.00
TOTALS				**$ 799,100.00**

(P) Partner

(PL) Paralegal

7. Attached hereto as Exhibit B are monthly time reports of the work performed and the lodestar incurred by each attorney and professional staff who performed services in this litigation for LAW OFFICES OF MICHAEL J. LIBMAN.

8. Attached hereto as Exhibit C is a task-based summary of the work performed and the lodestar incurred by each attorney and professional staff who performed services in this litigation for LAW OFFICES OF MICHAEL J. LIBMAN. This chart includes the name of each attorney and professional staff who worked on the matter, their hourly billing rate, a breakdown of the hours they spent on the case, and a description of the work performed. The hourly rates show below are in line with the prevailing rates in the community for similar services by lawyers of reasonably comparable skill, experience and reputation who handle complex class action litigation. My law firm has prepared these charts from contemporaneous, daily time records that the firm regularly prepares and maintains. The categories of task based work performed describe the following services:

1) **Factual Investigation:** includes factual research, witness interviews, consultation with non-testifying consultants and investigation into the nature of the defects resulting from PriceWaterhouse Cooper's defective installation of the CC&B Billing Software.

2) **Draft Initial and Amended Complaint:** includes legal and factual research and drafting of initial complaint and amended complaint.

3) **Pleadings, Briefs and Motions:** includes legal research and drafting of briefs and motions and oppositions to several ex parte applications.

4) **Client/Class Member Communications:** includes consultations and communication with lead plaintiff, consultation and communication with counsel for the other plaintiffs,

communication with absent class members regarding billing errors and defects, and education and awareness campaign.

5) **Litigation/Settlement Strategy and Analysis:** includes consultations with plaintiff, development and implementation of litigation strategy, research and design of settlement strategy and proposal, consultation with non-testifying consultants, and strategy planning meetings with liaison and other counsel for plaintiffs in related actions.

6) **Settlement Negotiations / Mediation:** includes attending mediations, negotiation of settlement, negotiation and drafting of settlement agreements and related documents, and drafting of plaintiffs' motion for preliminary approval and other supporting documents and exhibits.

7) **Court Appearances:** includes all Court appearances, motion arguments and preparation for same.

8) **Confirmatory Discovery:** includes working with the Independent Court Appointed Monitor to analyze and test the: (i) accuracy of LADWP's methodologies and algorithms used to identify all customers among the universe of 2.4 million LADWP account holders to determine overcharges; and (ii) LADWP's methodologies, algorithms, data compilations and calculated amounts to be refunded or credited to Class members.

9) **Claims Administration and Processing:** includes ongoing work with the Claims Administrator and Independent Court Appointed Monitor to get notice and identification letters issued to 2.4 million account holders; development, implementation and testing of the claims process, development, design and creation of automated claim form and website, and communications with claimants and the Claims Administrator to facilitate the ongoing claims administration process.

10) **Final Approval Hearing:** includes researching and drafting of plaintiff's motion for final approval and other supporting documents and exhibits.

11. **LAW OFFICES OF MICHAEL J. LIBMAN'S** compensation for the services rendered in this case were wholly contingent on the success of the Action.

12. My firm incurred a total of $3,370.01 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

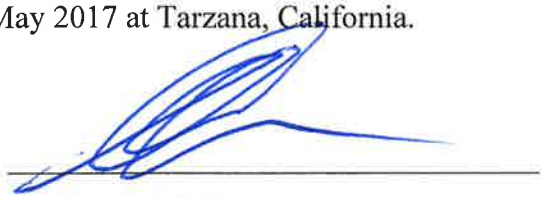
EXPENSES

DISBURSEMENT	TOTAL
Meals, Hotels and Transportation	$275.54
LEXIS, Westlaw, Online Library Research	$1,465.00

Photocopies, Elec. Discovery and Data Mgmt.	$ 384.50
Messenger and Overnight Delivery	$178.97
Filing Fees and Court Costs	$1,070.00
TOTAL	**$3,370.01**

13. The expenses pertaining to this case are reflected in the books and records of the firm. These books and records are prepared from expense vouchers, check records and other documents and are an accurate record of the expenses.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 4rd day of May 2017 at Tarzana, California.



Michael J. Libman

EXHIBIT B

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY SUMMARY

Law Offices of Michael J. Libman (Firm Name)

Reporting Period Inception Through December 31, 2013

PROFESSIONAL	CODE	Jan-13	Feb-13	Mar-13	Apr-13	May-13	June-13	July-13	Aug-13	Sept-13	Oct-13	Nov-13	Dec-13	RATE	TOTAL HOURS	TOTAL LODESTAR
Michael J. Libman	P	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	31.75	25.5	$575.00	57.25	$32,918.75
Julie Brantveyn	PL	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2.5	1.5	$275.00	4	$1,100.00
TOTALS															**61.25**	**$34,018.75**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY SUMMARY

Law Offices of Michael J. Libman (Firm Name)

Reporting Period Inception Through December 31, 2014

PROFESSIONAL	CODE	Jan-14	Feb-14	Mar-14	Apr-14	May-14	June-14	July-14	Aug-14	Sept-14	Oct-14	Nov-14	Dec-14	RATE	TOTAL HOURS	TOTAL LODESTAR
Michael J. Libman	P	43.5	23.25	12	23.5	19.25	11.75	9.5	17	22.75	26.25	21.5	23.5	$575.00	253.75	$145,906.25
Julie Brantveyn	PL	0	2.5	2	1	3	0	0.5	0	0	0	3	1	$275.00	13	$3,575.00
TOTALS															**266.75**	**$149,481.25**

CODES	
Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY SUMMARY

Law Offices of Michael J. Libman (Firm Name)

Reporting Period Inception Through December 31, 2015

PROFESSIONAL	CODE	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	RATE	TOTAL HOURS	TOTAL LODESTAR
Michael J. Libman	P	13.75	18	14.75	31.25	32.25	23.75	19.25	24.25	19.75	18.25	29.5	11.5	$575.00	256.25	$147,343.75
Julie Brantveyn	PL	2.25	1.75	2	4.75	5.55	6.7	3.5	4.1	0.8	3.35	3.65	2.15	$275.00	40.55	$11,151.25
TOTALS															**296.80**	**$158,495.00**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY SUMMARY

Law Offices of Michael J. Libman (Firm Name)

Reporting Period Inception Through December 31, 2016

PROFESSIONAL	CODE	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	RATE	TOTAL HOURS	TOTAL LODESTAR
Michael J. Libman	P	34.25	39.5	51.5	43.25	41.5	47.75	28.5	45.25	34.75	45.25	41.25	25.75	$575.00	478.5	$275,137.50
Julie Brantveyn	PL	1.75	2.95	0.95	0.4	1	2.3	0.8	0.95	2.15	0.45	1.65	3.5	$275.00	18.85	$5,183.75
TOTALS															**497.35**	**$280,321.25**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
MONTHLY SUMMARY

Law Offices of Michael J. Libman (Firm Name)

Reporting Period Inception Through December 31, 2017

PROFESSIONAL	CODE	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	RATE	TOTAL HOURS	TOTAL LODESTAR
Michael J. Libman	P	32.75	78.75	83.75	81	18								$575.00	294.25	$169,193.75
Julie Brantveyn	PL	1.75	5.6	8.5	9.5	2.25								$275.00	27.6	$7,590.00
TOTALS															**321.85**	**$ 176,783.75**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

EXHIBIT C

JONES V. CITY OF LOS ANGELES
LADWP BILLING LITIGATION
TASK BASED SUMMARY

LAW OFFICES OF MICHAEL J. LIBMAN

Reporting Period Inception Through December 31, 2013

Categories

(1) Factual Investigation
(2) Draft Initial and Amended Complaint
(3) Pleadings, Briefs and Motions
(4) Client/Class Member Communications
(5) Litigation/Settlement Strategy and Analysis
(6) Settlement Negotiations/Mediation
(7) Court Appearances
(8) Confirmatory Discovery
(9) Claims Administration and Processing
(10) Final Approval Hearing

[CATEGORIES]

PARTICIPANT	CODE	1	2	3	4	5	6	7	8	9	10	CURRENT HOURS	RATE	CURRENT LODESTAR
[NAME]														
MICHAEL J. LIBMAN	P	52.5			4.75							57.25	$575.00	$32,918.75
JULIE BRANTVEYN	PL	4			0							4	$275.00	$1,100.00
TOTAL												61.25		$34,018.75

CODES

Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

Reporting Period Inception Through December 31, 2014

Categories

(1) Factual Investigation
(2) Draft Initial and Amended Complaint
(3) Pleadings, Briefs and Motions
(4) Client/Class Member Communications
(5) Litigation/Settlement Strategy and Analysis
(6) Settlement Negotiations/Mediation
(7) Court Appearances
(8) Confirmatory Discovery
(9) Claims Administration and Processing
(10) Final Approval Hearing

[CATEGORIES]

PARTICIPANT	CODE	1	2	3	4	5	6	7	8	9	10	CURRENT HOURS	RATE	CURRENT LODESTAR
[NAME]														
MICHAEL J. LIBMAN	P	229.75	5.5		18.5							253.75	$575.00	$145,906.25
JULIE BRANTVEYN	PL	9.25	3.5		0.25							13	$275.00	$3,575.00
TOTAL												266.75		$149,481.25

CODES

Partner	P
Attorney	A
Paralegal	PL
Of-Counsel	OC

LAW OFFICES OF MICHAEL J. LIBMAN

Reporting Period Inception Through December 31, 2015

Categories

(1) Factual Investigation
(2) Draft Initial and Amended Complaint
(3) Pleadings, Briefs and Motions
(4) Client/Class Member Communications
(5) Litigation/Settlement Strategy and Analysis
(6) Settlement Negotiations/Mediation
(7) Court Appearances
(8) Confirmatory Discovery
(9) Claims Administration and Processing
(10) Final Approval Hearing

[CATEGORIES]

PARTICIPANT	CODE	1	2	3	4	5	6	7	8	9	10	CURRENT HOURS	RATE	CURRENT LODESTAR
[NAME]														
MICHAEL J. LIBMAN	P	9.5	23	26.25	49	62.5	65.25	18.75	2			**256.25**	**$575.00**	**$147,343.75**
JULIE BRANTVEYN	PL	12.25	10.5	17.8								**40.55**	**$275.00**	**$11,151.25**
TOTAL												**296.8**		**$158,495.00**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

LAW OFFICES OF MICHAEL J. LIBMAN

Reporting Period Inception Through December 31, 2016

Categories

(1) Factual Investigation
(2) Draft Initial and Amended Complaint
(3) Pleadings, Briefs and Motions
(4) Client/Class Member Communications
(5) Litigation/Settlement Strategy and Analysis
(6) Settlement Negotiations/Mediation
(7) Court Appearances
(8) Confirmatory Discovery
(9) Claims Administration and Processing
(10) Final Approval Hearing

[CATEGORIES]

PARTICIPANT	CODE	1	2	3	4	5	6	7	8	9	10	CURRENT HOURS	RATE	CURRENT LODESTAR
[NAME]														
MICHAEL J. LIBMAN	P	31.75	39.75	51.25	54.25	200.5	74.75	3.5	22.75			**478.5**	**$575.00**	**$275,137.50**
JULIE BRANTVEYN	PL	3.5		12.75	2.6							**18.85**	**$275.00**	**$5,183.75**
TOTAL												**497.35**		**$280,321.25**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

LAW OFFICES OF MICHAEL J. LIBMAN

Reporting Period Inception Through December 31, 2017

Categories

(1) Factual Investigation
(2) Draft Initial and Amended Complaint
(3) Pleadings, Briefs and Motions
(4) Client/Class Member Communications
(5) Litigation/Settlement Strategy and Analysis
(6) Settlement Negotiations/Mediation
(7) Court Appearances
(8) Confirmatory Discovery
(9) Claims Administration and Processing
(10) Final Approval Hearing

[CATEGORIES]

PARTICIPANT	CODE	1	2	3	4	5	6	7	8	9	10	CURRENT HOURS	RATE	CURRENT LODESTAR
[NAME]														
MICHAEL J. LIBMAN	P				117.75	43.5				108.75	24.25	**294.25**	**$575.00**	**$169,193.75**
JULIE BRANTVEYN	PL				12.75	14.85						**27.6**	**$275.00**	**$7,590.00**
TOTAL												**321.85**		**$176,783.75**

CODES

Partner	**P**
Attorney	**A**
Paralegal	**PL**
Of-Counsel	**OC**

Exhibit 14

LADWP Newsroom

FOR IMMEDIATE RELEASE

DATE: August 17, 2015 3:41:12 PM PDT

LADWP News

LOS ANGELES DEPARTMENT OF WATER AND POWER
111 North Hope St., Room 1520, Los Angeles, CA. 90012-5701
Phone (213) 367-1361 - After Hours (213) 367-3227
www.ladwp.com

LA DWP Los Angeles Department of Water & Power

STATEMENT BY LADWP GENERAL MANAGER MARCIE EDWARDS REGARDING SETTLEMENT OF CUSTOMER BILLING CLASS ACTION LITIGATION

August 17, 2015

“The proposed settlement makes good on a commitment I made to our customers when I was appointed to review every account and make whole any customer who was overcharged by our new billing system – no matter how small the error. With this agreement, every customer who was affected will receive 100 cents on the dollar.

It is important to note that the vast majority of credits and refunds under the proposed settlement will be quite small, amounting to less than $10 for most customers who were affected and the total remaining credits and refunds owed to customers amount to approximately three tenths of one percent of total billings since we began using the new billing system.

However, we know that the problems associated with our billing system caused problems and headaches for far too many of our customers and we apologize to each and every customer who was affected. We are continuing our legal action to seek recovery of all costs associated with the proposed settlement as part of ongoing litigation against Pricewaterhouse Coopers (PWC), the firm hired to perform the system integration and replacement of LADWP’s customer information and billing system. The settlement makes clear specific areas where PWC failed to provide key functionality or made critical errors that resulted in overcharges or the inability to quickly refund customer credit balances.

We are proud of the tremendous progress we have made over the past 18 months in fixing the problems caused by the new billing system and in improving our customer service. Call hold times have dropped from over 30 minutes to two minutes, and other billing metrics meet or exceed industry standards. Through this settlement, we have also entered into a binding commitment to stay on the path of improvement by setting benchmarks and key performance indicators and by appointing an independent monitor who will report to the court on our progress every six months.

While the vast majority of system integration defects that led to our billing problems have been fixed, we will continue to make additional improvements to the system. We look forward to a full and complete resolution of these matters through the settlement of this litigation and remain committed to continue improving our customers’ experience.”

###

For more information, view the Class Action Litigation Settlement Summary and the Frequently Asked Questions.

For more information contact:

Joseph Ramallo
Communications Director, LADWP
(213) 367-1361

Exhibit 15

Los Angeles Department of Water and Power

Customer Information and Billing System
Class Action Litigation Settlement Summary
August 2015

At the outset of her tenure, LADWP General Manager Marcie Edwards committed to conducting a thorough and complete review of the entire new LADWP billing system to ensure its accuracy and to correct any billing errors. The proposed settlement makes good on this promise. LADWP has completed a thorough review of every customer account and will make whole every customer who was incorrectly charged due to the billing system implementation – no matter how small the error - and regardless of whether the customer was aware of the mistake. Under the terms of the Settlement, customers whose bill have not already been corrected and who were affected by billing errors will receive 100 cents on the dollar for any billing error.

Status of the Class Action Litigation & Proposed Settlement

On June 29th, LADWP announced that it reached an agreement to settle four class action lawsuits involving customer claims related to billing errors and overcharges that occurred following implementation of the Department's new customer information and billing system in September 2013.

The settlement was the result of a mediation conducted by retired U.S. District Judge Dickran M. Tevrizian. Since then, the parties have agreed to detailed terms of the settlement and will present them to the court on Monday August 17th for preliminary approval. The court is expected to determine whether to preliminarily approve the settlement in September.

The City and LADWP continue to pursue claims against Pricewaterhouse Coopers (PWC) to recover damages, including costs associated with the class action settlement and system remediation, attorney's fees, and related claims through litigation filed by the City Attorney on behalf of the City, LADWP and its customers. The damages were caused by PWC's misconduct and failure to properly integrate and convert LADWP's legacy customer information and billing systems with the new billing system.

Key Provisions of the Proposed Settlement

1. All customer accounts will continue to be reviewed for accuracy in billing from September 2013 going forward.

2. Any customer who has been overcharged as a result of a billing error caused by the new billing system will be credited 100% of the amount they were overcharged. Former customers without an active account will receive a refund.

3. The Settlement agreement commits LADWP to continued improvement in customer service by establishing key performance indicators and minimum service levels that it must continue to achieve. An independent monitor will review this progress and report to the court every three months, while also verifying the accuracy of refunds/credits paid to customers. A related policy change will also be adopted which will allow LADWP to bill residential customers for delayed charges going back nine months, rather than the current policy, which allows billing for utility usage for up to four years after utility services are used. This policy change will help customers more timely monitor and adjust their utility usage for greater conservation and efficiency and to budget for and pay their utility bills on time. It also aligns LADWP policy with current utility industry standards.

Settlement Details

Since the billing system was converted in September 2013, LADWP has regularly corrected billing errors brought to its attention by customers. More recently, LADWP has undertaken a complete review of all customer accounts in order to identify any and all customers who may have been overcharged since the new customer information and billing system was implemented nearly two years ago. This includes many customers who never realized they had been over or undercharged.

When considering the number of customers affected and the amount that will be refunded to customers under the terms of the settlement, it is important to consider that LADWP has issued nearly 20 million bills since the billing system conversion occurred, totalling over $11 billion in revenue. Of this $11 billion, it is expected that the amount remaining to be refunded/credited to customers is approximately $36 million in total, or about three tenths of one percent of total billings by LADWP over the past two years. It should be noted that at the start of the review conducted as part of the class-action settlement, $44 million was due to customers. Due to efforts by all parties, the remaining balance of refund claims is $36 million.

Through the review process, four main categories of customer credits or refunds emerged. These categories comprise nearly all of the approximately $36 million that will be credited to existing customers, or refunded to former customers. The vast majority of customer credits and refunds identified will be small, with many customers receiving a credit or refund of $10 or less. Customers will be credited or refunded amounts no matter how small if an error is discovered.

The major customer credit/refund categories include:

1. **Closed Account with Credit Balance**
   PWC failed to provide the functionality required to automatically refund customer deposits for customers who terminate their utility service. As a result of this defect,

LADWP has had to manually process deposit refunds and credit balances, an extremely time consuming process, considering that LADWP refunds approximately 60,000 deposits annually. As a result of not having this automation, there is currently a backlog of customer deposits totalling approximately $10 million. Under the settlement, LADWP will credit or refund all deposits with interest. The approximately $10 million will be refunded to approximately 49,000 former customers who fall within this category. Of those former customers, approximately 44,000 customers are owed $200 or less.

2. **Late Payment Charge**
In August 2014, LADWP suspended late charges for all customers because of a system integration defect. However, prior to this date, from Sept. 2013 – July 2014, late charges were assessed to approximately 560,000 customers. In some instances these late payment charges were improperly calculated by the system. Under the terms of the settlement LADWP will refund/credit all late payment charges assessed to customers during the 11-month period from Sept 2013 – July 2014. The estimated total amount to be credited/refunded is approximately $18 million. Over half of the customers in this group will receive less than $5 in total, with over 90% of customers receiving less than $20. For residential customers (billed bi-monthly), this amounts to overcharges ranging between 42 cents and $1.67 per bill.

3. **Tiered Billing Calculation Errors**
From September 2013 – July 2014, a system integration and programming defect led to higher than appropriate charges for some customers who experienced an estimated bill, followed by a bill based upon an actual meter read. Approximately 360,000 customers were affected. The system defect caused these customers to pay higher charges because their water and electricity use was allocated to the incorrect pricing tier. In August 2014, this defect was fixed by LADWP and a contractor hired to complete the system integration that PWC failed to perform. Under the terms of the settlement, current customers will receive a credit and former customers will be refunded the amount they were overcharged. The amount of potential overcharges in this category is estimated at no more than $4.2 million.

4. **Estimated bills, which masked potential leaks or electricity loss**
Customers who received an estimated water and/or electric bill, who had a leak or electricity loss on their property will be able to submit a claim for a credit /refund because they did not have billing information that could have resulted in identifying the leak or loss earlier, thereby avoiding a higher than typical bill. Many customers who experienced this problem have already received a credit from LADWP if they contacted the Department directly and showed proof of the leak and repair. However, due to the fact these bills require manual review and adjustment, additional credits/refunds are expected in an amount up to approximately $4 million.

Settlement Process

All customers will be notified of the basic terms of the settlement in writing according to the schedule set by the Court. LADWP anticipates that the initial notice will be provided to customers in October, 2015.

The settlement provides for an independent third-party verifier to confirm that the amount of any refund or credit is correct. Customers due a credit or refund will receive the credit automatically on their bill if they are an existing customer, or via check if they are no longer an LADWP customer. If a customer believes the amount of the credit is in error, they may submit their claim with documentation to an independent claims administrator who will resolve any disputed refunds or credits. The Claim Administrator can be contacted at 844-899-6219. Claim forms will be available at www.ladwp.com/billinginfo and at all LADWP Customer Service Centers after the court grants preliminary approval, which is expected to occur in September.

Processing of credits and refunds will occur over a period of time ranging from weeks to several months after the settlement is finalized by the Court. The Department wants to ensure that call wait times remain reasonable during the period that credits and refunds are processed so that customers can reach a customer service representative should there be any questions. Preliminary approval by the Court is expected to occur in September with final approval expected to occur by the end of the year or early next year. Refunds and credits will be processed by June 30, 2016.

Attorney's Fees

It is expected the Court will award up to $13 million in attorney's fees in connection with the four class-action lawsuits. The final amount is determined by the Court and paid by LADWP. The Department will seek recovery of attorney fees as part of ongoing litigation against Pricewaterhouse Coopers.

Significant Progress has been Made in Resolving Customer Billing System Problems

LADWP is in the final stretch of fixing the remaining problems with the new billing system and tremendous progress has been made not only to fix the system, but to improve the overall customer experience. Under the terms of the settlement, LADWP commits to maintain key service levels and continue the progress that has been made to improve billing and responsiveness to our customers. The progress LADWP has already made includes:

- 98.7% of all bills are processed by the new billing system and mailed on time, exceeding industry standards. Less than ½ of 1% of new bills require any adjustment by specialized billing team members prior to mailing to customers;

- Call hold times have dropped from an average of more than 30 minutes to an average of two to three minutes;

- Estimated bills have dropped from over 20% to under 5% and are now at industry standard levels;

- Ongoing internal audits are conducted to validate the accuracy of the billing formula used by the Customer Information System. An independent audit will be conducted to validate these positive results;

- Hired over 250 new customer service representatives, meter readers and billers to improve customer service, with more staff being added and undergoing training. 70 more will be added in September;

- Billing metrics such as percentage of meters read now exceed industry standard levels;

- 88,000 customers have been enrolled in paperless billing since January 1, 2015, and now total 240,000 customers. Paperless customers save both time and money since they often pay their bill online;

- All customers late on their bills have been offered payment plans with easy enrollment online or by phone. Over 64,000 customers have completed payment plans and another 58,000 are currently in active pay plans. This has helped reduce LADWP's accounts receivable by over 33% since January 2015;

- Special office hours and Customer Service Saturdays have been held at branch offices normally closed to help customers resolve billing concerns and pay their bills; and

- Responsiveness to e-mail and online contact from customers has been significantly improved.

In addition to implementing the settlement terms and pursuing its claims against PWC, LADWP's focus remains on collecting what is rightfully owed by customers for the water, electric and City services they use, consistent with the terms of the settlement. This is because LADWP turned off collections for a period of time following the billing system implementation and many customers fell behind in paying their utility bill. LADWP offers convenient payment plans that allow customers to catch up. They can sign-up online at www.ladwp.com/payplans or by calling 1-800-DIAL-DWP and speaking with a customer service representative.

Exhibit 16

LANDSKRONER GRIECO MERRIMAN, LLC, SETTLES OVERBILLING CLASS ACTION LAWSUIT ON BEHALF OF 1.6 MILLION LADWP CUSTOMERS

August 17, 2015

Calling it a “historic settlement,” consumer rights attorney Jack Landskroner, of Landskroner Grieco Merriman, LLC, filed a stipulation of settlement with the Los Angeles Superior Court to formally settle a landmark class action lawsuit (Antwon D. Jones vs. City of Los Angeles) brought on behalf of all Los Angeles Department of Water and Power (“LADWP”) customers. The settlement will assure the return of over $44,000,000 to customers who were overbilled for

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water, electricity, and other services. Additionally, the comprehensive settlement:

- Mandates an independent audit of all 1.6 Million LADWP customer accounts to assure a 100% recovery to every Los Angeles resident and business which has been overbilled.
- Requires the LADWP to invest $20,000,000 in a comprehensive overhaul of its billing system.
- Establishes new rules as to how the nation's largest public utility bills its customers.
- Appoints an independent monitor to ensure compliance with the terms of the agreement.

"Families and small businesses have enough financial stress," said Landskroner. We set out to make sure every customer would be made whole. Under this settlement agreement, every single customer who was overcharged will have their money returned. Thankfully, the LADWP took the overbilling problem seriously and understood both the legal and moral obligation to right this injustice and resolve this matter in the best interests of the ratepayers."

In 2010, LADWP hired the consulting firm PricewaterhouseCoopers (PwC) to modernize the utility's nearly 40-year-old billing system. In 2013, LADWP implemented the PwC's $181,000,000 computer billing system. The conversion failed miserably, producing tens of thousands of inaccurate bills and hourlong phone hold times as ratepayers tried to get their bills corrected. The faulty billing system overcharged thousands of customers by estimating meter readings and by failing to charge some commercial customers at all.

Jack Landskroner, whose law firm is based in Cleveland, Ohio, began investigating utility billing problems after the 2009 launch by PwC of a new water billing system for the Cleveland Water Department, which also turned disastrous. His knowledge of the Cleveland billing fiasco enabled Landskroner to understand the necessary comprehensive reforms approved in the

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on The Today Show

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groundbreaking LADWP settlement. Most significantly, the deal provides for an independent third party to monitor LADWP's compliance and their timely progress in enacting these reforms over the next eighteen months, to assure the terms of the settlement are met and that all customers are made whole.

Anatomy of a
CAR ACCIDENT LAWSUIT

"We applaud the LADWP for not only standing by their customers while they address the problems created by the faulty PwC billing system, but accepting third party oversight and agreeing to fix the faulty system," said Landskroner. "That was critical to guaranteeing both transparency and meaningful reform, which LADWP is embracing in this result."

RELATED PAGES

Car Accidents

Personal Injury

Under terms of the settlement, LADWP addresses the errors created by the PwC billing system, its impact on its customers and agrees to:

- Review and audit the accounts of every single customer. Approximately 1.6 million accounts will be reviewed/audited.
- Customers who were overcharged will either receive a **full credit** (100 cents on the dollar) to their account if they were overcharged or they will receive refunds if their account is closed.
- It will not be necessary for the majority of ratepayers who were overbilled to file a claim. Credits or refunds will be generated automatically and noted on customer's bills.
- Customers that incurred incidental expenses related to these billing errors are able to submit a claim for reimbursement of costs, with supporting documentation.
- If an audit shows that residential customers owed money for services but had not received a timely bill, the LADWP will only be allowed to bill for the prior to 9 months (270 days) of services. The LADWP legally can currently charge up to four years.
- Commercial accounts would be responsible for paying for services for up to four years;
- Customers that owe for back services that had not been timely billed will have up to 4 years to pay back any verified balance – interest and penalty free with qualifying small businesses permitted to apply for an extension beyond 4 years if under a hardship.
- Retain Paul Bender Consulting, an independent third-party expert in utility billing systems, which will monitor the settlement terms for the court to ensure that the settlement terms are implemented and the LADWP data is accurate. (Mr. Bender was the consultant who successfully implemented sweeping improvements to the Cleveland Water Department that was plagued by similar catastrophic billing problems, staffing inefficiencies and complaints of poor customer service.)

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- Within 540 days from the final settlement approval, the LADWP will be responsible for 90-95 % completion of remediation of all system errors and to improving call times and customer service.
- A third-party will be hired to administer the settlement.

"The failed computer system hurt families and small businesses throughout Los Angeles," said Landskroner. "This agreement recovers the overbilled amount, puts systems in place to monitor and test the billing system while at the same time holding the LADWP responsible for successfully implementing the settlement."

For a copy of the stipulation of settlement, go to **www.teamlgm.com**.

