

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF VENTURA

3 THEODORE M. SULLIVAN AND)
4 PAULA C. SULLIVAN,)

5 Plaintiffs,)

6 VS.)

7)
8 WOOD RANCH SYCAMORE CANYON)
9 VILLAGE ASSOCIATION, a)
10 California non-profit mutual)
11 benefit corporation; and)
12 DOES 1 through 125,)
13 inclusive,)

14 Defendants.)
15 -----)

) Case No.
) 56-2-11-00395532
) CU-CO-SIM

) Volume 1

) Pages 1 - 267

16
17 Deposition of THEODORE M. SULLIVAN, taken on
18 behalf of the defendants, at 1860 Bridgegate
19 Street, Suite 100, Westlake Village, California,
20 91361, commencing at 9:39 a.m., on Wednesday,
21 April 24, 2013, before Lori Raye, CSR No. 7052.
22

23 --000--
24
25

1 Appearances:

2
3
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I N D E X

Witness

THEODORE M. SULLIVAN

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UNANSWERED QUESTIONS:

1 WESTLAKE VILLAGE, CALIFORNIA

2 WEDNESDAY, APRIL 24, 2013

3 9:39 a.m.

4
5 THEODORE M. SULLIVAN,
6 HAVING BEEN PLACED UNDER OATH,
7 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

8
9 EXAMINATION

10
11 BY MR. GORNEY:

12 Q. State your full and complete name for the
13 record, sir.

14 A. Theodore M. Sullivan.

15 Q. Have you ever had your deposition taken
16 before?

17 A. No.

18 Q. I know you've had a chance to chat with
19 your lawyer about what's going to happen today.
20 Let me go over a couple of ground rules so that
21 we're operating on the same frequency.

22 You've been given an oath to tell the
23 truth.

24 Do you understand that?

25 A. Yes.

1 Q. It's the same oath you would take if you
2 were testifying in court before a judge and jury.

3 Do you understand that?

4 A. Yes.

5 Q. When we're done here today, the court
6 reporter will transcribe her notes into a booklet
7 known as your deposition. It will read much like a
8 play: Question, answer, question, answer.

9 Everything that we say here on the record will be
10 taken down by the court reporter.

11 You'll be given the chance to review that
12 transcript and you can make any changes that you
13 want to that transcript. For example, you can
14 change "yes" to "no," "white" to "black," anything
15 you want.

16 Do you understand that?

17 A. Yes.

18 Q. If you do, though, then I or any other
19 lawyer could comment upon those changes at the time
20 of trial and that could affect your credibility
21 adversely, could hurt your case, et cetera. I tell
22 you that not to intimidate or scare you but to
23 simply let you know how important it is for you to
24 listen to my question and give your best answer as
25 you sit here today because my experience is that

1 court reporters are pretty good and making sure you
2 understand my question or failure to understand a
3 question is usually the reason why answers get
4 changed.

5 Do you understand that?

6 A. Yes.

7 Q. Okay. Continue to do what you've been
8 doing, which is waiting for me to finish my
9 question before you give your answer. This is
10 because the court reporter can only take down one
11 person at a time.

12 Also, continue to do as you've been
13 doing, which is to answer questions in words and
14 phrases as opposed to nods of the head or shrugs of
15 the shoulders, things like "uh-huh," "uh-uh,"
16 et cetera.

17 The reason for that is simple. The court
18 reporter is not allowed to interpret a nonverbal
19 response. So if I say, Is that a "yes" or is that
20 a "no," I'm not trying to be rude. I'm simply
21 trying to get a verbal response for the record.
22 Okay?

23 A. Yes.

24 Q. If you need a break to talk to your
25 lawyer, take a break, make a phone call,

1 et cetera -- my phone is off -- but if you need to
2 take a break, let me know. We'll accommodate you
3 because we should finish here today.

4 If you don't understand anything I tell
5 you, any question, just tell me that. Just say "I
6 don't understand." I'll repeat it or rephrase it
7 as often as necessary so that you only answer
8 questions you understand. Fair?

9 A. Yes.

10 Q. Okay. Now, are you feeling okay today?

11 A. Yes.

12 Q. Do you know of any reason, physical or
13 mental, that prevents you, as far as you're
14 concerned, from listening to questions,
15 understanding them, et cetera?

16 A. No.

17 Q. Because some people take medication and
18 it makes them gaga. I don't know if that's your
19 situation or not.

20 Anything I should know about?

21 A. No.

22 Q. Perfect.

23 Before coming here today for your
24 deposition, I know you spoke with your lawyers.

25 Did you review anything in writing before

1 this deposition in order to prepare yourself or
2 refresh your recollection?

3 A. We had a meeting a couple weeks ago. I
4 don't know if we reviewed things in writing. We
5 had discussions.

6 Q. This was a meeting with your lawyers?

7 A. Yes.

8 Q. Other than your lawyers --

9 A. Yes.

10 Q. -- and yourself, was there anyone else
11 there?

12 A. No.

13 Q. Other than that meeting, have you looked
14 at any writings, depositions, yourself, outside the
15 presence of your lawyers, in order to prepare
16 yourself for this proceeding?

17 A. No.

18 Q. Now, because you've been to several of
19 the depositions of my clients that have been taken
20 in this room, I've seen you have notebooks and
21 papers and lots of different things so that's what
22 piques my question. I'm not asking this out of the
23 blue. You had a lot of paper and you looked at it,
24 passed notes to your lawyer during the deposition.
25 Fair, no problem with that.

1 I'm just wondering whether you looked at
2 any of that stuff in order to prepare for your
3 deposition.

4 A. No, and maybe I'll clarify it.

5 Q. Sure.

6 A. I look at the stuff continuously in
7 building evidence together, not in preparing for
8 this deposition.

9 Q. Fair enough. I appreciate the
10 information.

11 In reviewing that stuff -- I'll call it
12 that -- did that assist you in --

13 A. By "stuff," I meant what you were
14 referring to.

15 Q. Absolutely.

16 Did that help refresh your recollection?

17 A. Yes.

18 Q. Now, what I saw are copies -- again,
19 during the time -- because you haven't brought
20 anything here today -- but in prior depositions,
21 you've had notebooks and you've had a lot of
22 documents with yellow stickies on them with various
23 colors, et cetera.

24 Do you call that anything? Is it a
25 notebook, a case book, a file? You tell me what,

1 if anything, you call those papers.

2 A. I don't have a name for them.

3 Q. What do you call it -- if you had to tell
4 somebody about all that paperwork that I saw
5 involving the lawsuit, how would you describe it?

6 A. It's documentation regarding the lawsuit.

7 Q. Okay. Does the documentation concerning
8 the lawsuit have any sort of diary that you have
9 kept throughout the years?

10 A. I don't understand the question.

11 Q. Fair enough. I appreciate that answer.
12 It's exactly what I'm looking for.

13 Some people keep logs of notes, daily
14 journals, note paper, as a chronological record, if
15 you will, of the events.

16 Does your case documentation include
17 that?

18 A. No, no.

19 Q. Have you kept any notebooks or notepads
20 of events throughout the course of either the
21 lawsuit or the events preceding the lawsuit
22 concerning the tree issue?

23 A. I've written a lot of documents for my
24 attorneys.

25 Q. Right.

1 MR. ARSHT: Anything that's written to your
2 attorneys is not part of anything you should be
3 answering. Okay? So you can tell him that you've
4 done that, but not the content of that.

5 BY MR. GORNEY:

6 Q. Fair enough. That's not the call of the
7 question. I was just trying to identify paper now,
8 in other words, what it is, not what's in it
9 necessarily.

10 You've written a lot of letters to your
11 lawyers; right?

12 A. Yes.

13 Q. Does that include e-mails or just
14 letters?

15 A. Yes, it includes e-mails.

16 Q. What about notes or journals or diaries
17 to yourself?

18 A. I can't recall any.

19 Q. I know that you had -- because I've seen
20 the box of paper that your lawyers turned over to
21 me, four or five volumes of photographs.

22 A. Yes.

23 Q. Do you have any volumes of notebooks that
24 you've kept notes of during the time that this
25 thing has been around?

1 A. No.

2 Q. Did you look at any of the documentation
3 and correspondence with your lawyers in order to --
4 as part of your continuous review of the file
5 documentation?

6 A. Yes.

7 Q. Does reviewing that refresh your
8 recollection as to what happened as to events,
9 facts, circumstances, et cetera?

10 MR. ARSHT: Objection; too vague.

11 BY MR. GORNEY:

12 Q. You can answer, sir.

13 A. Well, I've continuously reviewed things.

14 Q. Right.

15 A. This is dragging on so long that each
16 time I review them, it refreshes things I forgot in
17 the interim. It's been going on for years.

18 Q. I understand.

19 One of the reasons you keep reviewing
20 them is so you can keep on top and remember what's
21 going on, I assume?

22 A. Yes, and it's such a large volume of data
23 that I can't retain it. I'd document it in those
24 binders you were talking about and then would
25 periodically review it.

1 Q. How many binders are there?

2 A. I don't know.

3 Q. One of the rules that I forgot to tell
4 you -- so I apologize -- is you're not required to
5 guess and I don't want you to guess. Neither does
6 your lawyer.

7 If you have to guess about something,
8 tell me it's a guess and I'll rephrase the
9 question. But I'm entitled to an estimate. And an
10 estimate -- rather than ask you if you know the
11 difference, I'll explain what I think the
12 difference is and see if you agree with me.

13 If I were to ask you to describe the desk
14 in my office, that would be an absolute guess for
15 you to respond because you've never been to my
16 office and you don't even know if there's a desk in
17 there because you've not seen it. But right here
18 there is a table in front of us and I may ask you
19 to estimate its length, maybe five, six feet long,
20 whatever. That's the difference between a guess
21 and an estimate. I'm entitled to an estimate.

22 Do you understand the distinction?

23 A. Yes.

24 Q. With that explanation in mind, do you
25 have an estimate of the number of binders of file

1 documentation?

2 A. Can you define "file documentation"
3 better? Is it written things, photos?

4 Q. It could be both. I asked a general --
5 maybe it would help me because I should have made a
6 note and I didn't. When I asked you to describe
7 all the paperwork that you have, I think you used
8 the term "case documentation" or "file
9 documentation."

10 A. I might have used the word "lawsuit."

11 Q. Lawsuit documentation?

12 A. I might have done that, yes.

13 Q. I'm just using that to put a handle on
14 the animal, if you will.

15 So that lawsuit -- I'll put -- now I'll
16 write it down so I have it. How many binders of
17 the lawsuit documentation do you have?

18 A. Again, we're talking photos or written
19 documents? You want everything?

20 Q. I want everything, just the number.

21 A. I would say an estimate would be 50.

22 Q. That's what I wrote down.

23 How many of those are photos?

24 A. Approximately 40.

25 Q. So there are about ten binders, estimate,

1 of non-photographic lawsuit documentation; fair?

2 A. It could be. It's an estimate.

3 Q. Okay. And is there --

4 A. It's an estimate because it always
5 changes. Before a deposition, I might have a
6 binder. It may change. It may get put away; it
7 may get disseminated into other binders so it's a
8 changing number, not necessarily increasing.

9 Q. Got it. Just potentially rearranging and
10 sorting?

11 A. And put into bigger or smaller binders
12 depending on the subject matter.

13 Q. Do these binders have any numbers to
14 them? Are they labeled in any way? Let me
15 withdraw the question because it's vague.

16 Setting apart the photographs for the
17 time being, I'm only interested in the other
18 documentation, the non-photographic documentation.

19 Are these approximately ten binders
20 labeled or numbered in any way?

21 A. Not numbered. Some of them have slip
22 sheets in the front that let me know what's in
23 them. It's not an official label; it's for my
24 benefit only so I know what's in there.

25 Q. Meaning physical binders that you put a

1 piece of paper in so it shows - sort of like what
2 your lawyer has in front of him, which is a black
3 binder --

4 A. Exactly.

5 Q. -- and you can put a name in it?

6 MR. ARSHT: Don't speak over him and he'll try
7 not to speak over you.

8 BY MR. GORNEY:

9 Q. He's right.

10 MR. ARSHT: Get that down. I'm right.

11 MR. GORNEY: You are.

12 Q. These approximately ten binders of the
13 non-photographic material, where are they right
14 now, to the best of your knowledge?

15 A. Most of them are at my house.

16 Q. Where are some of the other ones?

17 A. In my truck.

18 Q. The one that's parked outside?

19 A. Yes.

20 Q. Do you remember the titles of the current
21 slip sheets of these ten binders?

22 A. No, they're not really titles, like I
23 said. I don't remember them and they're not really
24 titles. They're informational sheets that help me
25 know what the contents inside are.

1 Q. Just to give a name to it, is "index" a
2 better word?

3 MR. ARSHT: You don't need to use his wording.
4 You answered perfectly fine so if you're
5 comfortable with your answer, that's the answer.

6 THE WITNESS: Okay.

7 BY MR. GORNEY:

8 Q. Well, I just suggested it.

9 Is "index" the right or wrong word?
10 Because you know what they are.

11 A. Many of the ten have nothing whatsoever.

12 Q. Okay.

13 A. One that I can think of has a list
14 slipped in the front cover, a list of the titles of
15 the documents within.

16 Q. Is this handwritten or is it --

17 A. It's handwritten.

18 Q. Do you remember the documents that are
19 listed in any such binder, the one that had the
20 slips? And I ask because that stuff was not
21 provided to me.

22 MR. ARSHT: To the extent --

23 THE WITNESS: It was provided.

24 MR. ARSHT: To the extent these were prepared
25 for your lawyers, then do not describe the

1 contents.

2 THE WITNESS: Okay. I don't know how you can
3 say it wasn't provided to you without knowing what
4 it is. A huge volume of information was provided
5 to you.

6 BY MR. GORNEY:

7 Q. Oh, I understand, but I'm talking about
8 the slip sheets.

9 A. Slip sheet? I can only think of one.

10 Q. So maybe I'm reading into this more than
11 there is.

12 Of these approximately ten binders, you
13 can only recall one that has a slip sheet --

14 A. At the moment, right now.

15 MR. ARSHT: Ted, please wait for him to
16 finish.

17 BY MR. GORNEY:

18 Q. We both speak rather fast so I apologize.

19 Right now, you can only think of one
20 binder that has a slip sheet on it with anything
21 written on it?

22 A. Yes.

23 Q. And that slip sheet identifies certain
24 documents inside that binder?

25 A. Yes.

1 Q. Are the documents loose or three-hole
2 punched?

3 A. They're mostly -- they're not three-hole
4 punched. They're in separate special things that
5 let me slip the whole document inside this
6 container, like. But then that container has three
7 holes that go in the three-ring binder.

8 Q. I call that a sleeve.

9 A. Or --

10 Q. You put a document inside of it and you
11 can take the plastic thing it's in and that has
12 three-hole binders that you can move.

13 A. Correct.

14 Q. In that binder, what documents are in
15 that binder, the one with the slip sheet?

16 MR. ARSHT: Again, Ted, just be mindful if the
17 documents were prepared for your lawyer, okay, then
18 that's not to be answered, and tell him that.

19 THE WITNESS: The --

20 BY MR. GORNEY:

21 Q. Go ahead.

22 A. The CC&R's for the HOA, all three
23 versions of them, the member handbook of the HOA,
24 two versions of that, I believe the corporate grant
25 deed that shows the easements. There might be one

1 other document that I can't recall.

2 Q. And the nine other binders --

3 A. Oh, excuse me. I just recalled one. The
4 Wood Ranch Specific Plan is in that three-ring
5 binder, also. And there might be one or two other
6 ones that I can't, at the moment, recall.

7 Q. Fair enough.

8 The other nine binders, which don't have
9 the slip sheet, are they segregated in any way?
10 For example, just to help you, maybe, is one binder
11 all correspondence with your lawyer and is another
12 binder e-mail that you've gotten and is another
13 binder something else?

14 A. It's a combination of all that. Some of
15 them are segregated by date and then others are by
16 topic.

17 Q. How often do you look at these ten
18 volumes?

19 A. What time frame are you referring to?

20 Q. Is there an average basis or frequency?

21 A. Over what time range?

22 Q. Let's say in the last two months.

23 A. Well, relatively speaking, I would say
24 not much has been going on the last two months. So
25 maybe once every two or three weeks.

1 Q. Don't tell me what you may have talked
2 about with your lawyer, but is there anything
3 that -- any event that you can think of that caused
4 you to look at this lawsuit documentation?

5 A. In what time frame?

6 Q. Same time frame.

7 A. Two or three weeks?

8 Q. No, I said two or three months.

9 A. I can't recall the specific event but I'm
10 sure I've looked at them in the last two or
11 three months.

12 Q. And in your -- I assume these
13 documents --

14 A. Much of that would have been in preparing
15 responses to your interrogatories and the like.

16 Q. Okay. The documents that you have in
17 your truck, the binders, what binders are those in
18 your truck?

19 A. The binder we just spoke of that has the
20 CC&R's, et cetera, and I have two large binders
21 that have all sorts of correspondence in date
22 order.

23 Q. By "correspondence," you include e-mails
24 as well?

25 A. Yes.

1 Q. Go ahead. What else is in the binder in
2 the truck?

3 A. Some photographic binders.

4 Q. The photographs, were they all taken --
5 are you the one who took all the photographs?

6 A. I believe I took all the photographs.

7 Q. Both you and your wife -- by the way, I
8 understand the surgery went well -- or did it go
9 well for your wife Paula?

10 A. That's a complicated answer.

11 Q. Okay. I was hoping that --

12 MR. ARSHT: It's also intended to be social.
13 You're not obligated to answer it.

14 BY MR. GORNEY:

15 Q. I guess the question that I have is this,
16 and it's relating to it. I know you are very
17 involved in this lawsuit. I've seen it. I've seen
18 your activity at depositions. I see what's in
19 front of me so I know you are very involved and you
20 have a very personal feeling at stake of what's
21 going on here.

22 My question is, does your wife have the
23 same involvement? If she did, did it change before
24 or after the surgery? That's where I'm going.

25 A. She didn't have the same involvement

1 because I've shielded her from most of this. It's
2 a very stressful situation and she's had health
3 issues for some time now but her situation has
4 declined with the recent surgery.

5 Q. I'm sorry to hear that so let me try to
6 take it away. To be quite honest, I was hoping to
7 get a "yes" because I'm happy when people get good
8 results in surgery. I won't dwell on that.

9 For my purposes in dealing with this
10 lawsuit and these claims, are you able to make a
11 division of labor between you and your wife as to
12 who is -- my term -- responsible for gathering
13 information, dealing with the various parties,
14 dealing with the situation? Is it you, primarily?
15 Is it Paula? Is it both of you? You tell me.

16 A. It's me, primarily, and as far as
17 division, it would be over 99 percent me.

18 Q. Okay. I think I probably will want to
19 depose your wife just to get confirmation of these
20 things but based on that information I'm going to
21 focus with you. That was what I thought.

22 To your knowledge, did your wife Paula
23 have any communications with anyone other than your
24 lawyer about the situation with the board and the
25 trees?

1 A. Yes.

2 Q. Do you know what those are? What were
3 Paula's communications?

4 A. The first communication with regard to
5 this lawsuit about the trees and other issues was
6 in 2007 when she called Alicia Camarillo to set up
7 an appointment where we could speak with the board
8 about the problems.

9 Q. Other than setting up the appointment,
10 was that the time --

11 A. That's the first --

12 Q. Was that the only thing done? In other
13 words, was substance discussed between Paula and
14 Alicia Camarillo or was it simply the logistics, if
15 you will?

16 A. Her call was to set up a meeting with the
17 board about the problems so I'm sure she did
18 discuss some of the problems.

19 Q. Did she ever tell you what that
20 discussion was about?

21 A. Yes.

22 Q. Tell me what she told you.

23 A. Again, it was 2007 so I don't remember
24 verbatim but the point was to get a meeting with
25 the board to talk about the problems with the

1 trees, the weeds, the irrigation, all of the HOA
2 responsibilities that weren't being handled.

3 Q. And what did your -- I assume you were
4 not a party to this telephone conversation.

5 A. I was not.

6 Q. What did your wife tell you about what,
7 if anything, Alicia Camarillo said in response?

8 A. She said they were going to invite us to
9 a board meeting to discuss the issues.

10 Q. Anything else discussed during that first
11 conversation, as you understand it --

12 A. Most likely --

13 Q. -- between Paula and Alicia Camarillo?

14 MR. ARSHT: Ted, make a distinction here, if
15 you can, between what we call a marital privilege
16 where discussions between you and Paula need not be
17 testified to. But right now he's only asking you
18 what Paula repeated from conversations with Alicia.

19 Do you understand?

20 THE WITNESS: I understand. Like I said, I
21 don't remember the details from 2007 other than the
22 purpose was to set up the meeting regarding
23 problems with where the HOA wasn't maintaining
24 their obligations and it went positively. Alicia
25 said she would set up a meeting.

1 BY MR. GORNEY:

2 Q. Okay. Is that your understanding of the
3 sum and substance of that conversation between
4 Alicia and Paula?

5 A. Yes.

6 Q. Did Paula have any additional
7 communications with anyone again, setting aside
8 the lawyers, concerning -- let's just call it the
9 HOA situation.

10 MR. ARSHT: Let me also ask you to clarify.
11 Do you intend your question to mean conversations
12 or communications that Paula had that did not
13 include Ted?

14 MR. GORNEY: Yeah, because I think that one
15 just did.

16 MR. ARSHT: Okay. So just Paula alone,
17 nothing the two of you were involved in.

18 BY MR. GORNEY:

19 Q. Right. Go ahead, sir.

20 A. I remember after the June -- I think it
21 was 15th, 2007 on-site meeting where some board and
22 landscape committee members came to our property,
23 Paula had a follow-up discussion with Alicia
24 Camarillo. I believe Alicia Camarillo called
25 Paula.

1 Q. What is your understanding of what was
2 discussed during that second conversation between
3 Paula and Alicia?

4 A. It was very insignificant. I really
5 don't remember other than Paula saying Alicia had a
6 whole different attitude than she used to have
7 before.

8 Q. Did she tell you anything more about why
9 this whole other attitude?

10 A. She just said she felt like a different
11 person. She was very friendly before that and more
12 distant after this discussion, or during this
13 discussion, which followed the June 15, 2007
14 meeting at our property, to review the problems
15 with the HOA.

16 Q. Was there anything else -- withdrawn.

17 What else, if anything, did your wife
18 tell you about that second conversation she had
19 with Alicia?

20 A. I don't remember. Again, it was a
21 minor -- like, minor stuff other than the whole
22 change in attitude. That was what I took out of
23 what Paula told me.

24 Q. Did you ever follow up with anyone at the
25 board about what you have called the change of

1 attitude?

2 A. Yes, in December 2009, in a letter to the
3 board.

4 Q. Did you say December?

5 A. December 2009.

6 Q. What letter was that? What date was
7 that? I think you have a pretty good recollection
8 of dates.

9 A. It's been submitted as one of our
10 evidence -- it might be December 14th, 2009. It's
11 one of our exhibits.

12 Q. I think I've seen it.

13 A. I'm not positive about the 14th of
14 December.

15 Q. We'll see it during this deposition. I
16 guarantee it.

17 So that's Conversation Number 1.

18 Have you told me everything that Paula
19 told you about the second conversation that Paula
20 had with Alicia?

21 A. Everything that I can recall.

22 Q. Sure. It's only what you recall.

23 A. Yeah.

24 Q. That's just the ground rule for the whole
25 proceeding.

1 That's two conversations.

2 Did Paula ever have any other
3 communications with anyone else concerning this HOA
4 matter that she told you about?

5 A. Yes.

6 Q. Go ahead and tell me.

7 A. By "HOA matter," I'm assuming you're
8 talking about trees --

9 Q. Yes.

10 A. -- and obligations of maintenance. Prior
11 to 2007, Alicia Camarillo called our house and it
12 would have been about the 2005 or 2006 time frame
13 and spoke with Paula.

14 Q. Again, you were not a party to that
15 conversation so what did Paula tell you about what
16 happened?

17 A. Paula called me at work and said Alicia
18 Camarillo said that one of our trees, meaning a
19 Sullivan tree, fell into the road on Martha
20 Morrison and we needed to remove it immediately.

21 Q. Did she tell you anything else about that
22 conversation?

23 A. Nothing of significance because I came
24 home right away to investigate what it was.

25 Q. Your work, meaning your office in Simi

1 Valley --

2 A. Yes.

3 Q. -- is it CFS, the tax software business?

4 A. Yes.

5 Q. You came home and what did you see?

6 A. I saw it was one of the association's
7 parkway trees that had fallen into the street.

8 Q. What, if anything, did you do about that?

9 A. Either myself or Paula called Alicia
10 Camarillo and explained to her that it was one of
11 her parkway trees. She said she would look into
12 it, called us back, either myself or Paula, and
13 apologized and said they would take care of it,
14 which they did. They sent someone over --

15 Q. Was it Slade or was it somebody else, if
16 you know?

17 A. I don't know who took the tree away. I
18 wasn't there when they took it away. I can't see
19 it from my house. It's almost a quarter mile from
20 my house.

21 Q. Did that falling association tree cause
22 you or your property any damage?

23 A. No, it fell into the road.

24 Q. That's three conversations between Paula
25 and anyone else other than lawyers concerning

1 what's called the HOA matters.

2 Any other conversations that Paula had,
3 to your knowledge?

4 A. Well, I think when you started this, you
5 didn't limit it to conversations. You said
6 something --

7 Q. I said communications.

8 A. There you go.

9 Q. Fair enough.

10 A. Would a meeting fall into that?

11 Q. Sure.

12 A. All right. Then the next item that comes
13 to mind is a February 2nd, 2010 meeting, which was
14 actually a landscape committee meeting of the HOA
15 but we were invited to it to present our
16 information about the problems with the trees. We
17 asked to see the board but the board chose to have
18 us go to the landscape committee meeting. Paula
19 was there with me.

20 Q. Did she participate --

21 A. And with our daughter. She was also
22 there.

23 Q. Did she participate or did she just
24 listen, to your knowledge?

25 A. She participated to a minor extent.

1 Q. Tell me what you remember.

2 A. We were there for 30 minutes total. It
3 was a landscape committee meeting but there were
4 board members present because Alicia Camarillo
5 invited all the board to attend. Don Diamond,
6 Robert Mundy and Richard Olson were there as board
7 members.

8 I came prepared with lots of information,
9 photographs and otherwise, to present to the board
10 regarding the condition of the trees. I had
11 multiple copies that I gave to all the participants
12 and I had also delivered the same information
13 several days prior just so they would have it in
14 advance of the meeting. I hand-delivered it to
15 Alicia Camarillo at the Emmons Company several days
16 before so they could be prepared.

17 Q. Is this the meeting in which, for some
18 reason, you didn't get a chance at that time --

19 A. No, it's not that meeting.

20 Q. So this meeting, you did get to make a
21 presentation?

22 A. Sort of. It's not the meeting in June --
23 or on May 1st, 2007 where I was told I couldn't
24 present my information even though I had a written
25 invitation from the board to the meeting.

1 Q. We'll get to that a little bit later.

2 A. Okay.

3 Q. Let's stick with this one at the
4 landscape committee. Tell me about your
5 presentation.

6 A. I presented two dozen pictures and other
7 information regarding the trees and I asked the
8 board what their feelings were about the trees.

9 Q. The board or the committee?

10 A. Everyone in the room, anyone who wanted
11 to speak. I put an open question to anyone who
12 wanted to answer it. Nobody wanted to answer it so
13 I pointed out to Robert Mundy, who was on the
14 landscape committee and the vice president of the
15 board, "What do you feel about the condition of the
16 trees?"

17 He said, "I will not comment on the
18 condition of the trees."

19 Then I reiterated my position. I said,
20 "We're here to talk about the trees. That's why I
21 was invited. So what do you think about the
22 condition of trees?"

23 He said, "I will not comment on the
24 condition of the trees."

25 Q. Did anybody else say anything else?

1 A. The only person who spoke up was Peter
2 Neilsen. At that point, he wasn't a board member
3 but he was on the landscape committee and by that
4 point, he was the tree guru, an informal phrase
5 thrown around in these depositions. He was the
6 only one who spoke up about the condition of the
7 trees and he said he would rank them four out of
8 ten in condition but he said there were worse trees
9 in the Sycamore Canyon Village. He also said it
10 would cost \$200,000 to bring all the trees up to a
11 good condition.

12 Q. What, if anything, did you say in
13 response?

14 A. To that specific thing?

15 Q. Yes.

16 A. I don't remember what I responded to
17 Neilsen but shortly after Neilsen spoke, Robert
18 Mundy decided to start speaking and he said,
19 "They're not our trees."

20 I said, "They are your trees."

21 And he said, "We didn't plant them."

22 And I said, "Well, you did plant many of
23 them per the agreement with Steve Logan and the
24 ones you didn't plant were planted by the
25 developer."

1 And then he said, "We're not watering the
2 trees."

3 And I said, "That's true. You were
4 watering them for 20 years but when you pulled out
5 the irrigation system in January 2010 --" which was
6 a few weeks before this meeting because this
7 meeting was February 2010. I said, "You were
8 watering them then."

9 And then I also pointed out to him that
10 the weed clearance around the tree area had not
11 been performed recently by the board and he said --
12 I said, "They have done it in the past from when we
13 first moved in in 1999 and even before that,
14 according to Steve Logan, but all throughout they
15 had done it, although sometimes sporadically."

16 And I said that the board -- the HOA is
17 not doing that now and he said, "We only did that
18 in the past as a courtesy to you."

19 Q. Okay. Did anyone else -- go ahead. If
20 you want to add something, you can do so.

21 MR. ARSHT: If there's a question pending,
22 answer the question.

23 THE WITNESS: I'm still -- he asked what was
24 said at the meeting so I'm going -- trying to go
25 over the whole 30 minutes.

1 BY MR. GORNEY:

2 Q. Yes.

3 A. So then -- let's see. I lost track a
4 little bit.

5 Q. Where you were at is that you were
6 talking about the piping and the responsibilities
7 for the weeds, et cetera.

8 A. Right.

9 Q. Mr. Mundy was -- this is the conversation
10 you were having with Mr. Mundy. So take off from
11 there.

12 A. Right. Let me think for a minute.

13 Q. Sure.

14 A. We then talked about pruning or
15 maintenance of the trees. And at that point,
16 Robert Mundy said, "We don't prune those trees. We
17 grow them like in nature," which shocked me and I
18 looked around the room for any dissenting positions
19 and there were none. Nobody disagreed with him.

