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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
DEPARTMENT C-23

PEGGY HALL, AN INDIVIDUAL;)
CHILDREN'S HEALTH)
DEFENSE-CALIFORNIA CHAPTER,)
A CALIFORNIA 501(C)(3) NON-PROFIT)
CORPORATION, ON ITS OWN AND ON)
BEHALF OF ITS MEMBERS,)
)
PETITIONER,)
)
VS.) CASE NO. 2021-01220678
)
COUNTY OF ORANGE; ORANGE COUNTY)
BOARD OF SUPERVISORS,)
)
RESPONDENT.)
_____)

THE HONORABLE DEREK HUNT, JUDGE PRESIDING
REPORTER'S TRANSCRIPT OF PROCEEDINGS
DECEMBER 1, 2022

APPEARANCES OF COUNSEL ON FOLLOWING PAGE

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I N D E X

DECEMBER 1, 2022

CHRONOLOGICAL INDEX OF WITNESSES

DIRECT CROSS REDIRECT RE CROSS

(NONE)

EXHIBITS

MARKED RECEIVED

(NONE)

1 SANTA ANA, CALIFORNIA - THURSDAY, DECEMBER 1, 2022

2 AFTERNOON SESSION

3 * * * * *

4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
5 COURT:)

6 THE COURT: ALL RIGHT. GOOD AFTERNOON. THIS IS A
7 SPECIALLY SET HEARING, AND I BROUGHT OUT THE WRONG FILE.
8 AND SO THE TENSION GROWS WHILE I GET BACK THE FILE. THE
9 CLERK IS GOING TO GET IT. THAT'S NICE.

10 ALL RIGHT. SO THEREFORE, I CAN CALL OUR
11 CASE. THIS MUCH I CAN REMEMBER, IT'S CALLED HALL AGAINST
12 ORANGE COUNTY.

13 COME FORWARD, PLEASE. TAKE PETITIONERS ON
14 THIS SIDE FIRST. RESPONDENTS ON THE OTHER SIDE.

15 OKAY. I DON'T KNOW WHETHER I HAVE ENOUGH
16 CHAIRS TO ACCOMMODATE YOU, BUT YOU CAN PULL UP CHAIRS IF
17 YOU LIKE BECAUSE WE WILL BE HERE A MINUTE OR TWO.

18 ALL RIGHT. LET'S BEGIN WITH THE
19 PETITIONERS' COUNSEL.

20 WHO'S GOING TO BE THE LEAD COUNSEL? MS.
21 PEARSON, I SUSPECT, WHOEVER THAT IS.

22 MS. BARSOTTI: GOOD AFTERNOON.

23 THE COURT: WHO ELSE DO WE HAVE?

24 MS. BARSOTTI: JESSICA BARSOTTI ON BEHALF OF
25 PETITIONERS.

26 THE COURT: MS. BARSOTTI?

1 MS. BARSOTTI: YES.

2 THE COURT: AND WE HAVE SOMEONE ELSE.

3 MS. BARNETT-ROSE: RITA BARNETT-ROSE FOR THE
4 PETITIONERS.

5 THE COURT: ROSE?

6 MS. BARNETT-ROSE: UH-HUH.

7 THE COURT: DO YOU WANT TO BE BARNETT-ROSE?

8 MS. BARNETT-ROSE: YES.

9 THE COURT: OKAY. GOING OVER TO THE OTHER SIDE.
10 WHO'S LEAD OVER HERE?

11 MR. DUNN: KEVIN DUNN WITH THE COUNTY COUNSEL'S
12 OFFICE.

13 THE COURT: MR. DUNN?

14 MR. DUNN: YES.

15 THE COURT: OKAY. WHO HAVE YOU GOT, MR. DUNN?
16 WHO'S WITH YOU?

17 MS. WATSON: KAYLA WATSON.

18 THE COURT: WATSON?

19 MS. WATSON: YES.

20 THE COURT: OKAY. AND?

21 MS. SHOAI: AND SUSAN SHOAI.

22 THE COURT: SHOAI?

23 MS. SHOAI: SHOAI, YES, ON BEHALF OF RESPONDENTS.

24 THE COURT: ALL RIGHT. NOW, I'M NOT SO SURE WE'RE
25 GOING TO BE HERE VERY LONG.

26 I'M GOING TO BEGIN BY INTRODUCING MYSELF

1 ACTUALLY BECAUSE FROM MY STANDPOINT THIS IS AN ABSOLUTELY
2 NEW CASE EVEN THOUGH IT'S OVER A YEAR OLD. HERETOFORE, IT
3 WAS IN THE VERY CAPABLE HANDS OF MY COLLEAGUE, JUDGE LEE.