In March, Los Angeles City Attorney Mike Feuer filed a lawsuit against PwC alleging that the company misled LADWP by claiming it had the expertise to run the utility's new billing system. No one at PwC or LADWP could initially figure out the billing problem. The LADWP hired Oracle who reportedly discovered that PwC defectively coded part of the program. If successful, all of the costs incurred by LADWP in settling this case could be recovered from PwC.

Categories: **Press**

Landskroner Grieco Merriman, LLC

« Back

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Avvo Rating 10.0 Superb Top Attorney Litigation
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By appointment only

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Exhibit 17

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 323 HON. ELIHU M. BERLE, JUDGE

ANTWON JONES, et al.

Plaintiffs,

vs.

CITY OF LOS ANGELES,

Defendants.

SUPERIOR COURT
CASE NO. BC577267
BC574690

AND RELATED ACTIONS

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Tuesday, November 3, 2015

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(Appearances continued on next page.)

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(Appearances continued on next page.)

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CASE NUMBER:	BC 577267/574690
CASE NAME:	JONES V. CITY OF LA, ET AL.
LOS ANGELES, CALIFORNIA	TUESDAY, NOVEMBER 3, 2015
DEPARTMENT 323	ELIHU M. BERLE, JUDGE
REPORTER:	DAVID A. SALYER, CSR 4410
TIME:	10:00 A.M.

-o0o-

THE COURT: Good morning, counsel. Please have a seat. Make yourself comfortable.

Calling the case of Jones versus the City of Los Angeles and Bransford, Fontaine, Kimhi, Macias and all related cases, including City of Los Angeles versus Pricewaterhouse.

Counsel, your appearances, please.

MR. LANDSKRONER: Good morning, your Honor. Jack Landskroner for the Jones proposed class.

THE COURT: Good morning.

MR. LIBMAN: Michael Libman, your Honor, for Jones plaintiffs.

THE COURT: Good morning.

MS. TUFARO: Good morning, your honor. Gina Tufaro, outside counsel for the City.

THE COURT: Good morning.

MR. KIESEL: Your honor, good morning. Paul Kiesel, from the Kiesel law firm, also outside counsel for the City of Los Angeles.

THE COURT: Good morning.

MR. CLARK: Good morning, your Honor. James Clark, chief deputy city attorney for the City of Los Angeles.

THE COURT: Good morning.

MS. AGRUSA: Good morning, your Honor. Angela Agrusa, counsel for the City of Los Angeles, Department of Water and Power.

THE COURT: Good morning.

MS. ANNAGUEY: Good morning, your Honor. Maribeth Annaguey, also counsel for the City of Los Angeles and the Department of Water and Power.

THE COURT: Good morning.

MR. LUCKENBACHER: Good morning, your Honor. Gary Luckenbacher for plaintiff Morski.

THE COURT: Good morning.

MR. BLOOD: Good morning, your Honor. Timothy Blood, attorney for plaintiff Bransford.

THE COURT: Good morning.

MR. HIMMELFARB: Good morning, your Honor. Alan Himmelfarb for Daniel Morski and the Macias plaintiffs.

THE COURT: Good morning.

MR. BOWER: Good morning, your Honor. David Bower, Faruqi & Faruqi, for Fontaine.

THE COURT: Good morning.

MS. HURST: Good morning. Leslie Hurst for the Bransford plaintiffs.

THE COURT: Good morning.

MS. ROHR: Good morning, your Honor. Barbara Rohr for Fontaine.

THE COURT: Good morning.

MR. JACKSON: Good morning, your Honor. Lee Jackson

for Bransford.

THE COURT: Good morning.

MS. WADE: Good morning, your Honor. Julia Wade for the Bransford plaintiffs.

THE COURT: Good morning.

MR. PARADIS: Good morning, your Honor. Paul Paradis, outside counsel for the City of Los Angeles.

THE COURT: Good morning.

MR. WRIGHT: Good morning, your Honor. Dave Wright, chief administrative officer for the Los Angeles Department of Water and Power.

THE COURT: Good morning.

MS. DORNY: Good morning, your Honor. Deputy City Attorney Deborah Dorny. And I have Mark Townsend, assistant IT director of the Department of Water and Power, here as well.

THE COURT: Good morning.

MR. TOM: Good morning, your Honor. Richard Tom, assistant city counsel.

MR. SOLOMON: Good morning, your Honor. Eskel Solomon, deputy city attorney, LA DWP.

THE COURT: Good morning.

MR. JARDINI: Good morning, your Honor. I'm Andre Jardini. I'm here for the Kimhi plaintiffs.

THE COURT: Good morning.

MR. JERSE: Your Honor, Ed Jerse. I'm here for plaintiff Jones with Mr. Landskroner.

THE COURT: Good morning.

MR. MERRIMAN: Good morning, your Honor. Tom Merriman here for plaintiff Jones with Mr. Landskroner.

THE COURT: Anyone else.

Anyone on Court Call?

THE CLERK: No, your Honor.

THE COURT: All right. Thank you.

I have received a proposed order for the appointment of Mr. David Salyer as court reporter pro tem.

Any objection?

(Attorneys answer in the negative.)

THE COURT: Not hearing any objection, Mr. Salyer is hereby appointed court reporter pro tem.

Good morning, Mr. Salyer.

THE REPORTER: Good morning.

THE COURT: The matter is here today for a continued hearing on a motion for preliminary approval of settlement.

Before I hear from counsel, I do have some observations, and then I'll have some comments.

First, the volume of paper that has been submitted to the Court over the last couple of weeks has been very extensive. For example, on October 16th we received plaintiff Jones' supplemental papers. And then on October 26th we received Morski opposition and objections.

Then going down further close to the hearing date, Bransford and Fontaine filed supplemental opposition on October 28th.

Then plaintiff Jones filed a response to the Morski opposition on October 29th.

Plaintiff Kimhi filed a supplemental brief on October 29th.

Yesterday plaintiff Jones filed a response to the Bransford and Fontaine opposition.

Then on November 2nd the City filed a further reply.

And even as late as this morning we received additional documents.

So it's quite a bit of material that's been filed past the deadline set for the filings.

At the last moment I assume the parties worked very hard, spent a lot of time, legal talent working on these documents. I assume the parties would like the Court to have time to read it and consider the material and evaluate. So the last-minute flurry of these papers does not lend itself to careful consideration if everything is done at the last second.

In terms of going forward, make sure everyone's papers are filed timely and not going back and forth back and forth like a ping-pong match, thinking that the last person to file papers is going to get greater weight than the previous papers.

So that's the first observation.

Secondly, after the last hearing I thought that we had a working protocol for the parties to meet and confer and try to resolve some of the issues, reach some consensus. It has been very disappointing to note that the parties have not been able to have meaningful communications.

When I say parties, I'm talking about counsel for the

various parties in the separate cases.

The parties have not been able to have meaningful communications to reach some kind of consensus, some understanding, even on some limited issues.

Apparently in some circumstances conversations have not been very civil, not a good faith effort to resolve some of these issues.

I would also like to raise some housekeeping issues.

First with respect to the Macias case which is pending in this department. It was filed on October 20th, 2015.

The Court is going to order that case, Macias, related to the Jones case and the other cases.

Let me ask counsel for the plaintiff in Macias whether counsel believes that the claims -- and there are substantial claims -- I note the Macias complaint, aside from exhibits, is over 200 pages long and contains no less than 60, 60 causes of action.

I would just ask counsel, how do you see this case as overlapping or not with the claims that have already been filed with respect to the other cases?

MR. HIMMELFARB: Yes, your Honor.

The first 14 claims deal with the tiered billing issues and the Bane Act claims.

The tiered billing issues are addressed in the Morski action, but the tiered billing claims in the Macias action reflect the claims of 13 additional plaintiffs who have different iterations of the tiered billing claims.

There's the Bane Act claim which was not represented in

the Morski action.

THE COURT: Aside from the individual plaintiffs, it's not been filed as an individual action. It's been filed as a putative class action. So how is that going to overlap with all the other claims of the other actions?

MR. HIMMELFARB: The 13 plaintiffs in Macias who are asserting tiered billing claims possess iterations of tiered billing violations that are not possessed by Morski; that is, they have factual predicates underlying grounds and bases for challenging tiered billing that Mr. Morski cannot bring in his case.

In addition the Macias plaintiffs also assert the Bane Act claim, which is not asserted in the Morski action.

Now, claims 15 through 21 concern the CC&B billing error claims. Those are claims that are encompassed in the Bransford and Fontaine and the Jones actions. Those are claims that the 13 plaintiffs also possess, and they are entitled to assert those claims since they have a right to hearing and potential recovery on the basis of those claims.

THE COURT: Well, but the question is whether you consider the claims encompassed within the settlement of the other cases or are you telling me that you're asserting this for 13 individuals who plan on opting out of the settlement?

MR. HIMMELFARB: They're being asserted on behalf of the 13 individuals and on behalf of the class.

I am assuming at this point that the settlement as it's presently constructed is not going to approved, and therefore those claims will be litigated.

THE COURT: What if the settlement is approved. Are they within the class or not within the class?

I mean, are the claims covered by the settlement or not?

MR. HIMMELFARB: Those claims for the CC&B billing errors would be covered by the settlement.

The remaining 39 claims are claims that are not asserted by any party in any action.

Those are claims that, according to the construct of the release and the settlement agreement, are being released without any consideration, without any compensation.

Those are claims that are also possessed by the 39 plaintiffs.

THE COURT: Are you saying that those are claims that you believe exist that have not been asserted in the other actions but are being released?

MR. HIMMELFARB: Correct, your Honor.

THE COURT: Okay. Thank you.

Anyone who would like to speak for the defendant, the Department of Water and Power, on that issue?

MR. KIESEL: I don't think we can address that issue at this point, your Honor.

THE COURT: Well, as the LA DWP, the defendants have been served, right?

MR. KIESEL: We have.

THE COURT: Okay. And has the defendant entered an appearance yet?

MS. ANNAGUEY: We have not, your Honor. We just

received the Court's order staying the case last week. We will be entering an appearance shortly.

THE COURT: I'll set a deadline for counsel for defendants so we know who's representing the Department of Water and Power. Counsel for defendant to enter an appearance -- let's make it by Friday, November 6th -- so in the event there are future proceedings that counsel will be able to get notice.

And the Court will relate the case.

Any objection to relating the case to the other cases?

MR. HIMMELFARB: No objection, your Honor.

THE COURT: The Court will order the Macias case related to all the other cases and the defendant should enter an appearance no later than November 6th.

MR. HIMMELFARB: Your Honor, does the Court wish the parties to engage in the process of organizing the complaint, or having been related can we dispense with the formalities of settling on a mediator and a service of process?

THE COURT: Well, we'll get to that later on this morning, I think.

I think that a notice of initial status conference was sent out for that case setting a date for December, but that was before the case was related.

We'll put it on the same schedule as the other cases here, and then we'll see what has to be done in terms of the issues raised by the Macias vis-a-vis the other issues.

MR. HIMMELFARB: Thank you, your Honor.

THE COURT: And the other cases.

With regard to the settlement agreement that has been submitted to the Court, first with regard to the Jones and related cases, I note that the settlement agreement is not signed by any of the parties. Is that just my copy or in general that all the copies, where the original has not been signed by a party?

MR. LANDSKRONER: Your Honor, that just may be your copy. I apologize. It is a signed document.

THE COURT: I have the signature of counsel. I don't have the signature of the parties.

I have it submitted as a class action settlement release that was submitted to the Court on October 16th. The latest version has been signed by the defendant Marcy Edwards, general manager of Los Angeles Department of Water and Power, and signed -- it says plaintiff by Jack Landskroner, counsel for plaintiff Antwon Jones.

MR. LANDSKRONER: Yes, sir. If you're asking if Mr. Jones has signed off on it, he has approved it, but there is not a signature for him on the document.

THE COURT: Is he going to sign it? Is he going to approve it or not.

MR. LANDSKRONER: Yes. He has approved it.

THE COURT: He's a party. Doesn't he have to sign the agreement?

MR. LANDSKRONER: Yes. I apologize, your Honor. It was an oversight. But he has approved the settlement. He is aware and has approved and is familiar with the settlement and the terms of the settlement.

THE COURT: Well, if he is going to be the class representative, if he's the party, counsel can't just do it on counsel's own.

The settlement agreement has to be approved by the parties.

That raises another issue with respect to the Kimhi case. And the Court has ordered that case transferred to this department and related for the purposes of settlement only.

That's the case everyone is familiar with that relates to the solar panels.

The Kimhi case parties are not part of the settlement agreement. Do you think they should be part of the settlement agreement?

MR. LANDSKRONER: Your Honor, they support the agreement. The Kimhi plaintiffs' counsel is here. They could sign on to the agreement. They are not named parties to the agreement itself.

THE COURT: But you want to settle all the Kimhi claims with regard to the solar electrical issues, correct?

MR. LANDSKRONER: Yes. And we will certainly correct that.

THE COURT: Don't you think you need a representative to represent the class of those with claims for the solar electricity, counsel?

MR. JARDINI: Your Honor, we have approved, in our view, the probity and the adequacy of the settlement agreement.

We have not been asked to sign off or to have our

clients sign off on it.

The only intersection with our case is there's an enhancement that's been agreed as to my three plaintiffs.

If it's helpful, I mean, we have offered to sign off on the agreement and to be part of it.

THE COURT: It's more than helpful.

If the putative class members in Kimhi are going to have claims and be a part of the claims process, which claims are different from the other cases, and that's why Kimhi apparently is brought into the settlement and that the Kimhi class members are going to give releases, don't you think the Kimhi representatives should be a party to the settlement and should sign off on the settlement agreement?

MR. JARDINI: We're perfectly agreeable to doing that.

We've had an active role in what the settlement reads on the solar issues and we are happy to sign off, all three of our clients.

That does require Mr. Landskroner and the City to approve that, of course.

THE COURT: Is the City in accord with that?

MS. AGRUSA: It would be fine, your Honor.

THE COURT: Okay. I have some more matters I would like to address, but before I do that, why don't I give counsel an opportunity to be heard.

Any new developments or any thoughts about where we are in this proposed settlement?

MR. LANDSKRONER: Your Honor, Jack Landskroner for the plaintiff Jones.

Without rehashing too much of what we have already talked about in the September 11th hearing, your Honor, I would revisit that this is a landmark settlement. It's a landmark for three reasons:

Because it repairs the disastrous billing system problems that the Department of Water and Power, it makes whole hundreds and thousands of customers over billed by this damaged system to the tune of $44 million, and it achieves these ends expeditiously, avoiding years of protracted litigation and offering a prompt and complete recovery.

It's an outstanding settlement. It's been praised by Judge Tevrizian, who mediated this case. It's been vetted by the ratepayer advocate who serves as the watchdog of DWP.

Its complex methodology has been reviewed and analyzed by the proposed expert billing monitor that is the only expert that the Court has heard from in this process, and who has opined that this is the best process to achieve 100 percent recovery for class members.

At bottom, these are three independent voices that rise above what the Court has recognized as quite a bit of muck that has been presented in the form of objections to give the Court objective guidance in determining whether this settlement is fair, reasonable and adequate.

While the objectors will tell the Court that more could be done, the question is not at this time whether every imaginable or unimaginable claim has been addressed, whether every detail of minutia is included in the settlement agreement, but rather the question before the Court today is

whether the settlement is fair, reasonable and adequate.

And this settlement more than meets this threshold.

The essential features of the settlement obviously we've discussed before; 100 percent recovery for overbilled customers, oversight and identification of those customers, and the determination of their awards by an independent expert and the ongoing reforms that are being undertaken at LA DWP to ensure the billing problems are cured and hopefully do not reoccur.

Further, the settlement offers four layers of protection for DWP customers, with checks and balances on the utility that are built into this agreement:

The placement of a court-appointed independent monitor to review and verify the accuracy of class member identification and review the test and the validity of the methodologies executed by DWP to achieve the settlement ends.

The placement of a court-appointed special master with billing dispute expertise to review disputed claims.

The granting of class counsel the right to do confirmatory discovery.

THE COURT: Just one second. I was a little concerned about special master proposal because it doesn't identify a specific person. We need a person, if you're going to have a special master appointed, who is going to be accountable, like has been set forth in the papers. There is the appointment of a firm, Barkovich & Yap. Who is going to be responsible?

Usually when the Court appoints a special master, we appoint a human being, a person that's going to be

accountable, not a firm.

Now, of course, anyone who has undertaken duties may have assistants and others to aid in the process, but we need someone who is going to be a decision maker.

MR. LANDSKRONER: Yes.

The senior principal, Ms. Barkovich, will be the special master. That can be clarified. But the intent is she will have her staff and office assisting her in the process as the special monitor.

THE COURT: Well, who is going to make decisions?

MR. LANDSKRONER: Ms. Barkovich.

THE COURT: Dr. Barkovich or a low-level staff member?

MR. LANDSKRONER: Dr. Barkovich is ultimately responsible. She will make the decisions.

THE COURT: Well, ultimately responsible doesn't -- you're telling me that a law clerk is going to make decisions. And I say, okay, the law clerk is going to make the decisions or is going to help out doing leg work?

MR. LANDSKRONER: It will be Dr. Barkovich, your Honor.

MR. KIESEL: Mr. Landskroner, if you give me one moment.

I want to represent to the Court, this morning we filed -- I apologize for the lateness --

THE COURT: Yes. I received it this morning, the declaration.

MR. KIESEL: Yes. From Frederick Pickel, who is the independent ratepayer from the Public Office of Accountability.

He is the one who, in fact, recommended Dr. Barkovich to be the special master. It will be Dr. Barkovich who does the work and will be responsible for overseeing the integrity of the process.

The Court should know that. That is approved by the ratepayer advocate as well.

THE COURT: Go ahead.

MR. LANDSKRONER: Your Honor, the last level of protection, and perhaps the most important, is that this settlement requires full accountability to the Court under the Court's continuing jurisdiction.

That includes reports being filed by the expert, special monitor that will be appointed, which will be submitted to the Court for review.

Mr. Bender, the independent monitor, will be assessing the process of the settlement, will be assessing the methodologies and identifying any concerns that would require any modifications to those formulas or methodologies to make sure that all customers are made whole.

THE COURT: So if someone is not satisfied with the administrative review, someone could appeal to the special master and have a review by the special master?

MR. LANDSKRONER: Absolutely.

THE COURT: And a decision by the special master.

MR. LANDSKRONER: Absolutely.

THE COURT: And the special master's report, is there going to be a report that is subject to review by this Court?

MR. LANDSKRONER: The Court retains jurisdiction over

this entire settlement, so absolutely.

THE COURT: Retains jurisdiction, but is there going to be a review process from the special master to the Court; somebody who is not satisfied with the decision of the special master?

MR. LANDSKRONER: Well, the special master is the final review, but the Court has jurisdiction over anything from there on.

Now, I would not suggest to the Court that there is appeal process that is going to tie up this Court's docket.

THE COURT: Well, what about the special master -- like in many situations, the special master submits a report and then it is subject to review by a party contesting it in Superior Court.

MR. LANDSKRONER: Your Honor, at least as this settlement has been negotiated, the special master has final review of any dispute in claims.

The special master will provide a de novo review with preponderance of the evidence standard, and the special master will provide a response or report, when that review is completed, to the ratepayer. And that is the provision of the settlement that brings the claims to conclusion.

THE COURT: So then what is left for this Court to do?

MR. LANDSKRONER: To assure that the special master obviously is performing their duties as required.

If that is an issue, that certainly would come under the jurisdiction of this Court and could be on brought to the Court's attention.

However, if there was any impropriety in that process, that certainly could be brought to the Court's attention.

But the idea is to set up a process that would allow customers to have their appeal heard by someone with expertise in particular in the field.

Ms. Barkovich, Dr. Barkovich, has been recommended because of her expertise and to allow that to be heard.

Obviously with understanding that the preponderance of the evidence standard is in place and that she is to complete a de novo review and can obviously ask for any additional information she can request to reach her decision.

THE COURT: All right. Thank you.

MR. LANDSKRONER: So in our last visit, your Honor, we presented to the Court the proposed settlement, the explanation of the extensive efforts that were undertaken by the parties to reach this agreement and the detailed presentation establishing criteria necessary for the Court to grant preliminary approval of the settlement.

We discussed in some detail the terms of the settlement, the arm's length negotiations undertaken, the process under Judge Tevrizian, the background and insight that my office brought to this case, coming from Cleveland and having investigated virtually the identical CC&B billing system malfunction in the City of Cleveland Water Department.

We discussed the meaningful impact that this settlement will have for 1.6 million customers of DWP to timely, efficiently and effectively get 100 percent recovery to customers after this billing nightmare.

We covered notice with the Court. We covered class certification requirements under 382 of the California Civil Procedure Code.

At the conclusion of the hearing, the Court pointed out four specific clarifications that it wished the parties to make to the settlement agreement before granting preliminary approval.

As part of that process, the Court directed Jones and the City to take the opportunity to solicit suggestions from objecting counsel to try to improve the settlement agreement and the settlement process.

The Court also instructed parties to get their experts together so the objecting parties could gain an understanding of the settlement complexities.

Finally, the Court instructed us to get the Kimhi case transferred over, which we were able to do.

We've listened to the Court, and despite the voluminous pleadings the Court has received, we've been mindful of the Court's concern and desire to go the extra yard to try to improve the settlement agreement and the process.

Accordingly, we have made the express changes the Court asked us to make. We have met and conferred with objecting counsel to solicit their suggestions and to improve the settlement agreement.

We have produced the independent monitor to provide a comprehensive presentation to objecting counsel to explain the complexities of the settlement and to try to help them understand the process.

Unfortunately objecting counsel elected not to utilize the ex -- the services of an expert or to bring any expert to that meeting.

Given the most recent attacks on Mr. Bender and the suggestion of bias, it's very telling that no expert was produced by objecting counsel.

Further, we solicited suggestions from Kimhi's counsel, who stands in support of the settlement.

In an effort to cover all bases, we reached out to the ratepayer advocate to solicit suggestions from their office and make sure that he was comfortable with the settlement as the watchdog of the DWP.

The Court specifically asked us to modify the class definition, which we did. To identify that the claims in the Morski action were not being released. We've done that. To clarify that the Bane Act claims are not released. We've done that. And to clarify that members who had -- class members who had field investigations pending would not have to file their claim for 120 days until after they had a determination on their investigation.

Then we went one step further, your Honor, just to protect the class, provide better protection to the class. We indicated that any customer that has a field investigation that is opened after today's dated will not have their claims released.

From the input from objecting counsel that we received and from supporting counsel and the ratepayer advocate, and on our party's own initiative, other changes were also negotiated

and agreed to to serve to improve the settlement agreement and the process that the Court directed.

The changes include clarifications of the terms of the claims process, more clearly defined roles and identification of the claims administrator, claims processing unit at LA DWP, the CC&B monitoring expert and the special master.

We define terms of art as used in the agreement.

We clarified that certain solo customers whose claims arise from improper charges or credits will recover on a non-claims-made basis.

We clarified what will be done with the unclaimed funds and unclaimed checks.

We clarified that during the class period window customers who receive back bills shall have an extended payment period from the date they received a corrected back bill to pay it back.

We add added a new settlement term all together, which allows for customers that had already entered into payment agreements -- payment arrangements, rather, during the class period to extend those payments for a year.

And while some of the suggestions we just discussed were accepted, improvements to the settlement agreement, others were not, as they added little or contravened the direction that the Court had previously provided us.

For example, the request to further change the class definition was an objection that was already addressed by the Court in our prior hearing.

There were multiple stylistic requests which were not

accepted because they did not improve the settlement agreement.

A number of non-essential clerical explanations were suggested which were not necessary to improve the settlement agreement.

And, of course, your Honor, the elephant in the room, from our perspective, the demand that objecting counsel also be named as class counsel in this case, was soundly rejected.

That was rejected for three reasons:

Counsel did not play a meaningful role in negotiating or advancing the settlement.

They did not bother to retain any experts, suggesting a disinterest in understanding the complexities of the settlement.

And, finally, when given the opportunity to review the actual formulas and the methodologies upon which this entire settlement is based, not one of the lawyers that are objecting showed up to review those materials. Instead they sent a legal assistant, who spent 19 minutes reviewing over 50,000 pages of complex materials, asked no questions and then went home.

That hardly exhibits leadership or a concern for the substance of this settlement and the result that it will obtain for class members.

The updated settlement agreement was attached for the Court's review and we believe with the additions the Court will be satisfied with our efforts to improve the settlement.

Your Honor, at bottom, in the words of Judge Tevrizian,

this is a very favorable settlement for the settlement class which provides an excellent recovery. It's fair, reasonable and adequate.

The settlement is separately supported by the Kimhi plaintiffs, who believe it to be in the best interests of the solar customers and all class members.

It's embraced by the independent monitor, whose team has been intensely engaged and DWP systems for close to two months now, evaluating the methodologies and processes for determining who class members are and how much they should get back.

And it believes that the manner and process by which this settlement is being undertaken will achieve its ends and has provided the Court with a declaration that he believes will be fair and reasonable.

And, of course, this settlement has stood muster from the Office of Public Accountability ratepayer advocate who serves as the watchdog over DWP.

On this basis we would ask the Court grant preliminary approval, enter its order appointing Jones as lead plaintiff, Landskroner, Grieco, Merriman as class counsel, Mr. Lipman's office as liaison counsel, approving notice and conditional certification, appointing KCC, the claims administrator, Paul Bender Consulting, the CC&B system monitoring expert, Dr. Barkovich as the special master.

And, your Honor, we request by doing so you will give us the green light to move forward without further delay so we can get the process started of getting LA DWP customers their

money back promptly.

Thank you.

THE COURT: Okay. Thank you.

Let me ask you, what's your view about the Macias case? Do you think the claims are co-extensive or that if the settlement goes forward, there are still going to be substantial number of claims that are not covered by the settlement in the Macias case?

MR. LANDSKRONER: Well, it's a little troubling, your Honor, because, first, the Macias case was filed -- if we can go back to the Morski case.

In the Morski case counsel amended pleading paragraph 4, I believe, states that the Morski case has no relationship to the issues that are raised in the Bransford case or the Jones case.

So after disavowing any connection to the case, counsel for Morski, which is also counsel for Macias, on the eve of our preliminary approval hearing on September 10th filed the Macias case, having fully read the settlement agreement and actually submitted an objection to it.

So creative lawyering led to the filing the Macias case, which then identified substantial claims, but the primary new claim was the Bane Act claim, which we addressed when we were here last, and the Court said make sure that is not released, which we have done.

But it's become a moving target. So now, after receiving the modified settlement agreement, counsel has filed an amended complaint in the Macias case, and that adds, for

the most part overnight, 39 new claims to try to plead around the -- also inclusive of claims in the Jones case.

So there are a number of claims that Mr. Himmelfarb has pled to basically bring himself back into the Jones case after disavowing it in Morski.

In doing that, he does -- he pleads that case at his own risk.

There are a number of claims in Macias that will be dismissed based on the way it has been pled if the Jones case is approved.

But the scope of the release is broad to cover the factual predicate of the underlying Jones complaint, and that is perfectly appropriate.

So it's not the idea that every conceivable claim that Mr. Himmelfarb can come up with to try and prevent this case from moving forward can stop the Court from approving this case as fair reasonable and adequate and settling these claims.

It has become more of an obstruction and roadblock, and it's a product of creative lawyering and gamesmanship to try to plead around the Jones case every time we modify. We could be here for three years doing this.

THE COURT: If the settlement is approved, are we then going to have extensive hearings on all the aspects of the Macias case for argument as to whether a particular claim is covered by the settlement or not?

MR. LANDSKRONER: I would say, first, your Honor, if the underlying claims in Macias arise in the factual predicate

of the claims pled in Jones, they are going to be released.

If Mr. Himmelfarb could write a 4,000-page complaint adding every claim in the world and we would have to have that fight, because that's the way he set this up. It is, you know, a -- it is more of a product of gamesmanship than substance.

If those claims are pled such that they arise in the factual predicate of the Jones complaint, they will be released.

Will the Court have to address that? I assume the City will address that in a motion to dismiss.

THE COURT: Well, what I'm really getting at, do you think that the settlement of Jones would cover a lot of the claims in Macias? Do you think it should be spelled out and released in detail so that there cannot be a dispute whether a claim is covered or not covered rather than leave it in an ambiguous state and say we'll litigate it later?

MR. LANDSKRONER: No, your Honor. I think the complaint -- the release as it stands is clear that the claims arise -- while counsel can always craft some way to say this is or is not -- I don't care what case we are in. Counsel will always be able to craft some argument to say this is not exactly covered.

The release is a general release. It will include those claims.

Those people, to the extent they are arising from the claims in the Jones case, will be able to file a claim. There is a catchall provision that is an omnibus subclass that

allows people to say if I had a defective meter they will either be -- and that's one of the claims that's being raised in Macias -- if you have a defective meter that was broken, you may have a field investigation claim under the Jones subclass, or you may have an omnibus claim under the Jones subclass.