20 Q. Well, nobody said anything?

21 A. Nobody said anything to show their
22 disagreement with him.

23 Q. Okay. Anything else you remember being
24 discussed at this --

25 A. I then went over the letter, the

1 December -- well, actually, I prepared another
2 letter in January of 2010.

3 Q. Right.

4 A. Which I had hand-delivered to the Emmons
5 Company and I went over it at this meeting. The
6 main things I covered were the requests we were
7 making in that letter. We were requesting the
8 board, for instance, hire an ISA certified arborist
9 to certify the condition of the trees. Then we
10 asked that we be added additionally insured
11 regarding the trees.

12 Q. Anybody at the board -- withdrawn.

13 Anybody from the HOA side there say
14 anything in response to that?

15 A. Nobody said anything. There were people
16 nodding in approval but nobody said anything.

17 Q. Exhibit 25 -- you have your book. Go
18 ahead and take a look at it.

19 A. I shouldn't say nobody said anything.
20 I'm sorry. Richard Olson, who was on the board,
21 asked me if there were easements that covered the
22 obligation for the maintenance of these trees and I
23 said I didn't know. He said that if there's no
24 easements, there's no obligation of the board to do
25 any maintenance.

1 Q. The letter you referred to is -- I have
2 it as Exhibit 25, the December 14th, 2009 letter,
3 which your lawyer will put in front of you.

4 Is this the letter you referred to in
5 your earlier answer, or was it Exhibit 28 --

6 A. There's two letters. This one was
7 written December 14th.

8 Q. Right.

9 A. And then once the meeting was set up
10 where I was invited to the meeting, I prepared
11 another letter in January to be prepared to have
12 the board have more information specific to the
13 trees.

14 Q. That's Exhibit 28, the January 29, 2010
15 letter?

16 A. Let me look. Yes.

17 Q. Did it appear to you that copies of those
18 two letters, the December 14th and the January 29th
19 letters, had been circulated to the board members?

20 A. I asked that specifically at the
21 February 2nd meeting. It was a mixed answer. Some
22 people said yes, they had seen it and some people
23 were looking at the additional copies I brought to
24 the meeting. So some people looked like they were
25 reading it for the first time and others said they

1 had seen it previously.

2 MR. ARSHT: His question, I believe, was to
3 your knowledge, were your letters distributed to
4 the board members, not did they read them.

5 THE WITNESS: Okay. All right. In the day --
6 the day I wrote this letter, January 29th, I
7 hand-delivered them to the HOA, but I don't know if
8 they were read by the board members. I had
9 multiple copies so they could be disseminated to
10 the board members, but at the meeting I asked if
11 the board had a chance to read my letters and the
12 photographs I had sent and I got a mixed response.
13 Some yes, some no.

14 BY MR. GORNEY:

15 Q. What else happened at this meeting in
16 terms of discussions?

17 A. I asked that at the outset of the meeting
18 would notes be taken of the meeting and Alicia
19 Camarillo said yes. Then once the meeting started,
20 and what I thought were interesting things being
21 said and I saw nobody writing anything down, I
22 looked at her across the table and she understood
23 what my look meant and made a statement that the
24 only notes they take are of action items.

25 So she was changing her -- what she had

1 said before, they're taking notes, because no one
2 was taking notes and she said action items are
3 taken only.

4 Q. Did you take notes?

5 A. I had handwritten some notes at the time
6 and after -- shortly after the meeting, I typed
7 them up into a Word document and sent it to my
8 attorneys. It was my notes -- contemporaneous
9 notes of what was said at the meeting.

10 Q. What happened to the handwritten notes?

11 A. I don't know. I looked for them a while
12 ago and I didn't find them. They were very cryptic
13 handwritten notes because I was also conducting the
14 meeting. People didn't want to talk, for the most
15 part. I was doing most of the talking and I was
16 trying to elicit things from people so I didn't
17 have time to write detailed notes but I jotted
18 things down, the "grow trees like in nature." Some
19 of the things that were kind of shocking.

20 I wrote down "\$200,000 to get the trees
21 up to snuff," "four out of ten" as far as the
22 ranking from Peter Neilsen.

23 I wrote down "Mundy refused to discuss
24 the condition of the trees even though that's why
25 we were there."

1 What else did I write down? I wrote down
2 "no easement, no obligation." That's what Richard
3 Olson had said.

4 Q. Did you get a chance to tell your side of
5 the story, as it were, during this meeting?

6 A. Oh, yes. When Mundy said, "They're not
7 our trees and we didn't plant them," I responded
8 saying "They are your trees. In fact, an agreement
9 with Steve Logan caused you to plant a large number
10 of them."

11 And then another person at the meeting, I
12 believe she was on the landscape committee, named
13 Verna Barr, said, "Oh, we only filled in trees."

14 Q. My question was, did anybody cut you off
15 and say we don't want to hear anything more from
16 you?

17 A. No. I had a meeting to go to right after
18 that and so I left at right around 30 minutes. The
19 only cutoff was really not of me. There was some
20 confusion about that. When I said I'm done and I
21 was packing up, one of the landscape
22 committee members started to say something, and
23 they started and Robert Mundy yelled at them and
24 said, "Enough. That's it, we're done."

25 And some somebody in the room, I think my

1 wife, thought he was yelling at me. And I said,
2 "No, he's yelling at one of his fellow landscape
3 committee members."

4 Q. Was this a regular landscape committee
5 meeting?

6 A. It was a regularly scheduled meeting,
7 however, Peter Neilsen said it was extraordinary
8 because many board members were present. So it was
9 regular on schedule; it was significantly different
10 in that the board was invited to be there.

11 Q. Okay. Now, I know we started off this
12 line by talking about Paula's communications.

13 A. Right.

14 Q. Did she say anything at this meeting or
15 were you doing the talking?

16 A. I did most of the talking. She did say
17 some things.

18 Q. Give me -- what do you remember her
19 saying?

20 A. She got involved one time when Mundy got
21 agitated and Alicia was trying to calm things down
22 and Paula got involved.

23 Q. At this meeting?

24 A. At this meeting. And what she said, I
25 don't know.

1 Q. Would it be something like, Can everybody
2 calm down, or something like that?

3 A. I don't really remember. It wasn't
4 anything specific to the facts of the case.

5 MR. ARSHT: That's okay. If you don't
6 remember --

7 THE WITNESS: I remember her speaking and I
8 remember Alicia trying to be a peacekeeper of
9 sorts.

10 BY MR. GORNEY:

11 Q. Now --

12 A. It might have been -- the other thing I
13 didn't tell you is regarding the irrigation system,
14 I told you Mundy said, "We're not watering the
15 trees," and he used that tense, "We're not watering
16 them" in the present tense. I don't know what he
17 meant but he said, "We're not watering the trees."

18 And I said, "Well, yes, you're not
19 watering them because you pulled the irrigation
20 system a few weeks ago."

21 And then he said, "Yes, we did," and he
22 said, "We cut it and capped it." I remember him
23 saying that because it turns out later they weren't
24 capped and they flooded our property. But he did
25 say they cut it and capped it.

1 Q. Did any damage result from the flooding?

2 A. Yes. We couldn't use the roadway and we
3 were having trucks, at that point, install our
4 irrigation system for our trees, the 1,550 Gold
5 Nugget Mandarin trees and they couldn't get up the
6 hill.

7 Q. How long did it take before they --

8 A. I pumped it out several times because it
9 took me probably two weeks to find out what the
10 source of the flooding was. I was talking to the
11 people from the phone company because they have
12 vaults on the property and easements for vaults. I
13 wondered, did they take the water from their vaults
14 and dump it on our property. They told me no.

15 I checked with the people working on my
16 property installing the irrigation system and
17 saying "Hey, did you guys have a problem with
18 leaking?" And they checked everything, and no.

19 Finally, I stumbled across where they
20 just cut the pipe and there is a giant puddle 100
21 plus feet long that covered the roadway. I went to
22 the highest point where the water had come from and
23 started digging and found the pipe.

24 Q. What was it? Was it PVC or was it
25 galvanized?

1 A. It was PVC half-inch pipe in seven or
2 eight locations. They -- it was coming under the
3 fence from their water source. They just cut it
4 and I found a cap on one or two of them but most of
5 the pipes were just cut. They're buried
6 underground.

7 Q. So the water was percolating up?

8 A. Not percolating. When they turned the
9 valve on, which I guess they wouldn't intend to
10 because why would you for a pipe you've cut, but
11 not only that, I put water traps on three of them
12 and they turned it on three times a week for more
13 than a month.

14 Q. Did you tell the HOA about that?

15 A. Yes. It's -- when I -- it was
16 coincidental. When I found the first of the seven
17 or eight pipes, it was right by the fence. And it
18 was in March, I believe, March 2010 on a Saturday
19 and just as I was -- found it, I said to myself,
20 Eureka, I found this problem going on that was
21 flooding our property. I found the source, this
22 little half-inch pipe coming from under the fence.

23 And right as I found it, a woman was
24 walking by on the strip of grass on the other side
25 of the fence and I said, "Aren't you a member of

1 the landscape committee?

2 And she said, "Yes."

3 I said, "Do you want to see what's going
4 on here with this flooding?"

5 She turned her head and said, "Call the
6 Emmons Company."

7 Q. Okay. Did you?

8 A. I don't believe I did. But she did
9 because shortly thereafter they came out and took
10 out my water traps and they did cap the pipes.

11 Q. Okay.

12 A. By that point, you realize, I had stopped
13 the flooding problem. I had capped all the lines.

14 Q. I assumed that you had taken care of --

15 A. By that point, she was looking -- I found
16 the first one and then I actually was unscrewing
17 the water trap that shows the water coming out.
18 And then I would screw it back in. That's how I
19 knew it was three times a week. I was emptying the
20 water.

21 Q. Between the time you discovered the
22 flooding and you discovered the cause and then you
23 fixed it, how much time are we talking about?

24 A. It took me a while to find all eight of
25 them because they're underground.

1 Q. What's a while?

2 A. Only three of them were flooding the
3 property, not all eight. Some were hooked up to a
4 valve that wasn't going on; some were hooked up to
5 a valve that was going on.

6 Q. The capping was done by Slade, or do you
7 know?

8 A. The capping was done by me.

9 Q. I'm sorry. The pipes were removed by
10 which vendor, to your knowledge?

11 A. The documents -- the HOA minutes say it
12 was Slade because you had Slade, Mike Dobry who
13 works for Slade says I finished removing the
14 irrigation or something to that effect. They
15 started it and left them uncapped. Then once they
16 got word of the flooding, which I assume they heard
17 at from Verna Barr, who was the one who told me to
18 call the Emmons Company -- and I'm assuming when
19 she went to the next meeting or prior to, she told
20 them they were flooding Sullivan's property.

21 So they came and pulled all the pipes out
22 from under our property. I assume they're capped.
23 I don't know. They haven't flooded since.

24 Q. What I want to know is how much period of
25 time elapsed between the time Slade came out the

1 second time, if you will, and removed the rest of
2 the pipes and the time you noticed the flooding,
3 weeks, days?

4 A. I noticed the flooding before they
5 removed the pipes.

6 Q. I want to know how long a period --

7 A. A month or so, give or take. Could be
8 two months or could be three weeks.

9 Q. And was this flooding down slope?
10 Because your house is on the top of the hill.

11 A. It was right next to the split rail
12 fence.

13 Q. Okay. Did it cause any physical damage
14 to the house?

15 A. No.

16 Q. I'm talking about the flooding.

17 A. No.

18 Q. Did it cause any damage to -- on that
19 side of the house, that's not the driveway. It's
20 on the other side; correct?

21 A. Yes.

22 Q. Did it cause -- just so we have a record,
23 without --

24 A. Like I said before, the only damage it
25 caused is it prevented the work crew from getting

1 their works trucks up the hill. It did impact
2 their installation of the irrigation system. It's
3 down near Martha Morrison and it's not in the
4 vicinity of anything.

5 Q. When you say -- did they have to find
6 another way up --

7 A. They couldn't get their trucks up the
8 hill where they were working and I several times
9 pumped out the water and each time it would come
10 back. And I kept looking and talking to the
11 electric company -- actually the telephone and
12 cable company because they have manholes on the
13 property which do get water in them.

14 And they periodically pump them out but
15 they assured me they would not pump them onto our
16 property, but onto the street.

17 Q. Did the delay -- the work crews you're
18 talking about, these are the work crews installing
19 the orchard?

20 A. Yes, installing the irrigation system for
21 the orchard.

22 Q. Fair enough.

23 This is a commercial quality orchard
24 irrigation system, I assume? I don't know much
25 about this.

1 A. Yes.

2 Q. Did it cost you any additional money,
3 this flooding situation, that prevented or delayed
4 the work crews from installing the irrigation
5 system?

6 A. I'm sure it did.

7 Q. Do you know how much that is? I haven't
8 seen any bills for that.

9 A. I don't believe there's a bill for that.
10 At the time the flooding was going on, I remember
11 talking to all the parties involved, including the
12 company doing the installation, first of all, to
13 make sure they weren't causing the flooding.

14 Q. Right.

15 A. Then afterwards when they had the issues,
16 they couldn't get their trucks up the hill and I
17 don't recall if they gave me a number at the time
18 what extra that was costing me.

19 Q. Well, I assume that if they had given you
20 that, you would have a document, an invoice or a
21 bill to reflect that damage or that additional
22 charge, I should say.

23 MR. ARSHT: Is there a question?

24 MR. GORNEY: Yes.

25 Q. Therefore, I haven't seen it in the paper

1 you've provided to me so my question to you is, do
2 you know of any such paper?

3 A. I don't know of any such paper.

4 Q. By that, I mean a bill, an invoice,
5 up-charge, change order, something like that.

6 A. I don't recall it but I'm not saying it's
7 not included in the bill I paid. I don't know
8 how - the breakdown of the bill. It's a
9 multi-page invoice, I mean, many pages and much
10 detail.

11 Q. How much did it cost you to put in the
12 commercial irrigation system for the orchard?

13 A. Maybe 20- to \$30,000. I'm not sure.

14 Q. And the vendor or contractor who did
15 that?

16 A. Vanoni Ag Construction.

17 Q. I've seen invoices from them. We'll get
18 to that a little bit later.

19 So back to this meeting, have you -- this
20 is the February 10th, I believe --

21 A. February 2nd.

22 Q. February 2nd meeting.

23 Do you remember anything else that you
24 haven't talked about, about discussions during that
25 meeting by anyone?

1 A. There were other things discussed. I
2 can't recall them at the moment.

3 Q. Were there any other agenda items?

4 A. There may have been other agenda items.
5 Again, I left at the end of my 30-minute
6 presentation and discussion.

7 Q. Following this --

8 A. My agenda was the maintenance of the
9 trees and the weeds and the irrigation system for
10 the trees. That's why I was there.

11 Q. So you presented your position both in
12 writing and orally during the 30-minute period of
13 time that you were given; correct?

14 A. Right.

15 Q. During the time that you were at the
16 meeting, was any action taken by the landscape
17 committee?

18 A. Not to my knowledge.

19 Q. After this meeting, did you ask for the
20 minutes of the meeting?

21 A. No.

22 Q. Any reason why not?

23 A. I should say no, I didn't ask for them at
24 that point in time. Later we asked for all the
25 minutes of every meeting.

1 Q. This was before or after the lawsuit was
2 filed?

3 A. Might have been before. I'm not sure.
4 The lawsuit was filed April 2011. Might have been
5 March 2011. I'm not sure. It's in the time frame
6 of...

7 Q. Did you receive the minutes from the
8 board before you filed the lawsuit?

9 MR. ARSHT: Assumes facts not in evidence. If
10 he received minutes at all.

11 MR. GORNEY: That's a good question.

12 Q. Do you remember receiving any minutes --
13 withdrawn. I'll start over.

14 After the meeting, this February 2nd
15 meeting, did you ask anyone at Emmons Company to
16 send you the minutes of that meeting?

17 MR. ARSHT: You mean immediately after?

18 MR. GORNEY: We'll start there.

19 THE WITNESS: No, not immediately after. It
20 was much later that we asked to go to the Emmons
21 Company to review all their minutes. It was maybe
22 a year later.

23 BY MR. GORNEY:

24 Q. Were you, before filing the lawsuit,
25 given the opportunity to review those minutes,

1 before you filed the lawsuit?

2 A. Again, I don't know if it was before or
3 after. It was approximately at the same time. It
4 may have been a little before, may have been a
5 little after.

6 Q. Okay. So leaving out some of the details
7 for a moment, when you asked the Emmons Company for
8 the opportunity to review the minutes, that
9 opportunity was afforded to you; correct?

10 A. Yes.

11 Q. You were allowed to come to the Emmons
12 office; true?

13 A. Yes.

14 Q. And the minutes, whatever they gave to
15 you, I assume they put you in the conference room?

16 A. Yes.

17 Q. And the board minutes were put there?

18 A. Some of them, not all of them.

19 Q. Were you told that some minutes were not
20 being given to you?

21 A. No.

22 Q. When you say "some of them," at the time,
23 did you know that some of the minutes were missing
24 or did they tell you some weren't there --

25 A. Like I said, no, they didn't tell me. I

1 spent a day going through them and there were two
2 binders. One was supposed to be board minutes; one
3 was supposed to be landscape minutes. They were
4 mixed throughout and there were also other minutes
5 mixed in, like security committee minutes and I
6 went through a list, date by date and then I came
7 up with a list of what was missing.

8 Q. Did you give that list to anyone?

9 A. I talked to Alicia Camarillo and said,
10 you know, "Do you realize these things are mixed
11 up? The binders have a mixture of board minutes
12 and landscape."

13 And she said, "Yes, I noticed that."

14 Q. Did you ask her to find and let you look
15 at additional minutes?

16 A. Yes.

17 Q. What was her response?

18 A. I gave her a list of the missing minutes.

19 Q. And?

20 A. And she said they would look for them.
21 They looked for them and the first time I don't
22 think they found anything. Then we made another
23 request for the missing minutes and they found --
24 they gave us a small number of pages, most of which
25 were not in the missing minutes list. And they may

1 have found one set of missing minutes. So most of
2 the missing minutes were still missing and are
3 still to this day, including the discovery your
4 office provided. Still missing, never been
5 provided.

6 Q. But did Alicia Camarillo tell you that
7 she would attempt to give you the minutes that were
8 missing?

9 A. Yes, she said they would go look again.
10 First of all, they said they got these minutes from
11 their record storage facility. And they would have
12 to go back again to try to find the missing
13 minutes.

14 Q. Were you allowed to look at what you
15 understood to be the original minutes when you
16 spent a day at the Emmons office in Thousand Oaks?

17 A. What I looked at were three-ring binders
18 and I don't know if they were originals or
19 photocopies. I'm not sure. But I told her they
20 were out of order and mixed up between the binders.

21 She said, "Yeah, I noticed that," but
22 didn't offer any explanation of why she didn't fix
23 it. She just said, "Yeah, I noticed that," but
24 still gave them to me in that state.

25 Q. Did they put a baby-sitter with you or

1 did they just put you in an office --

2 A. I believe I was alone for most of the day
3 but someone would come in and check on me
4 periodically. But I don't believe they put a
5 baby-sitter with me.

6 Q. Or a minder?

7 A. I believe I was in there alone, for the
8 most part.

9 Q. During the time you were at the Emmons
10 office, do you believe you were treated
11 respectfully?

12 A. Yes.

13 Q. Let me broaden the question.

14 Did the Emmons Company personnel that you
15 dealt with concerning these HOA matters that we're
16 here about always treat you respectfully?

17 A. That day, I only dealt with Alicia
18 Camarillo and she treated me respectfully, as I did
19 her.

20 Q. Fair enough. I wasn't suggesting
21 anything untoward. I'm trying to cross it off my
22 list.

23 Did you deal with anyone else at the
24 Emmons Company other than Alicia Camarillo?

25 A. That day, no.

1 Q. Bad question on my part.

2 In your dealings with the Emmons Company,
3 who have you dealt with besides Alicia Camarillo?

4 A. The person we dealt with most was Alfreda
5 Tate, who was Alicia's predecessor.

6 Q. Anyone other than Alicia or Alfreda?

7 A. Just sometimes the receptionist in the
8 front, like, the day I brought documents by, and I
9 don't remember their names.

10 Q. There is a Kelly that worked there.

11 Have you ever dealt with Kelly?

12 A. I have written to her regarding
13 submitting things for approval. I remember that
14 name. Kelly Gursky, I believe it is, but I don't
15 remember what she looks like. I'm not sure if I
16 met her or not.

17 Q. Other than the receptionist who answered
18 the phone when you showed up at the office who
19 greeted you, do you remember having any
20 conversations of any substantive nature with anyone
21 at the Emmons Company other than Alfreda Tate,
22 Kelly Gursky or Alicia Camarillo?

23 A. No.

24 Q. Did those three women treat you
25 respectfully?

1 A. Alfreda Tate, yes. Alicia Camarillo, I
2 would say up to a certain point and that's where I
3 was referring to where Paula said she had a change
4 in attitude after the on-site meeting. She felt
5 that she had a different attitude towards us so I
6 would say prior to that meeting, where Robert Mundy
7 came on site and Peter Neilsen and Mike Dobry and
8 Sterling, where they came on site, where I asked
9 them to come on site to review the problems. After
10 that meeting, Paula felt Alicia had a different
11 attitude towards us.

12 Q. I appreciate the information but I'm
13 talking to you now.

14 A. I'm talking about us. I'm a part of us.

15 Q. That, I get 100 percent. But you're the
16 one who had 99 percent of the dealings with it.
17 I'm talking about your personal interactions with
18 Alicia, Alfreda Tate and Kelly --

19 A. You're saying in the context of
20 respectful or not?

21 Q. That was a term I used.

22 Did they treat you respectfully?

23 A. Well, if you consider -- I consider being
24 respectful when somebody asks me something,
25 answering. I consider that to be respectful. I

1 guess I would say no, they weren't, in the fact
2 that they weren't responsive. They wouldn't
3 respond to points we made in letters so I guess
4 that's a type of respect, I think.

5 Q. Okay. Setting that aside -- I was
6 actually trying to get a more basic type, such as
7 yelling, acting rude, shouting at you, that kind of
8 disrespect.

9 A. No, I wouldn't say Alicia Camarillo ever
10 yelled or shouted or acted -- well, when you said
11 rude, I would think sarcastic is a type of
12 rudeness. So one of the responses when we couldn't
13 get the HOA to do the fuel modification/brush
14 clearance and we had to go to the fire department
15 to get the HOA to do their jobs -- one of Alicia's
16 responses, and it's in writing, was something to
17 the effect -- she sent an e-mail saying I'm sure if
18 there's anything we have to do, the fire department
19 will let us know.

20 So I considered that to be rude because
21 here I'm telling them what's not been done and I
22 have a long history at this point of telling them
23 the problems, none of whichever were refuted and
24 yet she's not considering me a valid source of
25 information, I guess, even though I'm telling them

1 clearly and sent information about the same problem
2 to them. And she says I'm sure if anything needs
3 to be done, the fire department will let us know.

4 Q. You considered that written response to
5 you disrespectful?

6 A. Yes, because I'm letting them know
7 something and I haven't been making things up.
8 I've been telling them things factual at that point
9 for a long time and it's something simple. Either
10 the brush is cleared or it isn't. It's quite
11 simple.

12 If someone says the brush isn't cleared,
13 I wouldn't give an answer like that unless I knew
14 it wasn't cleared, especially if the source was
15 someone telling me lots of things that I'm supposed
16 to do and I wasn't doing them. I would listen to
17 that source. So I consider that sarcastic, that
18 answer.

19 Q. Any other rude or sarcastic remarks,
20 written or oral, from Alicia Camarillo?

21 A. I can't think of any right now.

22 Q. By your definition of "rude" or
23 "sarcastic" or "disrespectful," anything from
24 Alfreda Tate, written or oral?

25 A. I don't remember any issues with Alfreda

1 that were like that, rude or sarcastic, no.

2 Q. Kelly Gursky?

3 A. I don't remember if I even spoke to her.
4 I don't remember any problems with Kelly Gursky.

5 Q. Have you now told me everything else --
6 withdrawn.

7 Is there anything else that transpired at
8 this February 2, 2010 meeting?

9 A. Like I said, I'm sure there are. At the
10 moment, I can't remember them.

11 Q. Okay.

12 A. I'm sure there were a few other things.

13 MR. ARSHT: For the record, to make sure we're
14 clear, you just said February 2, 2010 meeting. I
15 thought it was February 10.

16 THE WITNESS: February 2, 2010.

17 MR. ARSHT: Okay.

18 MR. GORNEY: This is the meeting we've been
19 talking about.

20 THE WITNESS: Dave, at one point said 10th,
21 but it's February 2nd.

22 MR. ARSHT: For the record, there was only the
23 one meeting --

24 THE WITNESS: Right, in February 2010.

25 ///

1 BY MR. GORNEY:

2 Q. We started in this chronology because I
3 was asking about Paula's communication with the
4 board.

5 This was her fourth communication?

6 A. Is it?

7 Q. One was in 2007 when she called to get
8 the meeting and then after the June 15, '07 on-site
9 meeting, and then before 2007, the tree going on a
10 parkway and then the fourth one. That's what my
11 notes suggest.

12 A. Okay.

13 MR. ARSHT: Is now a good break time, Dave?

14 MR. GORNEY: Sure.

15 MR. ARSHT: Thank you.

16 (BRIEF RECESS)

17 BY MR. GORNEY:

18 Q. We're back on the record after a short
19 break.

20 You realize you're still under oath?

21 A. Yes.

22 Q. You made a passing remark that you
23 remember something about the February 2, 2010
24 meeting. Tell me what it is.

25 A. Yes. I brought two dozen pictures of

1 trees and Photo Number 22, 23 and 24 related to an
2 oak tree that was in the -- it's called the
3 right-of-way area next to our property, that the
4 HOA is supposed to maintain those trees. Back at
5 the 2007 meeting when all the people were on site,
6 I showed them that tree, how it was improperly
7 guy-wired and they said they would fix it.

8 Within a week or so, they did change it
9 but instead of having the normal three guy-wires
10 you have, spread 120 degrees apart, it originally
11 had five guy-wires that were loose and not holding
12 the tree up.

13 They changed it to two guy-wires, which
14 works as long as the wind is not blowing in the
15 wrong direction. Two can't provide you full
16 360-degree protection.

17 Anyway, the tree blew shortly before this
18 meeting and I had photos of it before and after and
19 I asked at the meeting, "Do you guys remember me
20 talking to you about this tree?"

21 Peter Neilsen said, "Yes, I remember
22 that," and Robert Mundy said, "No, I don't remember
23 that." Then I showed them the picture of how the
24 tree was down and removed shortly thereafter by the
25 HOA and Robert Mundy said, "It would have died

1 anyway." He didn't remember but he said, "It would
2 have died anyway." But that was something at the
3 meeting.

4 Q. That tree was removed and it's obviously
5 no longer there?

6 A. Right.

7 Q. You didn't have to pay any money to get
8 it removed?

9 A. No. I paid for its installation, though,
10 and it's gone and the trees are worth a lot of
11 money and it's gone because they didn't care for it
12 properly. Not only that, he said he didn't
13 remember it and next he gave a qualified "it would
14 have died anyway."

15 Q. Anything else you remember from that
16 February 2, 2010 meeting?

17 A. Not that I remember.

18 Q. What else did Paula -- to your knowledge,
19 did Paula have any other communications with the
20 board?

21 A. Yes. We had an on-site meeting in --

22 Q. June?

23 A. October or November of 2010. I can't
24 remember. It was one or the other and Paula was
25 present.

1 Q. Who else was present?

2 A. From the board, Don Diamond and Joe
3 Bellomo from the HOA management company, Alicia
4 Camarillo, the HOA's attorney, Adrian Adams and --

5 MR. ARSHT: When are you talking about now?

6 THE WITNESS: -- Sam Arsht was there. The
7 on-site meeting in October or November of 2010. An
8 assistant attorney named Aide Ontiveros was there.

9 BY MR. GORNEY:

10 Q. And did Paula participate --

11 A. And --

12 Q. Go ahead.

13 A. And Tim Barnett, an arborist representing
14 the HOA was there and I had an arborist there.

15 Q. Name of?

16 A. His name was -- I'm drawing a blank.
17 I'll think of it. But my arborist was there.

18 Q. Was this the meeting where the trees were
19 identified and flagged or was this some other
20 meeting?

21 A. The trees had already been flagged prior
22 to this meeting by me and they had been labeled
23 with tape prior to this meeting by Tim Barnett, the
24 arborist for the association.

25 MR. ARSHT: Let me just object for

1 clarification because he didn't specify flagged by
2 whom. And I think if that's the meeting where the
3 purpose was for the HOA to identify the trees, then
4 the answer is, yes, that's what it was for, but
5 you're saying you had already flagged it.

6 THE WITNESS: The trees were flagged many
7 months before that.

8 MR. ARSHT: By you?

9 THE WITNESS: And Tim Barnett.

10 BY MR. GORNEY:

11 Q. So you discussed tree flagging?

12 A. Yes. Excuse me. The name I couldn't
13 remember is Alex Medina.

14 Q. Who called this meeting?

15 A. I believe we requested it. By "we," I
16 mean my attorneys and myself requested it.

17 Q. How long did it last?

18 A. It started in the morning, probably
19 around 10:00 and lasted probably a good three
20 hours, I would say, maybe longer.

21 Q. Till at least 1:00 or 2:00 p.m.?

22 A. Thereabouts.

23 Q. Was there any discussion that went on
24 during this on-site -- was there only one on-site
25 meeting like this or was there a second time when

1 HOA members, including Mr. Mundy, came to your
2 house?

3 A. HOA members and Mundy came to the house
4 in 2007.

5 Q. Got it.

6 A. This meeting I'm referring to was October
7 or November 2010.

8 Q. That was my question. Hang on a second.

9 A. Yeah.

10 Q. Other than those two meetings, 2007 and
11 2010, were there any other on-site meetings?

12 A. Yes. A follow-up meeting to this October
13 or November meeting was where the HOA came out for
14 the sole purpose of removing their debris and trash
15 they had dumped on our property. It was a
16 follow-up to the October meeting.