4 THE CLERK: YOUR HONOR?

5 THE COURT: OKAY. NOW CAN WE HEAR?

6 MR. DUNN: YES.

7 THE COURT: OKAY. I WAS TALKING ABOUT JUDGE LEE
8 WHO HAD THE CASE BEFORE I DID, BUT APPARENTLY BACK IN
9 OCTOBER NOTICE WAS GIVEN OF AN ALLEGEDLY RELATED CASE
10 RECENTLY FILED. THAT OCCASION SOME 170.6 PAPER IS BEING
11 FILED LEAVING THIS CASE TO ME.

12 FURTHERMORE -- I'M NOT GOING TO GO THROUGH
13 THE DETAILS OF THAT. ANYWAY, THAT'S WHY YOU'RE SITTING
14 HERE IN FRONT OF ME.

15 ANYWAY, IT WAS ONLY THIS MORNING THAT I
16 LEARNED THAT I WAS NAMED AS THE JUDGE IN THIS CASE AS
17 JUDGE LEE'S RESIDUAL LEGATEE. I LEARNED IT WHEN I FOUND
18 THIS. THAT WAS THIS MORNING.

19 NOW, APPARENTLY ALL OF THIS HAPPENED IN
20 MID-NOVEMBER WHERE I WAS BLISSFULLY IN ANTARCTICA BASKING
21 ON THE BEACH, SO I ONLY LEARNED THAT THIS MORNING.

22 AND SO I'VE SPENT MOST OF THE TIME BETWEEN
23 THEN AND NOW TRYING TO SORT OF COME UP TO SPEED IN THE
24 CASE, I CONFESS. I DOUBT I'M UP TO FULL SPEED AS WE'RE
25 TALKING, BUT LET ME SUMMARIZE WHAT I THINK I KNOW SO FAR.
26 OF COURSE, A PRETTY HIGH AMOUNT OF PAPER FILED HERE, SO

1 PLEASE BE KIND.

2 ANYWAY, SO I'VE ONLY SCANNED THIS STUFF, BUT
3 THE CASE APPARENTLY GROWS OUT OF THE PANDEMIC AND THE
4 COUNTY'S WOEFUL REACTION TO IT. THE ORIGINAL PLAINTIFF,
5 SLASH, PETITIONER IS PEGGY HALL, AS I THINK I SAID
6 EARLIER. SHE SEEKS ESSENTIALLY A COURT ORDER WHICH WOULD
7 TERMINATE THE -- LET'S CALL IT THE LOCAL STATE OF
8 EMERGENCY. I FIGURED BOARD OF SUPERVISORS, I GUESS. SHE
9 SAYS THE EMERGENCY IS PERPETUAL.

10 BY THE WAY, AM I CORRECT IT APPEARS TO ME
11 FROM LOOKING AT THE PAPERS THAT MS. HALL HAS BEEN NOW
12 JOINED IN THIS LITIGATION BY ANOTHER PETITIONER ALSO
13 REPRESENTED BY THE SAME COUNSEL CALLED THE CALIFORNIA
14 CHAPTER OF CHILDREN'S HEALTH DEFENSE. IS THAT A PARTY?
15 IS THAT A SEPARATE ENTITY?

16 MS. PEARSON: YES, YOUR HONOR.

17 THE COURT: OKAY. AND HAS A SEPARATE IDENTITY?

18 MS. PEARSON: YES.

19 THE COURT: ALL RIGHT. BUT BEFORE I GET TO THE
20 MERITS, SUCH AS WE CAN, I HAD SOME INFORMATIONAL QUESTIONS
21 THAT I WANTED TO ASK ABOUT THE CASE.