But if it occurred during the class period, which is clearly defined in the release and in the complaint, and it relates to a billing issue which was through the CC&B system, which is the system that existed between September 13th, 2000 -- I'm sorry, September 3rd, 2013, and the present --

THE COURT: Well, do we need to clarify that so the agreement spells out that the release covers not only billing errors that occurred as a result of a billing system, but overcharges that included other things such as a broken meter or some other disruption of service, some other event that -- if what you're saying is covered in the release should be spelled out, that it covers all those other things besides just errors that resulted from the billing system.

MR. LANDSKRONER: Your Honor, I think it is adequately spelled out, but let me.

So, your Honor, the way the class is defined is for customers who were overcharged for electric, sewer or sanitation services between the specific dates and are entitled to credits or refunds.

If there is a broken meter and a customer had a defect with the meter which resulted with them being overcharged, they will recover as it's defined now. They are included in

the class. Their claims will be released. They have a means by which to submit a claim and to seek recovery.

I think that as it's defined now, it adequately addresses that.

The attempt to try and craft new ways to go at it to work around the release I think is -- for example, if there is an issue with a customer's bill or a meter or otherwise, and that dates back prior to the class period, they're outside of the class. If their problems occurred in 2012, they're not part of the class. Because it's defined. You have a defined window.

If their problems occurred after that, then they would be included in the class and they would have an ability to seek a remedy for that.

Beyond that, if they have an individualized issue, which is what is raised for those most of these -- that's why you see 13 plaintiffs listed, they can opt out of the class and they can pursue their remedy at their own discretion.

So they have all kinds of options in terms of how they would want to pursue these claims, but if they are arising from the factual predicate, if they are defined, as the class defines it, with a billing error, where they were overbilled for those concerns, then they are in the class and they can seek a remedy and their claims will be released.

THE COURT: What about those who may have suffered consequential damages?

The settlement provides for refunds, credits with respect to overcharging. But if there were individuals who

may, for whatever reason, have suffered consequential damages, I'm not saying that they're recoverable or not, but assuming that someone has alleged any other consequential damages as a result of the overcharging or not paying their bill because they thought it was overcharged and service being cut off, are those type of claims also released and does the release spell that out?

MR. LANDSKRONER: So the claims for people who claim that their damages arise from billing circumstances at DWP are included in the release and they have a remedy because they can file a claim for a damage even if they deem it to be consequential, even if it's, you know, for something completely unrelated. They still can seek remedy.

They may not recover, but they can seek a remedy by filing a claim with a claim form. If they're unhappy with the results that the DWP billing or claims processing unit determines, they can go to Dr. Barkovich, have the claim heard there, who will review the case in its entirety and make a determination whether it's related or not and provide a remedy. And those claims would be released.

THE COURT: If the claim is not recognized, that would be the end of it? It would be a complete release?

Let's say a meter was an erroneous reading and someone was overcharged and didn't pay the bill and service was cut off. And as a result somebody was ill in the home and didn't have heat and suffered damages because of not having heat in the home. Aside from going through the claims process, the release would cover that?

MR. LANDSKRONER: It would cover any claims that would arise from the billing -- from the over billing or that are damages related to the over billing.

So if you go down the line to a medical issue that someone is claiming is related to an over billing issue, they would be able to submit a claim if that's what they're relating.

If it's not related to the over billing issue, then it would not be related. They would have their opportunity to make that claim and have it heard.

THE COURT: All right. Thank you.

Anyone else wish to speak?

MR. KIESEL: Your Honor, with your permission on behalf of the City.

THE COURT: Yes.

MR. KIESEL: Paul Kiesel appearing to behalf of the City of Los Angeles.

I want to begin by pointing out, as the Court knows for 30 years, I have been a consumer lawyer. And I have been a plaintiff class action lawyer for over 20 years, and I've never had a fight over giving back 100 percent.

I'm at a little bit of a loss to understand why the city of L.A., in trying to give back 100 percent of money it wrongfully collected, is having a hard time getting there.

I want to be clear. If anything is found in the settlement process where it is determined that a class member is not receiving 100 percent, the Department of Water and Power is fully committed to make sure that that ratepayer gets

back 100 percent.

We are at the preliminary approval stage, where we're looking at the fairness, the reasonableness and the adequacy of what's before this Court can.

It's our view that we need to get the clock started so we can start the process of getting the final fairness hearing heard and ratepayers reimbursed their funds.

And the fight we're having here strikes me as being something I've never seen at a preliminary approval stage, though it's been helpful because it's helped refine the process that much more.

But, quite frankly, your Honor, on behalf of the City we urge you to accept the preliminary approval of this settlement and allow us to move forward.

There may well be objectors. Mr. Himmelfarb may have positioned himself very well as an objector and we'll look forward to seeing him at the final fairness hearing.

THE COURT: I want it done right the first time, not wait for a bigger fight at the fairness hearing.

MR. KIESEL: I would hope that would be the truth.

I want to point out one final thing.

There has been some suggestion -- I'm not sure where it comes from -- that there is a $13 million blank check that's been written to plaintiffs' counsel for purportedly 87 days of work.

I want to be clear that this Court has full and complete authority over any fees that are ultimately to be paid, and all the City did was insulate itself on the ceiling

and makes no commitments.

There are no commitments to make a particular payment, subject to Court approval and review for time actually spent in the settlement of this action.

I'm happy to answer any questions, your Honor, but I think those are the highlights.

THE COURT: All right. Thank you.

Mr. Himmelfarb.

MR. HIMMELFARB: Yes, your Honor.

MR. JARDINI: May I, your Honor -- I don't know if it's the right place to be heard in support.

THE COURT: Let's hear support first.

MR. JARDINI: Thank you, I appreciate that, your Honor.

Andrew Jardini for the Kimhi plaintiffs, the solar customers.

There is 23,000 or so solar customers in the City of Los Angeles. We're subsumed in a settlement that covers 1.6 million people.

So we're the tail wagging on this dog, it seems to me.

But in the ordinary world in which I work on class action cases, a case for 23,000 people is an important case. And these people have a legitimate claim.

What's happened is that the City has adopted with Mr. Landskroner and in the Jones case the very settlement I proposed at mediation and in the days following mediation, which preceded even the filing of the Jones case.

We go back to February of 2014.

Our class isn't limited to the billing system. It goes

back to February of 2010. So there's five years of claims of solar customers who believe they haven't been paid for the solar energy they produce at the rate in effect at the moment they produced it.

So the electron of energy that goes to their neighbor and that neighbor pays at a certain rate, they're paid at a lower rate. That's going to involve a fairly complex calculus to find out how much that is on an individual basis in circumstances where meters aren't read and for periods of time and so on.

I think that the City and Mr. Landskroner have put in place a system to pay all of that by calculating it with the most precision that you can do under the circumstances.

So instead of me making a demand in a dollar certain, which is the ordinary circumstance, and then waiting for claims to be made, which might be modest in the ordinary circumstance and people not getting relief, we have a situation where solar customers without having to make a claim are going to have five years of that underpaid solar energy computed and paid, credit on their bill.

When that number becomes known at the end of this process, I think people will be surprised at how big a number it is.

It's not been publicized, and for good reason, because it's not knowable with precision.

But my first client, Mr. Yar Kimhi, is an actual solar installer, has a business. His customers came to him with their bills and he noticed this anomaly and it's calculable.

If he can do it at his posture in that business, the City can do it with all their resources.

I expect they will do it, and we'll be around to monitor that and make sure it happens.

So I can't be against a settlement that I actually proposed. So I don't rise lightly in support. I'm not paid off by some cash award that might come at the end of the case.

This is a settlement I believe in. I would ask that the Court approve it, at least as to the solar class as part of this larger group.

Thank you.

THE COURT: Yes, counsel.

MR. HIMMELFARB: Yes, your Honor.

I take no issue with the solar class. I don't have a client that has solar claims. So whatever is happening in the solar issues with respect to this case, I take no position on that.

I do take great issue with the 100 percent claim. I think that's a total fantasy.

I think, as Mr. Landskroner expressed to the Court, the settlement agreement releases claims. It releases virtually every claim. Every erroneous billing claim is going to be subject to the release.

Mr. Landskroner pointed out that if anyone has an issue with that, they are free to submit a claim and they have the opportunity to have their claim reviewed.

But ultimately every claim will be determined by the settlement agreement. And the settlement agreement is what

controls.

The settlement agreement provides for some claims specifically related to the CC&B billing errors and the solar claims. But it makes no provision for a host of other claims that my clients have and that they are viable claims and that they can assert.

For example, just taking the back billing claims, the settlement proposal discusses disbursing some $44 million to put that back in the hands of the residents of Los Angeles who were overbilled, but the back billing claims are hundreds of millions of dollars in claims, back billing and corrected back-billing claims. This is between four and $500 million in claims, to which the DWP has no legitimate entitlement to assert.

Yet this settlement agreement obviates every defense that every resident who was back billed or corrected back billed possesses. It wipes out their defenses. It releases those claims.

So all of that money which customers would otherwise have an opportunity to get back, those are wiped out in the settlement because of the broad release.

As Mr. Landskroner stated, it is a very broad release. It wipes those claims out.

They have the opportunity to submit. They have the opportunity to have it reviewed, but the settlement agreement is going to determine whether or not there's going to be --

THE COURT: Why would the back billing be excluded when you have the credit for all overcharging?

MR. HIMMELFARB: Well, the back billing claim is specifically addressed in the settlement agreement.

What the back billing claim -- how the back billing claim was treated in the settlement agreement is that once the Court signs off on this settlement agreement, then the back billing claims have been endorsed by this Court. And instead of customers being able to challenge those claims, now the DWP is going to only go back 270 days.

In other words, the DWP is being given a judicial imprimatur to be able to collect monies for which customers would otherwise have valid defenses and objections and reasons not to pay.

So the settlement agreement incorporates an ipso facto recovery against the customers in a way for which they have no challenge.

So it's directly impacted by the settlement agreement and it wipes out their defenses.

Now, the back billing issues, just to take an example, are subject to -- it presents a very good paradigm of the problems besetting a settlement.

The reply filed by Mr. Landskroner states, "Rather the LAPD's (sic) ability to back bill, these customers will now be drastically curtailed to a period of only 270 days from the date the LAPD (sic) discovers a customer was incorrectly billed."

The last language is a black hole, the date that the LAPD discovers that a customer was improperly billed. What is that date? How do we know what that date is?

The DWP can pick a date two years ago from the date of discovery. It can pick a date a year from now. It is a black hole through which there is no transparency and no ability to challenge when the DWP picks that date from which the 270 days starts.

So there's no accountability. There is no transparency. There is no way to verify. It is the DWP who has total control over when that clock starts ticking, and we're required to rely upon the DWP in order to be able to determine when that date begins.

But a second thing, the 270 days, the release -- I'm sorry, the reply also states, plaintiff Morski ignores the fact that the settlement will force the LA DWP to forgive charges to customers for up to 1,190 days of utility service usage.

Well, that four years, that 1,190 days, in the State audit report which was submitted along with our papers and request for judicial notice was requested, that report states at page 23 of that audit report, "According to the assistant Director of the Department's Information Technology Services Division, the Department wrote off unrecovered debt that it had classified as bad debt before it launched CIS."

What that statement is saying is that everything pre September 13th, 2013, was written off anyways.

So this 1,460 days, half of that has already been written off by the DWP.

So what is the customer getting in exchange? They're getting smoke and mirrors, essentially. The DWP has already

written off that debt.

The state audit report also says that outstanding customer accounts that may now be too old, greater than 470 dates past due to collect, and the older this debt becomes the less likely the Department is to collect it.

The 270 days that the DWP is magnanimously agreeing to to limit their collection activities to, what it is is a realistic recognition that the debt that they're giving up on is too old to collect anyways.

They're walk go away from that debt. They walked away from it when they signed the agreement.

Yet now they're touting that as a benefit to the class for which the class should give up its rights to challenge the back billing claims in the first place.

This is the problem with the settlement. Trying to pierce what the settlement actually provides and what the DWP is actually giving up, there's a black hole. We have no way of gaining information short of discovery, and no discovery has been conducted in this case.

So to go back to the Macias claims, those claims are going to be wiped out. That's why they were asserted in the Macias case, so that the Court has not a theoretical presentation of claims but actual claims and a signed complaint verified by the parties.

Those claims, although they may be subject to opting out -- and I certainly will advise my 14 clients that they should opt out, because the settlement wipes their claims out -- there's five or 600,000 other residents of Los Angeles

that don't have access to legal counsel, that don't have access to someone telling them that this is a bad settlement.

It wipes out claims that they possess, valid claims and challenges to the action of the DWP, and no one is advising them that they should opt out.

No one has gone through their bills to advise what their claims are, how they can make challenges to the DWP and what action they should take when they get this notice from the DWP that essentially says trust us, we know what we're doing.

THE COURT: Thank you.

Yes, counsel.

MR. BLOOD: Yes, your Honor. Timothy Blood for Bransford and Fontaine cases.

A couple points.

First, it's been very interesting this morning to hear all of this stuff about what's covered and what people can submit claims on.

Just as a preliminary matter, the notice doesn't make that clear at all. What really matters is whether class members will know that they're able to make all these claims. The notice does not make that clear. But that's not my primary point.

As the Court is aware, the Court's obligation is to determine whether the settlement is fair and reasonable. That's the Court's obligation, not somebody else's obligation.

Under the settlement, that obligation is being delegated to a consultant expert, Paul Bender. He's an

industry consultant.

The way it works, the settlement sort of looks like a regular settlement but it's not. I've been doing consumer protection class actions for well over 20 years and I've never seen a deal like this.

One way to look at the settlement is to look at there being two different groups of people. Okay?

There are people whose claims can be readily calculated. That's the refund group and the people who are back billed. The back billed people have to pay money, but they're part of the settlement, and their amounts can be calculated without anymore -- just like the refund people by the DWP.

Who those people are is defined by the class, but the class definition remains failsafe.

It is Mr. Bender who is going to determine -- the DWP determines who is in the class for that group of people. Mr. Bender will determine -- he has yet to do so -- will determine whether or not that determination is fair and reasonable, according to the terms of the settlement.

Then the amounts that will be paid to people will be determined by the DWP and Mr. Bender, once again, will determine -- he has not yet done so -- whether or not in his view that relief is fair and reasonable.

It's taking away from the Court the ability to do its job.

Now, the second group of people are people who we cannot pre-calculate claims but they're allowed to submit a

claim and have it assessed. That's in and of itself perfectly valid.

In ordinary class actions, what happens is there are criteria that are laid out so people know what the process is, what the standards are, what the criteria are, and at the end of the day what they will get.

The only thing the settlement says for this group of people -- and this is a very large and right now unknown group of people -- the only thing the settlement says is that the DWP will determine those amounts and then they will pay 100 percent of what the DWP determines.

It does not say that they will recover 100 percent of their damages. It simply does not say that. Those are not words that are contained in the --

THE COURT: Counsel, 100 percent of the over charges are to pay a credit?

MR. BLOOD: I'm not talking about over charges. I'm talking about people who submitted claims.

So the first group of people, the refund amounts that are pre-calculated, that language is a little unclear.

In one part they say everyone is going to get 100 percent refund. Then in the next paragraph they say the amounts that people are going to get will actually be calculated by the DWP and they'll get 100 percent of what the DWP calculates.

So at best, it's confusing.

So with regard to the people who submit claims, those determinations will be made solely by DWP personnel.

Remember, for a lot of these people those claims have already been denied, and then 100 percent of what the DWP determines it wants to pay out is what the class members will get.

Now, Mr. Bender, for the claims side of things he is going to determine -- he has not yet done so and he doesn't even appear to know he's doing it because in his declaration he doesn't even mention it -- he's going to review the claims formulas and standards and criteria for fairness and reasonableness and then he's going to somehow apparently review the awards to determine whether they're fair and reasonable.

In other words, for both the claims group and the predetermined group, it is Mr. Bender who is going to be determining whether these key parts of the settlement, what people get in the settlement, are fair and reasonable.

Now, Mr. Landskroner made a billing deal out of the discovery that was produced to plaintiff's counsel that a paralegal looked at.

Well, what that was was 51,000 pages of data runs. We weren't allowed to possess it. We were only allowed to look at it. It was produced late, right before our brief was due. So we wanted to go and just see what it was.

Sure enough, it was just these data runs.

That's important because the data runs are what Mr. Bender, the industry consultant, is supposed to be using to determine fairness and reasonableness.

But we were shocked to learn at this meeting with

Mr. Bender that he hadn't looked at any of this stuff. And the declaration he submits in connection with this motion, he admits that he hasn't done much work on it so far. He hasn't even received all the materials so far. And he hasn't been able to make any assessments whatsoever.

So the settlement -- what the parties are asking you to do today, sight unseen -- you have to ability to make a fairness and reasonableness determination today -- is to approve a settlement that some other third party will determine at some future time -- we have no idea when -- is fair and reasonable.

That is a fundamental, fatal flaw in this settlement. There are lots of other problems with this settlement, Judge. This settlement is a train wreck waiting to happen, from the notice program to the claims processes to all this stuff that's not set out to all of this coming back to the DWP, who has a sad, sordid, terrible history of bungling this kind of stuff.

We don't even need to get to those problems with the settlement, which are fixable, but they're not. Because we can't even get past the fact that the settlement is to be -- the fairness and reasonableness of the entire settlement, the class definition and what people get under this settlement are to be determined by a third party who has yet to even do so.

So, your Honor, this settlement should not approved. It cannot be approved. It is fatally flawed, for all of the reasons Mr. Himmelfarb explained, the reasons in our brief, and this very fundamental flaw that they're asking you to

delegate your duty to determine fairness and reasonableness to a third-party industry consultant.

THE COURT: Well, what alternative? Do you think we should have hearings for a million and a half claims?

MR. BLOOD: Absolutely not.

I think it's important -- I think the way it was presented was clever. You know, the SQL queries, so they made a big deal out of how they have experts who determine the actual individuals who are in the class and then also they do -- they look at the database to pull out the factors necessary to plug into the formulas to calculate relief.

Well, that's nothing unique to this settlement.

In every settlement -- not every settlement, most settlements, particularly today, you have a database that contains -- that contains the identities of the class members, and then the information needed to be pulled out of the database to calculate relief.

And the DWP has done that and that's fine. And that doesn't need to be in a settlement. Because in a regular settlement what you have is a class definition that says all of these people as clearly defined are in the settlement. That's why there is a rule against failsafe classes.

We don't have that here, though. We have a class where people who have been hurt are in the class and the City has to determine who that is so it makes it failsafe from the get-go. And Mr. Bender decides whether or not what they did was fair and reasonable at some time in the future.

Then you have -- then you have what people are getting.

Now, what people get for the refunds and the back bills, how much they're going to be charged or refunded, that should be stated in formulas for each of these subclasses. This is how we're going to calculate it. Generally this is what you get if you fall into that group.

Now, the details of that, of what an individual person gets, is a matter of going into the database, pulling out the relevant factors and then doing the math, plugging those factors into the formula, but we ought to know what the formula is. We don't know what the formula is here, Judge.

Mr. Bender doesn't know what the formula is, but under the settlement he will pass judgment on it sometime in the future.

So what this settlement should have, like every other settlement of its nature, is a class definition that clearly defines who's in and who's out, and then the formulas for relief so people know whether or not they're getting what they're due under the settlement and so the settlement is enforceable.

With regard to the claims, people have to make claims.

With every other settlement, you have a clear claims process that talks about what kind of information goes in, what the claim determinator uses to make a determination with regard to that claim and then what people get at the end.

Are they getting consequential damages or not? What's the nature of damages that people are entitled to under the settlement?

We don't know. All we know is that the DWP is going to

do it, which, by the way, is a right class members already have. That's already written into the rules. They just have less time to do it now than they do under the rules and they lose their legal rights to challenge anything.

Then Mr. Bender is going to determine past judgment at some point in the future whether or not the claims criteria and the resulting awards, whether consequential damages are included on or not, whether in his view they are fair and reasonable, which is exactly what the Court is supposed to be doing now, not sometime in the future.

That's why the settlement shouldn't be approved.

THE COURT: Does plaintiff wish to respond?

MR. LANDSKRONER: Yes, your Honor.

THE COURT: Specifically I want you to respond to Mr. Himmelfarb's argument with regard to back billing.

MR. LANDSKRONER: So, your Honor, the negotiation on back billing, first of all, if a customer is not in a class period, they are not giving up any rights. So anybody who has a back billing prior to September 3rd, 2013 --

THE COURT: Speak a little louder, please.

MR. LANDSKRONER: Sure. Anybody who is affected by back billing that occurred prior to September 3rd, 2013, is not releasing any claim.

Customers --

THE COURT: Even if there's an overlap, a back billing before September, 2013 and back billing afterwards, that they've not -- it will be covered. Is that what you're saying?

MR. LANDSKRONER: Bills are in cycles.

So in the window between September, 2013 going forward, those customers presently can be back billed for four years under Rule 17. That's what's permitted.

So what we have negotiated is for residential customers specifically a governance change at the Department for the purpose of making sure that customers get their bills timely within four billing cycles.

The Department has agreed to change their rules going forward, and in fact will change their rules going forward from the day -- they have to have final approval to change the formal rule, but they will apply beginning the day of preliminary certification -- preliminary approval, excuse me -- to apply the four-month window for back billing.

We have also negotiated for customers --

THE COURT: Let's clarify.

You're saying, then, that no one will be back billed for a period prior to September, 2013?

MR. LANDSKRONER: I'm saying that nobody will be back billed beginning in September, 2013 for more than 270 days. That's the implication of the rule going forward.

THE COURT: So it could go back 270 days from September, 2013?

MR. LANDSKRONER: That's as far back as a customer can be back billed. That's correct.

THE COURT: Any amounts owed prior to that date will be waived?

MR. LANDSKRONER: Any amounts prior to that dated will

be waived under the application rule. That's correct.

The customers also will be given the benefit of a four-year pay-back period, which presently does not exist, so they can if they've been affected by a back bill -- I should the remind the Court. We're talking about services provided and billed. If people were affected and they were back billed and they had over billing, they will be covered under other subclasses to be made whole and get 100 percent back on that.

But for those people who were back billed for services they actually used, we're talking about not some over billing issue; we're talking about services provided and billed, and there was a screwup in the billing, for whatever reason.

We've now negotiated a shorter window for the Department to go back and try and recoup those damages for services they actually provided and that the customers actually used.

Mr. Blood's suggestion, again, to the Court that Mr. Bender doesn't know how this process is going to work is indicative of the fact that this is a very, very complex settlement which requires expertise which Mr. Blood does not have and has retained no expert in this case to assist him to understand this process.

As Mr. Bender said in his declaration, this is unlikely to be understood by a lay person. And this methodology is what Dr. Bender is reviewing.

That is, specifically what is the Department doing -- what are these inquiries. And the SQLs are very important to this case.

The suggestion that the information that Mr. Blood's office looked at but didn't mean anything is absolutely false, your Honor.

The information is very queries that are being used by the Department to identify customers, to determine what their losses are.

Mr. Bender's job is to go in and assess the methodology being used, to assess the formulas being relied on, and to the extent that Mr. Bender evaluates these formulas and determines that there is a glitch or a problem, which is what his job is to do, and that there are customers that either are not being made whole or, in fact, are customers that are not identified properly, he will, one, make suggestions to fix that, and, two, report that to the Court so that those customers are included.

The scope of this case is to make every customer 100 percent whole.

The mechanism by which that is done is a very, very complicated process which requires expertise and skill to determine.

For the purposes of this settlement, that is why we have asked for an independent monitor that is one of the most notable billing experts on this particular software in the country to come in and stand accountable to counsel and the Court for what his findings are, make his findings public and to make sure these customers are made whole.

That information is not secret. To the extent that a lay person could understand it, it might make sense to have it

in the settlement agreement. But the fact is your Honor has been provided under seal some of what these formulas look like. It is not anything that anybody without years and years of study could possibly understand.

It is utilized at the Department and this expert is there to oversee that and make sure that it is proper, that it's reasonable, that it's adequate, that people are being made whole. Because that is what his job is, and that is what he is charged with under the auspices of an independent monitor appointed by the Court for this purpose.

THE COURT: All right. Thank you.

MR. KIESEL: Final word, your Honor.

I think the Court can take comfort if what you do today is you grant preliminary approval, in part because the ratepayer advocate, whose job is to do exactly what we're trying to do here, which is provide relief for ratepayers, has fully submitted the proposed framework of the settlement.

With that, I would submit, your Honor.

THE COURT: All right. Thank you.

MR. BLOOD: Your Honor, a couple things.

THE COURT: Everyone wants one last word. Thanks.

MR. BLOOD: First of all, the ratepayer advocate has not done a very good job to date. That's certainly clear.

I have a question. For back billed customers, under the settlement agreement it does not appear that any class members will get the benefit of the future rule change that reduces how far back the DWP can go for back bill collection is 270 days.

That appears to be only a going-forward protection and not something that any class members who are currently being back billed will actually receive.

That's important, because people have been -- the City is in the process of back billing. For some unknown reason, they are not sending out refunds, but they are back billing people right you.

My office has received many calls for people who are being back billed for time periods that are far in excess of 270 days. So that's just a question for anyone who wants to answer it.

MR. KIESEL: I can respond.

If the Court were today to approve the preliminary settlement that has been proposed, the 270 days will begin today. Today will be the day. There will be no further back billing. It will be 270 days back and no further.

MR. BLOOD: So the people who have been back billed already are stuck with the longer time period?

MR. KIESEL: Anyone who has been back billed has the right to enter into a payment arrangement that provides for payment of the -- these people got power.

THE COURT: Let's stop this cross-conversation.

MR. KIESEL: I was actually addressing Mr. Salyer.

These individuals did receive power. They got the benefit of the power, and they never paid for it.

This is going to have them actually pay for that power, but only back 270 days.

MR. BLOOD: So the rule change only applies going

forward, it sounds like.

The other point I just want to make sure is very clear. The SQL inquiries, the complicated formulas that were submitted under seal, those are not the formulas that allow people to -- those are not the formulas that state how much money people get paid. Those are the data mining inquiries to pull out of the database who's in the class and what information is needed to plug into the formula to figure out how much people get paid.

Nobody is arguing that those are complicated and don't need to be in the settlement. It's what people get under the settlement and who's in the settlement that matters and should be stated in the agreement.

THE COURT: All right. Thank you.

Another last word? Yes.

MR. HIMMELFARB: Yes, your Honor.

I think that it might be helpful just to take a step back so that the back billing that we've been discussing for the last 40 minutes or so is put into context and clearly understood for what it is.

The back billing issue concerns a DWP customer who has not received a bill or indeed any communication from the DWP for a year, 12 months, 14 months, 16 months, total silence.

Then after this extended period of complete silence, suddenly they receive a bill in the mail for 15, $20,000 worth of charges. That's what the back billing is.

When customers signed up for service --

THE COURT: Generally does that indicate the tiered

billing claims also?

MR. HIMMELFARB: Well, tiered billing claims are affected by this practice. And the fact that tiered billing requires monthly billing, and if you're not going to bill someone for 16 months, you can't go back and penalize them for having used electricity or water because they would have no idea how much they use. That's the essence of the tiered billing.

THE COURT: I'm just saying, it relates to the same issue of getting a lump sum bill which may be cumulative to several months, which pushes someone into a higher tier?

MR. HIMMELFARB: Well, it does multiple things.

When the customer signs up for service with the DWP, they agree to buy services and they agree to timely pay for them. That's an arrangement that works -- under the DWP's current rules right now, it's every two months. You send me a bill. I pay my bill. I get more electricity. I get more water. That's the arrangement.

The tiered billing issue arose because of these extended times of no bills or incorrect bills. So customers had no idea how much they were using. They couldn't adjust their usage to meet the guidelines of the ordinance to conserve.

So that's unfair to the customer, because without having any reference point to know what you're using, how can you cut back and avoid the penalties. That's the tiered billing.

The back billing issue is separate and apart from that.

The back billing issue is can the DWP go for 16 months without any communication and then serve the customer with a bill that goes back 16 months' worth of usage and charges them tens of thousands of dollars for their back billing.

Now, that action would comprise a breach of contract. It would be fraud. It would comprise a breach of the Consumer Legal Remedies Act.

So those are the claims that customers have to be able to challenge whether or not the DWP has any right at all to go silent for 16 months and then send a $20,000 bill. That's what the back billing claims are.

And what the settlement agreement does is it says, okay, we're wiping out your Consumer Legal Remedies Act, your fraud claim, your breach of contract claim, and you're going to agree to pay us 270 days back from the date that we fix that point in time.