17 Q. Did the HOA come out themselves or was it
18 a contractor?

19 A. Don Diamond, the president of the HOA,
20 came out, Mike Dobry, the manager for Slade came
21 out and Sergio, who is a foreman for Slade was
22 present. Those three were the people present.

23 Q. That was a follow-up meeting to remove
24 debris?

25 A. Yes.

1 Q. So --

2 A. They had accused us prior that we were
3 dumping debris and it turned out it was their
4 debris.

5 Q. Hang on a second. My question --

6 A. I'm answering.

7 Q. But I -- you got ahead of me. I don't
8 intend any disrespect but I need to get -- well,
9 let me start over again.

10 This meeting was a follow-up meeting?
11 The one with Don Diamond, Mike Dobry and Sergio was
12 a follow-up to the October or November 2010
13 meeting; correct?

14 A. Yes.

15 Q. The purpose of this meeting was to remove
16 debris, for the Slade company to remove debris?

17 A. Yes.

18 Q. Got it. I've now identified three
19 on-site meetings: 2007, the October/November 2010
20 and this follow-up meeting.

21 Were there any other on-site meetings at
22 your property other than those three?

23 A. Regarding this problem of lack of
24 maintenance?

25 Q. Yes.

1 A. No, there were other meetings but they
2 were prior, like, with Steve Logan but nothing to
3 do with the problem of maintenance of the trees.

4 Q. Got it. We'll get to the Steve Logan
5 meeting later.

6 We have three, what I would call on-site
7 meetings in which HOA members were on your property
8 for purposes of discussions or action; right?

9 A. Yes.

10 Q. When did the -- we'll call it the
11 follow-up meeting take place, the debris with Slade
12 meeting?

13 A. I think December 2010.

14 Q. During that follow-up meeting, was debris
15 removed by the Slade folks?

16 A. Some of it, yes.

17 Q. Did you have discussions with Don Diamond
18 during this meeting?

19 A. Yes.

20 Q. Tell me what you remember.

21 A. He greeted me by saying that they were
22 only there to remove the debris identified in the
23 letter from their attorney, which he said was the
24 concrete blocks from the split rail fence, remnants
25 of the split rail fence and the railroad ties that

1 they had dumped on the property.

2 Q. Tell me --

3 A. Nothing else. I said fine. And then we
4 proceeded to walk -- it's approximately a
5 1,500-foot strip that we were walking to pick up
6 the debris. And he walked not more than 100 feet
7 and picked up a PVC pipe and I said, "Why are you
8 picking that up?"

9 He said, "I'm getting rid of it."

10 I said, "You just said you were picking
11 up concrete and the railroad ties. Please put that
12 pipe down."

13 Q. What pipe?

14 A. It was remnants of their irrigation --
15 when you said they completed removal, they had
16 Phase II of the removal and they still haven't
17 completed the removal. Don Diamond was attempting
18 to remove a piece and I asked him to put it down.
19 I said it's evidence.

20 Q. Did he?

21 A. Yes, he did.

22 Q. Did you have any other discussion with
23 Don Diamond other than that?

24 A. Yeah. When we got near the railroad
25 ties, I said "Why were you so resistant about

1 removing these railroad ties?" It was a year
2 before that I had asked them to remove them and
3 showed them pictures showing exactly where they
4 came from, which was across the street, for steps.
5 They had replaced the bottom three steps, brought
6 them across the street and dumped them on our
7 property.

8 And I said, "Even a couple weeks ago at
9 the first meeting, you were still resistant even
10 though we could see where they came from." I said,
11 "Why were you still resistant?"

12 And he said, "I don't remember."

13 I said, "It was just a couple weeks ago."
14 And then I started writing notes of what he was
15 saying.

16 He said, "Oh, you're writing notes?
17 You're writing notes for your lawsuit?"

18 I said, "I have to write notes with you
19 people."

20 And then he said, "You're something
21 else." He said that to me.

22 Q. Anything else that you remember that was
23 said?

24 A. Most of the time I was talking to Sergio
25 because he was the one actually picking things up

1 and doing the work and I was sort of helping find
2 some of the things. Don Diamond and Mike Dobry
3 were just talking to each other mostly.

4 Q. I'm interested in what -- Mike Dobry and
5 Don Diamond, did you overhear any part of their
6 conversation?

7 A. Not that I recall.

8 Q. Is it fair to say that your conversations
9 with Sergio, the worker, didn't relate to the
10 problem, they were simply identifying what needed
11 to be removed, this should be removed, this should
12 not be removed, take this, don't take that, that
13 kind of a discussion?

14 A. Yes, it was pointing out the debris and
15 he would pick it up.

16 Q. Okay.

17 A. I would move it slightly down the hill to
18 make it more accessible for him to pick up. Only
19 thing that was a little odd was I was picking up
20 trash and picked up an empty bag of fertilizer.
21 And Mike Dobry, that's the only -- no, I recall him
22 saying two things. But he said, "I'll take that
23 for you." I found that to be a little strange.

24 Q. Why was it strange?

25 A. Well, he wasn't doing anything, just

1 standing talking to Don Diamond and he said, "I'll
2 take that for you." It took me a little while to
3 figure it out. It's the same kind of fertilizer
4 they use. It was from their crew. A lot of debris
5 is people throwing a cup out the window and I pick
6 that up periodically and so I found that
7 interesting.

8 Q. Anything else that Mr. Dobry said at this
9 meeting?

10 A. The only thing, at the introductions, Don
11 Diamond introduced himself and I already knew him
12 from the previous meeting and I recognized Mike
13 Dobry from the meeting in 2007 but I didn't
14 remember his name. So I said, "I'm Ted Sullivan."

15 He goes, Hi, I'm Mike."

16 I said, "What's your last name?"

17 He said, "I don't want to say." That, I
18 found to be a little strange.

19 Q. Why?

20 A. Someone won't tell you their last name?
21 I find that strange. I can't recall the last time
22 I said to somebody, "I'm Ted Sullivan" and they
23 said "Hi, I'm Mike," and I said "What's your last
24 name?" and they said, "I don't want to say."

25 Q. Do you remember anything else at this

1 December 10th follow-up meeting?

2 A. December 2010?

3 Q. That's the date you gave me as to when
4 you think it might have been.

5 A. I can't recall anything at the moment.

6 Q. Let me go back now.

7 Was Paula present at this follow-up
8 meeting?

9 A. No.

10 Q. How long did that December 2010 follow-up
11 meeting last, approximately?

12 A. I would estimate an hour. That's just an
13 estimate.

14 Q. You didn't get a bill or have to pay
15 anything directly to Slade for their work on that
16 follow-up meeting; correct?

17 A. No, the agreement was it was the HOA's
18 responsibility to remove their debris they dumped
19 on our property.

20 Q. Fair enough.

21 Sometimes you're reading more into my
22 question. I want to know if you got a bill and had
23 to pay anything for that work that Slade did on
24 December 10th. And the answer is no --

25 A. No.

1 Q. Did you get a bill? I'll ask you
2 directly.

3 A. No.

4 Q. All right. Now, back to the
5 October/November 2010 on-site meeting that was at
6 your property, you've already told me who was
7 there.

8 Did you have any discussions with the
9 HOA's lawyer, Adrian Adams or Aide Ontiveros?

10 A. Yes.

11 Q. Tell me about those.

12 A. The first discussion we had was regarding
13 the split tree.

14 Do I need to define that more for you?

15 Q. No, I know what it is.

16 A. Okay. We discussed the fact that many
17 years prior, it virtually split in half and that
18 that half that fell, fell onto our property. It
19 didn't fall onto the road. There was no physical
20 damage.

21 MR. ARSHT: Ted, excuse me. His question was
22 discussions with Adrian Adams or Aide Ontiveros.

23 Is that what this is?

24 THE WITNESS: Yes, we're getting to that.

25 That was one of the main points. So the

1 tree split in half and we were sitting all of us
2 looking at the tree, a group of people, and it's
3 still split in half and it's -- the wound is
4 covered somewhat in the last ten years or so but
5 it's still split in half so we were discussing that
6 tree and what should be done about it. Just back
7 and forth about that, a lot of detail.

8 BY MR. GORNEY:

9 Q. Was it exchanging of facts or was it
10 argument? How would you describe it? This is a
11 conversation with the lawyers.

12 A. It was the lawyers and the tree people,
13 also, the arborists.

14 Q. Was this a general kind of discussion
15 about this, like, everybody was present and
16 contributing?

17 A. Yes, everyone was present and it's a good
18 opportunity to relieve or solve the problem, get
19 rid of the tree that's a danger.

20 Q. What was your understanding of the
21 purpose for the lawyers being present for both
22 sides?

23 MR. ARSHT: If you --

24 THE WITNESS: Help resolve the issue.

25 MR. ARSHT: If your understanding comes from a

1 conversation with me, then that's not an answer
2 he's looking for and it's not one you'll give.

3 BY MR. GORNEY:

4 Q. Outside of what your lawyer may or may
5 not have told you, what is your understanding of
6 why the lawyers were at this October/November 2010
7 meeting?

8 A. It was a meet-and-confer. It was an
9 attempt to resolve the issue of responsibility of
10 maintenance of these trees and other things
11 pertinent to the trees, like the weeds and the
12 brush and so forth.

13 Q. Were any decisions taken at that meeting,
14 at the October/November meeting or was it just an
15 exchange of views? You tell me.

16 A. It was called a meet-and-confer and so
17 things were discussed but my recollection is most
18 of the time was spent by the HOA people to figure
19 out which of the trees they planted as an HOA
20 group. I think they were trying to distinguish
21 what the developer planted from what the board or
22 the HOA planted.

23 Q. So is it a fair statement that the HOA
24 reps were there to try to figure out what the trees
25 are and you were there monitoring what they were

1 doing? Let me back up.

2 You believe that the HOA needed your
3 permission before they could go on your property;
4 correct?

5 A. No.

6 Q. Other than in easement areas, did the HOA
7 have the right --

8 A. No, not at that time, no.

9 Q. You gave everyone permission to be there?

10 A. Yes, but further to your question, I
11 didn't assume I needed to. I assumed they had the
12 right to go on the property at that time.

13 Q. Okay.

14 A. I didn't know the full extent of their
15 obligations at that time. I assumed they had the
16 right. They had things to maintain so obviously,
17 they have to have access.

18 Q. Okay. I'm trying to figure out, was this
19 a round-table meeting or were the HOA people
20 meeting with their group and the Sullivan side, if
21 you will, were having their own conversations? Now
22 did it go?

23 A. Remember, it's an outside meeting. We
24 walked about 1,500 feet so it was groups of people
25 sometimes segregated, sometimes not, sometimes one

1 big group. When we discussed the railroad ties
2 being removed it was one big group.

3 Q. And were part of the railroad ties
4 removed on December 10th?

5 A. Yeah -- yes.

6 Q. So there was an agreement reached at the
7 October meeting to remove the railroad ties?

8 A. And the concrete debris, yes.

9 Q. Got it.

10 What other agreements, if any, were
11 reached at this October/November 2010 meeting other
12 than the railroad ties and concrete debris?

13 A. The arborist was told -- the arborist for
14 the HOA was told to number the trees and evaluate
15 them.

16 Q. Okay.

17 A. Then that information was going to get
18 disseminated to our side.

19 Q. Was it?

20 A. The arborist's report was not but the
21 trees were numbered, 1 through 47.

22 Q. So the two things that were decided to be
23 done so far that you've told me about were
24 identification and numbering of trees, and two,
25 removal of the concrete ties -- sorry, railroad

1 ties and the concrete debris.

2 A. Right.

3 Q. Any other items that were decided to be
4 done at the meet-and-confer meeting?

5 A. I believe Adrian Adams was going to
6 present an offer based on the report of the trees
7 and based on whatever discussions they were having,
8 an offer to resolve the issue.

9 Q. That offer eventually came in the form of
10 a letter from the HOA's lawyers?

11 A. Multiple letters because the first two
12 letters, they didn't identify the trees. They were
13 talking about trees that were nonviable and didn't
14 identify which ones they were. So it took several
15 times before they determined which ones were
16 nonviable.

17 Q. Ultimately, a written offer was given?

18 A. Yes.

19 Q. That offer was not accepted by you?

20 A. No.

21 Q. Why not?

22 A. Because they wanted to turn trees over to
23 us that were not our responsibility.

24 Q. Any other reason?

25 MR. ARSHT: Any other reasons not discussed

1 between you and your lawyers.

2 MR. GORNEY: Well, let me -- I don't want him
3 to limit it.

4 Q. An offer was made by the HOA. I asked
5 you why you didn't accept it. You gave me a
6 reason.

7 Were there any other reasons that you did
8 not accept the HOA's offer other than that?

9 (WITNESS AND COUNSEL CONFER)

10 MR. ARSHT: Go ahead. Well, let's take a
11 break real quick.

12 (RECORD READ)

13 MR. ARSHT: My objection here is it's vague
14 and it's ambiguous and you're going to need to
15 identify the offer.

16 THE WITNESS: Okay.

17 MR. ARSHT: Ted, do you understand what he
18 means by the offer?

19 THE WITNESS: There were a lot of offers.
20 That's why --

21 MR. ARSHT: Therefore --

22 THE WITNESS: A lot of letters starting
23 April 5, 2010 all the way through March of 2011.
24 There were many offers made by the HOA, all
25 different things.

1 BY MR. GORNEY:

2 Q. You accepted neither of --

3 A. None of them.

4 Q. Why not?

5 A. Well, different reasons for different
6 offers. I said they were entirely different
7 conditions.

8 Q. Isn't the principal reason that there's a
9 fundamental dispute about, A, who owns the trees
10 and/or who has a duty to maintain them?

11 MR. ARSHT: What does that have to do with
12 whether or not he would accept an offer? That's a
13 different question.

14 BY MR. GORNEY:

15 Q. You can answer my question.

16 MR. ARSHT: Ted, don't get confused. Let's
17 get a clear question.

18 MR. GORNEY: We'll have the question read
19 back.

20 (RECORD READ)

21 MR. ARSHT: I object to the form of the
22 question. You're talking about isn't the
23 fundamental reason for what? The question --

24 MR. GORNEY: In the context of the prior
25 questions it made sense. Let's -- excuse me. The

1 objection was made. He can answer.

2 MR. ARSHT: No, he can't answer the question.
3 It's not clear. Pose a new question.

4 MR. GORNEY: Counsel, I haven't heard it from
5 him.

6 MR. ARSHT: Tell him it's not clear.

7 MR. GORNEY: You can't direct a witness how to
8 answer.

9 MR. ARSHT: Counsel, ask a clear question.

10 THE WITNESS: I'm confused again. Partly it's
11 the time in between, but again, there's multiple
12 offers in strikingly different terms. So which
13 ones are we talking about? Should we get the
14 actual offers?

15 BY MR. GORNEY:

16 Q. They're in --

17 A. I could answer better if I'm doing one at
18 a time. It may be different reasons for each
19 offer.

20 Q. Isn't the fundamental reason why you
21 didn't accept any of the HOA offers because the
22 HOA -- part of those offers required you to assume
23 all further maintenance responsibilities for the
24 trees?

25 MR. ARSHT: Same objection; vague and

1 ambiguous.

2 THE WITNESS: I -- again, I'd like to see all
3 the offers in front of me but I think they all had
4 that in common, that any remaining trees would be
5 our responsibility.

6 BY MR. GORNEY:

7 Q. Correct.

8 A. The offer is different as to what trees
9 could be removed, though.

10 Q. Fair enough.

11 But as to the remaining trees, the reason
12 you didn't accept any of those offers is because as
13 far as you were concerned, you believe that the HOA
14 had a duty to maintain them; correct?

15 A. It's not that simple. Again, some of the
16 offers were not -- were that they would resume
17 maintenance of the trees and so that was declined
18 for different reasons.

19 MR. ARSHT: Ted, if there were a multitude of
20 terms, don't allow counsel to suggest to you that
21 there's one reason why you didn't accept offers --

22 THE WITNESS: Now that I think about it a
23 little bit more, your premise that all the offers
24 involved us taking over maintenance of the trees is
25 not true. There were some offers -- I think when

1 they realized that they had the obligation, they
2 realized, okay, we'll take the trees back over.
3 They said that in June of 2010 and repeated it in
4 maybe September or October or August 2010.

5 So two of their offers were never mind,
6 we'll resume maintenance of the trees. So then at
7 that point, technically, I wouldn't have had a
8 problem with the trees although I still would have
9 because the same group that wasn't responsive would
10 be back in charge of the trees even though they
11 pulled the irrigation system from the trees.

12 There was no way they could be trusted to
13 maintain the trees, but at that point, their
14 mid-range offers were we'll take the trees back.
15 The initial offers were you got all the trees.
16 Then it changed to oh, we'll take them back. Then
17 it changed to we'll take some of them out and give
18 you some of them. So it was all over the place,
19 all of the offers.

20 BY MR. GORNEY:

21 Q. Let me approach it from a different
22 perspective.

23 As of right now, is it your belief that
24 the 47 trees that we're talking about, the trees in
25 dispute, the association has a continuing duty to

1 maintain them?

2 A. Yes.

3 MR. ARSHT: Objection; calls for a legal
4 conclusion.

5 Will you please wait in between the
6 question and the answer. Thanks.

7 BY MR. GORNEY:

8 Q. Do you dispute that these 47 trees are
9 located on your property?

10 MR. ARSHT: Counsel, it's a contention
11 question. Please rephrase it.

12 MR. GORNEY: It's not a contention question.
13 It's state of mind.

14 MR. ARSHT: Objection; form of the question.

15 BY MR. GORNEY:

16 Q. Go ahead, sir.

17 A. I believe the trees are located on our
18 property.

19 Q. Do you believe that the trees in dispute
20 are subject to any easements?

21 MR. ARSHT: Objection --

22 BY MR. GORNEY:

23 Q. Not a legal understanding. Only judges
24 make that determination.

25 MR. ARSHT: It's not only legal; it's out of

1 the scope of the witness' expertise and I object to
2 the form of the question as well.

3 BY MR. GORNEY:

4 Q. You can answer.

5 A. Yes, I agree, many of the trees are under
6 an easement maintenance obligation.

7 Q. Which easement is that?

8 MR. ARSHT: Can I have a continuing objection
9 so I don't interrupt you?

10 MR. GORNEY: Sure.

11 MR. ARSHT: Thank you.

12 BY MR. GORNEY:

13 Q. Go ahead.

14 A. There's two easements on our property for
15 maintenance of trees and I don't recall the numbers
16 verbatim but I believe they've been introduced as
17 evidence.

18 Q. Do those --

19 A. They are documented to the HOA by the
20 civil engineer they hired. Tom Murphy gave them
21 information about all the easements.

22 MR. ARSHT: Ted, that's way more information
23 than the question called for. Okay? The question
24 was simple: Do you believe there are easements?

25 THE WITNESS: That involve tree maintenance.

1 MR. ARSHT: That could be answered yes or no.

2 THE WITNESS: I should have answered it in
3 that context. Yes, I think there's easements that
4 obligate the HOA to maintain trees on our property.

5 BY MR. GORNEY:

6 Q. We got a little bit off track because
7 we're trying to meet and confer.

8 Do you remember any other discussions at
9 this October/November 2010 on-site meeting other
10 than what you've told me about?

11 A. There were -- the main questions and
12 efforts of the HOA people were which trees they
13 planted, and by "they," they were trying to figure
14 out the trees they planted as an association, the
15 landscape committee and it seemed like they
16 couldn't figure out which trees. It seems they
17 couldn't determine it even spending all that time.

18 When we got to what I call the Sandstone
19 Garden easement area -- and I don't remember the
20 number of the recorded easement but it's got a
21 bunch of sandstone boulders in it -- when we got to
22 that point, the discussion involved some tree limbs
23 that were on the ground.

24 And Joe Bellomo said, "What are you going
25 to do about those?" To me, he said it.

1 And I said, "What tree limbs are you
2 referring to?"

3 And then Don Diamond went over and
4 whispered something in his ear and then Joe dropped
5 the subject and didn't answer me. I don't know
6 what Don said to him. But Joe was concerned about
7 some branches from trees that had fallen or been
8 cut in the Sandstone Garden easement area and Don
9 Diamond went and told him something and he ended
10 it.

11 Q. Do you remember any other discussions at
12 this on-site meeting other than what you've told
13 me?

14 A. I'm sure there were more. They don't
15 come to mind right now.

16 Q. Now, going back in time, was there a
17 meeting -- you said it was in 2007 -- at your
18 property, and this is one in which Mr. Mundy was
19 present?

20 A. Mundy, Dobry, Nielsen and Sperling or
21 Sterling.

22 Q. You said yourself, Mr. Mundy, Mr. Dobry,
23 Mr. Nielsen were there?

24 A. Yes.

25 Q. Anyone else?

1 A. Alice Sterling, landscape committee
2 member.

3 Q. Anybody else?

4 A. No.

5 Q. Was Paula present?

6 A. No.

7 Q. What was the purpose of this -- we're
8 calling this a site visit. I don't want to limit
9 it. It was a meeting in which some people from the
10 HOA board were on your property to discuss with
11 you; right?

12 A. Yes.

13 Q. Did you call this meeting or did they
14 want the meeting or was it something else?

15 A. It's what I referred to earlier. Paula
16 called Alicia Camarillo and asked.

17 Q. Got it.

18 A. I got ahead of myself. Do you want me to
19 give the correct background?

20 Q. Sure.

21 A. When Paula called Alicia Camarillo, it
22 was in April 2007. Alicia Camarillo invited us to
23 the May 1st, 2007 board of directors meeting. She
24 sent us a written letter saying where it is and so
25 forth.

1 We had asked to be invited to that
2 meeting to discuss the problems with the trees,
3 weeds, broken irrigation and all the things related
4 to HOA obligations on our property, maintenance
5 obligations.

6 When we got to the meeting, I came
7 prepared with lots of stuff and a man who I later
8 came to know as Don Diamond told me I couldn't
9 present it at the meeting because I wasn't on the
10 agenda. And I showed him the letter I had with me
11 saying I've got an invitation from you, saying the
12 board was inviting me, or something to that
13 effect -- one of our exhibits here -- would like
14 you to go to the meeting. He said it didn't
15 matter; I'm not to the agenda.

16 Shortly thereafter, I left. I left
17 before the meeting started because I was told I
18 couldn't present my information. And at no point
19 was I told there is an open meeting rule where they
20 get three minutes that the public can present. I
21 wasn't told that. So I left before the meeting
22 started and --

23 Q. You had more than three minutes' worth of
24 information to give; right?

25 A. Yes.

1 Q. Go ahead.

2 A. But I could have summarized it in three
3 minutes had I been given the opportunity.

4 Q. Okay.

5 A. So then after that meeting, there was a
6 follow-up because the problem wasn't resolved. And
7 during that -- before the meeting started, they
8 were talking about my tractor and Don Diamond said
9 he could see my tractor and what was I going to do
10 about it, am I going to build a barn. So we talked
11 about that but that wasn't why I was there.

12 I left before the meeting started and
13 then we were contacted by the association saying
14 they would like to send some people on-site and
15 that's where you had Mundy, Neilsen, Dobry and
16 Sterling so it was a follow-on where I said I want
17 to talk to the board and I did, in fact, get
18 invited to the board and then I got disinvited, I
19 guess, before the meeting.

20 Q. So who called you to say that they wanted
21 to have several board members come to your
22 property?

23 A. I don't recall, but I assume it would be
24 Alicia.

25 Q. Don't assume. If you know, you know. If

1 you don't know, tell me.

2 A. Well, it wasn't any board members. That,
3 I know for sure.

4 Q. How did you get the message?

5 A. I don't remember if it was phone call or
6 a letter. I don't remember. It wasn't any board
7 member and Alfreda Tate was gone from the position
8 so I don't know who else it would have been besides
9 Alicia Camarillo. That's why I said I assume.

10 Q. Fair enough. But regardless, after you
11 were not able to present at the May 1, '07 board
12 meeting, several, what, weekdays later you were
13 asked if some board members would come to your
14 property to meet with you?

15 A. The time frame, I'm not sure. It could
16 have been a couple weeks, could have been one week,
17 three weeks later. I don't know.

18 Q. Within 30 days?

19 A. Probably, because the meeting happened
20 June 15th. Might have been a little more than
21 30 days. I don't remember.

22 Q. So June 15, '07. Beforehand you had
23 received an invitation, a request that board
24 members come to the property, and you said yes, I
25 assume?

1 A. Yes.

2 Q. And Mundy, Dobry, Nielsen and Alice
3 Sterling came to your property?

4 A. Yes.

5 Q. What time?

6 A. I don't recall.

7 Q. Morning, afternoon, evening, night?

8 A. I don't recall. It wasn't dark. It was
9 fully light.

10 Q. How long were they at the property?

11 A. I would estimate about an hour.

12 Q. Did the meeting take place inside your
13 house, outside your home, both places?

14 A. Totally outside the home. We were
15 looking at the HOA obligations of maintenance which
16 are down near Martha Morrison and we discussed some
17 of them along Wood Ranch Parkway.

18 Q. Focused primarily on Martha Morrison,
19 that's where the meeting took place?

20 A. Primarily. But again. We talked about
21 that tree that fell over that was improperly
22 guy-wired and that was on Ranch -- on Wood Ranch
23 Parkway. So primarily on Martha Morrison, not
24 entirely.

25 Q. Tell me what you remember of that

1 meeting. I'll call it the -- I mean, the June 15,
2 2007 meeting.

3 A. I remember since there were four people
4 plus myself, I had a mule vehicle where we tried to
5 all squeeze in which was a little tight. I
6 remember Robert Mundy saying he'll just walk so
7 four of us rode in the vehicle and he kind of
8 walked along. The meeting started with -- in an
9 area -- common maintenance area, really in a
10 right-of-way where I was turning it back over to
11 them.

12 It's an agreement I had with Steve Logan.
13 It was a hillside area that they had newly planted
14 vinca on it and it was eroding. They kept turning
15 the water on for 20 minutes.

16 Q. Was this agreement with Steve separate
17 and apart from the 1999 agreement that you entered
18 into?

19 A. No.

20 Q. Tell me more about this agreement.

21 A. This was an agreement where the HOA
22 people were watering this newly planted slope which
23 is on their property. It's their right-of-way to
24 maintain but it adjoins my driveway. And so the
25 dirt just kept coming down towards my driveway. So

1 I talked to them several times and said, "You guys
2 can't water for 20 minutes. You got to do it three
3 minutes at a time just more frequently."

4 And it wasn't working so I finally talked
5 to Steve and said, "I'll take it over till it's
6 established and then you can take it back."

7 Q. When was this agreement made with
8 Mr. Logan?

9 A. Maybe the year 2000 or 2001.

10 Q. Is that what happened?

11 A. Yes.

12 Q. So by the time you had this meeting in
13 2007, that agreement had been made and I guess
14 finished?

15 A. Well, it was still -- I was still
16 watering and maintaining the stuff. At this point,
17 since there were so many issues with the 47 trees
18 and the weeds, to put everything in one meeting,
19 get all the things done, I said, "Since we're here,
20 I'll turn this over to you." That's how I started
21 the meeting.

22 Q. By turning it over, you wanted the HOA to
23 continue to resume --

24 A. Correct.

25 Q. What was the reaction, if any, from any

1 of the members at that meeting?

2 A. Robert Mundy -- we were walking towards
3 the area where I was going to show them where the
4 valves are and Robert Mundy jumped in and goes,
5 "There's our valve." It just struck me as odd
6 because I don't know how he would know where the
7 valve is. In fact, he was pointing to the wrong
8 valve. It was one of our valves.

9 It was strange to me that he would
10 interject when he had his head landscape guy there
11 and me there that really knew the area and he
12 didn't. And he said, "Here is our valve."

13 I said, "No, that's not your valve. I'll
14 show you your valve.

15 Q. And you showed him the valve?

16 A. I did.

17 Q. What was the response in terms of your
18 request that the HOA resume --

19 A. Everything was fine. They agreed we
20 would redo the plumbing there. I had to do part of
21 it and their guy would come in afterwards and
22 everything was fine.

23 Q. So that part of the meeting, there was a
24 resolution reached?

25 A. Yes.

1 Q. And the resolution was reached because
2 you had requested that the HOA resume watering that
3 area and they agreed?

4 A. Correct.

5 Q. Okay. That was one thing discussed at
6 the June 15, 2007 meeting.

7 Tell me how --

8 A. That was Step 1. Step 2 was the tree
9 that fell down and the improper guy-wiring. That
10 was a second topic to discuss because it was right
11 next to it. Physically, it was next to where we
12 were standing.

13 Q. What was the discussion about the fallen
14 tree?

15 A. At that point, it hadn't fallen. It fell
16 in 2010. But it was in danger of falling because
17 it was improperly guy-wired. They agreed they
18 would re-guy-wire it properly.

19 Q. Did they?

20 A. No. That's the photos I showed them in
21 2010. It fell down and died because it fell down.

22 Q. Tell me again -- you told me earlier this
23 was your tree?

24 A. Yes. It's a tree in the right-of-way
25 area. I paid for the tree because when the house

1 was built, part of the deal between the city and
2 the developer is you have to plant trees. It's a
3 right-of-way area but the developer and the city
4 agreed that there would be trees planted in this
5 area.

6 Q. Why did you plant the tree?

7 A. Because I bought the house so everything
8 they did, I paid for, the driveway, the trees, the
9 house, everything.

10 Q. It was --

11 A. The city wanted them planted there as
12 part of the condition of developing the property.

13 Q. So you were obliged to plant a tree there
14 because you were the property owner subject to a
15 right-of-way; is that your understanding?

16 MR. ARSHT: Objection; again, beyond the scope
17 of this witness' expertise.

18 THE WITNESS: There's a tree located in a
19 right-of-way. It was planted by Standard Pacific
20 and I paid Standard Pacific. It was one of the
21 conditions of developing the property, that these
22 trees be planted in a right-of-way.

23 BY MR. GORNEY:

24 Q. Now, the right-of-way -- is your land
25 subject to the right-of-way? Is that your

1 understanding?