22 FOR EXAMPLE, WAS THAT RELATED CASE, WHICH
23 APPARENTLY WAS FILED BEFORE JUDGE HOWARD, WAS THAT EVER
24 CONSOLIDATED WITH THIS CASE, OR ARE THEY TWO SEPARATE
25 ENTITIES?

26 MR. DUNN: NO, YOUR HONOR, THEY WEREN'T

1 CONSOLIDATED.

2 THE COURT: WAS THERE ANY REASON THAT THEY
3 SHOULDN'T BE OR SOMEBODY ASKED THEM TO BE OR SOMETHING
4 LIKE THAT? WOULD THE OUTCOME OF ONE AFFECT THE OTHER?

5 MR. DUNN: THE POSITION OF RESPONDENTS HERE IS
6 JUST SIMPLY THAT WE COMPLIED WITH OUR OBLIGATIONS,
7 PROVIDED NOTICE --

8 THE COURT: WELL, THAT'S AMAZING. YOU'RE
9 COMPLYING WITH YOUR OBLIGATIONS OF NOTIFYING JUDGES OF A
10 RELATED CASE. HOW REFRESHING. YOU'D BE SURPRISED HOW FEW
11 LAWYERS DO THAT REALLY. WE USUALLY FIND OUT ON THE EVE OF
12 TRIAL IF THERE'S ANOTHER CASE LURKING.

13 MR. DUNN: SO IT'S NOT AN ADVOCACY DOCUMENT. WE
14 DON'T TAKE A POSITION WITH RESPECT TO ANYTHING --

15 THE COURT: OKAY. ALL RIGHT. THAT CUTS DOWN ON
16 THE AMOUNT OF PAPERS THAT I'LL HAVE TO REVIEW.

17 BACK IN SEPTEMBER JUDGE LEE ISSUED A MERE
18 17-PAGE, SINGLE-SPACED MINUTE ORDER SETTING A RECORD IN MY
19 EXPERIENCE BY THE WAY. FROM READING IT, IT APPEARS
20 THAT -- AT LEAST IT APPEARS TO ME THAT WHAT HE DID --
21 AMONG THE THINGS THAT HE DID HE SAID RESOLVED THE DEMURRER
22 IN FAVOR OF THE PETITIONER HALL ON QUESTIONS OF STANDING
23 OF -- THE EXHAUSTION ADMINISTRATION REMEDIES AND
24 SEPARATION OF POWERS.

25 AM I CORRECT ABOUT THAT?

26 MR. DUNN: YES, YOUR HONOR.

1 THE COURT: NODDING HEADS. WE HAVE A COURT
2 REPORTER. YOU MIGHT WANT TO NOD IN HER DIRECTION.

3 ALL RIGHT. SO THAT IS SORT OF ANCIENT
4 HISTORY THEN. SO THEREFORE, AM I CORRECT THAT THE REASON
5 WE'RE HERE TODAY IS TO CONSIDER THE BALANCE OF WHAT JUDGE
6 LEE WROTE REGARDING THE PROPRIETY OF MANDATED ALTERNATIVE
7 MANDATE?

8 ONE NODDING HEAD, TWO. OKAY.

9 MS. PEARSON: YES.

10 THE COURT: ALL RIGHT. BY THE WAY, THERE'S ALSO
11 THE SECOND PART OF JUDGE LEE'S ORDER, THE NINE-PAGE PART
12 AS OPPOSED TO THE FIRST NINE-PAGE PART, WHICH SEEMS, I
13 THINK, AS I READ AND GLANCED AT IT, SEEMS TO HAVE
14 SOLICITED BRIEFS FOR TODAY'S HEARING.

15 NOW DIDN'T ORDER BRIEFS. SO IT SEEMS TO SAY
16 TAKE YOUR CHANCES AND GET IT IN. NOW, I DIDN'T LOCATE ANY
17 BRIEFS IN THE PAPERS THAT I LOOKED AT. WHAT I DID FIND
18 WAS -- BECAUSE WE'VE GOT A CMC TODAY, TOO, IS THE CMC
19 ADVANCED BY EACH SIDE, WHICH IS FINE, EXCEPT EACH CMC WAS
20 ONLY A BRIEF TWO SENTENCES OR SO IDENTIFYING THE STATUTES
21 WHICH ARE REALLY THE VITAL PART OF OUR ARGUMENT.