So you've lost your ability to challenge. Now you're just going to pay us how much we tell you to pay us. That's where the settlement agreement differs from the claims that these customers have to be able to challenge the DWP's right to charge these amounts in the first place.

THE COURT: All right. Thank you.

A last word, counsel?

MS. WADE: Yes, your Honor.

THE REPORTER: I'm sorry, counsel. Your name?

MS. WADE: Julia Wade, W-A-D-E. An illustrative example of this exact problem is very alarming.

On Thursday of last week I was contacted by a class

member who said they had received a bill dated September 28th of this year for $19,000 in back billed charges going back a year and a half. This is an elderly couple, lives on a ranch. They're completely freaked out by this situation.

If their claims are released, they're going to be agreeing to pay these amounts, whatever amount the DWP says they have to pay, without getting proper notice and they're waiving all their claims.

They challenge that. They don't understand why this amount is being charged to them. They don't know if it's accurate.

Who is looking at whether these back bills are accurate. Mr. Bender is not doing that.

We know the over billing was inaccurate. How do we know that the back billing wasn't also inaccurate?

THE COURT: So are you going to advise them to opt out? Are they going to opt out?

MS. WADE: I don't know. I don't know what to tell them.

That would be in their interest. When I discuss with them the fact that -- they asked how they could be a part of the settlement and I explained to them what the current proposed settlement would provide, they said, well, how is anybody going to know this if they don't call an attorney?

I'm very concerned about that. I don't think the notice adequately explains this. I think this is a huge problem.

$19,000, your Honor, that would panic anybody in this

room, let alone a normal DWP customer.

THE COURT: All right. Thank you.

MR. LANDSKRONER: Your Honor --

THE COURT: Yes.

MR. LANDSKRONER: My final point, just to clarify.

On the back billing, obviously if any customer is back billed and they were billed in excess, that would be reviewed under the audit that's being conducted and would be overseen by Mr. Bender. The application and the implementation of the Rule 17 changes and to the extent they are moved forward will also be overseen by Mr. Bender. So he will have oversight over this.

Lastly, your Honor, any customer, as negotiated in the settlement that has a back bill that is in the class period is also -- we've also negotiated that that customer will have four years to pay back any back bill that they've been issued.

That was part of the settlement consideration we have agreed to.

THE COURT: All right. In order to consider this settlement, there are certain modifications and information will be necessary.

I already raised some of the issues.

That is, first, that the agreement has to be signed by the parties to the agreement. Lawyers cannot sign for a party. It has to be a class representative that's going to sign. That relates to Jones. It also relates to Kimhi, Kimhi with regard to the solar power issues. If Kimhi is going to be part of the settlement, then Kimhi has to be party to the

actual agreement and he has to sign off on that agreement in terms of the fiduciary responsibility of class representatives.

A number of other matters that I wish to address.

That is, as I already mentioned with regard to special master, if the proposal is for the settlement agreement to provide support retention of services of a special master, you should have that person identified specifically, someone who is going to be accountable, not a firm with all kinds of employees who we don't know who they are and what they do.

We received some biography with regard to Dr. Barkovich, but if that's the person in charge, we should have the information concerning Dr. Barkovich. I've not heard any objection to Dr. Barkovich. In fact, I haven't heard any objection to Mr. Bender himself except for the fact that the actual services and information that may be provided to the administrator, independent administrator or the special master.

But I'm talking about the personal credentials.

MR. BLOOD: Your Honor, we have objected to both of those people.

THE COURT: Have you proposed anyone else?

MR. BLOOD: We have not proposed anybody else.

THE COURT: Okay. There may be issues with regard to what claims exactly are being released.

As already noted at the previous hearing, we talked about and the parties did include in the modified settlement agreement language that shows or demonstrates that the Bane

Act claims are not being released.

However, there's other information that's been submitted in correspondence, apparently.

An attorney for defendants stated that the Jones settlement is intended to cover and release all claims that are based on the billing errors that resulted from the implementation of the CC&B system, including any Bane Act claims, on those errors.

That's the fourth declaration of Deborah Dorny, Exhibit 2.

Therefore, while the amended settlement agreement expressly states that the Bane Act claims are not being released, there is a letter that casts doubt on that, so that has to be clarified.

The amended settlement agreement states that the Jones action is based on the billing errors caused by implementation of the CC&B system and damages incurred by customers' participation in the solar incentive program, the Kimhi plaintiffs.

For billing errors caused by implementation of the billing system, the monetary relief provided in the settlement appears to be limited to the difference between customers were billed for and paid and what they should have been billed and paid.

It's set forth in the settlement agreement on page 13.

To the extent that class members have other types of claims or damages -- and that may be what's intended, some kinds of relief set forth in the Macias action -- the release

should specify that such claims are being released if that's the intent so that the claims members can make an informed decision about whether or not to participate.

As an example, to the extent that the release will cover potential claims for erroneous disconnection, the class member should be made aware of it.

If it's part of the release, it should specify that all other claims or related damages may be released.

And I do note that in the correspondence counsel for the defendants stated that the Jones settlement covers and releases non-billing errors based upon the claim that would be impossible to distinguish between damage caused by defective meter as an example and a billing program defect.

Whether or not it's impossible and whether the release is covering that, if the release is going to cover it, it should be clearly set forth that such claims are being extinguished so that there would not be any claims for any extended related potential damages.

And also we discussed the back billing. I think that should be clarified and stated specifically that the intent is the release will wipe out challenges to back bills. That should be specifically stated so that class members should be informed that if they accept the amount on a corrected back bill, they may have four years to pay for it, but if they want to challenge it, they have to submit a claim.

Similarly, with regard to the recovery for the automatic bill payment bank overdraft charge class, the limited relief for reimbursement of bank overdraft charges,

the release should clarify and make more specific that the members have consequential damages and that those consequential damages would be released.

Those are the major issues with regard to the scope of the release and that perhaps more detailed language should be included in the release.

As far as some other procedural issues on the objection process, the settlement agreement provides for anyone objecting to file objections with the Court and serve them on class counsel and defendants' counsel. I think that's an undue burden.

I think the agreement should provide that anyone objecting should submit mail objections by the deadline date, which we haven't set yet, but mail the objections to the claims administrator, who then is responsible for sending copies to counsel and to the Court.

The settlement agreement does not provide what languages that the class notice and claim form and related documents will be provided for. I think the parties should meet and confer and discuss what languages should be sent out to the potential class members.

I think presumably it should be at least the languages that are provided for election ballots. I don't know how many languages that is. Does anyone know?

MR. LANDSKRONER: Your Honor, there are seven that the Department uses. The release is accessible in seven languages as well as the language -- the settlement administrator will have people that can answer calls in those languages.

THE COURT: With regard to the notice process to ascertain correct addresses, I suggest that the DWP use the national change of address clearance before sending out notices to make sure -- unless it's too expensive and you have to do it after the fact. But it would be a good idea to do it up front to clear the addresses for mailing so you don't have to go back and delay going back and forth with changes of addresses. So the addresses should be cleared through the change of address information available.

I would also ask the parties to consider the submission of claims on an online format so someone could do it via their computer rather than have to do it through mail.

MR. LANDSKRONER: They are accepted online, your Honor.

THE COURT: Okay.

MR. LANDSKRONER: They will be accepted online.

THE COURT: All references in the settlement agreement with regard to the dismissal of the case should be eliminated. That appears in the proposed final order, as well as page 53.

In a class action settlement, there is not going to be a dismissal. There will be an entry of a final judgment.

And the agreement should also provide, which it doesn't properly provide, for the Court to maintain continuing jurisdiction over the enforcement and implementation of the settlement.

I already mentioned with regard to the special master that the agreement should provide for an appeal. Maybe you shouldn't use the word appeal -- for review of the special master's report.

That is, when the special master has completed all the work, then the special master will prepare a report and that will be submitted to the Court for a final approval, so anyone objecting to the special master's report may contest it in court for a final determination, and that the ruling of the special master is not final.

MR. KIESEL: Would you like to have it done as a report and recommendation?

THE COURT: Yes. I think set it up that way as a typical special master's report.

MR. KIESEL: That is what we'll do.

THE COURT: Thank you.

With regard to the payment of attorneys' fees, I think it's important to disclose that in the notice. If there is a fee-splitting agreement, first there has to be evidence provided to the Court that the client's written consent to the fee-splitting agreement and it has to be provided in the notice of the terms of a fee splitting.

Finally, with regard to the proposed Cy Pres recipient Share project, counsel should submit declarations as to whether they have any interest in that organization.

So we'll set a date for the provision of any of that information and revisions.

I would ask counsel, class counsel and counsel for the City, how much time do you think you need to make those revisions and submit any proposed changes?

MR. KIESEL: Two weeks, your Honor.

MR. LANDSKRONER: Two weeks, your Honor.

THE COURT: All right. Make sure that you're satisfied with the timeframe. We're not going to get into a situation where at the last minute we have ex parte applications for extended time periods and for additional papers.

So when you say two weeks, on my calendar two weeks means 14 days. So make sure.

Do you want two weeks or do you need any additional time?

MR. KIESEL: Mr. Salyer, how quickly do you think you can get transcript done?

THE REPORTER: Today is Tuesday? Thursday afternoon.

MR. KIESEL: I think two weeks is fine, your Honor. Fourteen days, two weeks, I think we can do it.

THE COURT: All right. So that would take us to November 17th.

And anybody wishing to respond to these papers, how much time?

In other words, anyone who may or may not object, it can be complementary and support it, too.

But anyone wishing to respond, any party after you receive all the papers electronically, how much time any parties, whether they are counsel in the other actions or if there are any other parties interested, how much time?

MR. BLOOD: December 4 since Thanksgiving is intervening.

THE COURT: Okay. Considering the Thanksgiving holiday, December 4th.

And then finally any reply?

MR. KIESEL: Working backwards, your Honor, when would you like to have -- when would you look to have the date for us to come in to give the Court enough time?

THE COURT: I'm looking for a date here.

I think we should get this done before the holidays. So let's see.

MR. KIESEL: There is the date of December 21 already set for the Macias case if the Court wanted to use that time.

THE COURT: Yes, that's true. Let's see.

I have Macias at 11 o'clock.

Okay. Assuming we have a hearing on that date, then are you saying you'll be able to get any reply papers in by December 11th?

MR. KIESEL: Yes. And I would like to be clear, your Honor, that basically it's going to be our opening on November 17th. There will be any objections on December 4th. We'll file a reply on December 11. That is the extent of the briefing schedule.

THE COURT: Yes. That's it.

I think the issues have been briefed. I don't think we need extensive further briefing.

I think it's important that whatever revisions -- as a matter of fact, I think in terms of the revisions of the settlement agreement or the notices in the claim form, that aside from the clean copies, a redlined copy should be admitted so we see exactly what changes in the language.

So at the --

MR. KIESEL: Could I ask, your Honor, not to interrupt,

but any further briefing to be limited to the changes that are being done?

THE COURT: Yes, I was just going to say. That is correct. In any further briefing they are not to re-argue the matters that have already been addressed. So any additional briefing should be directed to the changes that are being proposed.

MR. KIESEL: Understood.

THE COURT: So that the reply will be due December 11th and the hearing will be December 21 at 10:00 a.m.

Finally, I would, again, urge the parties to meet and confer, see if you can resolve these issues and see if you can reach a consensus on some of these issues, because I have a feeling -- whatever happens with regard to the proposed settlement, I have a feeling you will all be working together for a while.

So I think you should get used to being civil to each other and accommodating normal professional requests, but I think we should see what we can work out and see if we can resolve issues which are in the best interests of the class members.

And I would ask the plaintiff to give notice of the schedule we set forth and post it on the website.

Thank you, counsel.

(End of proceedings.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 323 HON. ELIHU M. BERLE, JUDGE

ANTWON JONES, et al., Plaintiffs, vs. CITY OF LOS ANGELES, et al., Defendants.	SUPERIOR COURT CASE NO. BC 577267/574690

I DAVID SALYER, OFFICIAL PRO TEM COURT REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 65, INCLUSIVE, COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER REPORTED BY ME ON November 3, 2015.

DATED: November 4, 2015.

DAVID A. SALYER, CSR NO. 4410
Official Pro Tem Court Reporter

Exhibit 18

Los Angeles Department of Water & Power

RESOLUTION NO. _____

BOARD LETTER APPROVAL

DAVID H. WRIGHT
Chief Administrative Officer

MARCIE L. EDWARDS
General Manager

DATE: October 19, 2015

SUBJECT: Agreement No. 47361-6 for Project Management Services-Customer Information System Remediation with Paradis Law Group, PLLC

SUMMARY

The proposed contract will ratify and provide project management services to implement required measures set forth in the *Antwon Jones vs. City of Los Angeles* (Case No. BC577267) Revised Settlement Agreement for an amount not to exceed $1,304,090 (budgeted) and term of eight months, with a four months extension option.

Full compliance with the stipulated agreement terms and conditions will result in the settlement and dismissal of class action legal claims relative to participation in the LADWP's solar program, and billing errors related to implementation of the Customer Care and Billing (CC&B) System.

City Council approval is not required.

RECOMMENDATION

It is recommended that the Board of Water and Power Commissioners adopt the attached Resolution and recommend approval and ratification of this Agreement No. 47361-6 with Paradis Law Group, PLLC.

ALTERNATIVES CONSIDERED

LADWP considered using existing staff and the option of hiring new employees to perform this professional service. Because the required work is of a temporary, expert and special nature, and time is of the essence, it is neither cost effective nor feasible to hire and/or train staff. The Revised Settlement Agreement requires immediate oversight of remediation measures on a compressed time schedule. This work requires specific knowledge and professional experience in litigation settlement project management that is generally outside the scope of current LADWP job classifications.

FINANCIAL INFORMATION

The proposed Agreement is for a term of eight months and four months extension option, as necessary to fulfill settlement requirements, and delegated authority at the discretion of LADWP General Manager. The total contract amount is not to exceed $1,304,090. The anticipated cost is broken down is as follows:

TERM	DATES	FEES
Original Period	07/13/15 – 03/12/16	$869,410
Extension Option	03/13/16 – 07/12/16	$434,680

BACKGROUND

On April 1, 2015, a class action lawsuit was filed by Antwon Jones against the City of Los Angeles alleging claims of customer overbilling and other errors associated with the defective implementation of the LADWP's new CC&B System. Plaintiff Jones directed his counsel to develop a settlement proposal that would resolve the claims asserted in his as well as three other class actions filed against the City and the LADWP. The parties entered into mediation that resulted in a Revised Settlement Agreement.

To ensure LADWP's full compliance with the mandated Revised Settlement Agreement terms and conditions, Paradis Law Group, PLLC will provide as-needed oversight, project management, and implementation services for the following:

1. Oversee CC&B System and software contracts to remediate the current billing system, and recommend continues system improvements.
2. Identification and calculation of customer billing overcharges incurred since September 3, 2013.
3. Compensation to class members that were overcharged by June 30, 2016.
4. Creation, adoption, and monitoring of the procedures that meet or exceed 13 court mandated customer service performance metrics.
5. Development of internal guidelines and procedures to identify, escalate, and manage future complex customer billing issues.
6. Coordination with court appointed independent CC&B System monitoring expert.

Paradis Law Group, PLLC will also assist in the development of requirements for a Chief Project Manager to direct the Project Management Organization (PMO), support the selection resulting from a nationwide recruiting campaign, an arrange the transition of project management duties to the new Chief Project Manager.

Paradis Law Group, PLLC is exceptionally qualified and considered a single-source provider based on past LADWP representation in related litigation, and breadth of expertise in the CC&B System.

Successful adherence to the terms of the Revised Settlement Agreement is anticipated to result in the resolution and dismissal of legal claims against LADWP in the Antwon Jones vs. City of Los Angeles class action (Case No. BC577267).

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act (CEQA), it has been determined that professional litigation settlement project management services are exempt pursuant to the General Exemption described in CEQA Guidelines Section 15061 (b) (3). General Exemptions apply in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the environment.

CITY ATTORNEY

The Office of the City Attorney reviewed and approved the Agreement and Resolution as to form and legality.

ATTACHMENTS

- Procurement Summary
- Resolution
- Agreement

PROCUREMENT SUMMARY

1.	Recommended Vendor(s): Paradis Law Group, PLLC
2.	Procurement Type: Single Source
3.	Procurement Details: A. Contract Status: New B. Bid Advertisement Date: September 30, 2015 C. Pre-Bid Conference Date: Not applicable D. Number of Downloads of Solicitation: Not applicable E. Number of Bids/Proposals Received: 1 F. Protest Received: No
4.	Buyer Assigned: Marlene Barbero
5.	Contract Administrator: David H. Wright, Chief Administrative Officer
6.	LADWP System: Joint – Office of the Chief Administrative Officer
7.	Contact Person for Item: Joyce Shirado / Brian Gonzalez

*Note: eRSP requires vendors to express interest either as a prime contractor or subcontractor in order to download solicitation documents. Moreover, downloads do not necessarily accurately reflect unique vendor interests as multiple individuals in an organization can download solicitations.

A. Summary of Bids Received/Evaluation Rating Summary of Proposals

Term	Paradis Law Group, PLLC
Original Period	July 13, 2015 – March 12, 2016
Optional Period	March 13, 2016 – July 12, 2016

B. Evaluation of Bid/Proposal/Cooperative Agreement

Not applicable to this Agreement. This is a single source contract.

C. Contract/Vendor History

Contract History					
Contract/ PO No.	Contractor	Term of Contract	Start Date	Ending Date	Original Contract Amount
47335-5	Paradis Law Group, PLLC	3 years	1/1/15	12/31/18	TBD Legal Retainer

D. Local Business Preference Program (LBPP)

Not applicable to this Agreement. This is a single source contract.

E. Additional Outreach Efforts Taken

Not applicable to this Agreement. This is a single source contract.

A. Small Business Enterprises (SBE)/Disabled Veterans Business Enterprises (DVBE)/Minority Business Enterprises (MBE)/Women Business Enterprises (WBE)/Other Business Enterprises (OBE) Subcontracting Participation

Not applicable to this Agreement. This is a single source contract.

Resolution No. _____

WHEREAS, the Los Angeles Department of Water and Power (LADWP) proposes approval and ratification of Agreement No. 47361-6 with the Paradis Law Group, PLLC, to provide project management services necessary to implement the measures required by the Revised Settlement Agreement for Superior Court Case No. BC577267, *Antwon Jones v. City of Los Angeles*, acting by and through the LADWP. The Agreement provides for total expenditures not to exceed $1,304,090 for a term of eight months beginning July 13, 2015, with a four month extension option; and

WHEREAS, it would not be practical or advantageous for the LADWP to solicit requests for proposals for the temporary professional and special services needed with respect to this case as time is of the essence, and no others have greater familiarity with the underlying issues required to oversee implementation of the measures than Paradis Law Group, PLLC; and

WHEREAS, Paradis Law Group, PLLC has reviewed the services to be provided and incorporated in this Agreement, and represent that they have the qualities, expertise, skills and abilities to perform such work; and

NOW, THEREFORE, BE IT RESOLVED that LADWP proposes approval and ratification of Agreement No. 47361-6 with Paradis Law Group, PLLC in an amount not to exceed $1,304,090.

BE IT FURTHER RESOLVED that Pursuant to City Charter Section 1022, the Board finds that it is more feasible to have Paradis Law Group, PLLC provide project management services due to the complexity of, and the expertise required, to implement the measures required by the aforementioned Revised Settlement Agreement.

BE IT FURTHER RESOLVED that Agreement No. 47361-6, approved as to form and legality by the City Attorney, and filed with the Secretary of the Board, is hereby ratified.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of the LADWP, upon proper certification, is authorized and directed to draw demands on the Water and Power Revenue Funds, in accordance with the terms of this Agreement and this resolution.

BE IT FURTHER RESOLVED that the President or Vice President, or the General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board are hereby authorized and directed to execute said Agreement for and on behalf of the LADWP.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting

_____
Secretary

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

OCT 20 2015

BY _____
DIRK P. BROERSMA
DEPUTY CITY ATTORNEY

Los Angeles Department of Water & Power

PROFESSIONAL SERVICES AGREEMENT NO. 47361-6

Paradis Law Group, PLLC

October 19, 2015

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AGREEMENT NUMBER 47361-6

BETWEEN
THE CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER
AND
PARADIS LAW GROUP, PLLC

THIS AGREEMENT is made and entered into by and between the City of Los Angeles acting by and through its Department of Water and Power, a municipal corporation, (hereinafter "LADWP") and Paradis Law Group, PLLC, a New York professional limited liability corporation (hereinafter the "Consultant" or "Contractor"). Individually, LADWP and Consultant are referred to under this Agreement as a "Party" and collectively as the "Parties."

In consideration of the mutual covenants of the parties as set forth below, the parties hereby agree as follows:

ARTICLE I: PARTIES AND NOTICE

1.1 Parties to the Agreement

The Parties to this Agreement are:

Los Angeles Department of Water and Power (LADWP)
111 North Hope Street
Los Angeles, California 90012

and

Paradis Law Group, PLLC
570 Seventh Avenue, 20th Floor
New York, NY 10018

1.2 Service of Notices

All notices, demands and communications regarding the interpretation of the terms of this Agreement or changes thereto shall be made in writing and may be effected by personal delivery or by certified mail, overnight carrier, or confirmed facsimile and shall be deemed communicated as of the date of delivery or the date of mailing, whichever is applicable, or in the case of a facsimile or email, upon receipt if transmitted during the receiving Party's normal business hours, otherwise on the first business day following receipt.

If the name or address of the person(s) designated to receive notices, demands or communications, is changed, or additional persons are added to receive notices, demands or communications, written notice shall be given to the other Party, in accord with this article, of said change.

The authorized representatives to receive said notices shall be:

Authorized representatives of LADWP:

Mr. David H. Wright
Chief Administrative Officer
Los Angeles Department of Water and Power
111 North Hope Street, Room 1520
Los Angeles, California 90012
Phone Number: (213)367-1405
Email Address: David.Wright@ladwp.com

Authorized representatives of the Consultant:

Mr. Paul O. Paradis
Project Manager
Paradis Law Group, PLLC
570 Seventh Avenue, 20th Floor
New York, NY 10018
Phone Number: (212)986-4500
Email Address: pparadis@plgnyc.com

ARTICLE II: TERM OF THE AGREEMENT

2.1 Term of the Agreement

The term of this Agreement shall commence upon execution of this Agreement by all Parties hereto and shall terminate eight (8) months thereafter, subject to the termination provisions herein.

2.1.1 Extension Options

At LADWP's sole option, the term of this Agreement may be extended for up to an additional four (4) months, exercisable in four (4) month increments, or any portion thereof.

ARTICLE III: TIME

LADWP and the Consultant understand and agree that "Time is of the Essence" in performance of this Agreement.

ARTICLE IV: COMPENSATION AND PAYMENT

4.1 Compensation

4.1.1 Not-to-Exceed Amount

The total compensation that may be paid to the Consultant by LADWP for complete and satisfactory performance of services under this Agreement shall not exceed one million three hundred four thousand and ninety dollars ($1,304,090).

4.1.2 Authorized Expenditures

Of the total amount of compensation included in Article 4.1.1 above, LADWP shall pay the Consultant for services performed, tasks implemented, and deliverables provided as specified in Article 4.2, Allowable Fees and Costs of this Agreement. LADWP shall not be liable for payment of monies unless there is a document outlining performed services, completed tasks, and provided deliverables that are approved by LADWP's authorized representative(s) identified in Article 1.1 of this Agreement. Therefore, there is no guarantee that the Consultant shall receive any amount of work during the term of this Agreement and signed by both Parties.

4.2 Allowable Fees and Costs

LADWP shall pay for services at the rates established in **Exhibit C, Fee Schedule** and in accordance with the tasks, milestones, or phases of the project as established in **Exhibit H, Statement of Work**, of this Agreement and based upon the Consultant labor rates established in **Exhibit C, Fee Schedule**, which is attached hereto and made a part hereof. Such labor rates are inclusive of salary, employee benefits, overhead, profit, general office expenses, administrative services, invoice preparation and processing, routine telecommunications, internet, personal computer, facsimile, routine postage, individual shipping charges of less than ten dollars ($10.00), incidental copying, one hard copy of deliverables, and one electronic copy of deliverables costs.

4.2.1 RESERVED

4.2.2 Reimbursement of Travel Expenses

When applicable, travel expenses necessary to perform required work for LADWP must be pre-approved by LADWP. LADWP approved travel expenses shall be paid at the actual cost of such expenses, consistent with **Exhibit D, Allowable Travel Expenses**, which is attached hereto and made a part hereof. No markup by the Consultant or Subconsultant of any tier for travel expenses shall be allowed.

4.2.3 RESERVED

4.2.5 RESERVED

4.3 Method of Payment

Payment for Consultant services shall be made in accordance with the rates established in **Exhibit C, Fee Schedule**, and pursuant to the tasks, milestones, or phases of the project as established in **Exhibit G, Statement of Work**. The Consultant shall submit invoices to LADWP in accordance with the rates established in **Exhibit C, Fee Schedule** and pursuant to the tasks, milestones, or phases of the project as established in **Exhibit H, Statement of Work**, with the billings against performed service(s) tracked separately. Each invoice shall be accompanied by a statement detailing the services performed, tasks completed and the deliverables provided for which payment is requested, supporting documentation, and the LADWP Monthly Subcontractor Utilization Form, or its successor reporting format.

4.3.1 Required Invoice Information

A hard copy of the invoice shall be submitted to Accounts Payable Section, Department of Water and Power, City of Los Angeles, PO Box 51211, Room 424, Los Angeles, CA 90051-5511. An electronic copy of the invoice must be concurrently submitted and emailed to DWPAgreementInvoices@ladwp.com, and invoices shall be submitted to:

Mr. David H. Wright
LADWP, JFB, Room 1520
P.O. Box 5111
Los Angeles, CA 90051-5700

The following information shall be included in each invoice submitted by the Consultant to LADWP:

1. Consultant name, address, and vendor code number as registered on LADWP vendor database
2. City of Los Angeles Business Tax Registration Number
3. Internal Revenue Service ID Number
4. Date of invoice
5. Invoice number
6. Contract number
7. Summary of performed services, including amount of current invoice, total invoiced to date, total amount, percent of total service completed, and percent of total service completed voiced to date, and the end date of the service.
8. Description of services and deliverables provided related to performed services and associated costs
9. Supporting documentation for all costs and expenses, in a format acceptable to LADWP
10. Following certification statement signed by the Consultant: "I hereby certify, under penalty of perjury, that the services rendered and billings reflected in this invoice are true, accurate and in conformance with the terms of this Agreement, including but not limited to the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 et. Seq."
11. Taxes
12. Total amount of invoice
13. Approval signature blocks for LADWP project manager and LADWP authorized representative(s) identified in Article 1.1, Representative(s) of the Parties and Service of Notices, of this Agreement

    The following specific language in the invoices/bills is acceptable: "Consultant certifies that all work performed for which this invoice/bill is submitted which required access to critical facilities as designated by LADWP was conducted by an individual(s) and for whom no disqualifying information (including felonies, offenses or moral turpitude, and other disqualifying criteria, if any, as specified in the Agreement between the Consultant and LADWP) has been found."

Consultant's failure to submit accurate and all required information shall result in LADWP's rejection of the invoice and non-payment.

4.3.2 Time and Material Invoices

For services specifying a time and materials method of payment, the Consultant shall invoice LADWP on a monthly basis for costs and expenses. The Consultant shall provide documents supporting costs and expenses, including original receipts or invoices for expenses in excess of $25.00, summary of total hours worked by specified individual Consultant employees and the applicable hourly rate, and time sheets or payroll records as appropriate to support individual employee hours worked, with each monthly invoice. Payment shall be made within forty-five (45) calendar days of receipt of the Consultant's invoice prepared in accordance with the requirements of Article 4.3.1 of this Agreement.

4.3.3 Fixed Price Invoices

For services specifying a fixed price method of payment, payment shall be made within forty-five (45) calendar days after review and approval of the deliverable by LADWP or receipt of the Consultant's invoice prepared in accordance with the requirements of Article 4.3.1, whichever is later.

4.3.4 Notice of Items Not Approved for Payment

LADWP's project manager will review the Consultant invoice within fifteen (15) working days and notify the Consultant in writing of any missing or required additional documents, questioned costs, inaccuracies, or concerns.

In the event that any deliverables, labor, or reimbursable expenses invoiced by the Consultant are not approved for payment, LADWP shall provide the Consultant with detailed comments addressing the shortfalls or costs of concern and shall meet with the Consultant to discuss such issues. Any disputes between LADWP and the Consultant regarding invoices costs and expenses shall be resolved in accordance with Article XI, Disputes, of this Agreement. LADWP shall pay undisputed invoice amounts.