2 A. I think so. I'm not 100 percent sure but
3 it's called a right-of-way area and our driveway
4 goes right through it.

5 Q. Got it.

6 A. But prior to our driveway being there, it
7 existed as a right-of-way before our property was
8 developed and it was a right-of-way for slope
9 maintenance purposes because it's adjacent to the
10 road. When they built the road, they graded the
11 hill and they have to maintain the hill so it
12 doesn't erode into the driving road.

13 Q. So there was a discussion about needing
14 to put more guy-wires on it and the HOA didn't do
15 it and it subsequently fell down?

16 A. Actually, less guy-wires because they had
17 four or five. They were redundant and loose and we
18 discussed, Slade and myself and everyone there,
19 that three is the number you typically use and
20 they said they'll fix it.

21 Q. They only put two?

22 A. They put two.

23 Q. As of the time of that June '07 meeting,
24 that was one of the action items that was going to
25 be done?

1 A. Yes.

2 Q. Even though you feel the guy-wiring was
3 done incorrectly, as a result of the 2007 meeting,
4 the old guy-wires were removed and two new
5 guy-wires were installed; correct?

6 A. Correct.

7 Q. All right. Any other -- anything else
8 that was discussed concerning the guy-wires for the
9 tree?

10 A. Not that I recall.

11 Q. So that was the second item of the
12 June 15th, '07 meeting.

13 What was the next item?

14 A. The third item, we drove down to where
15 the trees start, the 47 parkway trees so we were at
16 Tree Number 1. And I showed them the broken
17 irrigation system which I had flagged and it was an
18 above ground irrigation system and I showed them
19 how it has a lot of breaks in it.

20 I said, "There's the flags." I showed
21 them the trees. I explained to them that the weeds
22 that they had agreed and had been maintaining for
23 years were not being maintained on a regular basis.
24 They were letting, you know -- to be grown --
25 overgrown.

1 Then we drove along the trees and looked
2 at a lot of them. Then we got to the area where we
3 had a problem with human defecation on the property
4 and I showed them that area. I said I suspected
5 it's the workers because I don't know who else it
6 would be. There's been some -- it's just -- it's
7 human because of the fact that there was tissue or
8 paper towels with it and it was often in the same
9 areas down behind bushes on our property and it was
10 a very common thing to find there.

11 Q. Let me stop you for a moment.

12 On this third item, the defecation
13 issue --

14 A. That's the fourth item. Third item was
15 the broken irrigation and the trees and the weeds.
16 Then I said we went further down and I showed them
17 the defecation.

18 Q. Well, was there any discussion -- I mean,
19 what was the reaction from the board members that
20 were there?

21 A. On the third or fourth item?

22 Q. I've lost track of the numbers.

23 A. Let me clarify. The third item is the
24 irrigation for the trees. Again, I started at Tree
25 Number 1. That's where we got out of the vehicle

1 and talked and I showed them broken irrigation.
2 Then we proceeded to drive down the tree line. And
3 there was discussion that it needed to be fixed and
4 shouldn't -- the condition of the trees was
5 discussed because at that point, the tree problems
6 were evident even at that point in 2007. And the
7 weeds were discussed, how they weren't maintaining
8 the weeds anymore.

9 And Mundy commented to Dobry something to
10 the effect, take care of the weeds.

11 Q. What did Dobry say?

12 A. Well, yes, I guess.

13 Q. Do you remember any other discussion
14 about the weeds from the board members' side?

15 A. No. You got to understand, there wasn't
16 much discussion -- everyone was pretty silent,
17 which I found surprising, also. They didn't say
18 much.

19 Q. You were doing most of the talking?

20 A. Yes. Even at the point of the
21 defecation, showing them the issues, they didn't
22 have much to say like, Oh, I'm sorry or Oh, my God.
23 Nothing.

24 Q. Did they appear to be paying attention to
25 you and listening to you?

1 A. Yes.

2 Q. Same when you discussed the 2001 Steve
3 Logan watering on the right-of-way -- I'm sorry.
4 The slope watering --

5 A. Yes.

6 Q. -- of the adjacent driveway. You were
7 doing most of the talking and they listened to you,
8 or appeared to be listening?

9 A. At that point, it was a discussion maybe
10 equal. Where they weren't doing much talking was
11 when it came to the maintenance of their 47 parkway
12 trees and the defecation problem so it started out
13 with discussions and got to the point where they
14 weren't saying much.

15 Q. And on the right-of-way tree with the
16 guy-wires, you were doing most of the talking and
17 the HOA board members appeared to be listening?

18 A. No, that was Item 2. At that point it
19 was still discussion format.

20 Q. So we get to the next items, then, that's
21 when they were listening?

22 A. More silent, not responding much.

23 Q. But they were paying attention to you or
24 appeared to be paying attention to you?

25 A. I think so.

1 Q. I mean, they weren't off having a
2 conversation on something else, the group was
3 together, you were saying what you had to say and
4 they were listening to you?

5 A. It splintered off at that point and they
6 were talking amongst themselves and I couldn't hear
7 some of what they were saying.

8 Q. Tell me some more -- what else was
9 discussed at the June 15, '07 site meeting?

10 A. When we got done with Item 4, which was
11 the defecation problem down near the Sandstone
12 Garden easement area -- and for your information,
13 it was beyond the easement area. They went through
14 the easement and defecated behind bushes beyond the
15 easement.

16 Q. Okay.

17 A. We started back towards where they parked
18 their cars. I drove up the hill towards the
19 driveway and I stopped to show them where I had
20 cleared out some equipment that the HOA, a month or
21 two before, had asked me to move and I was showing
22 them, see, it's all moved and there was a pile of
23 rocks there.

24 Robert Mundy pointed to the pile of rocks
25 and said, "Those should be moved."

1 I said those rocks -- "I'm using those
2 for erosion control," and I went on to explain that
3 we're a farm lot here in Wood Ranch and I started
4 explaining to him about the Specific Plan. When we
5 bought the property I went down to the planning
6 department and met with a senior planner --

7 MR. ARSHT: Ted, stay to the meeting.

8 THE WITNESS: Well, I was explaining --

9 BY MR. GORNEY:

10 Q. You were explaining this at the meeting?

11 A. -- at the meeting the Wood Ranch Specific
12 Plan for agricultural use and we have these rocks
13 to prevent erosion. It's not only an agricultural
14 lot, it's a very hilly lot.

15 Q. I've seen it.

16 A. The problem with hilly lots and rain is
17 the dirt comes down the hill.

18 Q. It's called erosion.

19 A. Exactly. You have to try to prevent
20 erosion.

21 Q. Were you explaining this to Robert Mundy
22 when he said those rocks should be moved?

23 A. Yes, and I was explaining it in the
24 context of the Wood Ranch Specific Plan and the
25 fact that we're an agricultural encouraged lot.

1 They encourage agricultural use on that lot. And
2 he cut me off and said, "That's got nothing to do
3 with what we're here for. That's a board issue.
4 We're landscape committee members."

5 I said, "It does relate."

6 Then at some point he pointed to a house
7 on the other side of the property and he said.
8 "Those people can see your pile of rocks." The
9 house is about 1,100 feet away at the end of a
10 cul-de-sac called Windswept and I thought that was
11 ridiculous at that point and I said something to
12 that effect.

13 Q. Did it get a little heated?

14 A. That's the point where it got heated and
15 Alice said everyone should remain calm and it was
16 good advice. Everybody sort of calmed down. And
17 in the next sentence she said, "This wouldn't be a
18 problem if you weren't so stubborn." I found that
19 humorous, by the person who was the peacemaker.
20 The meeting ended shortly thereafter.

21 Q. Do you remember, was the discussion with
22 Mundy, when you were discussing the rocks, the
23 irrigation control rocks, if you will --

24 A. He mentioned at that point, he did work
25 on the front of his house and he had to have the

1 rocks removed when his job was completed.

2 I said, "Of course, you would." And I
3 said, "That's nothing to do with what these rocks
4 are for."

5 He said, "It's no different." Then he
6 pointed to the house. It's really far away and
7 said, "Those people can see your rocks."

8 Q. I appreciate the information.

9 My question is, is that the only point of
10 this 2007 meeting where it got heated between you
11 and Mr. Mundy?

12 A. No.

13 Q. What other areas --

14 A. At the very end when I brought them back
15 down by the driveway, it was Robert Mundy that
16 pointed up the hill towards Sycamore Ridge and said
17 to me, "We're suing those people because they won't
18 listen to us."

19 Q. What was your response --

20 A. I asked a question. "Who are you
21 referring to?" I think it's a house that looks
22 down on Wood Ranch Parkway in the Sycamore -- it's
23 in the High Meadows neighborhood. I think he may
24 have said the name of the person, I'm not sure.

25 It turns out afterwards I found out from

1 some neighbors, there was an issue if they had
2 permits to do additions to the house. But for some
3 reason, he mentioned it to me even though it wasn't
4 a topic of discussion, obviously, and he seemed to
5 have a gleeful attitude about it. Hey, we're suing
6 these people.

7 Q. Was it --

8 A. That was at the end of the meeting and
9 I -- I took it as a threat, that he was threatening
10 they were going to sue us.

11 Q. Did he threaten to sue you?

12 A. Like I said, it was at the end of the
13 meeting and he was probably still agitated over the
14 rock discussion and he pointed to the house yonder
15 and said, "We're suing those people."

16 So did he threaten to sue me? The way I
17 took it is I have no idea why else would it enter
18 the conversation that they're suing some other
19 homeowner. It has nothing to do with the issues
20 present at my meeting.

21 Q. Fair to say that the heated portions of
22 the meeting, 2007 meeting, occurred only between
23 you and Mr. Mundy; is that fair?

24 A. Well, not really. I just described to
25 you that Alice Sterling played the peacemaker and

1 followed up with a next sentence, if you weren't so
2 stubborn, something to that effect. It was
3 humorous to me.

4 Q. Do you think she was trying to lighten
5 things up?

6 A. No. She -- no, I don't.

7 Q. So other than those -- let's set Alice
8 Sterling aside. Were the heated portions of the
9 meeting just between you and Mr. Mundy?

10 A. There was no heated portion between Mike
11 Dobry and myself and the only other person there
12 was Peter Neilsen and there was nothing heated.

13 Q. Right. So essentially, setting aside
14 Alice Sperling's comment, the heated portion of the
15 meeting was just between you and Mr. Mundy;
16 correct?

17 A. If you set aside Alice Sterling's
18 comments. But why would you?

19 Q. That's my question.

20 A. Well, yes, I guess, with your question,
21 yes.

22 Q. Now, other than the guy-wire situation
23 and the HOA resuming watering the slope adjacent to
24 your driveway, were there any other action items
25 that were decided that were going to be done as a

1 result of this meeting?

2 A. I never saw a list, and again, once we
3 got to Item 3, they became more silent and less
4 communicative so I would have assumed they fixed
5 the broken irrigation system that I flagged to
6 them. It didn't happen.

7 Q. I appreciate the information but my
8 question is, we know two things happened at that
9 June 15th meeting that there was an agreement
10 reached: One was the HOA -- you asked the HOA to
11 resume watering that slope adjacent to your
12 driveway and they eventually did; correct?

13 A. Correct.

14 Q. And the other item was even though you
15 don't think it was done properly, an agreement was
16 reached for the HOA to rewire that tree?

17 A. Correct.

18 Q. Were there any other agreements reached
19 other than that at that meeting?

20 A. Like I just said, at that point beyond
21 Items 1 and 2, they were less communicative and
22 mostly silent. I assume they would have fixed the
23 irrigation system because I didn't know them at
24 that time. I assumed they would follow through
25 with things that were told to them.

1 I've subsequently learned that's not the
2 way they work. They ignore things. At that point,
3 I assumed they would do it. That was 2007.

4 Q. Fair enough. I didn't ask about what you
5 assumed. I'm asking your recollection of any
6 agreements made at this 2000 meeting other than the
7 guy-wire for the trees and resuming the watering --

8 MR. ARSHT: Objection.

9 BY MR. GORNEY:

10 Q. -- adjacent to the driveway.

11 Were there any other agreements
12 reached --

13 A. Like I said --

14 MR. ARSHT: Ted, please wait.

15 BY MR. GORNEY:

16 Q. I'm not arguing with you. I'm just
17 trying to find out information.

18 MR. ARSHT: I'm objecting to the use of the
19 term "agreement" to the extent it calls for a legal
20 conclusion, and specifically, in what you're
21 referring to as Number 1, counsel, the agreement
22 was not made in 2007 for the association to take
23 the hill. The witness misstates the testimony.
24 The witness said the agreement was made in 2000 or
25 2001.

1 MR. GORNEY: Right. You didn't listen to my
2 question. Let me start over again.

3 Q. At the 2007 meeting, an agreement was
4 reached at that meeting that the HOA would resume
5 watering the slope adjacent to the driveway;
6 correct?

7 A. Correct.

8 Q. Again, at the June 2007 meeting, an
9 agreement was reached that the HOA would rewire
10 that tree?

11 A. Correct.

12 Q. Okay.

13 MR. ARSHT: Properly, counsel, misstates the
14 testimony.

15 BY MR. GORNEY:

16 Q. Other than those two agreements that were
17 reached at the June 15, 2007 meeting, were any
18 other agreements reached at that meeting that you
19 recall?

20 A. Like I previously testified to, there was
21 an agreement where Mundy directed Slade to handle
22 the weed abatement.

23 Q. So that's three.

24 Anything else?

25 A. I don't recall specifically what they

1 said about fixing the broken irrigation system. I
2 would have assumed it would have been done.
3 Normally, I think people would do that. You're
4 showing them their broken system; they fix it. I
5 don't recall the details whether they said yes or
6 no -- they didn't say no because it would have been
7 a point of contention. So either they were silent
8 or said we'll fix it. I don't remember which. But
9 at that point, like I said, from Number 3 on, they
10 were pretty much silent.

11 Q. Do you remember anything else that was
12 discussed at the June 15, 2007 meeting that you
13 haven't already told me?

14 A. I can't recall at the moment. There may
15 have been other things discussed, though.

16 Q. Before we take a break that you told me
17 you needed, let me get a very few quick things out
18 of the way.

19 You agree with the proposition that
20 you're required to comply with all the HOA rules
21 and regulations; correct?

22 MR. ARSHT: Objection; calls for a legal
23 conclusion; vague and ambiguous.

24 BY MR. GORNEY:

25 Q. You can answer.

1 A. When I -- I've read the HOA rules. By
2 "rules," I assume you mean the CC&R's in the member
3 handbook. I've read them in detail and there are a
4 number of conflicts with, like, the Wood Ranch
5 Specific Plan.

6 So some of them are impossible to adhere
7 to the CC&R's and adhere to a specific plan.
8 There's many instances where it's impossible so I
9 think the CC&R's should have been written in a more
10 thorough manner to address the different types of
11 lots in the community.

12 For instance, there's a section that says
13 you must deal with all the brush and weeds on your
14 property and remove all the weeds. Yet in the farm
15 lots, there's weeds all over them unless they're
16 planted agriculturally.

17 And there's rules about equipment. You
18 can't have any equipment other than normal
19 residential, you know, vehicles. Well, how does a
20 farm have that? There's rules about your
21 irrigation system must be installed underground.
22 Most agricultural irrigation systems are not
23 installed underground.

24 There's just -- so in answer to your
25 question, I think the CC&R's as written are --

1 don't apply to all parts of the community.

2 Q. But those that do, you agree that you
3 have to comply with them?

4 A. Of course, yes.

5 Q. And do you also agree -- well, do you
6 also agree that just because you own one of the
7 larger lots in the HOA, that you're not -- do you
8 agree with me that you're not entitled to any
9 special privileges that any other HOA members are
10 not entitled to?

11 A. Besides --

12 MR. ARSHT: Objection to the form of the
13 question; it's vague and ambiguous and includes
14 many, many possible rules and regulations that are
15 not being identified. I had something else but I
16 forgot the question.

17 BY MR. GORNEY:

18 Q. You can answer the question.

19 MR. ARSHT: He can answer when I'm finished
20 with my objection.

21 Okay, Ted, you follow?

22 THE WITNESS: Yes. I don't think the size of
23 our lot has anything to do with any special
24 exemptions from the applicability of the rules.
25 There's lots of all variant sizes throughout the

1 community. I think the only thing that makes a
2 difference is the specific plan says Unit 100 lots,
3 which we're one of, they designate them
4 specifically. Agricultural use is encouraged and
5 it goes on to state that you can leave the plants
6 in their native state, which means the weeds, you
7 can leave if you want. So it's nothing to do with
8 size. It's the designation, Planning Unit 100 and
9 that's the type of lot we are.

10 BY MR. GORNEY:

11 Q. So other than --

12 A. They turn out to be big lots --

13 Q. Other than lot-specific exemptions, do
14 you think that the HOA has to give you any special
15 treatment?

16 A. No.

17 MR. GORNEY: Let's take our break and you can
18 go attend to your wife.

19 THE WITNESS: Thanks.

20 (AT THE HOUR OF 12:08 P.M., A LUNCHEON
21 RECESS WAS TAKEN. THE DEPOSITION WAS RESUMED AT
22 1:20 P.M., THE SAME PERSONS BEING PRESENT)

1 WESTLAKE VILLAGE, CALIFORNIA

2 WEDNESDAY, APRIL 24, 2013

3 1:20 p.m.

4
5
6 EXAMINATION (Continued)

7
8 BY MR. GORNEY:

9 Q. We're back on the record after a short
10 break.

11 You realize you're still under oath?

12 A. Yes.

13 Q. Just some background questions.

14 Have you ever had any legal training?

15 A. No.

16 Q. I see in your answers to interrogatories,
17 you have a BS in mechanical engineering from UMass,
18 Amherst that you received, I'm assuming, in
19 June '79.

20 A. Yes.

21 Q. Any specific subpart of mechanical
22 engineering, any specialty?

23 A. A minor in alternative energy.

24 Q. Anything else?

25 A. No.

1 Q. Did you ever work as a mechanical
2 engineer?

3 A. Yes.

4 Q. For how long?

5 A. Approximately ten years.

6 Q. Doing what kind of work and for whom?

7 A. Aerospace industry at Hughes Aircraft in
8 Canoga Park, California.

9 Q. Doing what sort of work?

10 A. Electromechanical engineering.

11 Q. Aircraft, missile systems?

12 A. Missile systems group under Hughes
13 Aircraft in Canoga Park, California.

14 Q. Do you have any professional licenses of
15 any sort?

16 A. I had a -- when I was an engineer, I was
17 a professional engineer, registered professional
18 engineer.

19 Q. Is that current right now?

20 A. No.

21 Q. Any other professional engineering --
22 withdrawn.

23 Any other professional licenses?

24 A. I was an enrolled agent when I was
25 working in income taxes. That, also, is no longer

1 current.

2 Q. How long did you work as an enrolled
3 agent?

4 A. Probably 15 years.

5 Q. Was this kind of a sideline -- bad
6 term -- to your engineering work?

7 A. It started out as a sideline then
8 transitioned to a full-time situation.

9 Q. Then that led to the software company?

10 A. Exactly.

11 Q. Have you ever taken any courses in
12 agricultural?

13 A. I've gone to seminars. I don't think I
14 can recall a formal course that I would say in
15 agricultural.

16 Q. Have you ever had any real estate
17 training, for example, acted as a real estate
18 agent, broker, licensee?

19 A. Many years ago I had a real estate
20 license.

21 Q. Where?

22 A. Simi Valley, California.

23 Q. What kind of -- were you with a company,
24 with a broker? Was it a salesperson's or a
25 broker's license?

1 A. Started out for a year or so as a
2 salesperson and then I had a broker's license after
3 that.

4 Q. Did you work for a real estate company or
5 were you on your own?

6 A. Well, as a salesperson, you have to but
7 when I was a broker, I was on my own.

8 Q. When you were a salesperson, who did you
9 hang your license with? Was it one of the big
10 ones, Keller Williams, Sotheby's, Re/Max,
11 Century --

12 A. SIR, S-I-R, Real Estate. I can't
13 remember what it stood for.

14 Q. Was it Sotheby's --

15 A. No, it was a small guy. L. Poppin was
16 the broker, local.

17 Q. Doing residential or commercial?

18 A. Mostly property management and a little
19 residential.

20 Q. What kinds of properties were you
21 managing?

22 A. Residential.

23 Q. Single-family or multi-family apartments?

24 A. Single-family.

25 Q. With the single-family homes that you

1 were managing, were they located in HOA's or
2 freestanding, as it were?

3 A. Some of each.

4 Q. Were those situations where the owner
5 decided to rent out the house and hired you guys to
6 manage that property?

7 A. Yes.

8 Q. Have you ever managed an HOA association?

9 A. No.

10 Q. When were you -- your real estate
11 licenses, I assumed, have lapsed?

12 A. Yes, long ago.

13 Q. When did they lapse?

14 A. Probably in the late 1980s.

15 Q. Is that when you went into the software
16 business full time?

17 A. Approximate time, late 1980s, software,
18 yeah -- yes.

19 Q. What other types of work have you done in
20 your life other than the enrolled agent, the
21 property management real estate stuff, the software
22 business and your work for Hughes as an engineer?

23 A. I was a caddy and a newspaper delivery
24 boy and I shoveled snow.

25 Q. That's when you were a boy or a young man

1 in Massachusetts?

2 A. Yes.

3 Q. I know your wife is now ill, but before
4 she got this last episode, whatever you want to
5 call it, did she work outside the home?

6 A. She works as the office manager of our
7 business but her hours even before her surgeries
8 were limited and now they're more limited.

9 Q. And the business is the software
10 business?

11 A. Yes.

12 Q. Before that, did she ever work outside
13 the home?

14 A. She was a schoolteacher out here from the
15 late 1970s -- or 1980 or so up until the birth of
16 our first child, which was in 1986.

17 Q. Then after your first child was born, did
18 she not work outside the home other than in
19 connection with the software business?

20 A. She worked sporadically as a teacher.
21 She would be called in and sometimes did substitute
22 work, but not that often. She filled in for a
23 teacher that was dying of breast cancer. Mostly it
24 was just working in the business, our business
25 after she stopped teaching.

1 Q. What grade did she teach --

2 A. Different grades.

3 Q. -- when she was actively teaching?

4 A. But mostly second and third grade, some
5 kindergarten. A mixture of grades.

6 Q. The house up in Simi Valley, you and your
7 wife live there by yourselves?

8 A. No, we live there with our children.

9 Q. How old are your children?

10 A. Our youngest is 14, then we have a
11 24-year-old boy and a 26-year-old boy who lives
12 there part time. He lives elsewhere sometimes,
13 also.

14 Q. And the 14-year-old is a girl?

15 A. Yes.

16 Q. She's obviously in junior high or high
17 school?

18 A. High school.

19 Q. And the 24-year-old, what's --

20 A. Graduated from college and he's working
21 in our business.

22 Q. And the 26-year-old?

23 A. He's working for [REDACTED]
[REDACTED]

24 [REDACTED]
25 Q. Is he a [REDACTED] --

1 A. He's a [REDACTED]

2 Q. Did any of your children, to your
3 knowledge, have any involvement in -- let's call it
4 that HOA issue that brings us here today?

5 A. The younger one, no. The other ones,
6 minimal. Like, when I'd write a letter to the HOA,
7 I would have my sons maybe proofread it to correct
8 my grammar or offer ideas, some periphery extent
9 involvement, not much.

10 Q. To your knowledge, did they have any
11 conversations with anyone at the HOA concerning
12 this?

13 A. No, not to my knowledge, no.

14 MR. GORNEY: What I'm going to do is -- our
15 last exhibit, I think, was 93; right? Do you have
16 the same thing?

17 (DISCUSSION HELD OFF THE RECORD)

18 MR. GORNEY: The next exhibit in order will be
19 94. Exhibit 94 is a three-page document that you
20 produced as SULLIVAN571 through 575.

21 (EXHIBIT 94 WAS MARKED FOR
22 IDENTIFICATION AND IS ATTACHED HERETO)

23 BY MR. GORNEY:

24 Q. I'm going to ask you some questions about
25 this and I'll try to be specific on the pages.

1 The first page of Exhibit 94 is a 4-19-10
2 estimate from All Timber Enterprises in the amount
3 of \$2,950.

4 Did you ever pay this or was this simply
5 an estimate?

6 A. This was an estimate. They were not
7 hired.

8 Q. Got it.

9 The reason why you didn't hire them?

10 A. This was in response -- these estimates
11 were gathered in response to the April 5, 2010
12 letter from the board. It was their settlement. I
13 don't want to call it a settlement. It was their
14 offer to us in response to the February 2nd, 2010
15 meeting where we asked them to take care of their
16 trees.

17 Their response on April 5th said we could
18 remove the trees they planted and that we would
19 have to take over the trees the developer planted.
20 Now, it was a poorly worded letter and that could
21 be up for debate but that's what we get out of the
22 letter. Then they didn't identify which trees they
23 planted so we were left in a conundrum. So I
24 obtained quotes from four different ISA certified
25 arborists and I broke them into two groups, 37

1 smaller trees and the ten larger trees and I got
2 quotes for each from all four of the arborists.

3 Q. Turning to the second page, SULLIVAN572,
4 that's an estimate only and was not paid?

5 A. That's the ten trees from the same firm
6 quoted on the previous page, the 37 smaller trees.

7 Q. Third page, SULLIVAN573, is an estimate
8 from Pacific West Tree Care Company for \$4,245.

9 That's an estimate only, it was not paid;
10 correct?

11 A. Correct.

12 Q. The next page, SULLIVAN574, it's kind of
13 tough to read, from Gold Coast Tree Company.

14 A. Yes.

15 Q. But this invoice, I think we'll get to a
16 clear copy of it later but --

17 A. Same thing. He was one of the four
18 arborists that quoted removal of the trees.

19 Q. So not paid.

20 Then we go to the -- by the way, stay
21 with 574 for a minute. The handwriting --

22 A. Not this 574?

23 MR. ARSHT: Look, SULLIVAN574.

24 THE WITNESS: That's a coincidence. This is
25 574, also. Okay.

1 BY MR. GORNEY:

2 Q. The handwriting on the top of the
3 document, and it's kind of hard to read, can you
4 identify that handwriting?

5 A. Yeah. This person generated this
6 estimate right on the spot, which most of them
7 don't do. But he filled out an NCR form on the
8 spot and this was probably his notes before he got
9 there because it says, "Friday, April 16th, trim 50
10 trees" then a phone number.

11 Q. Right.
12 Do you recognize the (818) 414-1980
13 number?

14 A. No, but that actually looks like my
15 handwriting. That does. The other writing looks
16 like his handwriting.

17 Q. Okay.
18 A. I'm not sure who the 818 is. I'm not
19 sure that's my handwriting but it looks somewhat
20 like it. And the other thing looks like a Thomas
21 Map code and the time he was scheduled, probably
22 2:00 to 3:00.

23 Q. Go to SULLIVAN575.
24 This is West Coast tree?

25 A. Uh-huh.

1 Q. Again, it's tough to read. Looks like
2 \$1,500 or \$2,000 or something like that. But
3 again, this was an estimate only?

4 A. Yeah. It's \$1,500 plus \$2,000. He broke
5 it into two parts. That's my handwriting at the
6 top.

7 Q. Right.

8 Let me mark as Exhibit 95, again, this is
9 a Gold Coast Tree Service estimate and it looks
10 like it may be the flip side, SULLIVAN458 and
11 SULLIVAN459.

12 (EXHIBIT 95 WAS MARKED FOR

13 IDENTIFICATION AND IS ATTACHED HERETO)

14 THE WITNESS: It looks like the same thing to
15 me as SULLIVAN574.

16 BY MR. GORNEY:

17 Q. Right. There's another thing behind it.

18 Do you remember whether this page, 459,
19 was related to 458, like, the flip side?

20 A. Let me take a moment to read it.

21 Q. Sure.

22 A. Okay. I know what it is.

23 Q. What is it?

24 A. 459 is the back side of the 458 form.

25 Q. Got it.

1 Do you recognize the handwriting?

2 A. Yes.

3 Q. Whose is it?

4 A. Mine.

5 Q. I'm going read it and see if I do it
6 correctly.

7 "4-16-10, 3:00 p.m. or so, Robert Enba of
8 Custom Iron was walking out from our property. He
9 said he urinated, Mike Sokoloff was his witness."

10 Have I got that right?

11 A. Yes.

12 Q. Okay.

13 A. Very good.

14 Q. So 4-16-10, did you just happen to use
15 this piece of paper to make an observation or what?

16 A. No.

17 Q. Tell me.

18 A. The 4-16-10 is when Mike Sokoloff came
19 out to give his estimate. During the estimate when
20 we were driving along the trees, we stopped and a
21 worker came out of our property right by the "No
22 Trespassing" sign. I asked him what he was doing.
23 He said he had to relieve himself and then I said
24 "Who are you working for?" And he said his name
25 and who he was working for. The company was

1 working for the HOA doing metal work across the
2 street.

3 I said, "Have you been notified by the
4 HOA that you're not supposed to come in this
5 property and urinate or defecate?"

6 And he said no one told him and that was
7 the extent of the discussion I had with him.

8 Q. Did you pass this information on to
9 anyone at the HOA that you've noted on SULLIVAN459?

10 A. We passed it on in discovery. I never
11 mentioned it specifically because this was long
12 after the fact that the HOA said they warned
13 everybody not to go on our property and urinate or
14 defecate. And they said that at the February 2nd
15 meeting and prior and they said at the February 2nd
16 meeting that if anyone did so, they would be fired.

17 And Alicia Camarillo said that at the
18 February 2nd meeting so that's another thing I
19 could have mentioned this morning but you're
20 jogging my memory bringing this up. So I didn't
21 want to give a name to the HOA because I think it's
22 within the realm of their behavior to unjustly fire
23 somebody and to make an example of them.

24 The point was, they didn't tell
25 everybody, like they said they did, all the

1 workers, but they might have fired somebody anyway
2 thinking it helps their case. So I didn't want to
3 disclose the name of the person until the time we
4 have to disclose it and that was at this point in
5 time when you received it in discovery.