22 SO LET ME NAIL THIS DOWN. AM I CORRECT THAT
23 THERE WERE NO ADDITIONAL BRIEFS SUBMITTED?

24 MS. BARSOTTI: NO, THAT'S NOT CORRECT.

25 THE COURT: I'M NOT CORRECT.

26 MS. PEARSON: CORRECT, YOU'RE NOT CORRECT. YOU'RE

1 INCORRECT.

2 THE COURT: I'M INCORRECT. WELL, THAT'S A
3 NOVELTY.

4 WHEN DID THOSE BRIEFS COME IN? NOW, LET ME
5 EXPLAIN. I HAVE A COMPUTER, AND THE COURT HAS A COMPUTER.
6 THEY'RE BOTH OFFICIAL, BUT THE COURT'S COMPUTER IS MUCH
7 BETTER THAN THE JUDGE'S COMPUTER. I USE THE JUDGE'S
8 COMPUTER. MINE IS CALLED ELF. THEIRS IS CALLED --

9 THE CLERK: VOYAGER.

10 THE COURT: VOYAGER.

11 VOYAGER APPARENTLY SHOWS SOMETHING THAT I
12 DIDN'T SEE ON THE ELF THIS MORNING.

13 THE CLERK: IT'S HARDER TO FIND ON THE ELF.

14 THE COURT: BY THE WAY, THE DOCKET IN THIS CASE IS
15 HUGE, SO I WAS DOING MY BEST TO GO THROUGH IT TRYING TO
16 GET THE CHRONOLOGY DOWN, BUT OBVIOUSLY I MISSED THE
17 BRIEFS. SO THIS IS A SETBACK FOR ALL OF US. OF COURSE IF
18 THE BRIEFS WERE LONG, I PROBABLY WOULDN'T HAVE BEEN ABLE
19 TO DIGEST THEM ANYWAY.

20 SO NEXT, JUDGE LEE'S MINUTE ORDER. ALSO, HE
21 ISSUED AN ORDER TO SHOW CAUSE FOR TODAY ON THIS QUESTION
22 OF THE ALTERNATIVE WRIT OF MANDATE. AND BY THE WAY, HE
23 SAID THE COURT ORDERS AN ALTERNATIVE WRIT OF MANDATE.

24 HAS ANYBODY WRITTEN A DRAFT PROPOSAL OF WHAT
25 THIS COURT SHOULD DO, OR ARE YOU GOING TO LEAVE IT TO ME
26 AND JUDGE LEE TO FIGURE OUT HOW TO WRITE WHAT IT IS THAT

1 YOU GUYS WANT?

2 MR. DUNN: I DON'T THINK EITHER SIDE HAS PRESENTED
3 A PROPOSAL ON THAT SUBJECT.

4 THE COURT: OKAY. NEVER A BAD IDEA, THOUGH, TO
5 WRITE DOWN WHAT YOU THINK YOU WANT. IN FACT, MY NEXT
6 QUESTION IS WHAT DO YOU THINK YOU WANT SINCE YOU'RE NOT
7 GOING TO BE ABLE TO ANSWER IN DETAIL, I THINK I'M GOING TO
8 NEED WHAT YOU THINK YOU WANT.

9 MS. PEARSON: YOUR HONOR, IF I MAY. NICOLE
10 PEARSON ON BEHALF OF THE PETITIONERS.

11 I BELIEVE THAT WE SUBMITTED ONE WITH
12 APPLICATION FOR ALTERNATIVE WRIT, BUT WE DID --

13 THE COURT: I JUST WANT YOU TO KNOW THE WRIT
14 ITSELF HAS TO SAY THIS IS WHAT IS ORDERED BY THE COURT,
15 THIS OR THAT.

16 MS. PEARSON: AND WE REQUESTED THREE THINGS WITH
17 THAT.

18 THE COURT: I'M SURE. BUT IF THERE'S A DOCUMENT
19 THAT SAYS PROPOSED WRIT OF MANDATE, THAT'S FINE, BUT I
20 DIDN'T SEE IT.