4.3.5 Notification of Status of Expenditures

The Consultant shall notify LADWP in writing when costs reach 50 and 75 percent of the total amount of requested service. Such notice shall include an assessment of whether or not the requested service can be completed within the authorized expenditure amount, and if not the Consultant shall propose suggested modifications to the requested

service for consideration by LADWP. Failure of the Consultant to provide such written notification may result in late payment of invoices by LADWP.

The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule. At the time of the Notice, the Consultant shall notify the Authorized Representative in writing of the estimated amount of additional funds, if any, required to continue timely performance under the Agreement, and when the funds will be required.

If, after notification, additional funds are not approved by the end of the Agreement period or another agreed-upon date, upon the Consultant's written request the LADWP Authorized Representative may in its sole discretion terminate the Agreement.

4.3.6 Timely Invoicing

All charges related to the performance of the Consultant's work or services for any service, including Subconsultant and other reimbursable expenses, shall be invoiced by the Consultant to LADWP within six (6) months of the cost or expenses being incurred by the Consultant or Subconsultant. LADWP shall not reimburse the Consultant for any costs, expenses, work, or services invoiced to LADWP six (6) months after the date the costs were incurred by the Consultant or Subconsultant.

4.3.7 Maximum Authorized Amount

Notwithstanding any other provision of this Agreement, any changes or additions hereto that would increase LADWP's total obligation above the maximum authorized amount set forth in Article 4.1.1 of this Agreement shall be subject to prior approval by the Board of Water and Power Commissioners. LADWP shall not be obligated to pay for work performed by the Consultant for any such changes made in violation of this Agreement.

ARTICLE V: PROVISION OF SERVICES

5.1 Services to be Provided by the Consultant

During the term of this Agreement, the Consultant shall provide the services, tasks, and deliverables identified in the **Statement of Work (Exhibit H)** included herein, authorized by LADWP in this Agreement.

5.1.1 Description of Consultant Services

Consultant shall provide the services described in **Exhibit H.**

Notwithstanding any other provision of this Agreement, the Consultant shall perform such other work and deliver such other items as are necessary to ensure that the services and deliverables provided under this Agreement meet the requirements set forth in this Agreement, including all Exhibits.

5.1.2 LADWP Approval of Work

All services, work, tasks, and deliverables are subject to LADWP approval, which approval shall not be unreasonably withheld. Failure to receive approval may result in withholding compensation for such services, work, tasks, and deliverables pursuant to Article IV, Compensation and Payment, of this Agreement.

LADWP reserves the right to contract with other consultants to review the Consultant's deliverables and other work products produced in accordance with the terms of this Agreement. If LADWP contracts with other consultants to assist LADWP in reviewing the Consultant's deliverables and other work products, the Consultant agrees to cooperate fully and coordinate with such other consultants.

The Consultant shall provide access and make available to LADWP the Consultant's internal documents, reports, and reviews directly related to the work being performed pursuant to this Agreement, such as Project Schedule related documents and performance and project management audits.

5.1.3 Industry Standard of Care

The Consultant shall perform the work described herein in accordance with industry standards of care and shall reflect competent professional knowledge and judgment.

5.2 Consultant Personnel

5.2.1. Key Consultant Personnel

Key Consultant personnel to be assigned to this Agreement are identified in **the List of Key Consultant Personnel** set forth in **Exhibit F.** Key

Consultant Personnel shall be available to perform under the terms and conditions of this Agreement immediately upon commencement of the term of this Agreement.

The Consultant shall not reassign any key personnel without LADWP's prior written consent. LADWP shall review and approve or disapprove any personnel who are designated as key personnel in **Exhibit F** for any reason at its sole discretion. LADWP shall act reasonably in exercising its discretion to approve or disapprove any key personnel.

5.2.2 Unavailability of Key Personnel

In the event individual key personnel listed in **Exhibit F** are terminated either with or without cause, or if individual key personnel are otherwise unavailable to perform services for the Consultant, the Consultant shall provide to LADWP written notification detailing the circumstances of the unavailability. The written notification shall designate replacement personnel prior to the effective date of individual key personnel termination or unavailability date, to the maximum extent feasible, but no later than five (5) business days after the effective date of the individual key personnel termination or unavailability. The Consultant shall propose replacement personnel who have a level of experience and expertise equivalent to the unavailable individual key personnel for LADWP review and approval.

The Consultant recognizes and agrees that early notification of the unavailability of key Consultant personnel and proposed replacement personnel is essential to avoiding delays in completing the services, work, tasks, and deliverables established in this Agreement since the award of this agreement was predicated upon the competency of the Key Personnel provided.

5.2.3 Removal of Consultant Personnel

LADWP shall have the right, in its absolute discretion, to require the removal of Consultant's personnel at any level assigned to the performance of the Services or Work, if LADWP considers such removal necessary in the best interests of the Program and requests such removal in writing. Such personnel shall be promptly removed from the Project by the Consultant at no cost or expense to LADWP. Further, an employee who is removed from the Project for any reason shall not be re-employed on the Project.

5.3 RESERVED

ARTICLE VI: OWNERSHIP

6.1 Ownership Rights

It is understood and agreed that the deliverables are being developed by the Consultant for the sole and exclusive use of LADWP and that LADWP shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto. All work performed by the Consultant on deliverables and any supporting documentation therefor shall be considered as "Works-Made-for-Hire" (as such are defined under the U.S. Copyright Laws and international treaties) and, as such, shall be owned by and for the benefit of LADWP. LADWP owns any and all trademarks, patents, copyrights, and any other intellectual property rights for any and all deliverables generated as a result of this Agreement, regardless of the state of completion of said deliverables.

In the event it should be determined that any such deliverables or supporting documentation, or parts thereof, do not qualify as a "Works-Made-for-Hire," the Consultant shall and hereby does transfer and assign to LADWP for no additional consideration, all rights, title, and interest that it may possess in such deliverables and documentation including, but not limited to, all copyrights to the work and all rights comprised therein, and all proprietary rights relating thereto. Upon request, the Consultant shall take such steps as are reasonably necessary to enable LADWP to record such assignment. Further, the Consultant shall contractually require all persons performing under this Agreement, including all Subconsultants, to assign to LADWP all rights, title, and interest, including copyrights to all such "Works-Made-for-Hire."

6.1.1 Use of Deliverables

LADWP has the right to use or not use the deliverables and to use, reproduce, re-use, alter, modify, edit, or change the deliverables as it sees fit and for any purpose. If LADWP determines that a deliverable, or any part thereof, requires correction prior to LADWP approval, LADWP has the absolute right to use the deliverable until such time as the Consultant can remedy the identified deficiency.

6.1.2 Execution of Ownership Documents

The Consultant shall sign, upon request, any documents needed to confirm that the deliverables or any portion thereof are

"Works-Made-for-Hire" and to effectuate the assignment of its rights to LADWP.

6.2 Warranty Against Infringement

The Consultant warrants that the performance of the services by the Consultant or its Subconsultants of any tier, pursuant to this Agreement, shall not in any manner constitute an infringement or other violation of any trademark, copyright, patent and/or trade secret of any third party.

6.3 Survival of Provisions

The provisions of this Article VI, Ownership, shall survive termination and expiration of this Agreement.

ARTICLE VII: CONFIDENTIALITY AND RESTRICTIONS ON DISCLOSURE

7.1 Confidentiality

All documents, records, and information provided by LADWP to the Consultant, or accessed or reviewed by the Consultant, during performance of this Agreement shall remain the property of LADWP. All documents, records and information provided by LADWP to the Consultant, or accessed or reviewed by the Consultant during performance of this Agreement, are deemed confidential. The Consultant agrees not to provide these documents and records, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity other than as required in order to fulfill any legal requirements or Court Orders. In addition, nothing herein shall operate to prevent the Consultant from fulfilling its contractual duties under any other contract with the City of Los Angeles. The Consultant agrees that all documents, records, or other information used or reviewed in connection with the Consultant's work for LADWP shall be used only for the purpose of carrying out LADWP business and cannot be used for any other purpose. The Consultant shall be responsible for protecting the confidentiality and maintaining the security of LADWP documents, records, and information in its possession. The provisions of this Article VII, Confidentiality and Restrictions on Disclosure shall survive termination and expiration of this Agreement.

7.2 Reference Checks

To the extent permitted by applicable law, LADWP may conduct reference checks on the Consultant, its employees, and agents who shall have, or may have, access to LADWP customer, employee, power system, or water system information and data during performance of this Agreement. The Consultant recognizes the highly sensitive nature of such information and data and agrees to cooperate with LADWP and provide, to the extent permitted by applicable

law, whatever information LADWP requires in order to conduct reference checks. LADWP may request changes to Consultant personnel pursuant to Article 5.2.1 of this Agreement in response to reference check information, and the Consultant shall accommodate such request for personnel changes.

ARTICLE VIII: TERMINATION AND SUSPENSION

8.1 Termination for Convenience

8.1.1 Notice of Termination

LADWP may terminate this Agreement, or any part hereof, for its convenience upon giving at least thirty (30) calendar days written notice to the Consultant prior to the effective date of such termination, which date shall be specified in such notice.

8.1.2 Receipt of Notice of Termination

After receipt of a notice of termination and except as otherwise directed by LADWP, the Consultant shall:

A. Stop work under the Agreement on the termination effective date and to the extent specified in the notice of termination.

B. Place no further orders with Subconsultants for any work except as may be necessary for completion of such portions of the services or work expressly excluded from the Notice of Termination.

C. Communicate any Notice of Termination to the affected Subconsultants at any tier.

D. Terminate all orders and contracts with subconsultants that relate to the performance of the services or work.

E. Settle outstanding liabilities and claims arising out of such termination of orders and contracts with subconsultants, with the acceptance of LADWP if required (which acceptance will be for the final purposes of this Article).

F. Deliver to LADWP, within ten (10) calendar days after termination, any and all data, reports, other documents, and deliverables, or

portions thereof, if any, prepared pursuant to this Agreement, but not already delivered.

G. Transfer title to LADWP (to the extent that title has not already been transferred) in the manner and at the times and to the extent directed by LADWP, the work in process, completed work, and other material produced as part of or required in respect to performance of this Agreement.

H. Comply with any other requirements of LADWP as may be specified in the Notice of Termination.

8.1.3 Amount Due

The amount due the Consultant by reason of termination for LADWP's convenience shall be determined as follows:

A. The Consultant shall be paid on the basis of completed tasks and provided deliverables as set forth in **Exhibit H Statement of Work** and **Exhibit C, Fee Schedule** after LADWP reviews and approves of the work.

B. The Consultant shall also be compensated by LADWP on a percentage completed basis of the applicable Deliverables for work in process, when appropriate, after LADWP review and approval of the work.

C.

8.2 Termination for Cause

LADWP may terminate this Agreement for cause by giving the Consultant a written notice of breach. The Consultant shall have ten (10) calendar days from the date of LADWP's notice of breach to cure, or diligently commence to cure such breach. LADWP's notice of breach shall include a time and location for the individuals identified in Article 1.1 of this Agreement to meet and discuss the notice of the breach. Such meeting shall be scheduled within ten (10) calendar days of the date of the notice of breach. If the Consultant is unable or unwilling to cure, or diligently commence to cure, such breach, or meet within the ten (10) day timeframe, LADWP may terminate this Agreement anytime thereafter upon providing the Consultant written notice.

If this Agreement is terminated for cause, the Consultant shall comply with Article 8.1.2, above. LADWP shall pay for LADWP accepted deliverables, less the

amount of any damages incurred as a result of the Consultant's failure to perform its responsibilities under this Agreement.

8.3 Suspension of Work

Upon written notice, LADWP may direct the Consultant to suspend, and to subsequently resume performance of all or any of the work. In the event that LADWP suspends work, the service under this Agreement and budget shall be adjusted.

8.4 Termination Transition

When a replacement Consultant has been identified, the Consultant shall provide reasonable cooperation in the transition of its responsibilities to the replacement Consultant selected by LADWP to perform the tasks described in the scope of work and formerly performed by the Consultant for this Agreement during the fifteen (15) calendar day period prior to termination of the Agreement. The Consultant for this Agreement shall accept no additional tasks with respect to the scope of work after the effective date of the termination.

ARTICLE IX: AMENDMENTS AND ADMINISTRATIVE CHANGES TO THE AGREEMENT

9.1 Amendments

9.1.1 Request for Amendment

During the term of this Agreement, LADWP shall have the right to request an Amendment to change the terms of this Agreement, including changes in the services to be performed by the Consultant, extension of the term, and any increase or decrease in the amount of compensation authorized in Article 4.1 of this Agreement. LADWP shall make a formal written request with respect to the Amendment.

9.1.2 Development of Amendments

Within ten (10) calendar days following the Consultant's receipt of LADWP's written request for an Amendment, the Consultant, at its own expense, shall prepare and deliver to LADWP a detailed written statement regarding the implementation and impact of the Amendment.

Upon LADWP's review of the Consultant's written response to the request for an Amendment, LADWP and Consultant shall cooperatively

work to develop an Amendment to the Agreement. To that end, informal exchanges between the Consultant and LADWP are encouraged.

9.1.3 Approval and Authorization of Amendments

Amendments shall be incorporated into this Agreement by a written approval properly executed and signed by the General Manager and the person(s) authorized to bind the Consultant thereto. LADWP shall deliver the fully executed Amendment.

Amendments that result in an Agreement term of greater than three (3) years in the aggregate may require City Council approval pursuant to Section 373 of the Charter of the City of Los Angeles (hereinafter "City Charter").

9.2 Administrative Changes

9.2.1 Request for Administrative Changes

During the term of this Agreement, LADWP or the Consultant shall have the right to request changes to the work within the Agreement that are administrative in nature, including but not limited to changes to the authorized representatives, key Consultant, reporting documentation, and/or the implementation of pre-approved cost of living adjustments in fee schedules. LADWP or the Consultant shall make a formal written request with respect to each administrative change it desires to make.

9.2.2 Development of Administrative Changes

When a change is requested by either Party, the receiving Party will review the implementation and impact of the administrative change. Within ten (10) calendar days following the receipt of the written administrative change request, LADWP or the Consultant, at its own expense, shall prepare and deliver to the originating Party a detailed written statement regarding the implementation and impact of the administrative change.

Upon review of the written response to the administrative change request, LADWP and Consultant shall cooperatively work to develop an Administrative Change to the Agreement. To that end, informal exchanges between the Consultant and LADWP are encouraged.

9.2.3 Approval and Authorization of Administrative Changes

Upon approval of the Administrative Change to the Agreement prepared pursuant to Article 9.2.2, LADWP's authorized representatives as identified in Article 1.1, of this Agreement, or their designee established in writing, shall deliver to the Consultant an Administrative Change authorization to the Agreement (hereinafter " Notice of Administrative Change") for execution, consistent with Article 1.2 of this Agreement.

9.3 Order of Precedence

In the event of any conflict between the terms of this Agreement and the terms of any exhibit, the terms of the exhibit shall control. In the event of any conflict between the following documents, all of which are hereby incorporated by reference into this Agreement, the order of precedence shall be as follows:

- Latest Amendment
- Agreement
- Latest Administrative Change
- Other reference documents
- Proposal response dated October 1, 2015

Except as otherwise specified, in the event of any conflict between the Special Provisions and the General Conditions contained herein, the Special Provisions will control.

ARTICLE X: DISPUTES

10.1 Disputes

10.1.1 Dispute Resolution

The parties shall use their best efforts to resolve disputes under this Agreement. If a settlement cannot be reached, or in the event of default that could result in termination of this Agreement, LADWP and the Consultant shall schedule a meeting of the individuals identified in Article 1.1 in a good faith attempt to resolve the issues in dispute. Such a Dispute Resolution meeting shall be scheduled and held within ten (10) business days of written request by either party. The meeting shall allow for a detailed presentation of each Party's views on the issues and potential solutions to the dispute or default. If possible, the meeting should result in an agreed upon course of action to resolve the dispute or default.

10.1.2 Continued Work

The Consultant and LADWP shall continue to perform work under the Agreement during any dispute.

10.1.3 Claim Procedures

The provisions of Sections 5.169 and 5.170 (Div. 5, Ch. 10, Art. 1) of the Los Angeles Administrative Code and Section 350 of the City Charter shall govern the procedure and rights of the Parties with regard to claims arising from this Agreement. Nothing herein shall be construed as a waiver of the claim requirements set forth in Government Code 900 *et. seq.*

ARTICLE XI: ENTIRE AGREEMENT

11.1 Complete Agreement

This Agreement together with the Exhibits hereto completely and exclusively states the agreement of the parties regarding its subject matter and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. No verbal, or written agreement nor conversation with any officer or employee of either Party nor any or all prior proposals shall affect or modify any of the terms and conditions of this Agreement. This Agreement shall not be modified except as provided by Article X, Amendments and Administrative Changes to the Agreement, signed on behalf of LADWP and Consultant and by their duly authorized representatives. Any purported oral amendment to this Agreement shall have no effect.

11.2 Number of Pages and Attachments

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes twenty-three (23) pages and seven (7) Exhibits, which constitute the complete understanding among the Parties.

11.3 Represented by Counsel

Each Party acknowledges that it was represented by counsel in the negotiation and execution of this Agreement.

[Signature page follows.]

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

DEPARTMENT OF WATER AND POWER
OF THE CITY OF LOS ANGELES

By: _____
MARCIE L. EDWARDS
General Manager

Date: _____

And: _____
BARBARA E. MOSCHOS
Secretary

PARADIS LAW GROUP, PLLC
(Must be signed by two executives or officers of firm)

By: _____
Chairman of Board of Directors,
President or Vice President

Date: _____

By: _____
Corporate Secretary or
Chief Financial Officer

Date: _____

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

OCT 19 2015

BY _____
ERIK P. BROERSMA
DEPUTY CITY ATTORNEY

Vendor Code: 066751004
City Business Tax Registration Certificate Number: 0002856282-0001-1

EXHIBIT A
General Conditions (Services)

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GC-1 Applicable Law, Interpretation, Enforcement and Severability

Each Party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles, including but not limited to laws regarding health and safety, labor employment, wage and hours, workers compensation, and licensing laws which affect employees. Consultant shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement.
This Agreement was made and entered into in the City of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflicts of laws principles. All litigation arising out of, or relating to, this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.
If any part, term or provision of this Agreement shall be held invalid, void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining parts, terms or provisions shall not be affected or impaired thereby.

The provisions of this article shall survive the expiration or termination of this Agreement.

GC-2 Time of Effectiveness

Unless otherwise provided, this Agreement shall take effect when all of the following events have occurred:

A. This Agreement has been signed on behalf of the Consultant by the person(s) authorized to bind the Consultant hereto.

B. This Agreement has been approved by the City Council or by the Board, inclusive of City Council review period, officer, or employee authorized to give such approval.

C. The Office of the City Attorney has indicated in writing its approval of this Agreement as to form and legality.

D. This Agreement has been signed on behalf of LADWP by the person designated by the Board, officer or employee authorized to enter into this Agreement.

GC-3 Integrated Agreement

This Agreement sets forth all of the rights and duties of the Parties with respect to the subject matter hereof, and replaces any and all previous agreements and understandings, whether

written or verbal, relating hereto. This Agreement may be amended only as provided for in paragraph GC-5.

GC-4 Amendment

All amendments hereto shall be in writing and signed on behalf of both Parties by the persons authorized to bind the Parties hereto.

GC-5 Force Majeure

If either Party is unable to perform its obligations because of strikes, lockouts, labor disputes, embargos, acts of God, governmental regulations, judicial orders, enemy or hostile governmental action beyond the reasonable control of the Consultant or its Authorized Subconsultants ("Force Majeure"), and such event continues, or is expected to continue, for more than thirty (30) days, either Party may suspend unperformed services upon notice to the other party in writing, and such party's performance shall be suspended for the period equal to the period of time of such cause for suspension of performance. Both parties shall use reasonable efforts to mitigate the effect of a force majeure event. This section does not excuse either party's obligation to pay for services provided.

GC-6 Waiver

A waiver of a default of any part, term, or provision of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A Party's performance after the other Party's default shall not be construed as a waiver of that default.

GC-7 Independent Consultant

The Consultant is acting hereunder as an independent Consultant and not as an agent or employee of LADWP or the City of Los Angeles, and all of the terms and conditions of this Agreement shall be interpreted in light of that relationship. The Consultant, including Consultant's Subconsultants, suppliers, employees, and agents, shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of LADWP for any purpose whatsoever. The Consultant shall not be entitled to any LADWP or City of Los Angeles benefits, including but not limited to, vacation, sick leave, Workers' Compensation, or pension.

GC-8 Prohibition Against Assignment or Delegation

The Consultant may not, unless it has first obtained the written permission of LADWP:

A. Assign or otherwise alienate any of its rights hereunder, including the right to payment; or

B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

Such permission may be withheld at LADWP's sole discretion for any reason or no reason at all since the award of this Agreement was based upon the personal services to be provided by the Consultant

GC-9 Licenses and Certifications

The Consultant and its officers, agents, and employees shall obtain and maintain all licenses, permits, certifications and other documents necessary for the Consultant's performance hereunder and shall pay any fees required therefore. Such licenses, permits, certifications shall be specific to the State of California or regional regulatory agencies, as applicable to Consultant's services, work, task, and deliverables pursuant to this Agreement. Consultant agrees to immediately notify LADWP of any suspension, termination, lapse, non-renewal, or restriction of such licenses, permits, certifications, or other documents.

GC-10 Non Discrimination/Equal Employment Practices/Affirmative Action

A. Non Discrimination and Equal Employment Practices

The Consultant shall not discriminate in employment practices against any employee or applicant for employment because of race, religion, national origin, sex, age, or physical handicap. The Consultant shall comply with the terms of the "Non-Discrimination and Equal Employment Practices" (2 pages) affidavit.

B. Affirmative Action Plan *[if the contract is for **Non-Construction services** and is estimated at $100,000, use the following clause]:*

The Consultant shall have an Affirmative Action Plan on file with the Director of Supply Chain Services. The Consultant shall comply with the requirements of the City of Los Angeles and shall comply with the terms of the "Affirmative Action Plan" (3 pages) affidavit.

An Affirmative Action Plan shall be in effect and on file with LADWP for the duration of the contract period.

C. Affirmative Action Plan *[if the contract is for **Construction services** and is estimated at $5,000, use the following clause]*

The Consultant shall have an Affirmative Action Plan on file with the Director of Supply Chain Services. The Consultant shall comply with the requirements of the City of Los Angeles and shall comply with the terms of the "Affirmative Action Plan" (5 pages) affidavit.

An Affirmative Action Plan shall be in effect and on file with LADWP for the duration of the contract period.

GC-11 Claims for Labor and Materials

The Consultant shall promptly pay, when due, all amounts payable for labor and materials furnished in the performance of this Agreement so as to prevent any lien or other claim under any provision of law from arising against LADWP or City of Los Angeles or any of their respective property (including reports, documents, and other tangible matter produced by the Consultant hereunder), against the Consultant's rights to payments hereunder, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

GC-12 Los Angeles City Business Tax Registration Certificate Required

The Consultant represents that it has obtained and presently holds a Business Tax Registration Certificate(s) required by the City of Los Angeles Business Tax Ordinance (Article 1, Chapter II, Article 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, the Consultant shall maintain, or obtain as necessary, all such Certificates required under said ordinance and shall not allow any such Certificate to be revoked or suspended.

GC-13 Indemnification Provisions

General Indemnification

The Consultant undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the Department of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers and employees, and, at the option of LADWP, defend LADWP and any and all of its Board, officers, agents, representatives, employees, assigns and successors in interest from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including consultant's employees and agents, or damage or destruction to any property of either party hereto, or third persons in any manner caused by the acts, errors, or omissions incident to the performance of this contract on the part of the consultant, or the consultant's officers, agents, employees, or sub-consultants of any tier, except for the sole negligence or willful misconduct of LADWP, its Board, officers, agents, or employees.

Intellectual Property Indemnity

Consultant will indemnify, defend at its expense and hold harmless LADWP against any loss, cost, expense, liability, and damages paid by LADWP as a result of any judgment or settlement as a consequence of any infringement claim, demand, proceeding, suit or action (hereinafter

"Action") against LADWP, its officers, directors, agents, employees, or affiliates for any infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any intellectual property rights, including patents, copyrights, trade secrets, trademarks, service marks, and other proprietary information or rights (collectively "Intellectual Property Rights" hereinafter), (1) on or in any design, medium, matter, plant, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the Consultant in the construction of the work under this Agreement; or (2) as a result of LADWP's actual or intended use under the specifications contained herein by LADWP of any product furnished by Consultant (hereinafter "Consultant Product"). Consultant Product herein includes, without limitation, any hardware, software, firmware, equipment, device, instrumentation, design, medium, matter, plant, article, process, method, and application. Consultant, however, shall have no liability to LADWP herein with respect to any claim of infringement which is based upon the combination or utilization of the Consultant Product with machines or devices not reasonably anticipated hereunder; or based upon a modification by LADWP of the Consultant Product furnished hereunder.

In Consultant's defense of LADWP, negotiation, compromise, and settlement of any such infringement action, LADWP shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

In addition, if any part of the Consultant Product (a) becomes the subject of an action, (b) is adjudicated as infringing any Intellectual Property right, or (c) has its use enjoined or license terminated, Consultant shall, with LADWP's consent, do one of the following immediately at its expense: i) procure for LADWP the right to continue using said infringing part of the product; ii) replace the product with a functionally equivalent, non-infringing product; or iii) modify the product so it becomes non-infringing.

Exercise of any of the above-mentioned options shall not cause undue business interruption to LADWP or diminish the intended benefits and use of the Consultant Product by LADWP under the specifications herein. If Consultant proves, to LADWP's satisfaction, that none of the options (i), (ii), or (iii) are feasible, Consultant shall instead refund the full purchase price of the product.

Rights and remedies available to LADWP hereinabove shall survive the expiration or other termination of this Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

This Condition shall survive the expiration or other termination of this Agreement.

GC-14 Child Support Policy

The Consultant and any Subconsultant(s) must fully comply with all applicable State and Federal employment reporting requirements for the Consultant's and any Subconsultant(s)' employees. The Consultant and any Subconsultant(s) must fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with the California Family Code. The Consultant and any Subconsultant(s) must certify that the principal owner(s) thereof (any person who owns an interest of 10 percent or more) are in compliance with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally. The Consultant and any Subconsultant(s) must certify that such compliance will be maintained throughout the term of this Agreement.

Failure of the Consultant and/or any Subconsultant(s) to fully comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under this Agreement. Failure of the Consultant and/or any Subconsultant(s) or principal owner(s) thereof to cure the default within ninety (90) calendar days of notice of such default by LADWP shall subject this Agreement to termination.

The Consultant will contractually require all Subconsultants performing services under this Agreement to comply with the provisions of this section.

GC-15 Service Contract Worker Retention Ordinance and Living Wage Policy

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 et seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time.

A. Consultant assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.

B. Consultant further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Consultant shall require each of its Subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Consultant shall receive and retain on file the executed pledges from each such Subcontractor within ninety (90) days of the execution of the Subcontract. Consultant's evidence of executed pledges from each such Subcontractor shall fully discharge the obligation of the Consultant to

comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.

C. The Consultant, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. Consultant shall post the Notice of Prohibition Against Retaliation provided by the City.

D. Any Subcontract entered into by the Consultant relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the LWO and SCWRO.

E. Consultant shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Under the provisions of Section 10.36.3(c) and Section 10.37.5(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject Consultant has violated provisions of the LWO and the SCWRO or both.

Where under the LWO Section 10.37.6(d), the designated administrative agency has determined (a) that the Consultant is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the Consultant in accordance with the following procedures. Impoundment shall mean that from monies due the Consultant the awarding authority may deduct the amount determined to be due and owing by the Consultant to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures there described through final and binding arbitration. Whether the Consultant is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The Consultant may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

Earned Income Tax Credit

This contract is subject to the provisions of Section 10.37.4 of the Los Angeles Administrative Code, requiring employers to inform employees making less than Twelve Dollars ($12.00) per hour of their possible right to the federal Earned Income Tax Credit (EITC). Employers must further make available to employees the forms required to secure advance EITC payments from employers.