6 Q. So you made a decision not to tell anyone
7 at the HOA shortly after April 16, 2010, about this
8 incident?

9 A. No, that's not true. We told them -- we
10 withheld the name. This is not the only person
11 from the HOA. There was a previous incident where
12 I didn't get his full name. I believe it was Jose,
13 and he came out in a similar area and it was
14 previous to this 2010 but he admitted he defecated.
15 He said his stomach was upset. I asked him at that
16 point who he was working for and he said he worked
17 for Slade.

18 I said, "Do you know you're not supposed
19 to come on the property?"

20 He said no, nobody told him that but he
21 said he would tell all the workers and he was
22 sorry.

23 Q. Did you ever call anyone at Custom Iron
24 to complain?

25 A. No.

1 Q. Did you ever call anyone directly at
2 Slade to complain about the defecation incident?

3 A. I talked to Slade about it in the 2007
4 meeting and they were mostly -- he said nothing.

5 Q. Did he --

6 A. No apologies, no comments, to my
7 recollection, and that was Mike Dobry.

8 Q. Did you have any other conversations with
9 Mike Dobry in which you complained about workers
10 urinating or defecating on your property?

11 A. No. When I brought it up again at the
12 February meeting, I was blown off about it. They
13 said they told the people and they would be fired
14 if anyone went on the property.

15 Q. Do you believe the HOA had the ability to
16 fire individual workers who worked at Slade?

17 MR. ARSHT: Objection --

18 THE WITNESS: I don't know.

19 MR. ARSHT: Please wait.

20 Objection; lack of foundation; outside
21 the witness' expertise.

22 BY MR. GORNEY:

23 Q. Same question as to Custom Iron. Do you
24 believe you had the ability to get Custom Iron to
25 fire workers?

1 MR. ARSHT: Same objection.

2 THE WITNESS: I think what they could do is
3 not hire Custom Iron for any future jobs at no
4 fault to Custom Iron, just for the board to make
5 them look -- a decision to make them look good so
6 they could certainly not hire Custom Iron again.

7 MR. GORNEY: Exhibit 96 is going to be a
8 collection of papers. These are SULLIVAN410, I
9 believe, through 432.

10 (EXHIBIT 96 WAS MARKED FOR
11 IDENTIFICATION AND IS ATTACHED HERETO)
12 BY MR. GORNEY:

13 Q. 410, Alex Medina is essentially the
14 arborist you retained; correct?

15 A. Yes.

16 Q. Turning to 411, there is what looks like
17 a payment, a strip from a check register.

18 A. Yes.

19 Q. Who is Ecology Landscape?

20 A. That's a landscape architect installer
21 that we hired years ago to do a lot of the
22 landscape at our house.

23 Q. The \$2,345, what does that represent?

24 A. That's what we paid him to screen our
25 pool equipment area.

1 Q. So any relation to the HOA issues
2 involved in the lawsuit?

3 A. Yes.

4 Q. Tell me.

5 A. It's an area we're going to question Don
6 Diamond about but we haven't finished his
7 deposition. Sam hasn't been briefed on it yet.

8 Q. Tell me what the screening of the pool
9 equipment has to do with the issues in the lawsuit.

10 MR. ARSHT: If it's a conversation and
11 strategy between you and me, don't answer it.

12 THE WITNESS: Marcia and I have talked about
13 it in detail.

14 MR. ARSHT: Marcia is included.

15 THE WITNESS: That's what I'm saying. Sam and
16 I may or may not have talked about it in detail.
17 Marcia and I have.

18 MR. ARSHT: No need to make a distinction
19 between lawyers. Conversations with any of your
20 lawyers are off limits.

21 BY MR. GORNEY:

22 Q. I'm not asking you about those.

23 When was this work done to screen the
24 pool equipment?

25 A. It was done -- it was done right after we

1 finished our pool, which would have been around
2 2000, give or take, the year 2000, plus or minus
3 one year. Not even plus. It was either 2000 or
4 2001.

5 Q. Why did you screen your pool equipment?

6 A. That's involving the discussion I had
7 with my attorneys.

8 Q. No, at the time in 2000, you didn't have
9 an attorney --

10 A. Right.

11 Q. -- on this case. I want to know why in
12 2000 you screened your pool.

13 A. Because I was directed to by the board.

14 Q. Who at the board directed you to screen
15 the pool?

16 A. A letter from Emmons Company.

17 Q. What did the letter say?

18 A. It said you have to screen your pool
19 equipment area.

20 Q. Did they tell you why you had to screen
21 your pool equipment area?

22 A. I don't recall the details. It was a
23 very short letter.

24 Q. You complied with the request?

25 A. Yes.

1 Q. Did you believe the request was
2 justified?

3 A. Not -- no, I didn't.

4 Q. Was there a reason why you decided to
5 screen it rather than contest it?

6 A. Because I generally follow rules almost
7 without exception and at that time I didn't realize
8 what kind of people were on the board. And in
9 fact, the people on the board then, I did know one
10 of them. They were -- they seemed like very good
11 HOA people so I assumed that other people were
12 being treated the same at that time.

13 I didn't realize I was being singled out
14 at that point. Subsequent to that I found out
15 differently.

16 Q. Why, because they didn't require other
17 people to screen their pools?

18 A. Yes.

19 Q. Which other people's pools did not have
20 to be screened?

21 A. Several.

22 Q. Tell me their names and addresses.

23 A. I don't know if I should, given that it
24 was discussed with my attorneys.

25 Q. I don't want to know what you told your

1 lawyer. I want to know your state of knowledge and
2 you knew the names of these people before you had
3 retained your lawyer so I'm entitled to the
4 information. I'm not asking you any information
5 where you told your lawyer but I'm entitled to your
6 state of mind right now.

7 A. You have the information. We provided it
8 in discovery. The photos of the houses and the
9 addresses and distances from the road, it shows
10 photos of their pool equipment, and of course, in
11 the same section of information we sent you, it
12 showed our pool equipment and our distance from the
13 road and showed the addresses of all the
14 properties. I don't know their names of the
15 homeowners.

16 Q. Do you know their addresses?

17 A. Not off the top of my head. But it's in
18 the information we provided to you.

19 Q. Fair enough. I'm entitled to know what
20 you know --

21 MR. ARSHT: You're arguing, counsel. He said
22 he doesn't know their addresses.

23 MR. GORNEY: Fair enough.

24 Q. Did you make a complaint about these
25 other homes that didn't have screened pool

1 equipment to anyone at the HOA or Emmons?

2 A. I didn't know about it until this ensued
3 where I found out we were being singled out so I
4 looked through other things, and walking through
5 the neighborhood, which my wife and I walk a lot,
6 we saw a lot of houses where the pool equipment was
7 visible from the streets.

8 MR. GORNEY: Move to strike as nonresponsive.

9 Q. Did you write a letter or file a letter
10 to the HOA or Emmons Company about this?

11 A. No.

12 Q. Why not?

13 A. Like I just explained to you, we didn't
14 realize we were being treated differently until
15 this whole issue with them not maintaining their
16 trees and other things came about. Then I got a
17 much closer look at what kind of people I was
18 dealing with and many more facts came into -- came
19 to play. Hence my 50 notebooks of information.

20 Q. Now that you know that you've been
21 treated differently, as far as you're concerned,
22 have you filed a complaint?

23 A. We filed a lawsuit.

24 Q. Did you file a complaint against the --
25 withdrawn.

1 Now that you know that, in your view,
2 you're being treated differently, have you written
3 a letter of complaint to the HOA complaining about
4 these other properties?

5 A. You're talking about the pool equipment
6 screening issue only?

7 Q. Yes.

8 A. No, not about the pool equipment issue.

9 MR. ARSHT: Okay.

10 BY MR. GORNEY:

11 Q. Do you believe that the HOA is obliged to
12 reimburse you for \$2,345?

13 A. I think that's a point that will be
14 determined.

15 Q. It may or may not be determined.

16 MR. ARSHT: It's a contention question so it's
17 outside of the witness' scope and I think he's
18 answering it's part of our action.

19 BY MR. GORNEY:

20 Q. Are you seeking recovery of this \$2,345
21 as damages in this case?

22 MR. ARSHT: Again, it exceeds the scope of
23 permissible deposition questioning.

24 BY MR. GORNEY:

25 Q. You can answer the question.

1 A. I don't have the legal expertise to know
2 how this could be.

3 Q. I'll respond this way: I'm not asking
4 for a legal opinion. I'm just asking, are you
5 seeking this as an item of damages in your lawsuit?

6 A. I don't know.

7 Q. Did you send this bill -- before you
8 produced it in discovery, did you send an invoice
9 or a statement to the HOA requesting reimbursement?

10 A. No.

11 Q. Turning to the next page in this exhibit,
12 this is an invoice from Vanoni Ag Construction in
13 the amount of \$16,787.

14 Was this amount paid?

15 A. Yes.

16 Q. Page 413 is a copy of your check?

17 A. A copy of the check, correct.

18 Q. This work was done? It says it's to dig
19 up plugged drain pipe, redo system, install catch
20 basins, install monitoring wells, install all new
21 drainpipe with gravel and weed cloth as necessary,
22 labor and equipment, some rock hauling and plating.

23 What does this invoice represent, what
24 work?

25 A. It's repairing the drain system in the

1 HOA easement area and Zone 86 maintenance area of
2 our property.

3 Q. What area? Is this the area near the
4 driveway, that slope or somewhere?

5 A. It's near the Sandstone Garden easement.
6 Do you need me to be more descriptive?

7 Q. No.

8 Other than producing a stack of paper to
9 the HOA, did you ever send this to the HOA
10 requesting payment?

11 A. I sent it to my attorneys. I'm not sure
12 how it was transmitted from there.

13 Q. I'm not asking what your lawyer may or
14 may not have done.

15 Did you, Ted Sullivan -- withdrawn.

16 It has a date of November 30th, 2012.

17 Did you send this to the HOA yourself
18 requesting payment?

19 A. I did not directly send it to the HOA.
20 Like I said, I sent it to my attorney and I'm not
21 sure what they did with it.

22 Q. Did you ever ask the HOA to do this work
23 before incurring the \$16,787?

24 A. Yes.

25 Q. How was that request made?

1 A. It was in my attorney's responsive
2 letters to the July 2012 letter from Adrian Adams'
3 law firm telling us to trim the trees, remove the
4 weeds. They accused us of dumping debris in the
5 culvert area of the Sandstone Garden easement and
6 there were other things in the letter and we were
7 responding and one of -- when we responded to the
8 other issues, we brought this issue to their
9 attention and asked them to do something about it.

10 Q. By asking them to do something about it,
11 did you say, in substance, get it done or I'll do
12 it and charge you for it?

13 A. I don't remember exactly what I said but
14 we gave you the letter in this discovery. We gave
15 you a copy of the exact letter.

16 Q. Now, all this work represented by the
17 invoice on SULLIVAN412, is that all work that was
18 done on your property?

19 A. Yes.

20 Q. And the area of the work that was done,
21 you believe was subject to an easement that
22 required the HOA to do something; correct?

23 A. It was primarily in the Sandstone Garden
24 easement and some of it was in the adjacent part of
25 the property which is under the Zone 86 landscape

1 maintenance district.

2 Q. Turning to SULLIVAN414, there's one
3 check, \$30 to Carlos Zepeda.

4 What was that for?

5 A. It was to clean up around the
6 construction site for the drain repair. There was
7 gravel spilled during construction so it was to
8 clean up the loose gravel and other remnants from
9 the construction.

10 Q. Was this the construction -- the Vanoni
11 Construction?

12 A. Vanoni, yes.

13 Q. That was represented by 412?

14 A. Yes.

15 Q. What about the \$36 to Ramon Rodriguez,
16 same?

17 A. Same thing.

18 Q. And the work was done on November 3rd?

19 A. Yes.

20 Q. That's the date that you wrote the checks
21 out?

22 A. Yes.

23 Q. That's why you say "clean up around HOA
24 drains"?

25 A. Yes.

1 Q. Turning to 415, it has the same, "clean
2 up gravel from drain repair job," a check dated
3 December 8th for \$120 and \$153 to Carlos Zepeda and
4 Ramon Rodriguez.

5 Same areas?

6 A. No. It was where the big pile of gravel
7 was dumped during construction, which was about
8 1,000 feet away because they couldn't dump the big
9 trucks adjacent to the construction site so they
10 had to dump it in the open field and move it in.

11 Q. This was, again, all related to the
12 Vanoni invoice?

13 A. Yes.

14 Q. November 30th?

15 A. Yes.

16 Q. So were the \$120 check and the \$153 check
17 there to fix things that were dumped there by the
18 Vanoni people?

19 A. There was 90 tons of gravel that were
20 dropped off there in a big pile.

21 Q. By who?

22 A. Vanoni arranged to have it dropped off
23 there as part of the French drain repair job. When
24 they got done, you have remnants of the gravel
25 mixed into the dirt. You can't help it. It's like

1 when you have a giant pile of gravel, you have
2 remnants. These guys were trying to clean up those
3 remnants, some of which are still there. I
4 probably have to hire them again to clean up more.

5 Q. So the gravel was put there by Vanoni or
6 his subs?

7 A. Yes.

8 Q. On the 412 invoice, is that the hauling
9 and rock charge, 2,771 bucks?

10 A. Yes.

11 Q. Did you ever direct Vanoni where to put
12 the gravel?

13 A. We discussed it and determined the best
14 place to put it.

15 Q. Did you tell them it might involve
16 damaging drains by putting the gravel in that spot?

17 A. It didn't damage the drains. I don't
18 think you understand what we're talking about.

19 MR. ARSHT: Let him ask the question.

20 THE WITNESS: Okay.

21 BY MR. GORNEY:

22 Q. It says, "Clean up around --" I'm looking
23 on 414, your handwriting, "Clean up around HOA
24 drains." Then on 415 it says, "Cleaning up gravel
25 from drain repair job." That's where I came from.

1 A. You said --

2 MR. ARSHT: Ted, there's no question. Please
3 wait.

4 THE WITNESS: All right. Jeez.

5 BY MR. GORNEY:

6 Q. This cleaning up around the HOA drains
7 was because of where Vanoni put the gravel?

8 A. Yes.

9 Q. On 416, \$66 worth of charges, it says
10 something "gravel" and I can't read the
11 handwriting.

12 A. "Removing gravel."

13 Q. Talking about the same thing?

14 A. Yes.

15 Q. On 417, there is a \$250 check to Pacific
16 West Tree Care.

17 Do you know what that check represents?
18 Why did you pay him?

19 A. I believe this is the fee I paid him to
20 attend the meet-and-confer in October or November
21 of 2010.

22 Q. Okay.

23 A. That's Alex Medina's company name.

24 Q. Okay. Got it.

25 Turning to SULLIVAN418, this is the

1 Pacific West Tree Care invoice dated September 27,
2 2012 in the amount of \$6,600.

3 The work as described in this invoice, A,
4 was it done, to your knowledge?

5 A. Yes, it was done.

6 Q. And is the description of the work
7 accurate?

8 A. Yes.

9 Q. The blue flags, where it says that, those
10 are the ten big trees? It says, "blue flags."

11 Do you see what I'm saying?

12 A. Yes, they are, the ten big trees.

13 Q. And the green flags are the 37 smaller
14 trees?

15 A. Correct.

16 Q. What is the red flag area referenced on
17 this invoice?

18 A. Those are the tipu trees located in the
19 HOA Sandstone Garden easement area.

20 Q. It says, "pink flagged area."

21 What's that?

22 A. That was the Zone 86 landscape
23 maintenance district area.

24 Q. Why was that palm tree removed? It says
25 one palm tree removed.

1 A. It was a palm tree planted by a bird.
2 Didn't belong there.

3 Q. In other words, a bird ate something,
4 dropped the seed and it grew?

5 A. Yes.

6 Q. So the palm tree was there from natural
7 causes?

8 A. Yeah, it wasn't planted by a human being.

9 Q. And the 16 trees there, those were the
10 trees that were planted by the HOA as opposed to
11 the developer?

12 A. They were planted, to my knowledge, by
13 the developer.

14 Q. The 37 trees that are referenced in the
15 green flags, those were planted by?

16 A. Some were planted by the developer; some
17 were planted by the landscape committee of the HOA.

18 Q. And the ten large blue flagged trees, who
19 planted those?

20 A. My understanding is they were planted by
21 the developer.

22 Q. Of course, the next page, SULLIVAN419, is
23 your check for that invoice; correct?

24 A. Yes.

25 Q. SULLIVAN420 is a West Coast Tree

1 Company -- it says "estimate" on it, dated
2 March 16th, 2011 for \$2,350. The next page -- hang
3 on a second. Let's break it down.

4 This says, "estimate" but it looks like a
5 portion of it was paid by a check; correct?

6 A. Correct.

7 Q. That's 421?

8 A. Correct.

9 Q. Was the \$1,350 paid or not?

10 A. No.

11 Q. Why not?

12 A. We hired another arborist to do the other
13 trees.

14 Q. Which other arborist was that?

15 A. Pacific West Tree Care, I believe.

16 Q. And the Pacific West invoice, we've seen
17 that, it's 418?

18 A. A different invoice for a different year.

19 Q. We'll get to it because out of the
20 documents you've given me, I've pulled out all the
21 invoices and checks. So we'll get to it if it's
22 been produced.

23 A. It's been provided to you. We haven't
24 seen it yet.

25 Q. Fair enough.

1 Why did you have West Coast Tree thin the
2 37 trees and have Pacific West Tree Care trim the
3 ten trees?

4 A. The ten trees were larger and more
5 involved and I felt that Pacific West had better
6 equipment to do it. They had better cherry pickers
7 and the quote for the 37 smaller trees was lower
8 and they didn't require the equipment so I split
9 the job between the two firms.

10 Q. Have you ever been in the contracting
11 business?

12 A. No.

13 Q. Have you ever had a contracting license?

14 A. No.

15 Q. Were you present when this work was done,
16 when the work by West Coast Tree and Pacific West
17 Tree was done?

18 A. For part of the day, not the whole
19 duration. I saw part of it.

20 Q. We've talked about 421 so let's go to
21 422. This is a \$56 check, May 7, '11, to Carlos
22 Zepeda. It says, "weeds ten-foot strip."

23 This is to weed the area of the --

24 A. Weed whacking and removing the weeds and
25 raking them up and removing them from the strip

1 area around the trees.

2 Q. Going to 423, this is a May 21, '11 check
3 to Carlos Zepeda for \$112. Your note says,
4 "weeds --" is that "whacked along" or -- "whacked
5 along Martha Morrison Drive"?

6 A. Yes.

7 Q. What area is that?

8 A. The weeds along Martha Morrison Drive.

9 Q. You have "8 x 14" written in the memo
10 section.

11 A. Correct.

12 Q. What's the reference?

13 A. Eight hours at \$14 an hour.

14 Q. Makes sense. I'm not good in math.

15 Now, the date of the check, May 21, '11
16 for 423 and May 7 for 422, those are the dates of
17 service?

18 A. Yes.

19 Q. It was your custom to pay the workers not
20 affiliated with a company on the date they did the
21 work?

22 A. Yes.

23 Q. Let's go to SULLIVAN424. This is an
24 August 27, '11 check to Carlos Zepeda for \$112.

25 This was for weeds whacked and trimmed

1 along Martha Morrison.

2 Is that the 47 parkway trees?

3 A. Yes.

4 Q. So they were done in May, on May 21, 2011
5 and then what, three months later they were done
6 again?

7 A. Five months later -- wait, May, June,
8 July, yes, three and a half months later, yes.

9 Q. Is that because they grew back or the job
10 was split?

11 A. It would be because they grew back. I
12 would never split a job with that much duration in
13 between.

14 Q. So now SULLIVAN425, there is a
15 January 14, 2012 check to Ramon Ramirez for \$153
16 and Carlos Zepeda for \$112. This is for removing
17 leaves in the HOA Zone 86 area.

18 A. Correct.

19 Q. I don't think on the record you've
20 identified what specific area that is. So tell me
21 what you mean by HOA Zone 86.

22 A. And it was Rodriguez, not a Ramirez.

23 It's -- Zone 86 are the areas along Wood
24 Ranch Parkway and Martha Morrison that designate
25 HOA maintenance for the plantings that were planted

1 by the developer.

2 Q. Let's go to SULLIVAN426. There is an
3 April -- is that 21?

4 A. Yes.

5 Q. April 21, '12, for both checks to Carlos
6 and Ramon for \$112 and \$153. It says:

7 "Weeds along Wood Ranch Parkway and
8 Martha Morrison Drive."

9 A. That's another way of saying the same
10 thing.

11 Q. Half the battle is trying to figure out
12 what people mean when they write memos on checks.
13 The IRS does it a lot.

14 Going to SULLIVAN427, this is a May 16th
15 check for 90 bucks to Ramon. Five times \$18 an
16 hour. "HOA weeds by entry gate."

17 Please explain where that is.

18 A. That's the same right-of-way area we
19 talked about earlier where I met on June 15, 2007
20 and transferred the watering back from us to the
21 HOA. That's the same area.

22 Q. So basically, this is -- I think I get
23 this. The HOA resumed their obligation to water
24 that area but they didn't weed it, or am I not
25 understanding?

1 A. For the most part, they don't weed it.
2 They carefully weed the areas adjacent to our house
3 but omit the area close to our house for some
4 reason. I don't know why.

5 Q. Okay.

6 A. So I had Ramon do it. When the weeds get
7 really big, if they don't do it, I have someone do
8 it and we keep a record of it and take photos and
9 the whole thing.

10 Q. 428 is a July 28, '12 check for \$30 to
11 Carlos. "Weeds along Wood Ranch Parkway," this is
12 an area that's inside the split rail fence?

13 A. Yes.

14 Q. This is an area -- this is not the
15 Zone 86?

16 A. Yes, it's in Zone 86. It's just part of
17 it. It's not the Martha Morrison part; it's the
18 Wood Ranch Parkway part.

19 Q. SULLIVAN429, August 4, 2012 checks for
20 \$90 and \$75 to Ramon and Carlos.

21 Same area, part of the Wood Ranch
22 Parkway, part of Zone 86?

23 A. No, this is the Martha Morrison part of
24 Zone 86, not the Wood Ranch in this case. It's
25 also the easement area, too. There's also two

1 easements in addition to Zone 86 along Martha
2 Morrison.

3 Q. SULLIVAN430, these are dated February 2,
4 2013, two checks for \$153 to Ramon and \$120 to
5 Carlos with no note.

6 If you could tell me what -- I have a
7 question mark --

8 A. There's no note here, but I have a log of
9 all these and that was submitted to you in
10 discovery. The log of all the checks was submitted
11 by date and amount.

12 Q. I don't recall seeing it but --

13 A. I remember submitting it.

14 Q. Fair enough. You could be right, I could
15 be wrong but let's not guess.

16 What do these charges represent?

17 A. It represents one day's work for them,
18 eight hours each. What they were working on, I
19 don't remember. February 2nd? Most likely it
20 would have been weed removal in the Zone 86 area.
21 But the enclosure I gave in discovery listed things
22 specifically with amounts for what each job was. I
23 can't think of what else it would have been at that
24 time frame.

25 Q. Let's go to SULLIVAN431. This is a

1 March 21, 2011 -- it says, "estimate" but it has a
2 paid check of -- well, withdrawn.

3 It's an estimate in the amount of \$5,025.
4 The only paid portion is \$2,250. I assume that the
5 37 trees were not done -- were not paid on this
6 invoice; correct?

7 A. Correct.

8 Q. Why not?

9 A. Because this is the other split.

10 Remember I said there were two firms. This is the
11 firm that did the ten large trees and the other
12 firm did the 37 smaller trees.

13 Q. Is the description of this estimate on
14 the work done accurate?

15 A. Yes.

16 MR. GORNEY: That completes Exhibit 96.

17 Q. As of the date you produced the documents
18 to me, were all of the invoices and checks for
19 expenses that you incurred that you believe the HOA
20 should have paid for submitted to me? They were
21 part of the documents?

22 A. That was my intent and I believe that's
23 the case.

24 Q. All right. Because --

25 A. Yes.

1 Q. What my intention was in gathering
2 Exhibits 94, 95 and 96 was to take out the invoices
3 that I found checks out of the box of documents.
4 So I'll represent that that's what this is.

5 Are you aware of any other invoices or
6 checks that should have been sent to me but maybe
7 were omitted?

8 MR. ARSHT: Or they have been sent to you and
9 you didn't pull them out?

10 MR. GORNEY: All of that is fair. I'm telling
11 you what I did.

12 THE WITNESS: We submitted everything we could
13 find and carefully went over it. I'm not sure
14 you've pulled everything out. I don't know for
15 sure. I can't remember verbatim every check I've
16 written.

17 BY MR. GORNEY:

18 Q. I think that's fair.

19 My question then is, given what I've told
20 you and represented to you, can you think of any
21 check or document that stands out in your mind as
22 saying, wait a minute, you didn't include this?

23 A. I'll repeat. I can't -- when there's
24 this many checks for weed whacking, there could be
25 one or two missing. I couldn't tell you. I don't

1 have that photographic of a memory.

2 Q. The biggest bill that I saw in terms of
3 an invoice was the \$17,192 from Vanoni.

4 A. Correct.

5 Q. For lack of a better term, we'll call it
6 a big-ticket item.

7 Can you think of any other big-ticket
8 items or invoices other than that?

9 A. Not as big as that, no, I can't.

10 Q. We've also seen \$2,000, \$4,000, \$5,000
11 invoices, estimates, et cetera.

12 Can you think of any other medium-ticket
13 items, if you will, that you can immediately say,
14 aha, something is missing?

15 A. I don't think you're missing any of the
16 tree-trimming invoices which are what you call
17 medium-sized. I don't think you're missing any of
18 those.

19 MR. GORNEY: Okay. Off the record.

20 (BRIEF RECESS)

21 BY MR. GORNEY:

22 Q. Before we launch into that, a couple
23 quick questions.

24 Have you ever served on an HOA board?

25 A. Yes.

1 Q. Where?
2 A. Simi Valley.
3 Q. Which residence, which association?
4 A. Patricia Gardens Homeowners Association.
5 Q. In what capacity?
6 A. I was the president.
7 Q. How long did you serve?
8 A. I would estimate a couple years.
9 Q. In what years?
10 A. Early 1980s, maybe 1981.
11 Q. So '80, '81?
12 A. '80, '81, '82, something in that time
13 frame.
14 Q. That's when you were president or that
15 was your board service and presidency?
16 A. I was the president the whole time I was
17 on the board.
18 Q. And were you on the board outside of your
19 tenure?
20 A. Just those two years or so.
21 Q. How many homes in the association?
22 A. 64.
23 Q. What area of town are we talking about?
24 A. On Patricia Avenue in Simi Valley. It's
25 a little bit east of First Street and south of

1 Los Angeles Avenue.

2 Q. All single-family residences?

3 A. Condos.

4 Q. When you say "condos" --

5 A. Condominiums.

6 Q. I understand. I'm sorry.

7 I've seen condos that have maybe one
8 adjoining or common wall.

9 What kind of condos were those? I think
10 of like apartment building condos so what kind were
11 these?

12 MR. ARSHT: Do you understand that?

13 THE WITNESS: To cut to the chase, I can
14 answer it.

15 BY MR. GORNEY:

16 Q. Sure.

17 A. There were four large buildings and 16
18 units in each building. Four times 16 is 64.

19 Q. Got it.

20 Was there a property management company,
21 like an Emmons Company?

22 A. There was a property manager. It wasn't
23 Emmons Company.

24 Q. Who was it?

25 A. I don't remember their names.

1 Q. Why did you go on the board?

2 A. I was asked to go on the board. I said
3 yes.

4 Q. Then after your two years of service, you
5 got off the board?

6 A. Yes.

7 Q. Why?

8 A. I just was done. There was no issues, no
9 problems. I just said I'm done, and I think mainly
10 because I moved out of the area. I moved -- yes,
11 that's it. I still owned the condo but rented it
12 out and bought a single-family house.

13 Q. Do you still own that condo now?

14 A. No.

15 Q. Did this Patricia Gardens HOA have any --
16 it had common areas but did it have lawns or
17 gardens or parkways, things with significant
18 vegetation?

19 A. It had common areas with maintenance
20 requirements but it wasn't near as large as
21 Sycamore Canyon Village. But it had maintenance
22 requirements like any association would.

23 Q. Sure. I'm talking about landscape.

24 Did it have -- I assume it had some lawn
25 areas and garden or flower beds?

1 A. Correct.

2 Q. Did it have anything more beyond that
3 landscape-wise?

4 A. It had a swimming pool, patio area,
5 clubhouse.

6 MR. ARSHT: He asked you about landscape.

7 THE WITNESS: I consider that part of the
8 landscape.

9 MR. ARSHT: Okay.

10 THE WITNESS: The area around that.

11 BY MR. GORNEY:

12 Q. It's okay.

13 A. And lawns and gardens.

14 Q. Any significant issues that you remember
15 that came up during your tenure on the board?

16 A. No.

17 Q. When you were on the board of Patricia
18 Gardens, did the HOA have HOA counsel?

19 A. I don't remember having any lawyers, no.
20 I remember a manager but I don't remember ever
21 involving a lawyer.

22 Q. Was the manager an on-site or off-site
23 manager?

24 A. Off-site.

25 Q. Do you remember there being any issues

1 when you were on the board in which lawyers became
2 involved?

3 A. No.

4 Q. These four buildings, were they
5 multi-story?

6 A. Two-story.

7 Q. Each of the units, did it have an
8 upstairs and downstairs?

9 A. No, it was either upstairs or downstairs.

10 Q. So eight units on the ground floor and
11 eight units on the top floor of each building?
12 Four times 16, two-story, that's the extent of my
13 math.

14 A. Let me think. Yes.

15 Q. Other than your service on the Patricia
16 Gardens HOA, have you served in any other capacity?

17 A. In an HOA?

18 Q. Yes, sir.

19 A. No.

20 Q. Served on the board of -- have you ever
21 served on the board of Sycamore Canyon?

22 A. No.

23 Q. Have you ever been asked to?

24 A. No.

25 Q. Have you ever volunteered to?

1 A. No.

2 Q. By the way, has Sycamore Canyon -- let me
3 start this way:

4 Have you not been able to do anything
5 with your property because the HOA has denied you a
6 permit or permission?

7 A. Other than the stop work order they
8 issued which they said is still pending, no. But
9 that status of that, they're trying to stop us so
10 that's a hard question to answer definitively.