21 MS. PEARSON: OKAY.

22 THE COURT: OKAY. AND BY THE WAY, IT'S NOT THAT I
23 DON'T DO MY OWN DRAFTING. I ACTUALLY DO. I APPRECIATE
24 PEOPLE HANDING SUGGESTIONS TO ME, BUT I LOVE MYSELF WHEN I
25 WOULD DO MY OWN WRITING.

26 ALL RIGHT. SO HERE'S A QUESTION FOR ALL OF

1 YOU. WHAT IS IT YOU EXPECT TO HAPPEN TODAY?

2 START WITH MS. PEARSON.

3 MS. PEARSON: WE EXPECT TODAY IS AN ORDER TO SHOW
4 CAUSE HEARING. IT'S NOT A HEARING ON THE WRIT, BUT AN
5 ORDER TO SHOW CAUSE HEARING AND WHAT JUDGE LEE ORDERED
6 RESPONDENTS TO DO WAS EITHER TO CONDUCT THE PUBLIC -- THE
7 STATUTORILY MANDATED PUBLIC REVIEW HEARINGS OF LOCAL
8 CONDITIONS.

9 THE COURT: NO. BUT TODAY YOU WANTED ME TO TAKE
10 ORAL ARGUMENT ON THAT SUBJECT MATTER.

11 MS. PEARSON: WE WANTED YOUR HONOR TO --

12 THE COURT: AND THEN ISSUE IT IN YOUR FAVOR.

13 MS. PEARSON: YES, OF COURSE. AND THEY HAD TWO
14 OPTIONS; EITHER TO LEAVE THAT COURTROOM ON SEPTEMBER 22ND
15 AND CONDUCT THE STATUTORILY MANDATED PUBLIC REVIEW
16 HEARINGS OF LOCAL CONDITIONS.

17 THE COURT: ALL RIGHT. SO BASICALLY YOU WANT ME
18 TO TELL HIM TO GO HAVE YOUR HEARING.

19 MS. PEARSON: WELL, HE ALREADY DID THAT. AND WHEN
20 HE ORDERED THEM TO DO THAT ON SEPTEMBER 22ND, THEY SAID
21 THAT THEY HAD ACTUALLY BEEN CONDUCTING THE HEARINGS AT
22 WHICH POINT -- AND EXCUSE ME, TETHERED TO THAT FIRST PRONG
23 WAS PLEASE SUBMIT A FIVE-PAGE STATUS REPORT FIVE DAYS
24 BEFORE THE HEARING AND TELL ME WHICH HEARINGS HAVE
25 OCCURRED SINCE SEPTEMBER 22ND.

26 THE COURT: THAT'S SOMEWHERE IN THE COURT'S

1 COMPUTER.

2 MS. PEARSON: NO, THAT WAS NOT SUBMITTED. AND
3 WHEN HE ORDERED THEM TO DO THAT ON SEPTEMBER 22ND, THAT'S
4 WHEN COUNSEL SAID ACTUALLY WE HAVE BEEN CONDUCTING THE
5 STATUTORILY-MANDATED REVIEWS, AND WE WOULD LIKE THE
6 OPPORTUNITY TO PRESENT EVIDENCE OF THAT IN WHICH CASE
7 JUDGE LEE AMENDED THE TENTATIVE, WHICH HE ACCEPTED AS
8 FINAL. HE PREPARED AND LODGED WITH THE COURT A MINUTE
9 ORDER AND SAID OR IN THE ALTERNATIVE RESPONDENTS MAY
10 SUBMIT A 15-PAGE BRIEF WITH EVIDENCE SHOWING DEMONSTRATING
11 THAT THEY HAVE BEEN SATISFYING THEIR STATUTORY
12 OBLIGATIONS, AND THEY HAVE BEEN CONDUCTING THE
13 STATUTORILY-MANDATED PUBLIC REVIEW HEARINGS OF LOCAL
14 CONDITIONS AS THEY RELATE TO PUBLIC -- TO COVID-19, EXCUSE
15 ME.