GC-16 Americans with Disabilities Act

The Consultant hereby certifies that it will comply with the Americans with Disabilities Act 42, U.S.C. Section 12101 et seq., and its implementing regulations. The Consultant will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. The Consultant will not discriminate against persons with disabilities or against persons due to their relationship or association with a person with a disability. Any subcontract entered into by the Consultant, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

GC-17 Retention of Records, Audit, and Reports

Consultant shall maintain, and shall cause Consultant's Subconsultants and suppliers as applicable to maintain all records pertaining to the management of this Agreement and, related subcontracts, and performance of services pursuant to this Agreement, in their original form, including but not limited to, reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred and services performed pursuant to this Agreement. If the Consultant, the Consultant's Subconsultants and/or suppliers are required to submit cost or pricing data in connection with this Agreement, the Consultant must maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. All records shall be retained, and shall be subject to examination and audit by LADWP personnel or by LADWP's agents (herein after "Authorized Auditors"), for a period of not less than four (4) years following final payment made by LADWP hereunder or the expiration date of this Agreement, whichever is later. The Consultant shall make said records or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof, available to the Authorized Auditors at the Consultant's offices at all reasonable times and without charge. The Authorized Auditors will have the right to reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by the Consultant on machine-readable

media shall be provided in a format accessible and readable by the Authorized Auditors. The Consultant shall not, however, be required to furnish the Authorized Auditors with commonly available software.

Consultant, and the Consultant's Subconsultants and suppliers, as applicable to the services provided under this Agreement, shall be subject at any time with fourteen (14) calendar days prior written notice to audits or examinations by Authorized Auditors, relating to all billings and to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation.

Examinations and audits will be performed using generally accepted auditing practices and principles and applicable City, State and Federal government audit standards. For Consultants that utilize or are subject to FAR, Part 30 and 31, et seq. accounting procedures, or a portion thereof, examinations and audits will utilize such information.

To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective.

Consistent with standard auditing procedures, the Consultant will be provided fifteen (15) calendar days to review the Authorized Auditor's examination results or audit and respond to LADWP prior to the examination's or audit's finalization and public release.
If the Authorized Auditor's examination or audit indicates the Consultant has been overpaid under a previous payment application, the identified overpayment amount shall be paid by the Consultant to LADWP within fifteen (15) calendar days of notice to the Consultant of the identified overpayment.

The Consultant shall contractually require all Subconsultants performing services under this Agreement to comply with the provisions of this section by inserting this provision GC-19 in each Subconsultant contract and by contractually requiring each Subconsultant to insert this provision GC-19 in any of its Subconsultant contracts related to services under this Agreement. In addition, Consultant and Subconsultants shall also include the following language in each Subconsultant contract:

> "LADWP is a third party beneficiary of the foregoing audit provision. The benefits of the audit provision shall inure solely for the benefit of LADWP. The designation of LADWP as a third party beneficiary of the audit provision shall not confer any rights or privileges on the Consultant, Subconsultant or any other person/entity."

If an examination or audit undertaken pursuant to the Retention of Records, Audit, and Reports provision of the General Conditions GC-20 for LADWP Professional Service Contracts reveals that LADWP overpayment to the Consultant is more than 5% of the billings reviewed, the Consultant shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit. Such examination or audit expenses and costs shall be paid

by the Consultant to LADWP within fifteen (15) calendar days of notice to the Consultant of the costs and expenses.

The provisions of this section shall survive expiration or termination of this Agreement.

GC-18 LADWP's Recycling Policy

The Consultant shall submit all written documents on paper with a minimum of thirty (30) percent post-consumer recycled content. Existing company/corporate letterhead/stationery that accompanies these documents is exempt from this requirement. Documents of two or more pages in length shall be duplex-copied (double-sided pages). Neon or fluorescent paper shall not be used in any written documents submitted to LADWP.

GC-19 Taxpayer Identification Number (TIN)

The Consultant represents that it has obtained and presently has a Tax Identification Number (TIN). For the term covered by this Agreement, the Consultant shall maintain, or obtain as necessary, a TIN. No payment will be made under this Agreement without a valid TIN number.

GC-20 Beneficiaries

This Agreement is intended only for the benefit of the Parties hereto and does not, nor shall be interpreted, to create any rights in any nonsignatory to this Agreement.

GC-21 Consultant's Successors and Assigns

All indemnifications and warranties provided by the Consultant pursuant to this Agreement will be assumed by and binding upon the Consultant's successors and assigns. The provisions of this paragraph shall survive expiration or termination of this Agreement.

GC-22 Attorney's Fees and Costs

Both Parties hereto agree that in any action to enforce the terms of this Agreement, each Party shall be responsible for its own attorneys' fees and costs. The provisions of this paragraph shall survive expiration or termination of this Agreement.

GC-23 Equal Benefits Ordinance

Unless otherwise exempted in accordance with the provisions of this Ordinance, this Contract is subject to the applicable provisions of the Equal Benefits Ordinance (EBO) Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

A. During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the EBO. The Contractor agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

> "During the performance of a Contract with the City of Los Angeles, the CONTRACTOR will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-1922."

B. The failure of the Contractor to comply with the EBO may be deemed to be a material breach of the Contract by the Awarding Authority.

C. If the Contractor fails to comply with the EBO, the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

D. Failure to comply with the EBO may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

E. If the Bureau of Contract Administration determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

GC-24 Contractor Responsibility Program

Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, which requires Contractor to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Contractor's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, Contractor pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws

regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees.

The Contractor further agrees to:

A. Notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor is not in compliance with all applicable federal, state and local laws in performance of this contract;

B. Notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor has violated the provisions of Section 10.40.3(a) of the Ordinance;

C. Ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and

D. Ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Ordinance in performance of the subcontract.

GC-25 Bidder Campaign Contribution and Fundraising Restrictions

In accordance with the City of Los Angeles Charter Section 470(c)(12) and related ordinances, bidders may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit a bid to LADWP until either the contract is awarded or, for successful bidders, 12 months after the contract is executed. The bidder's principals and subcontractors performing $100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

The Consultant shall comply with the City Ethics Commission's "CEC Form 55" (3 pages) affidavit. The affidavit requires bidders to identify their principals, their subcontractors performing $100,000 or more in work on the contract, and the principals of those subcontractors. Consultants shall also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Consultants who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.

GC-26 Municipal Lobbying Ordinance

The City of Los Angeles Municipal Code Section 48.01 et seq. requires certain individuals and entities to register with the City Ethics Commission and requires public disclosure of certain lobbying activities, including money received and spent. Therefore all bidders for all construction contracts, public leases, or licenses of any value and duration and bidders for goods or service contracts with a value of more than $25,000 and a term of at least 3 months, shall comply with the City Ethics Commission's "CEC Form 50" (1 page) affidavit. A copy of the City of Los Angeles Municipal Lobbying Ordinance is available for download on the City Ethics Commission's website at http://ethics.lacity.org/PDF/laws/law_mlo.pdf. Additional information regarding the Municipal Lobbying Ordinance may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.

GC-27 Iran Contracting Act of 2010

In accordance with California Public Contract Code Sections 2200-2208, all Consultants entering into, or renewing contracts with LADWP for goods and services estimated at one million dollars ($1,000,000) or more shall complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

GC-29 Contractor Performance Evaluation

LADWP will evaluate and record the Contractor's overall performance to determine whether the Contractor is fulfilling its obligations on the current contract and to assess the Contractor's suitability to perform work for LADWP in the future. Contractors are required to meet critical contract provisions including, but not limited to, timely shipment and delivery of goods, completeness of delivered goods, quality of delivered goods, accuracy of billing, and conformance to the terms and conditions of the contract. If such conditions are breached, consistent with the terms of the contract, the Director of Supply Chain Services may terminate the contract for poor performance and may also debar the Contractor from doing business with LADWP for a period up to five years.

GC-30 Errors and Omissions

Notwithstanding any other provisions of this Agreement, approval by LADWP of any task or deliverable, or any requested design changes by LADWP, or any part thereof, shall not relieve the Consultant of the responsibility to meet all of the requirements as set forth in this Agreement. The Consultant shall have no claim for additional costs due to correction of its errors or omissions in said previously approved deliverables or any other action that may be necessary to comply with this Agreement, including all Exhibits.

GC-31 Safety

The Consultant shall arrange facility visits with LADWP who shall advise the Consultant of appropriate safety and security rules. The Consultant shall adhere to the restrictions and instructions of LADWP personnel when visiting any facility.

The Consultant shall do everything reasonable to protect the life, safety, and health of persons at the construction site. The Consultant shall furnish and use safety devices and safeguards and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render safe and healthful employment. The Consultant shall be responsible for ensuring that each of the Consultant's Subconsultants meets the standards of this General Condition.

GC-32 Non-Interference

The Consultant's performance of the work under this Agreement shall not interfere unnecessarily with the operation of LADWP or any other City department.

END OF GENERAL CONDITIONS

EXHIBIT B
Special Provisions

EXHIBIT B
Special Provisions

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SP-1 Warranty and Responsibility of Consultant

SP-2 Conflicts of Interest

SP-3 Confidentiality

EXHIBIT B
Special Provisions

SP-1 Warranty and Responsibility of Consultant

Consultant warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within the Consultants profession, doing the same or similar work under the same or similar circumstances.

SP-2 Conflicts of Interest

Consultant will not accept any employment during the term of the Agreement from any other party if such employment is, could represent, or could lead to a conflict of interest between LADWP, Consultant, or the other party.

Any subcontract entered into pursuant to the terms of this Agreement shall be subject to, and shall incorporate, the provisions of this Article.

SP-3 Confidentiality

All documents, records, and information provided by LADWP to the Consultant, or accessed or reviewed by the Consultant, during performance of this Agreement shall remain the property of LADWP. All documents, records and information provided by LADWP to the Consultant, or accessed or reviewed by the Consultant during performance of this Agreement, are deemed confidential. The Consultant agrees not to provide these documents and records, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity other than as required in order to fulfill any legal requirements or Court Orders. In addition, nothing herein shall operate to prevent Consultant from fulfilling its contractual duties under any other contract with the City of Los Angeles. The Consultant agrees that all documents, records, or other information used or reviewed in connection with the Consultant's work for LADWP shall be used only for the purpose of carrying out LADWP business and cannot be used for any other purpose. The Consultant shall be responsible for protecting the confidentiality and maintaining the security of LADWP documents, records, and information in its possession.

Document Access/Control

A. The Consultant shall make the confidential information provided by LADWP to the Consultant, or accessed or reviewed by the Consultant during performance of this Agreement, available to its employees, agents and /or Subconsultants, only on a
need-to-know basis. Further, the Consultant shall provide written instructions to all of its employees, agents and Subconsultants with access to the confidential information about the penalties for its unauthorized use or disclosure.

B. The Consultant shall store and process confidential information in an electronic format in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or other means.

C. The Consultant shall not remove documents, records, or information used or reviewed in connection with the Consultant's work for LADWP from LADWP facilities without prior approval from LADWP. The Consultant shall not use, other than in direct performance of work required pursuant to the Agreement, or make notes of any home address or home telephone numbers contained in personnel or customer files, confidential information, documents, or records provided by LADWP that are reviewed during work on this Agreement.

D. With prior written approval from LADWP, the Consultant may make copies of such documents, written materials, notes, documents, confidential information, or other information, as necessary to perform its duties under this Agreement.

E. The Consultant shall document and immediately report to LADWP any unauthorized use or disclosure of confidential information as defined in Article 8.1.

F. The Consultant shall require that all its employees, agents, and subconsultants who shall, or may, review, be provided, or have access to LADWP data, information, personnel or customer files, confidential information, documents, or records during the performance of this Agreement, execute a confidentiality agreement that incorporates the provisions of this Article VII, Confidentiality and Restrictions on Disclosure prior to performing work under this Agreement.

G. The provisions of this Article VIII, Confidentiality and Restrictions on Disclosure shall survive termination and expiration of this Agreement.

EXHIBIT C
Fee Schedule

FEE SCHEDULE

CONTRACT NO:	47361-6
TITLE OF PROPOSAL:	Project Management Services
FIRM NAME:	Paradis Law Group, PLLC
FIRM ADDRESS:	570 Seventh Avenue, 20th Floor New York, NY 10018

DETAILED DESCRIPTON OF COST ELEMENTS

DIRECT LABOR

Job Title	Houly Rate	Estimated Hours (8 months)	Estimated Cost (8 months)		Estimated Hours (4 month option)	Estimated Cost (4 month option)		Total Cost (12 months)	
1. Project Manager	$ 450.00	960	$ 432,000.00		480	$216,000.00		$ 648,000.00	
2. Deputy Project Manager	$ 425.00	487	$ 206,975.00		243	$103,275.00		$ 310,250.00	
3. Project Associate	$ 375.00	93	$ 34,875.00		47	$ 17,625.00		$ 52,500.00	
4. Porject Support Staff	$ 175.00	720	$ 126,000.00		360	$ 63,000.00		$ 189,000.00	
SUBTOTAL LABOR		**2260**	**$ 799,850.00**		**1130**	**$399,900.00**		**$ 1,199,750.00**	

OTHER DIRECT COSTS

Description	Maximum Per Trip	2 Trips per Month Maximum for Project Manager (8 months)	3 Trips per Month Maximum for Deputy Project Manager (8 months)	Sub Total Other Direct Costs (8 months)	2 Trips per Month Maximum for Project Mgr (4 months)	3 Trips per Month Maximum for Deputy Project Manager (4 months)	Sub Total Other Direct Costs (12 months)	Total Other Direct Costs (12 months)	
Round trip Coach Airfare between New York and Los Angeles	$1,739.00	$ 27,824.00	$ 41,736.00	**$ 69,560.00**	$13,912.00	$ 20,868.00	**$34,780.00**	**$ 104,340.00**	

SUB TOTAL 8 MONTHS INITIAL AGREEMENT	**$ 869,410.00**
SUB TOTAL 4 MONTHS OPTION	**$ 434,680.00**
TOTAL AMOUNT OF PROPOSAL, 12 MONTHS	**$ 1,304,090.00**

The Department will reimburse reasonable and necessary consultant costs at the actual amount paid by the Consultant to the established in this Exhibit. The Department will not pay mark-up on services, costs, or expenses.
Travel expenses will be reimbursed in accordance with Exhibit D - Allowable Travel Expenses of the Agreement.

Instructions to proposers: Use this format when formulating proposal, additional pages may be added if necessary.

EXHIBIT D
Allowable Travel Expenses

[NOTE: These rates are as of January 1, 2015]

Expenses for transportation, lodging, subsistence and related items incurred by consultants employed by the Los Angeles Department of Water and Power will be subject to the "50-mile" rule. Under this rule, travel reimbursements will be made only if the destination is farther than 50 miles from the Consultant personnel's field or office location to the LADWP work site. Any such travel shall be pre-approved by LADWP and shall be in accordance with the guidelines of this Exhibit E.

All expenditures over $25 require documentation in the form of an original detailed receipt with the exception of per diem meals. However, receipts for expenditures under $25 may be requested by the City Controller. No additional mark-up on contractor or subcontractor expenses will be allowed.

LADWP will reimburse the Consultant for expenses that include, but not limited to:

1.0 Airfare:

Airfare is limited to coach class only. An itinerary is not acceptable in and of itself. Original receipts for airfare must be submitted. Purchase of a refundable ticket, which is usually more expensive than a non-refundable ticket, must be approved by the LADWP Contract Administrator identified in the Agreement.

EXHIBIT E
RESERVED

EXHIBIT F
List of Key Consultant Personnel

The following people are designated as Consultant's Key Personnel:

Name	Project Position	Labor Category	Location	Special Expertise	No. of Years Employed by Consultant/ Experience
Paul O. Paradis	*Project Manager*	*$450.00 per hour*	*On site at LADWP*	*Knowledge and expertise in development and implementation of court administered settlements in regulated industries such as a utility company.*	*25 years of experience / 8 years with Consultant*
Gina M. Tufaro	*Deputy Project Manager*	*$425.00 per hour*	*On site at LADWP or in New York City*		*13 years of experience / 8 years with Consultant*
Stacey J. Dana	*Project Associate*	*$375.00 per hour*	*On site at LADWP or in New York City*		*1 year with Consultant*
Melanie Jacobs	*Project Support Staff*	*$175.00 per hour*	*On site at LADWP or in New York City*		*1 year with Consultant*

EXHIBIT F
List of Key Consultant Personnel

[Note: all Labor categories listed should also appear on Exhibit C Fee Schedule. Any Subconsultant personnel who are key to the Project should also be included in this Exhibit]

EXHIBIT G
RESERVED

EXHIBIT H
Statement of Work

1.0 Background - Remediation services will be executed pursuant to the Revised Settlement Agreement in *Anton Jones v. City of Los Angeles*, Case No. BCF77267 (the "Jones Action").

2.0 Project Objectives - Los Angeles Department of Water and Power (LADWP) shall utilize an independent contractor with specific knowledge in implementation and oversight of court administered settlement agreements related to municipal utility litigation.

3.0 Scope of Work - Contractor shall provide project management services necessary to implement the measures required by the Revised Settlement Agreement in the Jones Action, pursuant to the terms and conditions of this Agreement and as determined necessary by LADWP Chief Administrative Officer or his designated representative.

4.0 Detailed Technical Requirements (Contractor Requirements) - The performance metrics include, but are not limited to:

1. LADWP will appropriate and expend approximately $60 million over an 18-36 month remediation period to retain system and software engineering consultants to stabilize the Customer Care and Billing (CC&B) System and ensure the system generates and delivers timely/accurate customer bills.
2. Identification and calculation of customer billing overcharges incurred since September 3, 2013;
3. Oversee compensation to class members that were overcharged by June 30, 2016;
4. Creation, adoption, and monitoring of the procedures that meet or exceed 13 court mandated customer service performance metrics.
5. Development of internal guidelines and procedures to identify, escalate, and manage future complex customer billing increases.
6. Coordinate with court appointed independent CC&B System monitoring expert.
7. LADWP will meet increasingly higher target levels after 180, 360, and 540 days following the settlement for:
    a. Field investigation case closures
    b. Field services activities such as start/stop service, replace defective meters, reread meters, and exchange meters
    c. Field collections, and
    d. Customer calls response times.
8. LADWP will implement a Tiger Team comprised of LADWP employees, to develop internal guidelines and processes to identify and escalate highly complex customer billing issues.

Consultant will also assist in the development of requirements for a Chief Project Manager to direct the Project Management Organization (PMO), support with selection resulting from a nationwide recruiting campaign, and arrange the transition of project management duties to the new Chief Project Manager.

i. **Reporting** - Contractor is required to provide written monthly status reports, at the direction of the Chief Administrative Officer, with reporting schedule to be determined. Such reports will provide detail concerning:
    i. Credits & refunds to class members;
    ii. Status of remediation to CC&B System; and of
    iii. Any other items identified in the Class Action Lawsuit.

EXHIBIT I
RESERVED

EXHIBIT J
Confidentiality Agreement
for LADWP Proprietary Information

The Confidentiality Agreement for LADWP Proprietary Information contained as Appendix S to the RFP will be incorporated here.

Exhibit 19

Los Angeles, California, June 7, 2016

MINUTES OF REGULAR MEETING OF THE BOARD OF
WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES
HELD IN ROOM 1555-H
JUNE 7, 2016
11:10 A.M.

Meeting called to order by President Mel Levine and roll called:

Present – Commissioners:	President Levine
	William W. Funderburk, Jr.
	Michael F. Fleming
	Christina E. Noonan
	Jill Banks Barad

A quorum present.

IN ATTENDANCE were the following:

Marcie L. Edwards,	General Manager
Martin L. Adams,	Senior Assistant General Manager – Water System
John Chen,	Utility Services Manager – Financial Services Organization
Lou Feldmeier,	Supply Services Manager – Chief Operating Officer
Serge Haddad,	Waterworks Engineer – Water System
Chuck Holloway,	Utility Services Managers – Sustainability and Economic Development
Cree T. Horner,	Managing Water Utility Engineer – Water System
Karen Iseri,	Power Engineering Manager – Power System
Guy Lipa,	Deputy Director – Joint System Services
Christopher J. Lynn,	Electrical Service Manager – Power System
Jeffery L. Peltola,	Chief Financial Officer and Controller Accounting and Financial Reporting – Financial Services Organization
Susan Rowghani,	Director of Water Engineering & Technical Services – Water System
Keith Session,	Water Services Manager – Water System
Louis Ting,	Power Engineering Manager – Power System
Richard Tom,	Assistant General Counsel, Water and Power, City Attorney's Office
Mark Townsend,	Interim Chief Information Officer – Office of the Chief Operating Officer
Ben Truong,	Principal Utility Accountant – Financial Services Organization
William T. Van Wagoner,	Managing Water Utility Engineer – Water System
Michael S. Webster,	Director Power System – Engineering and Technical Services
David H. Wright,	Chief Administrative Officer
Lisa (Xiaoping) Yin,	Principal Utility Accountant – Financial Services Organization

Also, in attendance:

Theodore M. Bardacke,	Office of the Mayor
Sabrina Bornstein	Office of the Mayor
Camden Collins,	Ratepayer Advocate, Office of Public Accountability
Wayne Lafferty,	PA Consulting

ITEM NO. 1 – Opening remarks by the Commission President on agenda and other items relating to Department operations, and Channel 35 broadcast announcement.

BE IT FURTHER RESOLVED that the President or Vice President, or the General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board are hereby authorized and directed to execute said contract for and on behalf of LADWP.

ITEM NO. 16 – Authorizes execution of Agreement No. 47361-6 (Amendment No. 1) for Project Management Services-Customer Information System Remediation with Paradis Law Group, PLLC. Amendment No. 1 will extend the Agreement by one year with a one-year optional period and will increase the Agreement amount by $4,725,675. Submitted by Chief Operating Officer.

RESOLUTION NO. 016 286

WHEREAS, Paradis Law Group, PLLC was awarded Agreement No. 47361-6 (Agreement) by the Los Angeles Department of Water and Power (LADWP) Board of Commissioners on October 20, 2015, to provide project management services necessary to implement the measures required by the Revised Settlement Agreement for Superior Court Case No. BC577267, *Antwon Jones vs. City of Los Angeles,* acting by and through the LADWP; and

WHEREAS, Agreement No. 47361-6 was awarded for a total expenditures not to exceed $1,304,090 for a term of eight months with a four month extension option; and

WHEREAS, LADWP has determined that due to ongoing needs for the project management services necessary for LADWP to implement the extensive measures and remediation of the defectively implemented CC&B Billing System, as required by the Revised Settlement Agreement, it is necessary to increase the contract amount and extend the term and recommends Amendment No. 1 (Amendment) to Agreement No. 47361-6 with Paradis Law Group, PLLC to increase the Agreement amount of $1,304,090 by $4,725,675 to a not-to-exceed total of $6,029,765. The Amendment also recommends approval to extend the Agreement by one year with a one-year optional period.

NOW, THEREFORE, BE IT RESOLVED that Amendment No. 1 to Agreement No. 47361-6, approved as to form and legality by the City Attorney and on file with the Secretary of the Board is hereby approved.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of the LADWP, upon proper certification, is authorized and directed to draw demands on the Water and Power Revenue Funds, in accordance with the terms of this amendment to Agreement No. 47361-6 and this resolution.

BE IT FURTHER RESOLVED that the President or Vice President, or the General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board are hereby authorized and directed to execute said amendment for and on behalf of LADWP.

ITEM NO. 17 – Authorizes Approval of a Purchase and Sale Agreement With Joseph Kashani and Firouzeh N. Kashani, Trustees of the JFK Family Trust, John Kashani, Carmela Kashani as Trustee of the CLK Trust, Jack Kashani and Carmela Kashani as Trustees of the JCK Family Trust, and Julia Kashani Beroukhim for Purchase of the Real Property at 8121 Van Nuys Boulevard, Panorama City, California (Real Estate File J-100026) for a purchase price of $10,350,000, plus escrow and related costs. Submitted by Chief Operating Officer.

ITEM NO. 32D – Consultation with General Manager Marcie L. Edwards of the Los Angeles Department of Water and Power (including security operations) regarding security issues pertaining to the essential public services (water and electric service), pursuant to Section 54957 (a) of the California Government Code.

Deferred

COMMISSIONER FLEMING moved the meeting be adjourned.

Seconded by Commissioner Barad, and carried by the following votes;

Ayes, Commissioner Barad, Fleming, Funderburk, Jr., Noonan, President Levine;

Noes, None.

MEETING ADJOURNED at 3:08 p.m.

No announcement needed after closed session.

SIGNED:

Barbara E. Moseley
SECRETARY

ATTEST:

Mel Levine
PRESIDENT

Exhibit 20

Los Angeles, California, June 6, 2017

MINUTES OF REGULAR MEETING OF THE BOARD OF
WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES
HELD IN ROOM 1555–H
June 6, 2017
10:22 A.M.

Meeting called to order by President Mel Levine and roll called:

Present – Commissioners:	President Levine
	William W. Funderburk, Jr. (Arrived at 12:05 p.m.)
	Jill Banks Barad
	Christina Noonan
	Aura Vasquez

A quorum present.

IN ATTENDANCE were the following:

David H. Wright,	General Manager
Martin L. Adams,	Chief Operating Officer
Mukhlesur Bhuiyan,	Power Engineering Manager – Power System
Joseph Brajevich,	General Counsel, Water and Power, City Attorney's Office
Michael J. D'Andrea,	Utility Administrator – Human Resources
Neil M. Guglielmo,	Chief Financial Officer
Richard F. Harasick,	Senior Assistant General Manager – Water System
Reiko A. Kerr,	Senior Assistant General Manager – Power System Engineering, Planning and Technical Services
Russell Pierson,	Waterworks Engineer – Water System
Christopher C. Repp,	Civil Engineering Associate – Water System
Julie A. Riley,	Deputy City Attorney, Water and Power, City Attorney's Office
Donna Stevener,	Chief Administrative Officer
Louis C. Ting,	Power Engineering Manager – Power System
Richard Tom,	Assistant General Counsel, Water and Power, City Attorney's Office
Gwendolyn W. Williams,	Director of Supply Chain Services – Office of the Chief Operating Officer

Also, in attendance:

Jose Artiles,	Los Angeles Unified School District (LAUSD)
Theodore M. Bardacke,	Office of the Mayor
Camden Collins,	Ratepayer Advocate, Office of Public Accountability
Christopher Gutierrez,	LAUSD
Malcolm McLellan,	Outside Counsel of Van Ness Feldman
Dr. Frederick Pickel,	Executive Director/Ratepayer Advocate, Office of Public Accountability

ITEM NO. 1 – Opening remarks by the Commission President on agenda and other items relating to Department operations, and Channel 35 broadcast announcement.

ITEM NO. 2 – General Public Comment: Opportunity for the public to address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board. In accordance with the Brown Act, no action or discussion shall be undertaken by the Board on any item not appearing on the posted agenda.)

1 SPEAKER

Commissioners Levine and Noonan abstained from Item No. 10 as they were not at the meeting.

ITEM NO. 10 – Recommendation for approval of the minutes of the May 16, 2017 Regular Meeting of the Board of Water and Power Commissioners.

Approval moved by Commissioner Barad.

Seconded by Commissioner Vasquez and carried by the following vote:

Ayes, Commissioners Barad, Vasquez and Vice President Funderburk, Jr.;

Noes, None.

ITEM NO. 22 – Resolution authorizing Agreement No. 47442–7 for Project Management and Consulting Services related to the Jones Settlement and Customer Care and Billing System Remediation With Aventador Utility Solutions, LLC for a term of three years and an amount not to exceed $30,000,000. Submitted by Chief Administrative Officer.

Determine item is exempt pursuant to CEQA Guidelines Section 15060(c)(3).

Dr. Pickel commented on this item.

Motion by Commissioner Funderburk, Jr., Pertaining to a Resolution Authorizing Agreement No. 47442–7 for Project Management and Consulting Services related to the Jones Settlement and Customer Care and Billing System Remediation With Aventador Utility Solutions, LLC for a term of three years and an amount not to exceed $30,000,000.

I move that Item No. 22 on the June 6, 2017, Commission Agenda relative to a resolution authorizing Agreement No. 47442–7 for Project Management and Consulting Services related to the Jones Settlement and Customer Care and Billing System Remediation with Aventador Utility Solutions, LLC for a term of three years and an amount not to exceed $30,000,000, BE AMEMDED, to add the following:

Create an ad hoc Committee of two Board Members to provide oversight of this contract.

ADOPTED AS AMENDED RESOLUTION NO. 017 260

WHEREAS, the Los Angeles Department of Water and Power (LADWP) proposes to enter into Agreement No. 47442–7 (Agreement) with Aventador Utility Solutions, LLC (Aventador) to enable LADWP to retain the project management and consulting services necessary for LADWP to (i) continue to implement the terms and conditions specified in the Revised Settlement Agreement in the matter entitled Antwon Jones vs. City of Los Angeles (Case No. BC577267) (the "Jones Action"); (ii) perform the work items related to the remediation of the defectively implemented Customer Care and Billing (CC&B) System; and (iii) simultaneously add system functionality required for increased system utilization for a term of three years; and

WHEREAS, the required work is of a temporary, expert and special nature; and

WHEREAS, LADWP requires a single–source agreement with Aventador because the work contemplated under this Agreement requires specific knowledge and professional experience in litigation and project management relating to the implementation of a multi–phase and highly complex settlement and requires specific knowledge of Oracle Care and Billing System as configured uniquely for LADWP; and

WHEREAS, time is of the essence and it would not be practical nor advantageous for LADWP to solicit requests for proposals; and

WHEREAS, Aventador has reviewed the services to be provided and incorporated in this Agreement, and represent that they have the qualities, expertise, skills and abilities to perform such work.