11 Q. So let me --

12 A. We're not sure of the status. Some say
13 it's over and some say it's still going so we don't
14 know.

15 Q. The stop work order that you referred to
16 in your answer refers to what?

17 A. June 15, 2012, the board issued a stop
18 work order for Phase III of our planting of
19 orchards.

20 Q. This is the phase -- Phase I and II were
21 the 1,500 citrus trees --

22 A. Phase I was 1,550 Gold Nugget Mandarin
23 oranges, Phase II in 2011 was 600 avocado trees and
24 Phase III in 2012 was 400 avocado trees. They only
25 issued the stop work order for Phase III.

1 Q. What was the stated reason?

2 A. We submitted that. It's in the record.

3 Q. I understand.

4 You requested permission to plant the
5 trees; correct?

6 A. No, we didn't.

7 Q. Why not?

8 A. Because we've never requested permission
9 for planting trees.

10 Q. Why not?

11 A. Because it doesn't seem to be under the
12 scope of the documents they called architectural
13 approval forms. We're not asking for any
14 architectural approval. We're doing agricultural
15 work. We're not asking for landscape architectural
16 nor residential building architectural approval.

17 Q. You didn't submit a request from the HOA
18 and in response, when you started work, they issued
19 a stop work order?

20 A. Only in the final case. All the other
21 projects we did starting in the early 2000s, they
22 never said anything. They only chose to do a stop
23 work order in 2012. The 2011, 2010, 2005, 2002,
24 there was no stop work orders issued.

25 Q. So let me break it down.

1 Phase I for 1,550 Gold Nugget trees, did
2 you submit a request for approval to the HOA?

3 A. No.

4 Q. That's because you don't believe that
5 you're required to?

6 A. Right.

7 Q. Phase I was in the area of, you said,
8 2010?

9 A. It was planted in 2010, yes.

10 Q. Phase II, that's 2011; correct?

11 A. Yes.

12 Q. That's the 600 avocado trees?

13 A. Yes.

14 Q. Did you ever submit a request to the
15 board for approval?

16 A. No.

17 Q. And the reason?

18 A. The same reason.

19 Q. 2012, for the Phase III, the 400
20 avocados, I've already asked you that question.

21 In 2010, you planted 1,550 Gold Nugget
22 Mandarins; correct?

23 A. Yes.

24 Q. In 2011, you planted 600 -- in the
25 Phase II, 600 avocado trees; right?

1 A. Yes.

2 Q. In 2012, Phase III, have you planted 400
3 avocado trees?

4 A. Yes.

5 Q. So while the stop work order may or may
6 not be out there -- and I'm not going to argue the
7 legalities with you -- the work that you wanted
8 done has been done; correct?

9 A. We were in the middle of the installation
10 when they issued the stop work order and we
11 continued till we were finished. It would have
12 been a major expense to stop at that point and
13 additional expense and I didn't want to put the HOA
14 at risk for any additional expense beyond what we
15 were incurring.

16 Q. The 400 avocado trees, that was the plan;
17 correct? When you said, in Phase III, I want to
18 plant 400 trees, that's what you ended up planting;
19 right?

20 A. Yes.

21 Q. It's not as if you had a plan for 800 and
22 you only got to do 400?

23 A. No, we planted 400, which was what we
24 planned on doing.

25 Q. So this whole thing started out with me

1 asking you, is there anything you want to do with
2 your property that you were prevented from doing by
3 the HOA, and your response was the stop work order
4 of June 15, 2012 that we discussed?

5 A. I said it makes it hard for me to answer
6 as a yes or no. Aside from that, I would say no,
7 there was nothing. They're attempting to limit our
8 use of our property by that. You reminded me --
9 I'm sorry, I should continue.

10 Q. Sure.

11 A. The Adrian Adams law firm letter also
12 attempted to limit our use of the property. They
13 said the easement area which they're now
14 acknowledging prevents us from using our property.

15 Q. In which way?

16 A. They weren't specific but they not only
17 said it prevents us from using the easement, they
18 said it prevents us from using our lot for personal
19 uses. I guess you can take that to mean we have to
20 immediately move out of our house. I don't think
21 they meant that but their verbiage wasn't clear.
22 That's trying to limit our use of our property in a
23 severe manner.

24 Q. What I'm interested in is, have they
25 limited your use in the area in a practical,

1 tangible sense?

2 A. We have to wait for the resolution of
3 these matters to determine that.

4 Q. Well, I'm not asking for the resolution.
5 You're getting way ahead of me. Maybe it's my bad
6 question. I apologize. For example, let me give
7 you an idea.

8 At one point, a stop work order issued --
9 well, you've gotten not a stop work order, but you
10 got a letter from the HOA asking you to do some
11 fire abatement work?

12 A. Fuel modification/brush clearance, yes.

13 Q. My term, misunderstanding, and that
14 letter was withdrawn; correct?

15 A. The order was temporarily withdrawn with
16 the promise of future advisement, which they never
17 gave us. They said they would make a permanent
18 decision and notify us. They didn't. They said
19 temporarily they would withdraw it.

20 Q. Regardless what it says in the letter,
21 you didn't have to do the fuel mod in the area?

22 A. I did not.

23 Q. The HOA did it?

24 A. But they skipped a year and then did it
25 the following year. They were over a year late in

1 doing it. They didn't do it for the year in
2 question but they did it for the following year.

3 Q. Have you ever requested permission of the
4 HOA to do some construction on your property that
5 was denied?

6 A. No, but a follow-up to your other
7 question where we -- regarding the stop work order,
8 the other part that I didn't mention to you,
9 attached with it was a \$100-a-week fine, and again,
10 I don't know if that's accumulating. So if it is,
11 that's impeding the personal use of my property.
12 If, in fact, I'm accruing a \$100-a-week fine since
13 June 15, 2012, that certainly is impacting my use
14 of the property.

15 Q. Have you received any bills from the HOA
16 for any fines?

17 A. No.

18 Q. Have you paid any fines to the HOA?

19 A. Not as yet.

20 Q. Well, have you ever received a request to
21 pay?

22 A. No, I just said we didn't get any bills.

23 Q. You receive every month a statement from
24 the HOA for your HOA dues?

25 A. Right.

1 Q. Correct?

2 A. Yes.

3 Q. That's received by mail?

4 A. Yes.

5 Q. Have you, during the time you've lived at
6 your house, received any special assessment
7 billing?

8 A. Not yet.

9 Q. Have there been any special assessments,
10 to your knowledge?

11 A. I don't recall any.

12 Q. But I assume, like most people, you pay
13 the HOA monthly once you get your statement?

14 A. Yes.

15 Q. Have you received -- other than the HOA
16 statements, have you received any other invoices or
17 statements -- start over again.

18 Other than the monthly HOA dues, have you
19 received any other statements or invoices from the
20 HOA?

21 A. Not yet.

22 Q. Well, not yet? Has anyone told you they
23 will be sent?

24 A. They wouldn't answer yes or no. Some
25 people said -- some board members said the stop

1 work order is still in effect and we asked them
2 regarding the fines and they wouldn't answer. So I
3 don't know.

4 Q. You haven't received any statements -- as
5 of the time you're sitting here right now, have you
6 received any invoices or statements for anything
7 else other than the monthly dues?

8 A. No.

9 Q. Have you received any invoices for fines
10 from the HOA?

11 A. No.

12 Q. Have you paid any fines?

13 A. No.

14 Q. You haven't paid any special assessments
15 because I'm assuming during the time that you've
16 lived there, there have not been any?

17 A. Not that I recall.

18 Q. I assume that the orchard -- I call it
19 the orchard.

20 Is that the right term to use, "orchard"?

21 A. Yes.

22 Q. I guess there's avocado orchards and then
23 there's the Golden Nuggets. But the orchards, you
24 intend this as eventually a commercial proposition?

25 A. Yes.

1 Q. Have you had any harvests yet?

2 A. We're going to have our first harvest
3 this spring.

4 Q. That's the Golden Nuggets?

5 A. Yes.

6 Q. The avocado trees, when they went in, did
7 they go in as saplings?

8 A. They went in as small trees and won't
9 bear fruit in any significant harvestable portion
10 for another few years.

11 Q. Five to seven, is that what they're
12 telling you?

13 A. It will be a little quicker than that.
14 They've borne some fruit but not a harvestable
15 quantity.

16 Q. You get buds but it takes several years
17 for avocados to bear fruit?

18 A. We're getting fruit but not enough to
19 commercially harvest.

20 Q. The plan that you conceive of as you sit
21 here now is that once you have a harvestable crop,
22 are you going to do the picking or are you going
23 hire a commercial harvester?

24 A. We'll hire a harvester.

25 Q. Have you received any stop work orders

1 from the HOA barring you from hiring a commercial
2 harvester?

3 A. No.

4 Q. Have you asked permission from the HOA to
5 engage such a harvester?

6 A. No.

7 Q. Do you intend to?

8 A. No.

9 Q. Why not?

10 A. Because it's an agricultural activity.
11 It's not an architectural activity. We asked many
12 times --

13 MR. ARSHT: Ted.

14 THE WITNESS: Okay.

15 BY MR. GORNEY:

16 Q. You said you asked many times. Please
17 complete your thought.

18 A. We asked many times for guidance from the
19 HOA regarding any standards that would pertain to
20 the agricultural. Nothing was ever forthcoming.

21 Q. Now, if I can ask you to look at the
22 interrogatory answers, first off, I'm not going to
23 mark these as an exhibit because these are
24 Responses to Form Interrogatories, Set One, by
25 plaintiff Theodore Sullivan. I have the originals

1 that I received and I'm going to ask you to turn --
2 I'm going to show you the original.

3 Is that your original signature?

4 A. That's my signature.

5 Q. I assume you read the responses, the
6 questions and the answers before you signed it?

7 A. Yes.

8 Q. I assume that you also read all these
9 responses; right?

10 A. How does that differ from your other
11 question that you just asked?

12 Q. Well, there's reading and there's
13 reading.

14 A. You asked me did I read the questions and
15 the responses and then you asked me about the
16 responses. So I said yes to the responses.

17 MR. ARSHT: Asked and answered.

18 BY MR. GORNEY:

19 Q. I'm not going to argue. It's probably my
20 fault --

21 A. I'm asking in case I'm missing something.

22 MR. ARSHT: We'll move on.

23 BY MR. GORNEY:

24 Q. No. I'm not --

25 MR. ARSHT: Let's go.

1 BY MR. GORNEY:

2 Q. Did you read the responses in detail as
3 opposed to skimming them before you signed this?

4 A. I read them in good detail, not skimming,
5 not super thorough detail, though.

6 Q. These responses -- don't tell me what you
7 discussed with your lawyers.

8 Did the responses go through a
9 back-and-forth exchange where you saw drafts, made
10 suggestions and drafts were incorporated back?

11 A. There were very little -- there was very
12 little back-and-forth, is my recollection. There
13 was some. There was review and preparation but not
14 much back-and-forth. It was put together pretty
15 well the first attempt and maybe minor tweaks and I
16 can't recall even what they were.

17 Q. I'm not trying to play games. A lot of
18 times interrogatory responses are drafted primarily
19 by lawyers. That's my experience. That's not a
20 question.

21 My question is, do you remember yourself
22 sitting down to answer these questions as opposed
23 to seeing a draft from your lawyer?

24 A. I saw the questions first and I answered
25 what I understood independent of the lawyer and

1 then conferred with the attorney.

2 Q. Then there was drafting back and forth?

3 A. She explained some of the things I didn't
4 understand.

5 Q. Don't tell me what your lawyer told you.
6 I'm just more or less interested in the process.

7 Did you prepare these responses, first
8 draft, you personally, by writing out some draft
9 responses on either a piece of paper or on a
10 computer?

11 A. Yes.

12 Q. All right. Let me ask you to turn to
13 Page 12.

14 A. Okay.

15 Q. And I'm going to be reviewing some of the
16 responses in answer to Form Interrogatory 7.1.

17 On Page 12, Line 24, it reads, quote:

18 "Damages caused by the propounding
19 party's actions or omissions relating to its
20 failure to comply with its maintenance obligations
21 on the property and its other violations."

22 And here is where I want to ask you to
23 focus.

24 "Including but not limited to the
25 following: Damages caused by trees planted by the

1 developer."

2 What damages were caused by trees planted
3 by the developer?

4 A. The costs in trimming them when we were
5 ordered to trim them by the HOA on those two
6 occasions that you reviewed recently, those
7 invoices.

8 Q. Go ahead. Anything else?

9 A. Along with the trimming, lack of weed
10 abatement that you also detailed with Ramon and
11 Carlos, all of those jobs.

12 Q. I'm focusing on damages. I'm trying to
13 find out what you mean by that term.

14 A. Aren't those damages?

15 Q. I'm not arguing whether they are or not.
16 These are your responses. I'm trying to figure out
17 what you meant by them. I've written down the
18 tree-trimming costs and lack of weed abatement.

19 Anything other than those two items that
20 you intended to refer to by your use of the words
21 "damages caused by trees planted by the developer"?

22 A. When we talked about that drainage system
23 in the Sandstone Garden, the Zone 86 easement area,
24 the reason it was broken, it was full of tree roots
25 so water couldn't drain anymore so it had to be

1 removed.

2 Q. Anything else?

3 A. What we talked about, also, the flooding,
4 when they removed their irrigation system for the
5 trees and didn't cap it and it went off three times
6 a week and flooded the road.

7 Q. Anything else that -- I'm asking what you
8 referred to by the word "damages." You've given me
9 the tree-trimming costs, lack of the weed
10 abatement, drainage system because it was filled
11 with tree roots and then the flooding caused by the
12 failure to cap the pipes.

13 Anything else?

14 A. And cleaning out the storm drains in the
15 Zone 86 area. Let's see if we're talking trees
16 here. Well, that quasi relates to the trees
17 because some of the leaves are from those trees and
18 some are from the sycamore trees.

19 Cleaning storm drains, you can put on
20 your list.

21 Q. Anything else?

22 A. I can't think of anything at the moment.

23 Q. We're in the same area where it says:

24 "Damages caused by trees planted by the
25 developer and propounding party remaining on the

1 property, including," and then it goes on.

2 Are we still talking about these same
3 five items of damages?

4 A. It goes on what?

5 Q. I can read the whole --

6 A. How far are you going on?

7 Q. Through Page 13, Line 2.

8 A. I have to read it.

9 Q. Go ahead and take your time and let me
10 know when you're done. Take as long as you need.

11 A. Yeah, the next page talks about the
12 drainage system.

13 Q. Right. That's fine.

14 So again --

15 A. It's not just trees. I mean, someone
16 could make the case that the drainage system was
17 damaged without the trees, so yeah.

18 Q. I'm trying to compile a list so when you
19 talk damages, I want to know what you're referring
20 to?

21 A. It started on the trees and went into the
22 drainage system on the next page.

23 Q. So I have listed five specific items that
24 you considered to be damages for purposes of this
25 interrogatory response. I have the tree-trimming

1 costs, the lack of the weed abatement, drainage,
2 repair caused by tree roots, flooding caused by the
3 failure to cap the pipes when they were removed,
4 and clearing out the storm drains.

5 Anything else?

6 A. Well, if you want to be real specific,
7 some of the charges you went over before for Carlos
8 and Ramon were for weed whacking and some were for
9 removing sycamore tree leaves which the HOA blows
10 onto our property. But they're already accounted
11 for in those checks that you went over.

12 Q. This is not necessarily jiving with the
13 bills. I'm interested in what items of damage. I
14 would add a sixth category: Removal of sycamore
15 leaves blown onto your property.

16 A. Okay.

17 Q. By what, the HOA gardeners?

18 A. Yes.

19 Q. That's now six items of, quote, unquote,
20 "damages" as you've used it in these
21 interrogatories responses.

22 Any other items of damages other than
23 those six categories?

24 A. We're continuing to accrue weed whacking
25 damages. Just this past weekend I had the two guys

1 do the whole area of Wood Ranch Parkway and Martha
2 Morrison.

3 Q. I'm going to consider that weeds, lack of
4 weed abatement.

5 A. There's another episode since the
6 information you received in discovery.

7 Q. Right, but it falls within the -- within
8 Category 2 --

9 A. It does.

10 Q. You've got to wait. I'm disobeying the
11 rule, too, so I apologize.

12 Any other items of damages other than
13 those six items that you intend to refer to by use
14 of the term "damages"?

15 A. Not that I can think of right now.

16 Q. On Page 14, answer to Interrogatory 7.3,
17 Page 14, Line 7 or 8 -

18 A. Okay.

19 Q. -- that's a reference to the drainage
20 system repair, \$17,000 plus, Vanoni Construction?

21 A. Correct.

22 Q. I'll ask you to turn to Page 17. We're
23 on response to Interrogatory 9.1, Lines 10 through
24 13. It says, quote:

25 "Responding party was required to pay for

1 weed removal and related maintenance and
2 tree-trimming/pruning," stopping there.

3 Those are included in the items of
4 damages we've already discussed; correct?

5 A. Yes.

6 Q. So here is one that, when you said
7 related maintenance on the property, what did you
8 mean by that?

9 A. Tree-trimming, weed whacking, cleaning
10 out the storm drains, picking up the debris.
11 They're supposed to also pick up the trash in that
12 area.

13 Q. I'm going to add Category 7 --

14 A. You can put trash.

15 Q. Picking up trash, is this beyond picking
16 up the stuff that the Slade folks supposedly left?

17 A. Yes, it's different than that. It's only
18 in their maintenance areas. It specifically says
19 they're supposed to weed and fertilize and pick up
20 trash and trim and that's what I'm talking about.

21 Q. This maintenance area, tell me
22 specifically, which area is that, Zone 86?

23 A. Zone 86 and the easements and the
24 rights-of-way.

25 Q. I didn't see any checks for trash

1 removal.

2 Are there any?

3 A. Again, they should be Item 7 but they're
4 built into the other checks that you saw.

5 Q. Okay.

6 A. Again, it's primarily weed abatement but
7 it's also picking up the trash.

8 Q. Okay. Page 17, Lines 17 through 19, you
9 give various episodes of weed removal, my term.

10 We've already seen those checks. Those
11 are Carlos and Ramon --

12 A. Yes.

13 Q. -- checks? That's what those refer to?

14 A. Yes.

15 Q. On Page 17, Line 23, the \$11,344 number,
16 that's the sum of the bills that Ramon and -- I
17 forgot his name --

18 A. Carlos.

19 Q. Carlos and Ramon plus the tree company
20 invoices we've already seen?

21 A. Correct.

22 Q. Those numbers, I assume, add up to
23 \$11,344?

24 A. Correct.

25 Q. Up through the date of these

1 interrogatories?

2 A. And growing, yes.

3 Q. These were served --

4 A. February.

5 Q. -- in February of this year.

6 On Item D, Page 17, Line 25, the
7 reference to weed removal, et cetera, and
8 tree-trimming, et cetera, we've talked about that
9 already?

10 A. Many times, yes.

11 Q. Got it.

12 Now, in response to Interrogatory 12.2,
13 Page 22, you identify a Tom Preece of the City of
14 Simi Valley.

15 A. Okay.

16 Q. Line 13.

17 I know what it says here, that Marsha
18 Brilliant spoke with him, but my question is, have
19 you ever spoken with Tom Preece?

20 A. Yes.

21 Q. On how many occasions?

22 A. Too numerous to quantify, many.

23 Q. In person, telephone?

24 A. Both, many in person and many by
25 telephone.

1 Q. Is there a way for you to summarize your
2 request for information and the city's response, if
3 any?

4 A. On which matter?

5 Q. Well, I'm not interested at this point in
6 the microscopic detail. I'm interested in a
7 topical analysis and I'll explore a little more.
8 With no pun intended, I don't want to lose sight of
9 the forest for the trees so I'm trying to find out
10 where the forest is.

11 MR. ARSHT: Ted, however, as laudable as that
12 may be, don't try to answer something you don't
13 understand. If you need him to ask you question by
14 question to understand it, do that.

15 THE WITNESS: I've talked to him over the
16 years. Like I told you earlier today, I talked to
17 him in '99 when we bought the house where he
18 explained to me the rules for farming on the
19 property, and I've talked to him about numerous
20 things since then, some that relate to the lawsuit
21 and some that don't.

22 BY MR. GORNEY:

23 Q. The ones that relate to the lawsuit, what
24 did you talk to Tom Preece about?

25 A. I asked him who planted the trees and I

1 asked him for documentation that the city has that
2 would show me who's responsible for maintaining
3 them.

4 Q. Did you receive anything from him?

5 A. I've received lots from him, much
6 information, yes.

7 Q. Did he send you public documents?

8 A. He didn't send them. I went into their
9 offices and they sat me down in a conference room
10 and handed me volumes of documents that I went
11 through by myself.

12 Q. So he made the sources available to you
13 as he would any citizen or resident of the City of
14 Simi Valley?

15 A. I would say yes.

16 Q. But you're the one that actually did the
17 digging?

18 A. Yes.

19 Q. For example, if you wanted to look at --
20 for the easements, did he give you an easement book
21 and say, Have at it, or words to that effect?

22 A. No, I located those myself. I had a copy
23 in my title package of the easements.

24 Q. Okay. So I'm trying to figure out what
25 Tom gave you that you had to go through.

1 A. It's what we gave you in discovery,
2 volumes of drawings and data, just tons of stuff
3 that you've had the chance to review now.

4 Q. Did he give you the specific documents or
5 did he say, in words or substance, Here are the
6 volumes that they were in, take a look for
7 yourself? You tell me.

8 A. He had me sit down in a conference room
9 and he had arranged to get giant files of documents
10 that related to Sycamore Canyon Village in its
11 entirety, including my tract, which is Tract 4053.
12 So I focused mainly on that tract but also went
13 into other areas when it was relevant, too.

14 Q. At this point, I'm more interested in the
15 process. He basically pointed out the documents
16 relating to Sycamore Canyon and then said, Here,
17 these are our files, you can look through them, or
18 something like that? Is that how it worked?

19 A. He sat me in a room and they had joint
20 boxes full of files and said, "Here they are," and
21 I was on my own.

22 Q. That's what I'm interested in as opposed
23 to him going and flagging documents or putting
24 specific documents. He didn't do that, he said --
25 how many boxes were there, 10, 15, 20? You tell

1 me.

2 A. There were four or five big boxes that
3 had maybe ten thick folders in each one.

4 Q. Was it your understanding that you were
5 given access also to Sycamore Canyon development
6 documents? What did he call them?

7 A. He didn't necessarily describe them. I
8 don't recall if he gave them a name but they
9 related to Sycamore Canyon Village and there were
10 development and a multitude of other -- CC&R's in
11 there, drawings in there, city council resolutions
12 in there, planning commission resolutions, all
13 sorts of things, all controlling documents for
14 maintenance and development of Sycamore Canyon
15 Village.

16 Q. Basically, he gave you what you
17 understood to be all the documents that he had that
18 were public, if you will, and you're the one who
19 went through them?

20 A. Yes.

21 Q. Did you ever ask Tom Preece to take any
22 specific action against the HOA?

23 A. Not that I recall.

24 Q. You've also mentioned a Dick Clark here,
25 which says you spoke to him.

1 A. Yes.

2 Q. Who is Dick Clark?

3 A. Dick Clark works in the public works
4 department, which is a separate department from Tom
5 Preece and he was the first president of the
6 Sycamore Canyon Village HOA.

7 Q. What conversations did you have with him?

8 A. I had at least two conversations with
9 him.

10 Q. When were they and what was said?

11 A. First conversation was in 2011, and I
12 discussed with him the easement documents I had and
13 I know we talked about the easements, and by that
14 point, I think I had known -- I did know he was the
15 former president because the easement document
16 itself says Return to Dick Clark -- actually,
17 Richard Clark once recorded.

18 So I asked him about that, and I said,
19 "The HOA is acting like they don't have any
20 easements. They sent me a letter saying there's no
21 easements on our property." I said, "This document
22 says otherwise and they're acting like they don't
23 know about it."

24 He said, "They do know about it, I served
25 on the board with Don Diamond and he certainly

1 knows about them."

2 Q. Did he point out any easement documents
3 to you?

4 A. No. I had them with me and I brought
5 them to show him.

6 Q. Any other conversation that you had
7 with -- this is 2011?

8 A. Yes.

9 Q. Do you remember anything else?

10 A. Yes.

11 Q. Go ahead.

12 A. In 2013, I had a conversation with Dick
13 Clark regarding who is to maintain the drainage
14 systems on the property, and don't confuse those
15 with the drainage system we've been talking about
16 prior to today. The ones I'm talking about are
17 V-ditches leading into storm drains so they're
18 different from the French drains we were talking
19 about.

20 And I asked him, "Who's responsible for
21 maintaining those, the homeowner, the HOA, or the
22 city?"

23 And he said, "It's not the city. It's
24 not the homeowner if the V-ditches and drainage
25 systems are protecting rights-of-way or easements

1 adjacent to the streets." So then it's the HOA's
2 responsibility. He told me to read the CC&R's to
3 verify that.

4 Q. Any other conversations you had with
5 Mr. Clark?

6 A. There were other things we discussed,
7 certainly, and I can't recall at the moment what
8 they were. I'm certain I discussed other things
9 with him.

10 Q. Next on the list in this interrogatory
11 answer is Paul Drury also being identified as being
12 with the City of Simi Valley.

13 What did you discuss with Mr. Drury?

14 A. I can only recall one discussion with
15 Paul Drury in 2011 and it was with Tom Preece and
16 Paul Drury at the same time.

17 Q. What is his title?

18 A. I don't know his title but he's one rung
19 up the ladder from Tom Preece. He might be
20 assistant manager. I don't know. He's a higher
21 level than Tom Preece and we provided you with his
22 card and his title in discovery.

23 Q. What did you discuss with Mr. Drury?

24 A. The same things, who planted the trees,
25 and we wanted to get access to the documentations

1 regarding who is supposed to maintain these areas
2 within the Sycamore Canyon Village. So the same
3 things I discussed with Tom because he was there in
4 the same discussion.

5 Q. Did Mr. Drury answer questions or was he
6 there simply making sure you got the documents that
7 you eventually looked at?

8 A. Most of the discussion was with Tom
9 Preece. I don't remember what Paul Drury said but
10 he wasn't speaking as much as Tom Preece was.

11 Q. As you sit here today, do you remember
12 anything he said, Drury?

13 A. There was a third party there, too, and I
14 can't remember what each of them said. There was
15 another Clark, Jerry Clark there at the same time.

16 Q. He's on the list so we might as well --

17 A. He was there at the same time. When I
18 told them that the HOA removed the irrigation
19 system, they looked shocked. I don't know if it
20 was Paul or Jerry -- it wasn't Tom; it was one of
21 those other ones -- and they said, "What did you
22 say?"

23 I said, "They removed the irrigation
24 system from the trees."

25 They said, "Did they tell you they were

1 going to do that?"

2 And I said, "No, they didn't." And I
3 think I might have asked them, did they tell you
4 they were going to do that, and they said no, they
5 didn't, because they looked like, what?

6 That was either Jerry Clark or Paul Drury
7 that said that and they looked perturbed, whoever
8 was saying it.

9 Q. Did they say anything else that you
10 remember? This is Jerry Clark. Not what he
11 appeared, but what he said.

12 A. They said that we should just remove the
13 trees -- "we" being the Sullivans.

14 And I said, "We tried to. We got quotes
15 for removing the trees and we received a letter
16 from the HOA saying we can't remove the trees and
17 the HOA invoked Section 7.3 of the CC&R's that says
18 you can't remove the tree without the express
19 written permission of the architectural review
20 board."

21 Q. What was the reaction, if any, of the
22 assembled members of the Simi Valley Government,
23 Clark, Drury and Preece?

24 A. My impression of their faces or their
25 words?

1 Q. I want their words.

2 A. Their words were minimal. They looked in
3 disbelief.

4 Q. That's your interpretation?

5 A. Yes.

6 Q. But they said nothing?

7 A. They said not much. I doubt they said
8 nothing but what they said, I can't recall so it
9 wasn't like super significant to me. I tend to
10 remember significant things more than minor things.

11 Q. Peter Lyons is also on the list.

12 Did you ever speak to him?

13 A. Yes.

14 Q. It says January 16, 2013.

15 What did you speak to Mr. Lyons about?

16 A. The same issues and he's the level up
17 from Paul Drury. We spoke about the trees and the
18 same type of issues. We spoke at that meeting
19 about drainage ditches, who's responsible for
20 maintaining those and they referred me to Dick
21 Clark for that. So I met with Dick Clark later
22 regarding that.

23 Q. Did Peter Lyons say anything to you about
24 the trees or the drainage?

25 A. No, he referred the drainage question to

1 the public works department, which is Dick Clark.

2 Q. Right.

3 A. The trees, he didn't say much that I
4 recall about the trees. Tom Preece, again, was at
5 the meeting.

6 Q. Then we have the last City of Simi Valley
7 Official Mayor Robert (Bob) Huber?

8 A. I think you pronounce it Huber. I might
9 be mispronouncing it.

10 Q. You had one conversation with him
11 May 7th, 2011, it says.

12 A. Yes.

13 Q. What did you talk about?

14 A. I talked about the trees and it was an
15 Arbor Day event and he was there so I took the
16 opportunity to tell him about the trees.

17 Q. What did he say?

18 A. I said -- he didn't recollect much
19 detail. He had been on the counsel. He said,
20 "Jeez, that's a long time ago. I don't remember
21 the detail."

22 I said, "I just want to get from the city
23 the public documents."

24 Q. Did that eventually lead to your getting
25 the documents from Tom Preece?

1 A. It might have. I'm not real clear. I
2 did get a call from Tom Preece. Was it because of
3 my conversation with Mayor Huber? I'm not sure.
4 It might have been. He didn't say, Bob said for me
5 to call you. I'm not sure because I had already
6 been talking to them somewhat anyway so I don't
7 know.

8 Q. Do you remember any other discussions you
9 had with Mr. Huber, anything more about those
10 conversations?

11 A. I had two e-mails following up the Arbor
12 Day in-person discussion I had with him and we sent
13 those to you.

14 Q. Tell me what you remember about those
15 conversations.

16 A. They were very brief e-mails, basically
17 follow-ups. He told me to follow up with him with
18 an e-mail. I did and then I didn't get any
19 response so I followed up on my own with another
20 e-mail saying Hey, I haven't heard anything.
21 What's up? That's not what I said but that was the
22 gist.