NOW, THEREFORE, BE IT RESOLVED that LADWP proposes to enter into the Agreement with Aventador in an amount not to exceed $30,000,000.

BE IT FURTHER RESOLVED that pursuant to City Charter Section 1022, the Board of Water and Power Commissioners (Board) finds that it is more feasible to have the work performed by an independent contractor.

BE IT FURTHER RESOLVED that the Agreement, approved as to form and legality by the City Attorney, and filed with the Secretary of the Board, is hereby approved.

BE IT FURTHER RESOLVED that the President or Vice President, or the General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board are hereby authorized and directed to execute said contract for and on behalf of LADWP.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of the LADWP, upon proper certification, is authorized and directed to draw demands on both the Water and Power Revenue Funds, in accordance with the terms of this Agreement and this Resolution.

Approval, as amended, moved by Commissioner Funderburk, Jr.

Seconded by Commissioner Barad and carried by the following vote:

Ayes, Commissioners Funderburk, Jr., Barad, Noonan, Vasquez and President Levine;

Noes, None.

Commissioners Levine and Barad recused themselves from Item No. 27 and left the Board Room at 12:31 p.m.

ITEM NO. 27 – Resolution authorizing execution of Proposed Second Amendment to Agreement No. 47358–6 Between the City of Los Angeles, Department of Water and Power and The Gallagher Law Group (Outside Counsel) to provide the Department legal advice and representation for groundwater–related disputes and litigation. Submitted by General Counsel Water and Power.

In accordance with CEQA, it has been determined that this Agreement is exempt pursuant to the General Exemption described in CEQA Guidelines Section 15061(b)(3).

RESOLUTION NO. 017 261

WHEREAS, the Los Angeles Department of Water and Power (LADWP) entered into Agreement No. 47358–6 (the "Agreement") with the Gallagher Law Group (Outside Counsel) for specialized legal services to assist the Office of the City Attorney (City Attorney), in representing LADWP on environmental legal matters related to groundwater contamination in the San Fernando Basin.

WHEREAS, the City Attorney finds that an additional appropriation of $2,704,500 is necessary at this time to accomplish the requested representation by the Gallagher Law Group. The amended total appropriation for the Agreement No. 47358–6 will therefore be a total of $4,938,150.

COMMISSIONER LEVINE moved the meeting be adjourned.

Seconded by Commissioner Funderburk, Jr., and carried by the following vote:

Ayes, Commissioners Funderburk, Jr., Barad, Noonan, Vasquez and President Levine.;

Noes, None.

MEETING ADJOURNED at 1:24 p.m.

No announcement was needed after Closed Session.

SIGNED:

Barbara E. Rosales
SECRETARY

ATTEST:

Neil Levine
PRESIDENT

Exhibit 21

17-326632

Secretary of State
Statement of Information
(Limited Liability Company)

118

LLC-12

FILED
Secretary of State
State of California
MAR 29 2017

IMPORTANT — Read instructions before completing this form.

Filing Fee -$20.00

Copy Fees - Face Page $1.00 & .50 for each attachment page,
Certification Fee - $5.00

21|20|RC

This Space For Office Use Only

1. Limited Liability Company Name

AVENTADOR UTILITY SOLUTIONS, LLC

2. 12-Digit Secretary of State File Number	3. State or Place of Organization (only if formed outside of California)
201708710263	CALIFORNIA

4. Business Addresses

	City (no abbreviations)	State	Zip Code
a. Street Address of Principal Office - Do not list a P.O. Box 801 OCEAN AVE STE 603	SANTA MONICA	CA	90403
b. Mailing Address of LLC, if different than item 4a	City (no abbreviations)	State	Zip Code
c. Street Address of California Office, if Item 4a is not in California - Do not list a P.O. Box 801 OCEAN AVE STE 603	SANTA MONICA	CA	90403

5. Manager(s) or Member(s) If no ***managers*** have been appointed or elected, provide the name and address of each ***member***. At least one name and address must be listed. Attach additional pages, if necessary.

a. First Name	Middle Name	Last Name	Suffix
PAUL	O	PARADIS	

b. Address	City (no abbreviations)	State	Zip Code
801 OCEAN AVE STE 603	SANTA MONICA	CA	90403

6. Agent for Service of Process *Item 6a and 6b:* If the agent is an individual, the agent must reside in California and Item 6a and 6b must be completed with the agent's name and California address. Item 6c: If the agent is a California Registered **Corporate Agent**, a current agent registration certificate must be on file with the California Secretary of State and Item 6c must be completed (leave Item 6a-6b blank).

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix

b. Street Address (if agent is not a corporation) - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
		CA	

c. California Registered Corporate Agent's Name (if agent is a corporation) – Do not complete item 6a or 6b

SPIEGEL & UTRERA, P.A., WHICH WILL DO BUSINESS IN CALIFORNIA AS SPIEGEL & UTRERA, P.C. (C2237836)

7. Type of Business

a. Describe the type of business or services of the Limited Liability Company

CONSULTING FIRM THAT PROVIDES CONSULTING ANF PROJECT MANAGEMENT SERVICES TO UTILITIES COMPANY

8. Chief Executive Officer, if elected or appointed

a. First Name	Middle Name	Last Name	Suffix

b. Address	City (no abbreviations)	State	Zip Code

9. The information contained herein, including any attachments, is true and correct.

03/29/2017	PAUL O. PARADIS	OPERATING MGR	
Date	Type or Print Name of Person Completing the Form	Title	Signature

Return Address (Optional) (For communication from the Secretary of State related to this document, or if purchasing a copy of the filed document enter the name of a person or company and the mailing address. This information will become public when filed. SEE INSTRUCTIONS BEFORE COMPLETING.)

Name:
Company:
Address:
City/State/Zip:

Exhibit 22

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

vs.

PRICEWATERHOUSE COOPERS, LLP, et al.,

Defendant.

AND RELATED CROSS-ACTION

Case No. BC574690

Pages 1 to 27

TRANSCRIPT OF HEARING

THE HON. ELIHU BERLE (via telephone)

TAKEN ON

WEDNESDAY, FEBRUARY 13, 2019

Reported by: PHILIP D. NORRIS

CSR NO. 4980

Reporter's Transcript of Hearing Before the Hon. Elihu Berle, taken at 333 South Grand Avenue, Los Angeles, California, on Wednesday, February 13, 2019, at 5:02 p.m., before Philip D. Norris, CSR No. 4980.

APPEARANCES:

FOR THE CITY OF LOS ANGELES:

KIESEL LAW

BY: PAUL R. KIESEL, ESQ.

8648 Wilshire Boulevard

Beverly Hills, California 90211

(310) 854-4444

Email: Kiesel@kiesel.law

FOR THE DEFENDANT:

GIBSON DUNN & CRUTCHER

BY: DANIEL J. THOMASCH, ESQ.

200 Park Avenue

New York, New York 10166-0193

(212) 351-3800

Email: Dthomasch@gibsondunn.com

APPEARANCES:

FOR THE DEFENDANT:

GIBSON DUNN & CRUTCHER

BY: JAMES A. SANTIAGO, ESQ.

MICHAEL DORE, ESQ.

333 South Grand Avenue

Los Angeles, California 90071

(213) 229-7929

Email: Jsantiago@gibsondunn.com

Mdore@gibsondunn.com

FOR ANTWON JONES:

ISAACS FRIEDBERG

BY: JEFFREY B. ISAACS, ESQ.

PAIGE SHEN, ESQ.

555 South Flower Street, Suite 4250

Los Angeles, California 90071

(213) 929-5550

Email: Jissacs@ifcounsel.com

Pshen@ifcounsel.com

ALSO PRESENT:

ALAN HIMMELFARB, ESQ.

STEPHEN SMITH (Videographer)

LOS ANGELES, CALIFORNIA; WEDS., FEBRUARY 12, 2019

5:02 P.M.

MR. THOMASCH: Your Honor, we'll go on the record and have the court reporter take this down, if that's acceptable

THE COURT: Yes.

MR. THOMASCH: All right. Your Honor, this is Mr. Thomasch speaking, counsel for PricewaterhouseCoopers.

We are taking the deposition of Mr. Antwon Jones, who is a third party in our case, a nonparty in our case, but is the named plaintiff in the related case of Jones versus City of Los Angeles.

We have -- we have asked for the production of certain documents, including among those the first request for production of documents that we -- that we asked for requested the copies that Mr. Jones possesses of the draft Complaint Jones versus PwC, and specifically copies of that Complaint that were sent to or received by or received from a third party, including if he got a copy from LADWP, the City Attorney's office, Kiesel Law, Liner, LLP or Paradis Law Group. So we were looking for copies of that Complaint in his files.

As Your Honor will recall, there has been many representations made to the court, starting on December 4th, 2017, that there was only one version of the draft Complaint of Jones versus PwC. That draft document is on the City's privilege log.

In questioning of Mr. Paradis on December 4th of 2017, Mr. Paradis indicated that he was the attorney who drafted the pleading. He said:

"I drafted the pleading, Your Honor, on behalf of the City at the request of the City.

"THE COURT: You drafted them on behalf of the City?

"MR. PARADIS: Yes, sir."

And he goes on from there very specifically about how the City asked him to do that, and it was originally claimed as work product of Mr. Paradis as special counsel to the City of Los Angeles. Mr. Paradis and Mr. Kiesel both served as special counsel pursuant to a contingency fee contract dated -- effective date as of January 1, 2015. The draft Complaint on the privilege log of the City is dated January 24th, 2015.

Last night we were produced -- the City produced to us the first page and the signature page of the document at issue in the draft Complaint against PwC. The names of the counsel, which previously had

been withheld as privileged, are Paul R. Kiesel, Paul O. Paradis, and Gina Tufaro, as attorneys for plaintiff Antwon Jones. So the document in the City's files shows that Mr. Kiesel, Mr. Paradis and Ms. Tufaro are attorneys for the plaintiff. Under questioning today, Mr. Jones has confirmed that he has a copy; that he received -- counsel has indicated he received it on or about January 15 of 2015.

MR. ISAACS: January 9.

MR. THOMASCH: January 9.

THE WITNESS: My mistake, Your Honor.

January 9, 2015. Mr. Jones has made unambiguously clear on multiple occasions that in January of 2015 he was represented by only one lawyer. His lawyer was Paul Paradis. He had never heard the name of Paul Kiesel. And he had not yet retained or would retain Mr. Landskroner until March 26 of 2015 when Mr. Paradis introduced Mr. Jones to Mr. Landskroner via email.

So in January of 2015 there is a document prepared by Mr. Paradis. It is provided to Mr. Jones, who believes that Mr. Paradis is his counsel. It is also provided to the City Attorney's office. And Mr. Paradis has stated repeatedly to Your Honor in court, and on transcripts, that he prepared that

document at the behest of Mr. Peters in the City Attorney's office. He did it as a thought exercise for the City, that it wasn't intended to be filed, and that it was work product of his as counsel for the City.

Our position, Your Honor, is we were -- we were viewing this as a waiver on the grounds that we believed originally that Mr. Landskroner had prepared the document and sent it to the City and that that would waive any privilege, because in January of 2015 the City and Mr. Jones were adversaries. They had -- there had been no contact authorized by Mr. Jones to anyone at the City, and he was evaluating a lawsuit against the City which he filed on April 1st of 2015.

As it turns out, Mr. Landskroner had no role in the preparation of the document. Mr. Landskroner was unknown to Mr. Jones at that time. And we have Mr. Paradis acting at the same moment in time in January 2015 as counsel for the City, special counsel for the City, and counsel for Mr. Jones. And a copy of the document is in both files. And we do not believe it can be privileged under those circumstances; that if Mr. Paradis has provided it to both adversaries, then we believe it should be produced. We've requested production of the document. It has been -- the privilege has been exercised as an attorney/client

communication on behalf of Mr. Jones and also as an attorney work- product objection at the behest of both Mr. Paradis and Mr. Kiesel. And so that is the --

There are a number of places where we've had objections. We have been trying to work through them between counsel. Counsel for Mr. Jones has furnished us with some significant information that may have alleviated our need for documents that he contends are privileged and we disagree with, but we may ultimately not have to bother the court with the issues because of the cooperation that we've received. But on this one we have run into an impasse.

To the extent that briefing is necessary on the issue, Your Honor, I just wanted to find out your -- the court's pleasure, because we would like to be able to resolve the issue -- if not by phone, then on papers or in court -- in a way in which we would be able to get a resolution before we have the depositions that are upcoming, particularly the deposition of the City, which is on the 26th of this month.

THE COURT: We're going to get it resolved.

Is Mr. Paradis there?

MR. THOMASCH: Mr. Kiesel is here and Mr. Isaacs is here. Mr. Isaacs represents Mr. Jones for the purpose of this deposition and asserted the

privilege. He did so, in part, on behalf of Mr. Kiesel, who is here.

MR. ISAACS: Your Honor, this is Jeff Isaacs. I'd just -- on behalf of Mr. Jones I'd like to be heard, when appropriate.

THE COURT: Is Mr. Kiesel there?

MR. KIESEL: Your Honor, it is Mr. Kiesel. And good afternoon. I hope your trip to the dentist was pleasant.

THE COURT: Let me just ask: Is Mr. Thomasch's statement accurate, that the Complaint was drafted on behalf of the City? Are you representing the City with Mr. Paradis?

MR. KIESEL: So it is inaccurate what Mr. Thomasch represented to the court just now based upon my understanding of the Complaint.

THE COURT: It wasn't accurate?

MR. KIESEL: It is inaccurate, Judge. It's not correct.

THE COURT: Well, one question at a time. Was the Complaint drafted on behalf of the City?

MR. KIESEL: There was a Complaint drafted on behalf of the City, yes.

THE COURT: I assume with the client.

MR. ISAACS: No, Your Honor. This is

Mr. Isaacs on behalf of Mr. Jones.

So Mr. Jones has left --

THE COURT: Wait, wait, wait, I'm not going to -- I don't want to talk to -- I want to talk to Mr. Kiesel.

MR. KIESEL: Go, Judge.

THE COURT: Sitting with the client, the Complaint was drafted on behalf of the City; is that correct?

MR. KIESEL: There was a Complaint drafted for the City to review. As Mr. Peters indicated, at his request he was provided a copy of a Complaint, that's correct.

THE COURT: One thing at a time.

The Complaint was drafted by Mr. Paradis and you for the City as the client?

MR. KIESEL: That is correct.

THE COURT: And that was given to Mr. Jones?

MR. KIESEL: That is incorrect.

THE COURT: That is correct or not?

MR. KIESEL: That is not correct, Your Honor.

THE COURT: All right. What's not correct about it?

MR. KIESEL: Your Honor, Mr. Jones was, in fact, provided, and he's testified to that today, a copy

of a Complaint for him to review, which was Jones versus PricewaterhouseCoopers. He's acknowledged that he received a copy of a draft Complaint Jones versus PricewaterhouseCoopers. It is not the same Complaint that the City of Los Angeles received. It is a different Complaint.

THE COURT: All right. Where did Mr. Jones get that Complaint?

MR. KIESEL: Mr. Jones got that Complaint, as he testified here today, from Mr. Paradis.

THE COURT: He got it from Mr. Paradis?

MR. KIESEL: That's correct. And Mr. Paradis was representing Mr. Jones at the time he sent the Complaint to him.

THE COURT: Okay. And the Complaint was drafted on behalf of the City?

MR. KIESEL: No. No, that Complaint that Mr. Jones received was a Complaint prepared for Mr. Jones for Mr. Jones to review as a draft Complaint for a potential action against PricewaterhouseCoopers by Mr. Jones.

THE COURT: Was the draft done on behalf of the City?

MR. KIESEL: No, that Complaint was not drafted on behalf of the City. That Complaint sent by

Mr. Paradis was drafted on behalf of Mr. Jones as the potential class representative in a class action against PricewaterhouseCoopers.

And to clarify things a little bit, Judge, recall that when Mr. Clark provides his person most qualified deposition testimony, he will respond to the court's ordered questions regarding the Jones versus PwC Complaint that is in the City's file, because the City has asserted a privilege, which the court has yet to rule on that assertion, but we did provide counsel today with a copy of the cover page and the signature page of the Jones versus PwC action.

Today, Mr. Isaacs, on behalf of Mr. Jones, entered an objection based upon an attorney/client privilege between Mr. Jones and Mr. Paradis to that Complaint that was sent to him by Mr. Paradis. It is an attorney/client privilege objection by Mr. Isaacs.

THE COURT: What's the difference between the two complaints?

MR. KIESEL: Well, let me say this, Your Honor: I do not have the two of them in front of me. I've got counsel looking at me. I've got empty hands in front of me. I've been advised, I can tell the court they are not the same Complaint. I'm not sure I can --

THE COURT: I guess that's a (inaudible).

MR. KIESEL: Well, Your Honor, to the extent that Mr. Isaacs is asserting a privilege on behalf of Mr. Jones as an attorney/client privilege, and to the extent that the City of Los Angeles is asserting a privilege as well, it is -- I am not able to actually respond directly to that question without violating a privilege.

THE COURT: I want to know, is this a serious difference? Are you telling me a couple of comments and a couple of grammatical changes and the whole thing is a charade?

MR. KIESEL: Your Honor, honestly, I would like to respond directly to your question, but I have to rest on the assertion of a privilege that I've been asked to on behalf of -- in this case it's Mr. Jones' privilege that I cannot waive. And the City of L.A. has a deposition coming up with Mr. Clark to determine whether or not there is a privilege that the court is going to sustain for that document.

THE COURT: It seems to me what you're telling me is that Mr. Paradis drafted a Complaint for the City and gave a copy of that to Mr. Jones.

MR. KIESEL: No. It's actually Mr. Paradis prepared a copy of a Complaint for Mr. Jones, Mr. Jones had a copy of the Complaint, and subsequent to that a

Complaint was prepared for the City of Los Angeles, styled Jones versus PricewaterhouseCoopers, but the first was Jones -- got it? -- the second was the City, Your Honor.

MR. THOMASCH: Your Honor, it's Mr. Thomasch. If I might.

We have asked for all copies of the Jones versus PwC draft Complaint, and we were repeatedly told there is only one such document, one copy of the document, and now we're told there are two different documents, both of which were drafted within the same month by Mr. Paradis, one Mr. Paradis purports to be counsel for the City, and he was counsel for the City at that time, special counsel appointed by the City and subject to a written contract effective January 1, 2015, and at the other time he was the only counsel for Mr. Jones.

THE COURT: I hear this very clearly. Mr. Paradis, Mr. Kiesel (inaudible) client represent the City and Mr. Jones at the same time?

MR. THOMASCH: They were representing them both, although, to be fair, Mr. Jones never heard Mr. Kiesel's name, did not know Mr. Kiesel, did not consider Mr. Kiesel his counsel in 2015 or anytime he was subpoenaed to testify here today.

THE COURT: I find it significant if Mr. Jones did not consider them as counsel, but nevertheless that Mr. Paradis, Mr. Kiesel (inaudible) as counsel for both Mr. Jones and the City at the same time.

MR. KIESEL: This is Paul Kiesel.

As I said before, the City of Los Angeles and Mr. Jones were not in conflict with each other. There was not an issue involving --

But I want to do this, Your Honor: I'd like Mr. Isaacs to put on the record, because we have the record, what his objection is as to Mr. Jones, because I think it is important that he identify what his objection is so the record is clear. And then I want to suggest, Your Honor --

Well, let me do that, if you don't mind, Judge.

THE COURT: All right. Mr. Isaacs.

MR. ISAACS: Thank you, Your Honor. Jeff Isaacs on behalf of Mr. Jones. Also here with Paige Shen from our office on behalf of Mr. Jones. We were retained for purposes of representing Mr. Jones in this deposition.

So just to step back for a second. Based on our investigation -- and we've shared this information with Mr. Thomasch and with Mr. Kiesel, Mr. Paradis, and Mr. Landskroner's counsel, that we provided via letter.

Here's the facts as we've determined and as Mr. Jones has confirmed in today's deposition.

On or about December 8th of 2014, Mr. Jones retained Mr. Paradis as his counsel. Mr. Paradis was responding to a complaint by Mr. Jones on a website that he, Mr. Jones, had been overcharged by DWP. He retained Mr. Paradis as his counsel at that time. He did not know that Mr. Paradis was also or may have been acting also as counsel for the City.

Mr. Paradis, as Mr. Jones' counsel, prepared a Complaint that was styled Jones versus PricewaterhouseCoopers, which was provided to Mr. Jones by Mr. Paradis on January 9 of 2015 as part of an attorney/client communication with an email that was actually marked, quote, "Attorney/client Privilege Communication." It was a draft.

Mr. Jones testified, when Mr. Thomasch showed him the cover sheet of the Complaint, that had been -- that was from the City files, that it looked -- that it looked the same as what Mr. Paradis had provided him previously. He had never authorized Mr. Paradis to communicate a copy or a draft of that draft Complaint to the City, did not know that Mr. Paradis was representing or was also special counsel for the City at that time, never waived the privilege.

Ultimately that Complaint was not filed --

THE COURT: What's the difference? Let's understand. There's a distinction between attorney/client privilege and work-product privilege.

MR. ISAACS: Absolutely, Your Honor.

THE COURT: Mr. Jones does not control the work-product privilege.

MR. ISAACS: That is correct, Your Honor. And Mr. Jones is asserting the attorney/client privilege as to that communication, which includes --

THE COURT: The Complaint is not subject to the attorney/client communication.

MR. ISAACS: No, Your Honor. Your Honor, it actually is because it was part of an attorney/client communication. It was advice by --

Sorry, Your Honor. Just to finish, just put on the record.

It was part of advice by Mr. Paradis to Mr. Jones. And that would be our position. And the communication, I think, makes it very clear.

THE COURT: Okay. That's your position. All right. Next.

MR. ISAACS: And then, Your Honor, again, that Complaint was not filed, that communication remained confidential, and eventually Mr. Paradis introduced

Mr. Jones via email to Mr. Landskroner. That was in late March of 2015. Then it was Mr. Paradis and Mr. Landskroner representing Mr. Jones together, and Mr. Paradis provided Mr. Jones with a draft of a Complaint styled Jones versus LADWP, which was filed -- ultimately filed two days later listing Mr. Landskroner as Mr. Jones' counsel.

THE COURT: You're saying that Mr. Paradis drafted the Complaint for Mr. Landskroner and put Mr. Landskroner's name on it?

MR. ISAACS: I don't know whether Mr. Paradis drafted it, Mr. Landskroner drafted it, but Mr. Paradis sent it to Mr. Jones as part of his -- in the course of his attorney/client relationship and at the same time introduced Mr. Landskroner to Mr. Jones as counsel who would be assisting him in the filing and prosecution of the Jones versus LADWP. The Complaint was filed and then --

THE COURT: (Inaudible).

MR. ISAACS: Pardon me?

THE COURT: Mr. Kiesel, did you inform (inaudible) about all of this?

MR. KIESEL: Yes, Your Honor.

THE COURT: While Mr. Paradis was representing the City, he was drafting a Complaint, gave to

Mr. Landskroner to file on behalf of Mr. Jones; is that right?

MR. KIESEL: Your Honor, the City Attorney -- Your Honor, I cannot disclose any attorney/client communications. I will tell you that the court instructed me to advise the City Attorney's office what was going on. I advised the City Attorney's office precisely what was going on. Mr. Peters appeared in your court directly on behalf of the City Attorney's office and responded to the court's questions.

All I can tell you is there have been transparent communications with the City Attorney's office, but I can't specifically discuss what was a part of those communications.

THE COURT: Okay. Let Mr. Isaacs continue.

MR. ISAACS: Thank you, Your Honor.

So the Complaint was filed on April 1st of 2015, listing Mr. Landskroner as counsel for Mr. Jones, along with Mr. Libman, who was local counsel. After that -- and again, this is Mr. Jones' testimony. And we confirmed it through our own investigation -- the last written communication that Mr. Jones had with Mr. Paradis was April 10th of 2015. The last oral communication that he had with Mr. Paradis was sometime soon thereafter.

Mr. Paradis faded from the scene as far as Mr. Jones was concerned, and his discussions after that point -- after that were with Mr. Landskroner and Mr. Landskroner's firm as his counsel in the class action against LADWP. But there is no written communication from Mr. Paradis that we have been able to find, or that Mr. Jones can recall or anybody else is aware of, by Mr. Paradis terminating his representation of Mr. Jones, nor does Mr. Jones -- or Mr. Jones testified that as far as he was concerned, he was being represented by Mr. Paradis and Mr. Landskroner in the Jones versus DWP case, but really didn't give much thought to Mr. Paradis because his role -- as I said, he sort of faded from the scene and it was Mr. Landskroner that he was dealing with all the way through till today. And as far as he's concerned, Mr. Landskroner is also representing him.

In addition, based upon our investigation, which included speaking with Mr. Kiesel, Mr. Paradis and Mr. Landskroner's counsel, it appears that Mr. Kiesel was associated by Mr. Paradis at the time that the -- at the time that the Complaint styled Jones versus PwC was provided to -- provided to Mr. Jones. Again, that was on January 9th of 2015, which was prior to the date, at least, listed on the privilege log that the City

provided that showed that there was a Complaint with the same caption or similar caption in the City's files as of, I believe it was, January 14th --

MS. SHEN: 24th.

MR. ISAACS: -- January 24th of 2015. So it looks like Mr. Paradis --

The short of it is, Your Honor, Mr. Paradis, as counsel for Mr. Jones, provides Mr. Jones with -- communicates with Mr. Jones with a cover email and attaching a Complaint, a draft Complaint, marked "confidential," with a cover email marked "attorney/client privilege" that discusses this draft Complaint, provided that to Mr. Jones on January 9th of 2015, prior to it being given to the City.

Again, Mr. Jones never authorized Mr. Paradis to provide a draft of that Complaint or any version of it to -- to the City, and Mr. Jones, at least for the time being, is asserting the attorney/client privilege with respect to that communication.

And we have reviewed, Your Honor, we have reviewed the transcripts of all -- what we understand are the relevant hearings before Your Honor: December 5th, I think December 12th, January 23rd, February 7th. We notice that Your Honor had ruled that, I believe, that the allegations, at least, in the -- in the draft

Complaint, even in the version that was in the City's files, were confidential, and we think that is correct.

THE COURT: I did not rule that they were confidential.

MR. ISAACS: Sorry, I thought you'd ruled that they were attorney/client privilege.

THE COURT: I did not rule that they were confidential, either attorney/client or work product. That's still an open question.

MR. ISAACS: I see. So in any event, I think that's -- I think that's a fair overview of what we know and what Mr. Jones has testified to.

We have not seen, that is neither Mr. Jones, nor us as counsel for Mr. Jones, the version of the Jones versus PwC Complaint in the City's files, so we cannot represent to you that they are the same Complaint. All we can say is that the cover page, the caption page, appears to be similar, and that is what Mr. Jones has testified to.

THE COURT: I understand that. Okay.

MR. ISAACS: Thank you, Your Honor.

THE COURT: I don't think we're going to resolve the issues tonight. I need further discussion in court, maybe further briefing, but it is (inaudible) which I think is appropriate for final questioning, and

that is for counsel may inquire all the details concerning the specific draft or -- not the content, the draft that's in Mr. Jones' file and the draft that's in the City's file, find out in terms of how they carve out, whether any changes were made on them, were there any specific communications with regard to any contents on them, and what parameters, if there are any differences, or are we just shuffling paper here.

And then we're going to have a hearing. And perhaps counsel should brief -- I think counsel should brief the issue of the weight (sic) of the work-product privilege by sending documents from one purported client to another purported client, especially considering that the clients are adverse to each other, and consideration of whether there is a (inaudible) in any event by an attorney representing conflicting parties about those issues.

And our briefing schedule -- I haven't seen -- don't have the calendar here, so I ask that you call the court tomorrow morning and we'll set up a -- schedule a meeting time. Counsel may proceed to inquire about further details about the drafts, not necessarily content. I'm not ruling on the contents or the production of the document itself yet.

I am concerned as to whether there is a

difference between the two documents. But if there are any changes, I would like to know, and counsel may inquire as to what -- excuse me, what were the circumstances and who made changes and when they occurred.

MR. KIESEL: So Your Honor -- it's Paul Kiesel -- I think my only comment is that we've got the deposition of Mr. Clark coming up, and Mr. Clark will certainly provide some light on this subject. So whatever briefing schedule occurs, it should probably either happen after Mr. Clark's deposition or put Mr. Clark's deposition off and do the briefing. But I -- I leave it up to Mr. Thomasch.

THE COURT: I think we should go forward with the deposition. I think specific inquiry should be made as what the City knew about Mr. Paradis representing Mr. Jones at the same time he was representing the City.

MR. THOMASCH: That is what we intend to do, Your Honor. And we would brief the issue after that. It may be because the current story, unlike the previous representation that there was only one Complaint, the current story is that there are two separate complaints, one of which went to Mr. Paradis' client A and the other one to Mr. Paradis' client B, who were adverse to each other at the same time.

THE COURT: We haven't found out if there are any significant differences between those two.

MR. THOMASCH: It may be that only Mr. Paradis knows that, because he may not have provided each client with both. Even if he had provided virtually the same document to two clients --

I know that Mr. Jones will not be able to testify -- Mr. Jones has been very cooperative, but there is nothing he could say, because he's never seen the copy that's in the City's files, and the City presumably is going to tell us we never saw the copy that Mr. -- Mr. Paradis put into Mr. Jones' files, so it may be that the only one who knows whether he made any change is the author of both documents, which is, if they're different at all, which is Mr. Paradis.

And we will brief the issue, including the need to depose Mr. Paradis, after we have the deposition of Mr. Clark, because I am most interested in Mr. Clark's understanding of the fact that Mr. Jones was formerly -- had formally retained Mr. Paradis to be his counsel, and as of the point that Mr. Jones sued the City of Los Angeles on April 1, 2015, Mr. Jones was under the impression that his counsel was Mr. Paradis and Mr. Landskroner. Mr. Landskroner had been in the case all of six days at that point.

THE COURT: We don't have to argue. So I think you should go forward, complete the deposition under the parameters we've discussed. But I also want counsel on both sides to brief the issue as to what effect the fact that the counsel purport to represent two clients adverse to each other, how did that affect the attorney/client privilege or attorney work-product privilege and if the attorney is in a position of conflict of interest and owes each client a sole obligation disclosure and fiduciary responsibilities.

MR. THOMASCH: We'll do that, Your Honor. And we will meet among ourselves. I agree with Mr. Kiesel's suggestion that we will begin the briefing after Mr. Clark's deposition.

THE COURT: All right. Thank you. And any other issues, call tomorrow morning.

MR. THOMASCH: Thank you, Your Honor.

MR. ISAACS: Thank you very much, Your Honor.

(Whereupon the hearing was adjourned)

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I, Philip D. Norris, a Certified Shorthand Reporter for the State of California, do hereby certify:

That said Reporter's Transcript of Hearing is a true record and was taken before me at the time and place therein set forth, and was taken down by me in shorthand and thereafter reduced to typewriting via computer-aided transcription under my direction;

I further certify that I am neither counsel for, nor related to, any party to said action, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this 15th day of February, 2019.

Philip D. Norris
CSR NO. 4980

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ANTWON JONES,

Plaintiff,

v.

CITY OF LOS ANGELES,

Defendants.

CITY OF LOS ANGELES, acting by and through its Department of Water and Power,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP,

Defendant.

Case No. BC577267
Case No. BC574690
Case No. BC594049

DECLARATION OF DANIEL E. EATON IN SUPPORT OF PRICEWATERHOUSECOOPERS, LLP'S BRIEF REGARDING PRIVILEGE, WAIVER, AND THE FRAUD EXCEPTION IN RESPONSE TO THE COURT'S REQUEST OF FEBRUARY 21, 2019

Hearing Date: March 4, 2019
Time: 9:00 a.m.
Department: SS6
Judge: Hon. Elihu M. Berle

I, Daniel E. Eaton, declare as follows:

1. I am an attorney licensed to practice before this Court. I am a member of Seltzer Caplan McMahon Vitek. On February 27, 2019, I was retained by counsel for PricewaterhouseCoopers ("PwC") to provide an expert declaration as to certain issues of legal ethics that have been raised in this matter. It is in that capacity that I submit this declaration.

QUALIFICATIONS

2. I am a 1989 honors graduate of Harvard Law School. I was admitted to the California Bar that year and have been a member or associate of southern California law firms continuously since then.

3. In 2002, I joined the San Diego County Bar Association Legal Ethics Committee as its Vice Chairman. I served a two-year term as Chairman of the Committee from 2003-2004 and thereafter as a member of the Committee until 2013.

4. As Chair of the Legal Ethics Committee, I conceived, and served as lead editor of, "Ethics Quarterly," an electronically distributed publication that abstracted California state and federal opinions concerning legal ethics and wrote several analytical commentaries on certain of the abstracted cases in a number of editions of that publication. I served as lead editor until 2014.

5. As a member of the Legal Ethics Committee, I served as lead or contributing draftsman on several San Diego County Bar Association legal ethics opinions, addressing the responsibilities of attorneys under California's Rules of Professional Conduct including addressing the application of the Rules of Professional Conduct to issues not fully addressed by case law or by other ethics authorities.

6. Since 2008, I have served as member of the Standing Committee on Discipline of the United States District Court for the Southern District of California. In 2012, I served as lead trial counsel for disciplinary charges that resulted in the one-year suspension of a member of the Bar of that Court for misleading the Court and counsel regarding his client in the context of the settlement of a civil matter. *In re Hubbard* (S.D.Cal. 2013) 2013 WL 435945. In addition to my work on *Hubbard*, I have served as co-lead Committee member on several other matters involving allegations of violations of the California Rules of Professional Conduct during the time I have served on the Committee.

7. I have been a speaker on legal ethics at numerous programs in California and in other states for a range of legal organizations, including the San Diego County Bar Association, the San Diego Chapter of the American Corporate Counsel Association, the State Bar of California, the American Bar Association, and the Defense Research Institute, developing and presenting programs

addressing such issues of professional conduct as conflicts of interests, the attorney's duty of candor to the Court, the duty of loyalty, termination of representation, and the application of the attorney-client privilege and its waiver.

8. I have provided legal ethics consultations to private and public clients.

9. I have served as a Special Deputy Trial Counsel for the State Bar of California. Under Chapter 2, Rule 2201 of the Rules of Procedure of the State Bar of California, the Office of the State Bar Chief Trial Counsel appoints a Special Deputy to handle inquiries or complaints in which the State Bar Chief Trial Counsel is conflicted or in other circumstances necessary to avoid the appearance of any impropriety. In carrying out the assignment, the Special Deputy Trial Counsel has all of the powers and duties of the Chief Trial Counsel. During my assignments as Special Deputy Trial Counsel, I investigated charges and violations of the California Rules of Professional Conduct.

10. In 2015, the President of the State Bar of California appointed me to the Special Commission for the Rules of Professional Conduct of the State Bar of California on which I served until the Commission completed its work in 2018. The Commission's Charter mandated that the Commission craft revised rules that would "set forth a clear and enforceable articulation of disciplinary standards" and that would "facilitate compliance with and enforcement of the Rules by eliminating ambiguities and uncertainties." Toward that end, I and the other members of the Commission considered the practical impact of the Rules of Professional Conduct as they then were and the projected impact of any proposed revisions to the Rules. The work of the Commission contributed to the first comprehensive overhaul of the Rules of Professional Conduct in about 30 years.

SCOPE OF ASSIGNMENT

11. I was asked to, and did, review this Court's order of February 21, 2019. In accordance with that order, counsel for PwC asked me to provide an opinion on: (1) whether it would violate the State Bar Act and the California Rules of Professional Conduct then in effect for an attorney, without the informed written consent of each party, to represent potentially and/or actually adverse parties in the same matter or to represent one party in a separate matter in which the party's interests are adverse

to another client in the first matter; (2) whether an attorney must disclose to the Court any prior or current representation of the opposing party in that same action or a separate matter in which the interests of an opposing party are adverse to another client in the first matter; (3) whether an attorney is permitted to recover attorney's fees in the settlement of a class action for work performed prior to the beginning of the attorney-client relationship in the matter for which fees are sought; (4) the point at which an attorney's representation of a client is deemed to have been terminated; and (5) whether it is ethically proper for defense counsel, to secure advantageous settlement terms, to coordinate with one of several plaintiff's counsel with which it has a relationship that is not disclosed to the plaintiff.

12. My in-depth analysis of these issues through application of pertinent principles of ethics to the facts as reflected in the evidence I have reviewed appears below. In summary, I conclude that Paul O. Paradis, Esq. a member of the New York Bar, and Jack Landskroner, a member of the Ohio Bar, and their associated counsel by necessary inference were subject to the California Rules of Professional Conduct at all pertinent times and that: (1) Mr. Paradis violated each of the three subparts of Rule of Professional Conduct 3-310(C) and related duties to each client when he simultaneously represented both ratepayer Antwon Jones and the City of Los Angeles (together with the Los Angeles Department of Water and Power collectively "the City") throughout the litigation Mr. Jones brought against the City ("underlying litigation"); (2) Mr. Paradis violated his duty of candor to the Court, in settlement proceedings related to an action brought by Mr. Jones against the City for alleged overcharges, by failing to disclose his dual representation of Mr. Jones and the City; (3) Mr. Landskroner violated his duty of candor to the Court in seeking and obtaining attorney's fees in connection with Mr. Jones's settlement of his class action against the City for alleged overcharges for legal work Mr. Landskroner before his attorney-client relationship with Mr. Jones had apparently formed; (4) Mr. Paradis effectively terminated his representation of Mr. Jones, begun in 2014, no sooner than the July 2017 hearing on the final approval of the settlement of that action and violated his duty under Rules of Professional Conduct 3-500 and 3-700 to communicate and give due notice to Mr. Jones to the extent that he abandoned the representation prior to the time; and (5) for the City and its

counsel effectively to select among competing plaintiffs' class counsel the one they believed would cooperate with the City to secure the most advantageous settlement terms of the multiple lawsuits filed on behalf of plaintiff ratepayers was conduct prejudicial to the administration of justice in violation of ABA Model Rule 8.4.

DOCUMENTS REVIEWED

13. I reviewed in full the following documents, in reverse chronological order: (1) this Court's February 21, 2019 order ("2/21/19 Order"); (2) the transcript of hearing dated February 13, 2019 ("2/13/19 Tr."); (3) the transcript of the deposition of Antwon Jones dated February 13, 2019 ("Jones Depo."); (4) a letter dated February 12, 2019 from Jeffrey B. Isaacs, Esq. to Daniel J. Thomasch, Esq. ("Isaacs letter"); (5) the declaration of Antwon Jones dated May 1, 2017 ("Jones Decl.").

14. Additionally, I reviewed portions of the following documents: (1) rough transcript of Deputy City Attorney James Clark dated Feb. 26, 2019 ("Clark Depo."); (2) transcript of hearing dated Jan. 23, 2019 ("1/23/19 Tr."); (3) hearing transcript dated December 12, 2018 ("12/12/18 Tr."); (4) hearing transcript dated December 5, 2018 ("12/5/18"); (5) hearing transcript dated December 4, 2017 ("12/4/17 Tr.") (6) Order granting final approval of class action settlement and final judgment dated July 20, 2017; (7) declaration of Jack Landskroner in support of motion for final approval dated May 5, 2017 and attached exhibits ("Landskroner Decl.").

RULES OF PROFESSIONAL CONDUCT AND PROVISIONS OF THE CALIFORNIA STATE BAR ACT APPLIED

15. The California Rules of Professional Conduct that are addressed in this analysis were those in effect when the conduct in question occurred. Specifically, the Rules addressed are those that were in effect until October 31, 2018. The revised Rules of Professional Conduct have been in effect since November 1, 2018.

16. California Rule of Professional Conduct ("RPC") 1-100 (D)(2): "As to lawyers from other jurisdictions who are not members [of the State Bar of California]: These rules shall also govern the activities of lawyers while engaged in the performance of lawyer functions in this state. . . ."

17. RPC 3-310(C): "A member shall not, without the informed written consent of each client: (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or (2) Accept or continue a representation of more than one client in a matter in which the interests of the clients actually conflict; or (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter."

18. RPC 3-500: "A member shall keep a client reasonably informed about significant developments relating to the employment or representation. . . ."

19. RPC 3-700: "(A) In General. . . . (2) A member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client. . . ."

20. RPC 5-200: "In presenting a matter to a tribunal, a member: (A) Shall employ, for the purpose of maintaining the causes confided to the member such means only as are consistent with the truth; (B) Shall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law. . . ."

21. Business and Professions Code section 6068: "It is the duty of an attorney to do all of the following: . . . (d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law."

22. ABA Model Rule 8.4: "It is professional misconduct for a lawyer to: . . . (d) engage in conduct that is prejudicial to the administration of justice."

ANALYSIS

ISSUE ONE: Mr. Paradis Violated Each of the Three Subparts of Rule of Professional Conduct 3-310(C) and His Undivided Duty of Loyalty to Each Client When He Simultaneously Represented Both Mr. Jones and the City.

23. An attorney may not accept representation of two clients whose interests potentially conflict without the informed written consent of each client. (RPC 3-310(C)(1).) An attorney may not concurrently represent parties that are actually adverse to each other in the same litigation without the informed written consent of each client. (RPC 3-310(C)(2).) "[T]he disclosure required for informed consent to dual representation must also be measured by a standard of loyalty. To be informed, the client's consent to dual representation must be based on disclosure of all material facts the attorney knows and can reveal." (*Sheppard, Mullin, Richter & Hampton, LLP v. J-M Mfg. Co.* (2018) 6 Cal. 5th 59, 84.) "[T]he writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence of a writing." (ABA Model Rules Prof. Conduct 1.7, com. 20.) "There are some matters in which the conflicts are such that written consent may not suffice for non-disciplinary purposes." (RPC 3-310 Discussion, citations omitted.) One example of such a generally unwaivable conflict is where an attorney represents both sides in the same litigation. (See, e.g., *People ex rel. Dep't of Corps. v. SpeeDee Oil Change Sys., Inc.* (1999) 20 Cal. 4th 1135.)

24. Mr. Paradis violated subsection (1) of Rule of Professional Conduct 3-310(C).

25. Mr. Paradis accepted the representation of Mr. Jones on or about December 8, 2014. (Isaacs letter, p. 2; Deposition of Antwon Jones dated February 13, 2019 ("Jones Depo."), p. 119.) At the time he engaged Mr. Paradis, Mr. Jones requested that Mr. Paradis conduct an investigation as to whether he had "any claims that could be brought against the LADWP and the City of Los Angeles" to recover amounts he believed he "had been overcharged by the LADWP for electricity." (Jones Decl., ¶ 5.) Mr. Paradis represented the City at the time Mr. Jones engaged him for this purpose. (Deposition of James Clark [Rough Draft] ("Clark Depo."), p. 170.) Mr. Jones was unaware when he engaged Mr.

Paradis as his attorney that Mr. Paradis also represented the City. (Jones Depo., pp. 48-49, 69, 133-134, and 209.) Mr. Jones never would have hired Mr. Paradis to represent him had he known Mr. Paradis also was representing the City. (Jones Depo., pp. 133-134.) By contrast, the City was aware of the dual representation in or around December 2014. (Clark Depo., pp. 20-21, 28-29, 77, and 79.)

26. In my opinion if these facts are true, Mr. Paradis violated RPC 3-310(C)(1) at the inception of his representation of Mr. Jones by concurrently representing him and the City, whose interests at the very least potentially conflicted given Mr. Jones's stated objective, without obtaining the informed written consent of each client. Even if Mr. Jones had informed Mr. Paradis that he wished to sue PwC and no one else, Mr. Paradis still would have had to consider Mr. Jones's potential adversity with Mr. Paradis's other client, the City. Informed written consent requires the attorney to disclose to the client what the attorney knows and can reveal about potential conflicts. (*Sheppard Mullin*, *supra*, 6 Cal.5th at 84.)

27. Mr. Paradis violated subsection (2) of Rule of Professional Conduct 3-310(C) and his duty of loyalty to both clients in thereafter accepting and continuing to represent Mr. Jones and the City in litigation in which their interests actually conflicted.

28. From the time Mr. Jones contacted Mr. Paradis in December 2014 through the time Mr. Jones filed suit against the City in April 2015, Mr. Jones intended to sue the City (Jones Depo., p. 100.). Prior to April 1, 2015, Mr. Jones directed Mr. Paradis to draft the complaint against the City and Mr. Paradis did so. (Jones Depo., pp. 64-65, 70.) Mr. Jones understood that Mr. Paradis remained part of his team of counsel until at least July 2017 when the Court gave final approval to the settlement Mr. Jones had filed against the City. (Jones Depo., p. 98.) Mr. Paradis started working in a legal capacity for the City no later than mid-December 2014. (Clark Depo., p. 170.) He was involved in the *Jones* case on behalf of the City, including appearing at the mediation on behalf of the City. (Clark Depo., p. 204.) It was not until December 2018 that it was disclosed to this Court that Paradis once represented Mr. Jones against the City. (12/12/18 Tr., p. 42.)

29. In my opinion, if these facts are true Mr. Paradis violated RPC 3-310(C)(2) from mid-December 2014 until at least the July 2017 hearing approving the final settlement in the underlying action and his duty of loyalty to Mr. Jones and the City by concurrently representing Mr. Jones and the City who were adverse to each other in that action.

30. "[T]he most egregious conflict of interest is representation of clients whose interests are directly adverse in the same litigation. (*Flatt* [*v. Superior Court*] (1994) [] 9 Cal.4th 275, [] p. 284, fn. 3.) Such patently improper dual representation suggests to the clients—and to the public at large—that the attorney is completely indifferent to the duty of loyalty and the duty to preserve confidences. However, the attorney's actual intention and motives are immaterial, and the rule of automatic disqualification applies. 'The rule is designed not alone to prevent the dishonest practitioner from fraudulent conduct,' but also to keep honest attorneys from having to choose between conflicting duties, or being tempted to reconcile conflicting interests, rather than fully pursuing their clients' rights. (*Anderson v. Eaton* (1930) 211 Cal. 113.) The loyalty the attorney owes one client cannot be allowed to compromise the duty owed another. (*Ishmael v. Millington* (1966) 241 Cal.App.2d 520, 526–527.)" (*People ex rel. Dep't of Corps. v. SpeeDee Oil Change Sys., Inc.* (1999) 20 Cal. 4th 1135, 1147.) The ethical and evidentiary implications of the perfidious concurrent representation attach to both the client whose claim the attorney seeks to defeat on behalf of a concurrent client and the client whose claim the attorney seeks to assert against a concurrent client.

31. The concurrent conflict in Mr. Paradis's dual representation of the City and Mr. Jones could not have been waived, even had he attempted to obtain informed written consent from each client, which apparently he did not. Even as neither party gave its informed written consent to this dual representation, the City, though not Mr. Jones, apparently was aware of it. (Clark Depo., pp. 20-21, 28-29, 77, and 79.) This aggravated the ethical injury to Mr. Jones, or perhaps more precisely enriched the benefit to the City, from Mr. Paradis's divided loyalties. The City now admits that one of its goals in the underlying action Mr. Jones brought against it was to obtain a settlement release broad

enough to cover the parties and allegations in all of the other class actions that arose from the alleged overcharges. (Clark Depo., pp. 56-57.)

32. Even if it could be argued that Mr. Paradis concurrently represented the City in a related matter as opposed the identical matter, Mr. Paradis still would have violated subsection (3) of Rule of Professional Conduct 3-310(C).

33. Mr. Jones was the plaintiff in the first action, brought against the City, in which Mr. Paradis was involved. The City was the plaintiff in the second action, brought against PwC, in which Mr. Paradis was involved. Mr. Jones and the City were adverse in the first action. Their adversity in concurrent actions required Mr. Paradis to obtain each client's informed written consent, which he apparently failed to do.

ISSUE TWO: Mr. Paradis Violated His Duty of Candor to the Court, in Settlement Proceedings Related to an Action Brought by Mr. Jones against the City for Alleged Overcharges, by Failing to Disclose His Dual Representation of Mr. Jones and The City.

34. Mr. Paradis concealed his dual representation of Mr. Jones and the City until months after the Court approved the final settlement of the underlying action in which Mr. Jones and the City were adverse. That concealment violated Mr. Paradis's duty of candor to this Court under RPC 5-200(A) and Business and Professions Code section 6068(d).

35. Mr. Paradis accepted the representation of Mr. Jones no later than December 8, 2014. (Isaacs letter, p. 2; Jones Depo., p. 119.) Mr. Paradis represented the City at the time Mr. Jones engaged him for this purpose. (Clark Depo.), p. 170.) Mr. Jones understood that Mr. Paradis remained part of his team of counsel until at least July 2017 when the Court gave final approval to the settlement Mr. Jones had filed against the City. (Jones Depo., p. 98.) This Court approved the settlement of the underlying action in July 2017. (Order granting final approval of class action settlement and final judgment dated July 20, 2017.) It was not until December 2018 that it was disclosed to this Court that Mr. Paradis once represented Mr. Jones against the City. Mr. Paradis disclosed to this Court that he represented the City in Mr. Jones's action. (12/12/18 Tr., p. 42.)

36. An attorney violates the duty of candor owed to the tribunal when he withholds material information from a judge overseeing settlement of the matter about the party the attorney is representing. (See e.g., *In re Hubbard* (S.D.Cal. 2013) 2013 WL 435945, imposing one year suspension from district court bar for violating the duty of candor by failing to disclose material information about client in connection with a settlement.)

37. As set forth above, Mr. Paradis represented two clients with conflicting interests before this Court – a fact of which one of those parties, the City, was aware. In my opinion, Mr. Paradis's silence under the circumstances even as the Court approved settlement of an action in which Mr. Jones and the City were adverse violated Mr. Paradis's duty of candor under the Rules of Professional Conduct and the State Bar Act.

ISSUE THREE: Mr. Landskroner Violated His Duty of Candor to the Court under RPC 5-200(A) and Business & Professions Code Section 6068(d) to the Court in Seeking and Obtaining Attorney's Fees in Connection with Mr. Jones's Settlement of His Class Action Against the City for Alleged Overcharges for Legal Work Mr. Landskroner Previously Did Prior to the Formation of His Attorney-Client Relationship with Mr. Jones.

38. Mr. Landskroner submitted a declaration in support of his plaintiff's motion for final approval of the settlement in the underlying action. (Landskroner Decl.) Mr. Landskroner apparently was not introduced to Mr. Jones until March 26, 2015. (Jones Depo., pp. 68, 70; Isaac letter, p. 2.) Mr. Landskroner submitted as evidence, in the declaration he submitted in support of over $5 million in fees, time records reflecting almost 1,000 hours of work performed by Mr. Landskroner and his firm before March 26, 2015. (Landskroner Decl.)

39. In my opinion, the recovery of fees for work performed before an attorney-client relationship appears to have been formed violated Mr. Landskroner's duty of candor to this Court under the Rules of Professional Conduct and the State Bar Act.

ISSUE FOUR: Mr. Paradis Terminated His Representation of Mr. Jones In His Action Against the City No Sooner Than the July 2017 Hearing on Final Approval of the Underlying Action.

40. Mr. Paradis violated his duty under RPC 3-500 to advise Mr. Jones of significant developments in the representation by abandoning the representation without notice just before the complaint in the underlying action was filed on April 1, 2015. This also violated Mr. Paradis's duty under RPC 3-700(A) to provide "due notice" to his client before withdrawing. Mr. Paradis is subject to the ethical consequences of Mr. Jones's reasonable belief that Mr. Paradis continued to be part of Mr. Jones's legal team throughout the at least 2 ½ years from the time Mr. Jones formed an attorney-client relationship with Mr. Paradis.

41. Mr. Paradis told Mr. Jones that Jack Landskroner was brought in, not to replace Mr. Paradis, but because Mr. Paradis wanted to bring in someone "who has more knowledge of the case." (Jones Depo., p. 75.) Mr. Jones understood that Mr. Paradis remained part of his team of counsel, along with Mr. Landskroner, for his case against the City until at least July 2017. (Jones Depo., p. 98.) At no time did Mr. Paradis give oral or written notice to Mr. Jones that Mr. Paradis was no longer his lawyer. (Jones Depo, pp. 95-97, 123, 171; Isaacs letter, p. 2.) It was not until December 2018 that it was disclosed to this Court that Mr. Paradis had represented Mr. Jones against the City. (12/12/18 Tr., p. 42.) Mr. Paradis apparently contends that he abandoned Mr. Jones as a client in the underlying action, while retaining the City as a client, before the complaint in the underlying action was filed. (12/12/18 Tr. at p. 42.)

42. Whenever Mr. Paradis contends he abandoned Mr. Jones as a client, he violated his duty to apprise Mr. Jones of a significant development related to the litigation and violated his duty to provide Mr. Jones due notice that Mr. Paradis was dropping Mr. Jones as a client in the action Mr. Jones brought against the City. There are implications as a matter of ethics and as a matter of the waiver of the protections of the attorney-client privilege and the attorney work product for the duration of Mr. Paradis's dual representation of Mr. Jones and the City.

43. *Dahan v. Sussman Shank, LLP* (C.D. Cal. 2017) 2017 WL 2713737 provides a concise summary of California law on this issue: "The attorney continues to represent the client so long as the client actually and reasonably believes that the representation is continuing. The question of representation should be viewed from the perspective of the client, and the end date of representation can be identified when the client acts to end the attorney-client relationship. Such an action by the client may include formally substituting the attorney out as counsel." (*Id.* at *5, citing, *inter alia*, *Gonzalez v. Kalu* (2006) 140 Cal.App.4th 21, 31. Other citations and internal marks omitted.)

44. Absent any indication from Mr. Paradis that he was abandoning his responsibilities to Mr. Jones, Mr. Jones had every reason to believe that the relationship was ongoing.

ISSUE FIVE: It Was Unethical for The City and Its Counsel Effectively to Select Among Competing Ratepayers Counsel the Ratepayers Counsel They Believed Would Cooperate with the City to Secure the Most Advantageous Settlement Terms of the Multiple Lawsuits Filed on Behalf of by Ratepayers for Alleged Overcharges.

45. The proper functioning of the adversarial system depends on each side being represented by independent counsel. By effectively reaching over to select plaintiffs' counsel in the underlying litigation against the City to secure advantageous settlement terms, the City and its special and employed counsel engaged in conduct prejudicial to the administration of justice.

46. In March 2015, before the underlying action was filed on Jones's behalf against the City, the City was aware that Mr. Landskroner had joined Mr. Jones's legal team. (Clark Depo., pp. 100-101.) One of the City's goals in the action Mr. Jones brought against the City was to obtain a release broad enough to cover all of the other class action claims that had been filed by multiple attorneys in behalf of ratepayers arising out of the alleged overcharges. (Clark Depo., pp. 56-57; 106-107.) In March 2015, the City viewed Mr. Landskroner as the most likely to help the City achieve that aim. (Clark Depo., pp. 106-107, 112.) The City was not surprised to receive the settlement offer that Mr. Landskroner submitted – apparently without Mr. Jones's knowledge – on April 2, 2015, the day

after the complaint against the City was filed on Mr. Jones's behalf. (Clark Depo., pp. 130-132; Jones Depo., pp. 89-90.)

47. The ABA Model Rule 8.4(d) makes it clear that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. "Especially where there is no conflict with the public policy of California, the Model Rules serve as a collateral source for guidance on proper professional conduct in California." (*People v. Donaldson* (2001) 93 Cal.App.4th 916, 928, citation omitted; *Kennedy v. Eldridge* (2011) 201 Cal.App.4th 1197, 1210, quoting *Donaldson*. See also, RPC 1-100: "The prohibition of certain conduct in these rules is not exclusive.") The bar on attorney conduct prejudicial to the administration of justice is not expressly addressed in the former Rules of Professional Conduct that apply to the conduct in this action. (But cf., RPC 1-120: "A member shall not knowingly assist in, solicit, or induce any violation of these rules or the State Bar Act.") Nonetheless, the clearest evidence that ABA Model Rule 8.4(d) is consistent with the professional obligations of the California lawyer is that it was adopted verbatim in the revised Rules of Professional Conduct.

48. The City and its counsel distorted the proper functioning of the administration of justice by arranging for Mr. Landskroner to be lead class counsel with whom it settled the ratepayer alleging utility overcharges. In my opinion, that constituted unethical conduct.

CONCLUSION

49. Principles of informed written consent and candor to the Court are cornerstones of the ethical practice of law. Failure to adhere to the applicable rules of ethics, as set forth in this declaration, has troubling implications for these proceedings and the administration of justice generally.

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

Executed on this 1st day March, 2019, at San Diego, California.

Daniel E. Eaton