23 Q. The point is, you were seeking access and
24 inspection of documents; right?

25 A. Yes.

1 Q. That's what you eventually did when you
2 spent several hours at Mr. Preece's office in a
3 conference room reviewing four or five boxes?

4 A. Yes.

5 Q. Got it.

6 Also on the list -- do you remember
7 anything else that you discussed with Mr. Huber?

8 A. No.

9 Q. We move to Page 23 of the answers to
10 interrogatories.

11 There is a Marjorie Baxter identified
12 with the City of Simi Valley.

13 A. Okay.

14 Q. It says you spoke to her on January 16th,
15 2013.

16 Who is Marjorie?

17 A. She's the City Attorney, City of Simi
18 Valley.

19 Q. What did you talk to her about?

20 A. She was in the meeting with those other
21 people. She didn't say much.

22 Q. Did she say anything that you remember?

23 A. She talked about easements and said
24 something like -- something about easements and she
25 had a discussion with Tom Preece about easements.

1 What else? She didn't say much. I really don't
2 recall. Preece did most of the talking, I would
3 say. Well, I did most of the talking, actually.
4 That would be the truth.

5 MR. ARSHT: Shocking.

6 BY MR. GORNEY:

7 Q. Suffice it to say, you were a citizen
8 wanting to sit down with public officials and you
9 asked for one or more meetings and you got it, they
10 met with you?

11 A. Yeah, and we wanted access to the
12 documents again. We reviewed the documents in 2011
13 and I wanted follow-up.

14 Q. In other words, by "follow-up," you mean
15 more documents?

16 A. I wanted to review -- again, there's five
17 boxes. I had a list of pertinent things. They
18 made copies of most of the pertinent things and
19 then as we went through, we found out more and
20 things became more clear and then I wanted some
21 other things and I went back.

22 Q. Maybe I can save some time.

23 Was the point of your discussions with
24 the City of Simi Valley officials to get copies of
25 documents in the city's possession?

1 A. Yes.

2 Q. As opposed to getting the city or asking
3 the city to take action?

4 A. Yes, you're correct. It wasn't to get
5 the city to take action. Now, they can take action
6 if they want.

7 MR. ARSHT: You've answered the question.

8 BY MR. GORNEY:

9 Q. They can do whatever they want but that's
10 not what we're here about. Whatever they do or
11 don't do, they'll do or not do. I'm trying to
12 figure out what your point of contacting the city
13 was and I think I understand it.

14 A. Okay.

15 Q. You were trying to get copies of
16 documents and you had one or more conversations and
17 e-mails with city officials that led to you at one
18 point getting access to a bunch of documents and
19 then getting copies of the documents you requested
20 and then getting re-access to documents for
21 additional documents.

22 Is that a fair general summary?

23 A. It's documents and beyond. Like, I gave
24 you a little reference to Dick Clark, saying from
25 his personal experience, he knew the HOA had the

1 corporation grant easement. That wasn't a
2 document. That was his advice. He also explained
3 to me why the developer planted the trees and he
4 acknowledged they did plant them and explained why.

5 Q. What did he tell you?

6 A. He said they planted them to make the
7 neighborhood more attractive, to increase the
8 likelihood of sales and keep the value of the
9 neighborhood up. And he said he was working for
10 the developer when they were planted.

11 Q. For Olympic?

12 A. Olympia. I think it was called Roberts
13 Group at that point when he was working there. He
14 was high up in there and he was intimately involved
15 in that and said, "Of course the developer planted
16 them. They're for the benefit of the whole
17 community," and then he explained to me why they
18 planted them. And it was obvious to me but he went
19 ahead and explained it.

20 So it's not all documents. It's talking
21 to these people that they give their background of
22 what was done, when, how they know it. It leads me
23 to documents. But some is verbal that they're
24 telling me.

25 Q. There's another Simi Valley official

1 identified as Tracy Noonan who was, you say,
2 formerly with the City of Simi Valley.

3 Did you speak with him or her?

4 A. She is a woman and she's the predecessor
5 to Marjorie Baxter. I don't believe I ever spoke
6 to her or I don't think I even wrote to her.

7 Q. Now, Brian Doherty is the other estate
8 lot owner?

9 A. He's one of the three.

10 Q. Who is Kurt Jaeger?

11 A. He's the third of the three estate lot
12 owners.

13 Q. Who is John Innes?

14 A. The landscape architect that did most of
15 the work in the development era of Sycamore Canyon
16 Village. He was the liaison between the developer
17 and the city.

18 Q. And what do you remember of your
19 conversations with John Innes?

20 A. I called him -- this was probably two
21 years ago -- and explained the situation with the
22 trees and he said, "I know who you are." He knows
23 my lot because he saw the orange trees growing. He
24 said, "I know what you're talking about." I
25 explained that the HOA says they don't have to

1 maintain the trees because they didn't plant them.
2 He said, "What difference does it make who planted
3 them?"

4 I said, "That's been my point." We
5 discussed a few other things and he had a
6 grandchild being born imminently so we didn't
7 discuss too much. He basically was the landscape
8 architect of record. He was referred to me by
9 Alfreda Tate of the Emmons Company previously as
10 the most knowledgeable person about installation of
11 landscaping in Sycamore Canyon Village.

12 Q. To your knowledge, does John Innes have a
13 legal background or is he an architect?

14 A. The drawings I have with him on it is
15 he's a landscape architect.

16 Q. Mike Judge is identified in these
17 interrogatory answers.

18 Who is Mike Judge?

19 A. He's the Simi Valley City Councilman.

20 Q. What were the purposes of your two
21 conversations with him?

22 A. When I wasn't getting a second chance to
23 look at the drawings, I contacted all the city
24 council people and he responded. He came out and
25 said, "What's going on here?" I explained to him

1 and he said, "I will get you a meeting with the
2 parties," which he did, and we got access to the
3 documents.

4 Q. Did he attend the meeting?

5 A. Yes, he did.

6 Q. In his official capacity as a city
7 councilman?

8 A. I don't know what his capacity was. He
9 was sitting there.

10 Q. Again, Mike Judge's involvement was for
11 you to get access to documents?

12 A. Yes.

13 Q. Now, the lawsuit had been filed by the
14 time you requested documents; correct?

15 A. I can't remember if we started requesting
16 documents before the lawsuit was filed or not. It
17 was right around the same time frame.

18 Q. Now, you wanted voluntary access to the
19 documents rather than to have to serve a
20 subpoena -- withdrawn.

21 To your knowledge, did you ever subpoena
22 documents from the City of Simi Valley?

23 A. Not to my knowledge.

24 Q. The documents that you were eventually
25 either provided or allowed to copy, you got through

1 a request to the city, which they ultimately
2 complied with?

3 A. Correct.

4 Q. Without a subpoena?

5 A. I don't know anything about a subpoena.

6 Q. Okay.

7 A. In that regard.

8 Q. Mark Fisher is identified as a captain of
9 Ventura County Fire Department.

10 What were your conversations -- is he the
11 captain of the Wood Ranch station?

12 A. He is a captain in the Wood Ranch
13 station. I think they have multiple.

14 Q. What did you talk to him about?

15 A. That the weed -- that the fuel
16 modification/brush clearance wasn't accomplished.

17 Q. What, if anything, did Captain Fisher
18 say?

19 A. He said he would call the HOA and check
20 on it.

21 Q. Did he ever get back to you?

22 A. Yes.

23 Q. What did he say?

24 A. He said one of his underlings who
25 actually made the phone call said he talked to a

1 woman at the HOA who seemed very cooperative so
2 they didn't think it would be a problem with the
3 HOA doing the job.

4 Q. The last person on the list here on
5 Page 23 says "Firefighter at Wood Ranch station."

6 Is that the person who made the call?
7 Line 24 to 25. Take a look.

8 A. Yes, that would be what I'm referring to.

9 Q. Now --

10 A. Excuse me. I didn't read far enough.
11 That's in June 2012. That's when I went back the
12 next year when the job still wasn't done a year
13 later. I went back again, and so that firefighter
14 was not Mark Fisher. It was somebody else and I
15 guess I don't have his name.

16 Q. Have you ever been cited by any
17 governmental agency at all since you've owned the
18 property?

19 A. Did you say "cited"?

20 Q. Cited, c-i-t-e-d.

21 A. Meaning like --

22 Q. Getting a ticket or getting some
23 official -- let me start over.

24 "Citation," I think, is the right legal
25 term so I'll start there.

1 Have you ever been -- have you or your
2 wife ever been cited by any governmental agency for
3 any reason in connection with your house in Simi
4 Valley?

5 A. Cited? I'm a little hung up on the word
6 "cited." I guess I have to say no. "Cite" is like
7 a violation notice or a fine.

8 Q. Could be a violation notice, could be a
9 fine. Different cities have different ways.
10 Rather than something from the HOA, it would be
11 some notice from some governmental agency that
12 they're accusing you of a violation, issuing a
13 citation or a ticket for a violation, the city
14 requesting you to -- or the governmental agency
15 demanding that you take action, et cetera. It
16 could be all those things.

17 A. Okay. My understanding of "cited," I
18 would say no, but around the time of the stop work
19 order, Tom Preece from the city called me and said,
20 "What are you doing up on your hill there?"
21 Because he got a call from somebody and then one of
22 his underlings said it was the HOA, and they were
23 saying there was construction going on on our
24 property, unauthorized.

25 So he asked me, "What are you doing?"

1 I said, "I'm not doing any construction.
2 We're doing brush clearance and preparation for
3 planting Phase III of the avocados," which is the
4 400.

5 Q. Right.

6 A. So he had asked me what I was doing and I
7 told him. And I said, "Why are you asking?"

8 And he said, "We got a call." And then
9 when I was in the office, one of the underlings of
10 Tom said something so it was the HOA that called.

11 Q. Sounds like an inquiry to me rather than
12 a citation.

13 A. Again, I'm not totally in sync. When you
14 said "cited," I'm not sure what that means so I
15 want to be totally clear. I wouldn't consider that
16 being cited but I want to be as clear as can be.

17 Q. I appreciate the information --

18 A. I was contacted by the city.

19 Q. So let me make it very specific --

20 A. There's been no fines, no violation
21 notices. Again, I don't know the broadness of
22 citations. I would say no, we've never been cited
23 for doing anything wrong.

24 Q. Has any governmental agency ever taken
25 you to court for any reason in connection with your

1 property?

2 A. No.

3 Q. Have you ever received any notice of any
4 zoning violation from any governmental --

5 A. No.

6 Q. -- agency?

7 A. No.

8 Q. Obviously, you've never been fined by any
9 governmental agency?

10 A. No.

11 MR. GORNEY: Let's take a break for the
12 reporter.

13 (BRIEF RECESS)

14 BY MR. GORNEY:

15 Q. Back on the record now. Still on the
16 answers to interrogatories, I'm going to ask you to
17 flip over to Page 26, bottom of that and the top of
18 Page 27.

19 I just want to confirm. After you read
20 it, this is the question:

21 Have we already chatted about this
22 subject and those invoices? So read Page 26,
23 Line 27 through Page 27, Line 7. That's the
24 question.

25 A. Okay.

1 Q. Have we already talked about that in
2 terms of identifying the invoices? Because there
3 are a couple names I didn't recognize. All Timber
4 Enterprises?

5 A. That was one of the invoices. It was the
6 first one, as a matter of fact.

7 Q. Treescapes, who is that?

8 A. Treescapes is not one of the invoices
9 because they didn't submit both bids. Remember I
10 split it into the ten trees and the 37. They only
11 submitted a quote for the 37 and didn't do a quote
12 for the ten so I never submitted those.

13 Q. I don't remember seeing an invoice in the
14 papers that I got.

15 A. From Treescapes, no.

16 Q. Or an estimate.

17 A. Treescapes never gave a complete bid.
18 The other four companies did give complete bids.

19 Q. We've already talked about that?

20 A. The other four companies, we talked
21 about.

22 Q. Got it.

23 Now, flipping back to the list of people,
24 Brian Doherty --

25 A. Do you want me to go to that page?

1 Q. Yes.

2 A. What page is it?

3 Q. Page 23, Line 3.

4 A. Okay.

5 Q. He's an estate lot owner, like you are?

6 A. Yes, he has a farm lot like I do, yeah.

7 Q. What did you talk to Mr. Doherty about
8 that concerns this litigation?

9 A. We talked about Zone 86. We talked about
10 the fuel modification/brush clearance because he's
11 under the same easement for that. The easement
12 that obligates the HOA to brush clear our property
13 obligates him. So we talked about that letter and
14 how it was resolved.

15 Q. That's the Zone 86?

16 A. That's the easement for fuel modification
17 and brush clearance but we also talked about
18 Zone 86 and the maintenance obligations therein.

19 Q. What did he tell you -- tell me the
20 discussions you had with him about brush, first of
21 all.

22 A. We discussed that he got the same letter
23 we did. He responded quickly, like we did. He was
24 just surprised why they would do that and trying to
25 figure out why they would do that because his

1 response was almost the same as ours. You've been
2 doing it forever. There's an easement. What's
3 going on?

4 Q. He got the same response, namely, that
5 they withdrew it.

6 A. Remember, they didn't withdraw it from
7 us. They only temporarily withdrew it. It's still
8 an open issue with us.

9 Q. You haven't received any other ones, have
10 you?

11 A. No. But it's still a pending issue.
12 Their final determination has never been made even
13 though we've asked for it.

14 Q. Okay.

15 A. He basically said, in his mind, there was
16 a final determination made. He spoke with someone
17 at Emmons Company and thought they told him
18 everything's fine. So he got a different answer
19 than I did in that regard, according to what he
20 said to me.

21 Q. Can you think of a reason why he was
22 treated differently than you?

23 A. I think we were the target of the
24 harassment efforts and he wasn't. He was only
25 dragged into it because he was under the same

1 easement. He had to be sent the same letter
2 because it was the same easement. Other than that,
3 he wouldn't have gotten the letter.

4 Q. What do you mean by "target of the
5 harassment issues"?

6 A. The harassment actions the board has
7 taken against us.

8 Q. The actions are what?

9 A. Numerous.

10 Q. I'll take them all.

11 A. One would be the fuel modification/brush
12 clearance letter. After 20 years of them doing it,
13 they said it came to their attention they're no
14 longer obligated to do it. We've asked every board
15 member in their depositions what it is that came to
16 their attention and they either don't recollect or
17 know.

18 Q. Fuel modification, and what other
19 harassment issues?

20 A. They did a stop work order for
21 agricultural activities that they have never done
22 before in any of the agricultural lots, or my lot.

23 Q. That's the Phase III planting?

24 A. Yes, and they also went back and said now
25 we want Phase II, also.

1 Q. What other harassment issues?

2 A. They have not -- a lot of the photos you
3 have show areas they maintain and then they show
4 areas they don't maintain. The pattern being they
5 have easements they maintain outside of our
6 property. They have easements they maintain --
7 they don't maintain that are inside our property.

8 The Sandstone Garden easement, I don't
9 think they've done anything on it in more than
10 13 years but maybe even 20 years. They've
11 abandoned the irrigation system. They never clean
12 out the culvert, which they accused us of dumping
13 debris in. Besides -- in the letter of July 2012,
14 besides accusing us of dumping debris, they said we
15 can't use our property for personal purposes.

16 Q. That was in a letter?

17 A. That was in a letter from the attorney
18 from the HOA, July 2012. They've twice forced us
19 to trim trees that they, themselves, designated as
20 nonviable. Their own arborist designated 16 of the
21 trees as nonviable and twice they've asked us to
22 trim them.

23 And the second time they asked was in
24 that July 2012 letter from their attorney, Adrian
25 Adams, and we responded saying you've already

1 designated these as nonviable. Why are you asking
2 us to trim nonviable trees, to spend member money
3 trimming nonviable trees? And they responded
4 saying they don't have time to decide the matter
5 now.

6 Q. So that's another item.

7 What other items? My list is up to
8 seven.

9 A. Mine is much longer than that.

10 Q. I'm trying to get them topical because
11 otherwise I have no way -- I don't have enough time
12 to do that. So I'm trying to be economical with
13 both our times. Let me tell you what I have so
14 far.

15 Would that help?

16 A. Not really.

17 Q. Okay. Go ahead.

18 A. The drainage systems, not the drains we
19 repaired, all the V-ditches, they maintain them
20 everywhere outside of our property and almost don't
21 maintain any inside of our property. They can be
22 the same situation, a V-ditch above a graded slope
23 that's in a right-of-way area.

24 On our neighbor's property, they maintain
25 it carefully. On ours, it hasn't been maintained

1 in years. It's so overgrown you can't see the
2 V-ditch. Brush has overgrown the V-ditch.

3 Q. Anything else?

4 A. We referred to it earlier but not in this
5 context. Two years in a row now when the leaves
6 fall from the sycamore trees, they're blowing the
7 leaves onto our property.

8 The areas -- the Zone 86 areas on our
9 property, they're ignoring. Zone 86 areas on other
10 properties, they're maintaining. That, again, is
11 part of the photographic evidence we submitted to
12 you in discovery.

13 Q. The lawyer just pointed out something to
14 you that he wrote down.

15 What did he write down? Which I would
16 appreciate he not do because he would not be
17 allowed to do that in court.

18 A. Okay. We asked -- when we sent that
19 letter, we referred to --

20 Q. Letter?

21 A. The letter of January 29th. I think it
22 was Exhibit 28, is it? It's January 29th, 2010.
23 It's one of the letters you referred me to earlier
24 today.

25 Q. Right.

1 A. It said in that letter that we requested
2 they hire an arborist, an ISA certified arborist.
3 We said that and then we said we would pay for an
4 arborist to review their arborist's report.

5 In response to this whole matter on
6 April 5th, they ignored that issue. We requested
7 specifically and they noted it in their e-mails
8 back and forth that he wants us to get an arborist
9 and he'll have an arborist review it, and they
10 didn't even respond.

11 Q. Ignoring your request for an arborist,
12 you consider that harassment?

13 A. Yeah, and dovetail it with in the same
14 letter, we asked to be added as additionally
15 insured. Again, two months later when they
16 responded, they didn't even have the courtesy of
17 replying. They didn't say yes, we'll add you, no,
18 we won't add you. So we had to ask again through
19 an attorney at that point and their attorney
20 responded saying we have no obligation to insure
21 any individuals, even though they had --

22 Q. So they did respond?

23 A. They did not respond. I'm contending
24 they didn't respond because remember my letter was
25 January 29, 2010. Their response letter was

1 April 5, 2010. But no response. It was much later
2 we asked the question again after attorneys had
3 been hired.

4 Q. So not --

5 A. They never responded to me.

6 Q. Not initially responding to your request
7 to be added as additional insured --

8 A. Uh-huh.

9 Q. -- in your mind, that's harassment?

10 A. Yes, coupled -- let me continue with some
11 of the other ones, yes.

12 Then there was the matter of the debris
13 they dumped on our property. The debris came to
14 the attention of the parties when in -- I think it
15 was August or July of 2010, they told us to remove
16 debris from the area in question, the Zone 86 area
17 and the easement area.

18 When we had -- we responded, explained we
19 had no debris there but we detailed for them the
20 debris they left there including photographs, which
21 I had previously shown them of the concrete debris
22 and the railroad ties.

23 Then on the November 11th
24 meet-and-confer, we showed them more specifically
25 and that's where they agreed to remove it.

1 Q. Okay.

2 A. Now, that was a full year after we asked
3 them to remove it. We showed them specifically
4 what it was and as of that meeting, November 11th,
5 2010, the president of the board still was
6 reluctant. He frowned when I said, "Remove it."

7 His attorney stepped in and said, "We'll
8 remove it right away." He was still resisting
9 removing it.

10 And I asked him the following meeting
11 where they came to pick it up, "Why were you
12 resistant?"

13 And he didn't answer. He said he didn't
14 remember.

15 Q. What other items of harassment --

16 A. There was --

17 Q. -- from the board? This is from the
18 board; right?

19 A. Yes, the board.

20 Q. So what other -- my list is up to 13.

21 What other acts of harassment by the
22 board do you think you suffered?

23 A. The issue where they removed the
24 irrigation. They -- we were requesting that --
25 this was the second time we were requesting that

1 they start maintaining the trees. First was in
2 2007, the June 15th meeting, followed up with the
3 February 2nd meeting and we sent the letter on
4 December 14th, 2009 requesting a meeting with the
5 board to get the tree problem under control.

6 They -- without any notice of any kind,
7 they removed the irrigation system. And then later
8 said that we asked. In your own interrogatory you
9 said that we asked that it be removed. We never
10 asked that it be removed.

11 Q. What other acts of harassment by the
12 board?

13 A. The -- the clearance of weeds in the
14 right-of-way areas, it's again, a matter that they
15 do all the areas except the area adjacent to our
16 property and that's where a lot of the
17 photographs -- where one of the checks that you
18 referred to earlier to Ramon Rodriguez was for
19 removing those weeds. They just don't remove the
20 weeds on our property. They do them all other
21 places.

22 Q. What other --

23 A. Four times they've sent us notices to
24 remove weeds in the ten-foot strip along the trees.
25 Each time we responded and they would say -- the

1 first time in 2006, Alicia said, "Oh, sorry." The
2 second time in 2007, she said, "Oh, sorry."

3 In 2010, it happened again and this time
4 it came through Adrian Adams' law firm but the same
5 issue, and this time we wrote a very detailed
6 answer why they're responsible for the weeds
7 according to the Wood Ranch Specific Plan and the
8 prior agreements and their obligations, and their
9 response was, We disagree with your contentions and
10 see no merit in addressing them.

11 Q. Okay.

12 A. It was a full letter that we spent a
13 great deal of time putting together detailing the
14 issues and they blew it off.

15 Q. They gave you a response --

16 A. They didn't give a response --

17 Q. Excuse me.

18 A. -- they said we see no point in
19 responding.

20 Q. They told you --

21 A. He's --

22 MR. ARSHT: Wait. Until there's a question,
23 whatever he wants to make of it is his business.
24 Until you have a question, you don't have to
25 answer.

1 BY MR. GORNEY:

2 Q. My question is, did the Adrian Adams firm
3 tell you they didn't see any merit in your
4 contention, in sum and substance?

5 A. My recollection is they acknowledged
6 getting the letter and they didn't describe -- they
7 didn't detail any of the contentions, which were
8 numerous. They said we disagree -- they said a
9 blanket disagreement. They didn't get specific on
10 anything. They said we disagree with your client's
11 contentions and see no point in responding. I
12 don't consider that a response.

13 Q. Well, they told you they disagreed with
14 you; is that correct?

15 MR. ARSHT: Wait for the question.

16 THE WITNESS: No, that's not correct.

17 BY MR. GORNEY:

18 Q. They used the word "disagree"; correct?

19 A. I don't know if they used that word. I
20 have to see the letter.

21 Q. What other acts of harassment by the
22 board?

23 A. When we were brush clearing for
24 Phase III, which is the 400 avocados, they sent an
25 e-mail saying we have noticed -- someone notified

1 us we have construction on the property. Do you
2 know anything about it?

3 And I responded to Alicia saying, "No,
4 we're not doing construction. We're brush clearing
5 for installing avocados. By the way, who is it
6 that reported this?"

7 She said it was an anonymous report, and
8 we went back and forth on the rules from the member
9 handbook because it says the board will not act on
10 anonymous complaints.

11 I said, "Why are you acting on it if it's
12 anonymous?" And we went back and forth on that
13 and -- which you have those e-mails. We submitted
14 them to you.

15 Q. All right.

16 A. We asked for the insurance documents from
17 the HOA. They responded saying they didn't have to
18 give them to us because we're in a lawsuit. I
19 responded saying that the obligation to give them
20 has nothing to do with whether you're in a lawsuit
21 or not, and they still refused and asked me to ask
22 my lawyer to ask you, which is their lawyer, which
23 we did, and we still didn't get a response from the
24 insurance and this is more than a year later.

25 Q. Any other acts of harassment?

1 A. I think the issue we discussed earlier,
2 being invited to a meeting in writing and when you
3 get to the meeting, being told it doesn't matter
4 that you have a written invitation, you can't
5 present your information.

6 Q. Any other items of harassment?

7 A. I think the episode we discussed earlier
8 about the pile of rocks 1,100 feet from the house,
9 and saying they had to be removed because Robert
10 Mundy had to remove construction material from in
11 front of his house was harassment.

12 Q. That comment was harassment by the board
13 as a whole as opposed to somebody specific?

14 A. It was just Robert Mundy who made that,
15 who was the vice president of the board.

16 Q. Any other acts of harassment?

17 A. In reviewing their e-mails, Robert Mundy
18 wrote that we were called before the board for
19 disciplinary actions and that's maybe what's
20 precipitating this issue and that's totally false.
21 We were never called before the board.

22 But I believe other board members
23 believed Mundy because when I went to the
24 February 2nd, 2010 meeting, Richard Olson asked me.
25 "Why are you bringing this up now?"

1 I looked at him because I didn't
2 understand why he would ask that. But in seeing
3 the context of it, Mundy had just told them
4 Sullivan is doing this because he was called before
5 the board for disciplinary reasons, giving them
6 that mind set. It was not true; we were not called
7 before the board.

8 Q. Any other acts of harassment by the
9 board?

10 A. This has gone on so long, I don't know if
11 I did the pool equipment screening in this context.
12 We talked about it earlier today. It may or may
13 not be on your list.

14 Q. I'm going to write it. Pool screening
15 requirements. I don't think we have to talk about
16 it again because we did talk about it earlier.

17 A. We did.

18 Q. Any other acts of harassment?

19 A. Yes. Shortly after we moved in, we
20 received -- let me back up --

21 Q. Back in '99?

22 A. Let me try and word it more succinctly.

23 Back to the June 15, 2007 meeting, at
24 that meeting, Robert Mundy agreed to resume the
25 weed abatement in the ten-foot strip and directed

1 Mike Dobry to do so. Yet at the 2010 meeting, he
2 said they just did it as a courtesy. It was the
3 same person giving two different stories.

4 Q. Any other action of harassment by the
5 board against you and your wife?

6 A. This one -- well, I think it's an issue
7 and my wife walks throughout Wood Ranch
8 continuously. She walks -- when she was healthy,
9 she was walking eight miles a day. Now she's down
10 to much less than that.

11 On a couple of occasions when she walked
12 in front of Lot 383, which is across the street
13 from ours -- it's an open area that prior to now
14 has been overgrown with weeds but it was supposed
15 to be maintained by the HOA, and they started
16 maintaining it recently.

17 When she would walk by that area, there
18 was two or three men working in that area, one of
19 which was Don Diamond and another was Peter Neilsen
20 and the third man, we don't know. And you have to
21 understand, this only happened when I wasn't with
22 Paula. When I was with Paula, when we would see
23 Don Diamond, which was frequently, he would say
24 nothing.

25 When Paula was walking by, and this time

1 she was very sick and very weak, he would go, "Hi,
2 Paula, how you doing?" in a very jovial, personable
3 way like they were friends. And she was shocked by
4 that the first time it happened. Then it happened
5 again on another occasion and again.

6 Q. So --

7 A. She thinks he's playing some kind of
8 perverted game with her knowing she's ill and sick
9 and this is the only time he ever talked to her,
10 but he's talking to her in a way like they're old
11 friends and yet they had never spoken before.

12 Q. So talking to somebody in a manner that's
13 acting like close friends, in your mind, is an act
14 of harassment?

15 A. In the context when you've never talked
16 to the person before, when none of the other people
17 in the group are paying any attention to what
18 you're doing, I think it's perverted at least. I
19 don't know -- it's just very strange and yet then
20 later when we see him, it's like, "Hi," or just a
21 minimal mumbled "hi" when I'm with her.

22 Q. This is an act -- this one, talking to
23 Paula -- that the board is doing or something that
24 Don Diamond is doing?

25 A. It's Don Diamond, the president of the

1 board, and only Don Diamond. Peter Neilsen didn't
2 say anything.

3 Q. Any other acts of harassment by the
4 board?

5 A. We mentioned this earlier today but I
6 don't know if it's on your list.

7 The area where they accuse us of dumping
8 debris in the culvert within the Sandstone Garden
9 easement, is that on this list? I'm not sure.

10 Q. I think so.

11 A. You can say dumping debris in the culvert
12 within the Sandstone Garden easement.

13 Q. Any other acts of harassment?

14 A. There was at least one letter that said
15 remove your tractor from within view of the street.

16 Q. Why was that an act of harassment, in
17 your mind?

18 A. I don't recall ever getting a letter
19 saying remove my car from my driveway.

20 Q. Okay.

21 A. I did get one for my tractor. I'm
22 wondering why they're discriminating against
23 agricultural equipment over people's trucks. I
24 don't recall anybody ever telling me they got a
25 letter saying to remove their truck. I guess you

1 would expect to see some farm equipment on a farm
2 and not be asked to move it, like you wouldn't be
3 asked to move your car from your driveway to the
4 other side of the driveway.

5 Q. Any other acts of harassment?

6 A. Yes, and I can't think of them at the
7 moment.

8 Q. Okay. Why do you think the board is
9 harassing you?

10 A. It started right after we asked them for
11 the second time to perform their maintenance
12 obligations. They basically said no, we're not
13 going to maintain the trees. We're turning them
14 over to you.

15 And then when we didn't accept that as an
16 answer, we said, "No, we are not taking over the
17 obligation," shortly thereafter was the April 13th,
18 2011 fuel brush clearance letter -- the fuel
19 modification/brush clearance letter. The lawsuit
20 was filed April 8, 2011.

21 Q. So when did you think the harassment
22 started?

23 A. It -- that was the most overt. That's
24 where I knew it was harassment, the letter saying
25 it's come to our attention we're no longer

1 responsible for the fuel modification/brush
2 clearance even though we performed it in the past.
3 Then when I saw the e-mails from the civil
4 engineer, Tom Murphy, showing them they had the
5 fuel modification easement, he highlighted it and
6 verbally described it and many months later they
7 sent a letter that it's come to their attention.

8 So it was after -- they already knew they
9 had the obligation. They had been doing it for
10 20 years. The same man has been doing it. They
11 hired a civil engineer for boundary issues and
12 easement issues. He told them they had the fuel
13 mod/brush clearance easement and months later, they
14 sent us a letter that it's come to their attention
15 it's no longer their obligation.

16 Q. I appreciate the information but why do
17 you think the board is harassing you? I didn't
18 quite understand it. It's that you declined to
19 remove the trees; is that the reason?

20 A. No.

21 Q. What's the reason from your
22 perspective --

23 A. I don't know for sure. You have to ask
24 them.

25 Q. I'm asking you.

1 A. I think when we asked them to do their
2 job in maintenance, they resented it and wouldn't
3 do it. They tried to turn it over to us. We
4 weren't receptive to having it turned over to us.
5 We said no. Then all of a sudden, things went
6 south.

7 Things never went south like this before.
8 Why didn't I get the stop work orders before on our
9 agriculture? We had done bigger agricultural
10 things without applying. This was a small final
11 phase, less visible than the other phases. They
12 were much bigger, much more prominent.

13 Q. Any other reason you can think of why the
14 board is harassing you other than that?

15 A. It would be me speculating.

16 MR. ARSHT: Don't speculate.

17 BY MR. GORNEY:

18 Q. I don't want you to speculate.

19 A. I don't know for certain. They aren't
20 admitting why they're doing these actions. I don't
21 know.

22 Q. You said one the acts of harassment is
23 that you were invited to the May 1st, 2007 meeting
24 and you didn't get a chance --

25 A. Are you done?

1 Q. You didn't get a chance to make your
2 presentation. That was one of the things on your
3 list.

4 A. Yes.

5 Q. I'm kind of curious, and I'll mark as
6 next in order, 97, a letter from Alicia Camarillo
7 to you.

8 (EXHIBIT 97 WAS MARKED FOR
9 IDENTIFICATION AND IS ATTACHED HERETO)
10 BY MR. GORNEY:

11 Q. The second paragraph starts:

12 "Also, per your attendance at the board
13 meeting on May 1, 2007, you indicated that you
14 would be taking temporary measures to house the
15 items stored on your property," et cetera.

16 This suggests to me that you did have
17 some discussions at that meeting, or is this letter
18 wrong?

19 A. Like I explained to you earlier today, I
20 got to the meeting early and was told I couldn't
21 present. I came with an armful of photos and
22 documentation. The person I later found out to be
23 Don Diamond -- first of all, I introduced myself
24 and said why I'm there, and he said, "You're not
25 allowed to speak. You're not on the agenda."

1 I said I have this letter -- not this
2 letter, but a letter from Alicia Camarillo on
3 behalf of the board inviting me here.

4 He said, "It doesn't matter. You're not
5 on the agenda." I left before the meeting started.

6 Q. Yes.

7 A. They asked me about my tractor at that
8 point. So I discussed a little bit back and forth
9 about yeah, we may be looking at doing a barn,
10 stuff like that. We talked like that. I went
11 there and was invited to the meeting to talk about
12 the HOA's responsibilities for trees, weeds, and
13 the irrigation system. I didn't go to the meeting
14 to talk about a barn for my tractor.

15 Q. Right.

16 A. This paragraph would indicate to you I
17 did go to the meeting to discuss that. It's not
18 true.

19 Q. Well, I'm just -- bear with me.

20 A. Uh-huh.

21 Q. You were there on May 1, 2007. You asked
22 to make a presentation. You didn't get the
23 opportunity to do so, but Alicia Camarillo is
24 writing you a letter saying that you -- whether
25 it's right or not, I don't know -- that you

1 indicated that you would be taking temporary
2 measures to house the items stored on your property
3 and provide plans for a more permanent solution.

4 Did you have a conversation on that topic
5 on May 1, 2007?

6 A. Like I said before, Don Diamond said he
7 could see my tractor from his house. I said yeah,
8 okay, and then we discussed a little bit about a
9 barn. I've been thinking I never committed to
10 offer to build a barn. I'm not even sure where I
11 would put it.

12 I don't believe Alicia Camarillo was
13 there at the time. She was at the meeting. Again,
14 this was probably 15 minutes before the meeting,
15 and I can remember in detail Robert Mundy was
16 sitting there eating his dinner and talking at the
17 same time. That's why it's memorable. It's before
18 most of the people arrived for the meeting.

19 Q. I asked you, yes or no, whether you had a
20 conversation on this topic.

21 Is the answer yes?

22 A. If you ask the question did I have a
23 conversation at the meeting, the answer is no. If
24 I had a conversation before the meeting, the answer
25 is yes.

1 Q. Got it. That's all I need to know.
2 A. I want to be clear about that.
3 Q. Okay.
4 A. I wasn't at the meeting. I went to the
5 meeting. It started without me because they said I
6 can't speak --
7 Q. Got it.
8 A. -- because I'm not on the agenda. So
9 when they adjourned the meeting -- or started the
10 meeting, I wasn't there.
11 Q. Now, did you --
12 A. If --
13 MR. ARSHT: Just wait.
14 BY MR. GORNEY:
15 Q. Do you think that anyone on the board has
16 personal animus towards you?
17 A. It appeared that Robert Mundy did based
18 on my own interactions with him and what other
19 board members have said in their depositions.
20 Q. Other than Robert Mundy, do you believe
21 anybody else on the board has personal animus
22 towards you?
23 A. Don Diamond, in his appearances and
24 actions, appears to.
25 Q. What about his appearances and actions

1 other than the conversation you told me about with
2 Paula?

3 A. I was told by a neighbor in Wood Ranch
4 that a prominent realtor several years ago was at
5 that function and overheard Don Diamond saying
6 regarding the Sullivans and another estate lot
7 owner that those rich bastards think they can do
8 anything they want.

9 Q. Any other reasons for you to believe that
10 Don Diamond has personal animus towards you?

11 A. At the February 2nd, 2010 meeting where
12 he was in attendance, we went over a lot of detail
13 about the trees, maintenance. There were a lot of
14 misrepresentations made by board members. He
15 didn't utter one word of correction even though
16 he's been on the board since nearly day one.

17 Q. Anything --

18 A. He runs under those trees on a regular
19 basis. He knows exactly where they are and
20 admitted it in his depo. He didn't comment word
21 one during that meeting.

22 Q. Any --

23 A. He didn't correct the record at all.

24 Q. Why do you think Don Diamond has personal
25 animus against you?

1 A. I never knew him or met him before the
2 May 1st, 2007 meeting. Didn't know who he was. I
3 may have seen his name on the newsletters but I
4 didn't know where he lived or who he was. I don't
5 know.

6 Q. What about Robert Mundy, why do you
7 think -- what reasons do you think -- withdrawn.

8 Why do you think Robert Mundy has
9 personal animus against you?

10 A. His actions.

11 Q. That you've described already --

12 A. Some of them I've described and they're
13 in the e-mails as part of the record of these
14 depositions.

15 Q. Anything else?

16 A. Him saying things like I think he's going
17 to be trouble and saying things like he was told
18 by -- it was a very cryptic e-mail the way he
19 worded it so I'll paraphrase it. He was describing
20 what I told him about the specific plan where
21 agricultural use is encouraged and he used some of
22 those words but he misinterpreted it into thinking
23 I'm saying I want special treatment because I have
24 a big lot.

25 And if you read his e-mail, he's taking

1 my words about talking to the city and twisting it
2 into another meaning and disseminating that
3 information to the other board members.

4 Q. Do you think any other board members,
5 past or present, have any personal animus towards
6 you?

7 A. I can only base it on the deposition
8 questions of them and what other board members
9 would say about them.

10 Q. Tell me whether you think any other board
11 members other than Mundy or Diamond bear you any
12 personal animus.

13 A. Based on what other board members are
14 saying, it seems like Joe Bellomo was dead set that
15 they do the stop work order even though other
16 members felt it was ill advised.

17 Q. Do you make a distinction in your mind
18 about taking a position on a legal matter, that
19 that means he has something personal against you?

20 A. No, it's the context of it. Like I told
21 you, the board member said he was adamant about it.
22 It's not that he made the decision. It's the way
23 it was described in the deposition by another board
24 member.

25 Q. Right.

1 Do you think that's because he has
2 something against you, personally?

3 A. I don't know what else it would be to
4 take an unreasonable position against the
5 controlling documents. Why would anyone do that?
6 There's no good reason I can think of doing a lot
7 of these things. There's no honorable reason I can
8 think of doing these things. I can only think it's
9 bad reasons.

10 Q. Do you think if somebody disagrees with
11 you, that means there's personal animosity?

12 A. Not at all. You're misinterpreting what
13 I'm saying. Of course I don't. It's the context
14 of the event. When they send you a letter saying
15 it's come to our attention after 20 years, we're no
16 longer responsible and you ask them what came to
17 your attention, none of them know.

18 And when you ask their attorney in the
19 interrogatories, why did they say that, the
20 attorney answers with the weeds needed to be cut.
21 Totally off point. We're asking what came to the
22 attention. Their attorney doesn't answer the
23 question. He says the weeds needed to be cut, when
24 we asked what is it that came to your attention
25 you're no longer responsible for doing the brush

1 clearance.

2 Q. Are you saying a nonresponsive response
3 by someone means that they hate you?

4 A. No.

5 Q. They bear you personal animus?

6 A. It depends on the context. When they go
7 from a long-standing position of doing something
8 and inexplicably change that position and don't
9 have any reason to explain to you why they did
10 it -- now, they could have made a mistake and would
11 certainly say, Oh, we goofed, we misinterpreted the
12 civil engineer's report. If they say something
13 like that, fine. When they offer nothing, it's
14 obvious they're hiding something.

15 Q. My point --

16 A. You don't do something like that and hide
17 it unless you have ill will.

18 Q. So the only time -- so ill will is -- you
19 think there's ill will if you get either a
20 nonresponse or a response that you disagree with or
21 that you think is a non-reasoned position?

22 MR. ARSHT: Objection; argumentative.

23 THE WITNESS: No, that's not close to it. I
24 gave you real specific examples. It's not a
25 disagreement. It's when it's just -- read back

1 what I said. I don't want -- I don't want to waste
2 any more time on that. It's when they specifically
3 and willfully do something when they know better.

4 They've been told by a civil engineer a
5 few months before that of their obligation. They
6 knew their obligation. They had been doing it for
7 20 years. When we asked them, what came to your
8 attention to cause you to change your performing
9 your obligation, they didn't know anything.

10 Q. Did you think the association's lawyers,
11 the Adams Kessler firm, bore you any personal
12 animosity?

13 A. No.

14 Q. Suffice it to say that the letters you
15 got from the Adams Kessler firm disagreed with the
16 positions of you and your lawyer; fair statement?

17 A. Again, they were more nonresponsive than
18 disagreeable. They didn't want to even get into
19 the discussion of facts. They just ignored them.
20 Didn't address them.

21 Q. Their failure to address them, does
22 that -- did you feel the Adams Kessler lawyers were
23 ignoring the facts that you and your lawyers were
24 putting forth?

25 A. Yes.

1 Q. Because they were ignoring it and not
2 responding to it, does that mean the Adams Kessler
3 lawyers were motivated by ill will?

4 A. No. Probably motivated by laziness.

5 Q. So they were --

6 A. Not doing a good job.

7 Q. The lawyers, in your view, were lazy but
8 not of ill will; is that what you're saying?

9 A. In my view. They may have harbored ill
10 will. I don't know. They didn't even know who I
11 was. Their answers were consistently short and
12 sloppy and very -- not professional.

13 Q. By the way, speaking about the trees and
14 the trimming -- change of gears for a second -- has
15 any third party ever made a claim against you for
16 any damages resulting from trees falling or the
17 failure to trim them or something like that?

18 A. Not the trees, but there was -- since
19 you're bringing up the area of the trees, I was
20 mowing in that area one time right near the trees.
21 It might have been the adjacent strip, and my mower
22 threw a pebble into a car. The guy stopped and
23 said, "Hey, I got a scratch here."

24 And I got out of my tractor and looked at
25 it. It was a tiny little dent. I said, "Send me

1 the bill." He sent me the bill and I paid it.

2 Q. How much?

3 A. \$400, give or take.

4 Q. How many years ago?

5 A. Ten years ago, maybe.

6 Q. What area were you mowing?

7 A. The area near the trees.

8 Q. The parkway trees, we've called them?

9 A. Yes.

10 Q. This was a riding mower?

11 A. A tractor.

12 Q. Tractor?

13 A. Yes.

14 Q. A stone flew out, hit a car and it was
15 \$400 for what, glass or body?

16 A. It was on the body. Little tiny ding on
17 the body.

18 Q. Did you ever send that bill to the HOA
19 and request reimbursement?

20 A. No.

21 Q. Did you ever report it to the HOA?

22 A. No.

23 Q. Other than that episode -- withdrawn.

24 Other than that incident, have there been
25 any other claims by third parties for any kind of

1 damage, personal property damage or bodily injury
2 that was caused by the trees or the weeds or any of
3 the issues that are part of your complaint?

4 A. No.

5 Q. Do you know the name of the person who
6 you paid the \$400 to?

7 A. I don't remember.

8 Q. Estimate the date, if you will, if you
9 can, when this episode occurred.

10 A. Approximately ten years ago.

11 Q. So today is 2013. So we're talking about
12 what, 2003?

13 A. Give or take.

14 Q. I'm putting approximately 2003.

15 A. Excuse me. Well, I thought of another
16 harassment thing. I'll be thinking of them for the
17 next several hours.

18 Q. We don't have that much time today. I
19 have to get on a plane.

20 A. I mentioned to you, but not in the
21 context of your harassment list, where Robert Mundy
22 was in a veiled threat, talking about the lawsuit,
23 when he brought it up with a neighbor which there
24 was no reason to bring up the issue. It had
25 nothing to do with the issue at hand at the

1 June 2007 meeting.

2 Q. So I'm going to add that to my list of --

3 A. Threats or harassment.

4 Q. You think that was an act of harassment
5 by the board. That's why I'm putting it on the
6 list.

7 A. It's a threat, veiled.

8 Q. You consider a veiled threat an act of
9 harassment?

10 A. When you combine it in totality, yes.

11 MR. GORNEY: Off the record for a second.

12 (DISCUSSION HELD OFF THE RECORD)

13 BY MR. GORNEY:

14 Q. I may have asked you this before.

15 Did you ever attend the HOA meetings at
16 the Sycamore Canyon before you started having these
17 issues with the trees and the weeds, et cetera?

18 A. I only recall going to one meeting
19 shortly after we moved in. It was either 1999 or
20 early 2000.

21 Q. Why was that? What was the purpose of
22 your attending the meeting?

23 A. One of my neighbors invited me and wanted
24 me to go in support of one issue he was bringing
25 up.

1 Q. Was that the only reason?

2 A. Yes.

3 Q. Is there a reason why you didn't want to
4 go to any other meetings?

5 A. Not a specific reason. It just didn't
6 rank high on my agenda of things to do.

7 Q. I can't say I blame you. You had already
8 been through three years of board meetings.

9 A. Two.

10 Q. Two, rather.

11 What I'm going to do is mark as next in
12 order, which is 98, what's called "Request For
13 Resolution."

14 (EXHIBIT 98 WAS MARKED FOR
15 IDENTIFICATION AND IS ATTACHED HERETO)

16 BY MR. GORNEY:

17 Q. This is SULLIVAN3 through 5. You've seen
18 this before today, I assume?

19 A. Yes.

20 Q. I want you to -- by the way, it was
21 signed by your lawyer, but I assume you concur in
22 the contents of this document.

23 A. Let me read it, then.

24 Q. Take your time, fine.

25 A. Okay.

1 Q. So my question was, now that you've read
2 Exhibit 98, that you concur with its contents, you
3 agree with its contents?

4 A. Yes.

5 Q. Inviting your attention to the second
6 paragraph where it starts:

7 "In or about 1999, the association
8 entered into an agreement with the Sullivans,
9 quote, unquote, 'the 1999 agreement,' " et cetera.

10 Do you see that?

11 A. Yes, okay.

12 Q. By this reference to the 1999 agreement,
13 is that a reference to your conversation with Steve
14 Logan?

15 A. Yes.

16 Q. Is it anything else other than a
17 reference to your conversation with Steve Logan?

18 A. I would think not.

19 Q. Now, on the '99 agreement, it says what
20 it says and I'll go over it a little bit later.

21 In 1999, you had a meeting with Steve
22 Logan?

23 A. It says in or about 1999. We bought the
24 house in October '99, didn't move in till November
25 of '99. So in '99 or the following year we had a

1 discussion with Steve Logan. Not date specific.
2 Shortly after we moved in.

3 Q. Regardless, in the lawsuit -- I'm not
4 going to dance around, obviously, because Steve has
5 been deposed and I read the file. You had a
6 meeting or a conversation with Steve Logan at your
7 property; correct?

8 A. Yes.

9 Q. That is the agreement where the -- that's
10 the meeting that came to be known as the 1999
11 agreement?

12 A. Yes.

13 Q. Who asked for the meeting?

14 A. Steve Logan.

15 Q. Did he call you on the phone, e-mail you,
16 knock on your door?

17 A. I don't recall.

18 Q. How long did the meeting take?

19 A. Probably half an hour, give or take.

20 Q. Fair enough. I'm going to put an
21 approximate sign on my notes.

22 Was anybody else present?

23 A. No.

24 Q. Did you take any notes of this meeting?

25 A. I don't recall.

1 Q. Did Mr. Logan take any notes?

2 A. I don't recall.

3 Q. To your knowledge, was the meeting
4 recorded in any fashion?

5 A. Not to my knowledge.

6 Q. I'm not -- don't interpret this question
7 as an accusation, but some people carry personal
8 tape-recorders and record conversations even though
9 it may not be legal.

10 Did you have such a recording?

11 A. No.

12 Q. Did you know the subject of the meeting
13 before Steve Logan showed up?

14 A. I don't recall if I was briefed before he
15 showed up. I don't recall.

16 Q. Is it your recollection that you knew
17 what was going to be discussed or you learned the
18 topic of the discussion when he showed up?

19 A. I don't know. I don't even know if it
20 was a phone call or a knock on the door. I don't
21 recall.

22 Q. He shows up, and had you met him before?

23 A. No.

24 Q. He introduced himself as what?

25 A. The head of the landscape committee and

1 the vice president of the board.

2 Q. What did he tell you -- what did he say?

3 A. He asked our permission if they could
4 plant additional parkway trees along Martha
5 Morrison.

6 Q. Did he tell you why?

7 A. Yes. He said he wanted to fill in where
8 they had either died or never been planted. He
9 wanted to add more trees to the row of trees.

10 Q. Did you immediately say yes or did you
11 discuss it?

12 A. We discussed it.

13 Q. Tell me what you remember of the
14 discussion.

15 A. We discussed moving the irrigation
16 system, which was the HOA irrigation system so it
17 was close to the fence. Because the way it was,
18 during our meeting in early 2000 or late '99, it
19 was meandering along the maintenance road and so we
20 asked that it be moved, which they did.

21 And I also asked that the new trees be
22 planted as close as possible to the split rail
23 fence to, again, keep them from impeding the road.

24 Q. What did he --

25 A. He agreed to.

1 Q. What did he say?

2 A. He said yes. Then he explained they
3 would maintain the weeds -- he said a ten-foot
4 strip. It's not exactly ten feet; it's variable
5 but at the time he used ten-foot strip, and he was
6 planting the new trees, maintaining the weeds,
7 irrigating them, and moving the irrigation system
8 off of the road.

9 Q. And --

10 A. And saying -- he said they had been
11 maintaining and irrigating them, and of course,
12 they would continue. And he called them his HOA
13 parkway trees, which was a foreign term to me at
14 the time because it didn't seem like a parkway.

15 Q. Was there any other part of the
16 discussion you remember?

17 A. Not that I remember.

18 Q. Was there any discussion about this
19 having to go to the board for approval?

20 A. I don't remember. He said he was there
21 on behalf of the board. I mean, he introduced
22 himself and he said he wanted to know if the board
23 could plant more trees. He was the emissary of the
24 board. He didn't come there as Steve Logan. He
25 came there as Steve Logan, VP board, head of

1 landscape committee. He made that clear.

2 Q. Did he say he was there on behalf of the
3 board or did he say that the board had a request?

4 A. I don't recall the exact verbatim from
5 13 years ago. He was there on behalf of the board.
6 I don't know how he expressed that to me but he
7 did.

8 Q. Bear with me. You were there, I wasn't
9 so I've got to ask. I'm going to ask you if you
10 remember the exact words that he used when he
11 introduced himself.

12 A. Definitely not. I don't have a clue what
13 the exact words were.

14 Q. Did he tell you that he was authorized by
15 the board to agree to something or that he was
16 going to take information back to the board or
17 something else? You tell me.

18 A. He was there on behalf of the board. I
19 couldn't tell you if he was pre-authorized or was
20 going to get post-meeting authorization.

21 Q. That wasn't my question.

22 A. It sounded like it was.

23 Q. I'm asking you if he said -- let me ask
24 you again.

25 Did Steve Logan tell you he was there

1 authorized by the board to enter into agreements as
2 opposed to he was there to make inquiries on behalf
3 of the board?

4 A. The former, that he was authorized. It
5 was like, we can do this if you give us permission.
6 It wasn't like I have to go back -- I have to get
7 your permission, then I'll get the board's
8 permission. It was the one and only meeting.
9 There was going to be no follow-up meeting. And if
10 it was the latter where he needed the board's
11 permission, I would have assumed he would have
12 gotten back to me and said, okay, the board gave
13 permission.

14 He already had the permission of the
15 board was what he conveyed to me. I was done at
16 that meeting. It was a done deal. There was no
17 follow-up from me.

18 Q. Now, do you remember anything else about
19 that meeting?

20 A. No.

21 Q. Did you ever ask -- withdrawn.

22 You didn't take notes.

23 Did you write any confirming e-mails to
24 Steve Logan?

25 A. No.

1 Q. Did you exchange e-mail addresses or
2 telephone numbers?

3 A. I don't ever recall sending or receiving
4 an e-mail to Steve Logan. Phone numbers, maybe,
5 but I don't remember. I may have figured I'll get
6 them through the Emmons Company. I got his name.

7 Q. Did you ever receive any written
8 confirmation from anyone about this 1999 agreement?

9 A. No.

10 Q. Did you ever ask for any written
11 confirmation?

12 A. No.

13 Q. Did you ever ask the Emmons Company
14 before the issue came up -- did you ever ask the
15 Emmons Company to confirm in writing that this 1999
16 agreement was, in fact, an agreement?

17 A. I didn't ask the Emmons Company to
18 confirm it in writing, however, my previous
19 reference to the 2006 weed clearance letter, I
20 asked Alicia Camarillo to check with someone there
21 because we had an agreement with the board that
22 they would do it. And she got back to us and said,
23 "Sorry, you're right, there is an agreement." So I
24 didn't ask for it in writing.

25 Q. Which agreement, the 1999 agreement?

1 A. I referenced the Steve Logan 1996
2 agreement in my 2006 discussion with Alicia
3 Camarillo because she had sent us a letter saying
4 we have to do the weed clearance around the parkway
5 trees.

6 So I called her back and said, "I have an
7 agreement that I made with Steve Logan many years
8 ago and he said the board was and will continue to
9 maintain that strip," and she checked.

10 She goes, "Let me check on that. I'm new
11 here." And she checked and called back and
12 apologized and said, "Ignore it. We'll do the
13 weeds."

14 Q. What letter are you referring to?

15 A. A letter in 2006 from Alicia Camarillo on
16 behalf of the board telling us to remove weeds
17 along the parkway tree strip.

18 Q. Now that I understand it, because I
19 misunderstood it, she sent you that letter, you
20 called her, you said I have this agreement with
21 Steve Logan, she said I'm new here, let me check,
22 she called you back and said we do have an
23 agreement and that's how it was left?

24 A. We have an agreement, sorry, we'll do it.
25 Meaning the board will do it.

1 Q. We'll do the weed abatement?

2 A. Correct. And they, in fact, did.

3 Q. Turning to Exhibit 98, and I'm almost
4 done for today, in your conversations with Steve
5 Logan, did he use the term "in perpetuity"?

6 A. I don't recall.

7 Q. Did Steve Logan use the term "first
8 class"?

9 A. I don't recall.

10 Q. I'm going off what's written here.

11 A. Yeah.

12 Q. This is not a mystery.

13 A. What paragraph?

14 Q. It's the second full paragraph. It's
15 discussing the 1990 agreement -- withdrawn. The
16 1999 agreement where you say first:

17 "The association agreed to continue to
18 maintain all the association trees on the property
19 in perpetuity."

20 My question is, did Mr. Logan use the
21 words "in perpetuity"?

22 A. I don't know, but I used the word
23 "perpetuity" and the context means forever so I
24 indicated that they would do it forever.

25 Q. You used the words "in perpetuity" --

1 A. I have --

2 Q. Hold on.

3 You used the words "in perpetuity" in
4 that meeting with Steve Logan in 1999?

5 A. I don't recall.

6 Q. My question is, were those words, "in
7 perpetuity," spoken during your meeting with
8 Mr. Logan?

9 A. Neither I nor Steve Logan can recall the
10 exact words. In his deposition he was clear and
11 I'm clear.

12 MR. ARSHT: Just answer for yourself.

13 THE WITNESS: In 13 years I cannot remember
14 specific words on almost any topic you would ask me
15 about.

16 BY MR. GORNEY:

17 Q. This is going to be about the only time
18 in the deposition that I want to ask if you recall
19 specific words so bear with me. Again, you were
20 there; I wasn't.

21 The words "first class condition," did
22 those words get spoken -- withdrawn.

23 Do you remember if those words got spoken
24 during your 1999 meeting with Steve Logan?

25 A. I would put that in the same context as

1 "perpetuity." We had a discussion about -- he was
2 very enthusiastic about the looks of the
3 neighborhood and did a lot of good things to
4 improve the neighborhood and was very conscious
5 about making things look good. Did he use the
6 words "first class" or "beautiful" or "very nice"?
7 I don't know, but he conveyed the thought that he
8 was serious about his job as head of the landscape
9 committee and it was real important to him to make
10 the entryway to the thousand or so homes in this
11 neighborhood look really good.

12 Q. I appreciate the information. I'll ask
13 for the third time.

14 Did he use the words, quote, "first
15 class"? Do you remember him -

16 A. If you're asking for the third time, I'll
17 answer for the third time. I don't remember the
18 specific verbiage from 13 years ago. The point
19 conveyed, he was serious and conscientious about
20 his job and wanted the neighborhood to look
21 beautiful, first class, primo, excellent, whatever
22 words you want to apply. I don't remember the
23 specific words.

24 MR. GORNEY: Move to strike everything after
25 "I don't remember" as nonresponsive.

1 MR. ARSHT: It's all responsive.

2 MR. GORNEY: I'm just making a record. Don't
3 get excited.

4 MR. ARSHT: I'm not excited at all.

5 BY MR. GORNEY:

6 Q. Before you spent the day that you told me
7 about or the better part of the day at the Emmons
8 Company reviewing the minutes -- I don't know if
9 you used the term "day," but hours --

10 A. A long time.

11 Q. Before that time, did you ever ask anyone
12 to see any minutes of either a landscape committee
13 meeting or board meeting that confirmed this 1999
14 agreement?

15 A. I don't believe so.

16 Q. The horse is pretty dead here.

17 Are you aware of any writing other than
18 deposition testimony in which this 1999 --
19 withdrawn.

20 Are you aware of any writing where the
21 board confirmed the existence of this 1999
22 agreement?

23 A. Anything in writing, you mean?

24 Q. Yes.

25 A. Steve Logan brought in an invoice, I

1 believe, that referenced it and put it in as parts
2 of our exhibits.

3 Q. Okay. Other than that?

4 A. I believe there were minutes of board
5 meetings, board and landscape meetings that
6 referenced it, yes.

7 Q. Which board and which landscape minutes?

8 A. I don't know.

9 Q. Have they been produced?

10 A. You produced them to us.

11 Q. Do they confirm the existence of the
12 agreement or simply talk about a claim that such an
13 agreement existed?

14 A. In my reading of them, which was quite a
15 while ago, they confirmed the existence of the
16 agreement.

17 Q. You have a pretty good memory so my last
18 question is, do you remember which board or
19 landscape committee meeting minutes confirmed it?

20 A. The date?

21 Q. Yes.

22 A. I don't recall the date.

23 MR. GORNEY: I promised that would be my last
24 question today. I tried to finish but I can't.

25 MR. ARSHT: Okay.

1 MR. GORNEY: Off the record for a second.

2 (DISCUSSION HELD OFF THE RECORD)

3 MR. GORNEY: Let me propose the following
4 stipulation:

5 I propose that the court reporter be
6 relieved of her obligations with respect to this
7 Volume I of the deposition of Ted Sullivan; that
8 the original be forwarded to Mr. Arsht's office,
9 who, in turn, will make it available to the witness
10 for review and signature under penalty of perjury;
11 that the original of the deposition -- that the
12 witness shall have 30 days after receipt or until
13 he takes the stand, whichever comes first, to read,
14 review and sign and make any changes, and within
15 that same time period, that my office will be
16 advised of the fact, place and date of signature
17 and of any changes; that Mr. Arsht's office will
18 agree to hold the original in good care and
19 condition and lodge it with the court or any
20 tribunal as may be required; that if the original
21 is lost or otherwise unavailable in the meaning of
22 the code, an unsigned, certified copy may be used
23 in lieu thereof for all purposes specified in the
24 code.

25 Agreed?

1 MR. ARSHT: Agreed.

2 (Ending time: 4:46 p.m.)
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DECLARATION

I hereby declare that 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.

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

Executed on the _____ day of _____, in the year _____, at _____.

W I T N E S S

1 I, Lori Raye, a Certified Shorthand Reporter
2 for the State of California, do hereby certify:

3 That prior to being examined, THEODORE
4 SULLIVAN, the witness named in the foregoing
5 deposition, was placed under oath to tell the
6 truth, the whole truth and nothing but the truth
7 pursuant to Section No. 2094 of the Code of Civil
8 Procedure;

9 That said deposition was taken before me
10 pursuant to notice, at the time and place therein
11 set forth, and was taken down by me
12 stenographically and thereafter transcribed;

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

16 In witness whereof, I have hereunto
17 subscribed my name this 14th day of May 2013.

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21 
22 LORI RAYE
23 CSR No. 7052
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