16 SO TODAY WAS AN OPPORTUNITY THAT WAS --
17 THOSE WERE DUE -- THEIR BRIEF WAS DUE ON NOVEMBER 14TH
18 WITH EVIDENCE. OUR REPLY WAS DUE NOVEMBER 21ST. WE
19 SUBMITTED --

20 THE COURT: AND THEY BOTH CAME IN.

21 MS. PEARSON: AND THEY BOTH CAME IN. AND SO TODAY
22 WE WERE HOPING THAT YOUR HONOR WOULD REVIEW THE EVIDENCE
23 THAT THEY SUBMITTED OR ACTUALLY NOT REVIEWED BECAUSE WE
24 DID FILE 51 PAGES OF OBJECTIONS TO WHAT WE BELIEVE IS A
25 RELEVANT AND ADMISSIBLE HEARSAY.

26 THE COURT: HOW CAN I RULE UPON YOUR OBJECTIONS

1 WITHOUT READING WHAT THEY HAVE PUT BEFORE ME? I CAN'T. I
2 HAVE TO REVIEW THAT.

3 MS. PEARSON: OF COURSE NOT. SO THAT'S WHAT WE
4 WERE EXPECTING TODAY TO ANSWER YOUR QUESTION.

5 THE COURT: YOU'RE NOT GOING TO GET THAT.

6 MS. PEARSON: I UNDERSTAND.

7 THE COURT: WHAT DO YOU THINK WAS SUPPOSED TO
8 HAPPEN TODAY?

9 MR. DUNN: AT THE OUTSET WE AGREE WITH PETITIONERS
10 THAT TODAY WE ANTICIPATED THE COURT HAVING REVIEWED THE
11 BRIEFS.

12 THE COURT: YOU KNEW YOU GOT A NEW JUDGE A COUPLE
13 WEEKS AGO --

14 MR. DUNN: RIGHT. WE ALSO UNDERSTOOD, YOU KNOW,
15 NOT ONLY DID THIS COURT GET THE REFERRAL OF THIS CASE
16 RELATIVELY LATE IN THE GAME BUT THEN, AS YOU POINTED OUT,
17 THERE WAS SOME 170.6 ISSUES THAT CAUSED THE CASE TO GO TO
18 JUDGE VU SO YOU GOT THE CASE EVEN LATER WITH RESPECT TO
19 THE MERITS.

20 THE COURT: NOT THAT IT WOULD HAVE MATTERED.
21 TODAY IS THE DAY THAT I CAME BACK AND HAD A CUP OF COFFEE.

22 MR. DUNN: WE AGREE THAT TODAY WOULD HAVE BEEN
23 ORAL ARGUMENTS ON THE BRIEFING THAT WAS SUBMITTED. WE
24 DISAGREE STRONGLY WITH THE CHARACTERIZATION OF THE ORDER.

25 THE COURT: OF COURSE. THAT MUCH I KNOW.

26 MR. DUNN: THAT CAME FROM JUDGE LEE.

1 THE COURT: I DIDN'T JUST FALL OFF THE TURNIP
2 TRUCK.

3 MR. DUNN: NO, THAT'S NOT THE MERITS WE'RE JUST
4 REFERRING TO. SO THE POSITION THAT'S BEING PUT FORWARD BY
5 PETITIONERS IS THAT SOMEHOW WHEN A COURT ISSUES AN
6 ALTERNATIVE WRIT, THAT'S A FINDING ON THE MERITS ON SOME
7 FASHION. IT IS NOT. THE LAW THAT APPLIES TO THAT IS
8 SOLELY IT SETS A HEARING FOR ORDER TO SHOW CAUSE. JUDGE
9 LEE'S ORDERS SPEAK FOR THEMSELVES. AS YOU POINTED OUT,
10 IT'S THE 17-PAGE RULING. I HAVE HIGHLIGHTED SECTIONS BUT
11 IT'S NOT WORTH PROBABLY GOING OVER AT THIS MOMENT.

12 BUT AT THE END OF THE DAY, THERE'S NO LAW OF
13 THE CASE THAT'S APPLICABLE TO WRIT PETITIONS IN THESE
14 CIRCUMSTANCES. IT IS EFFECTIVELY A DE NOVO HEARING ONCE
15 WE GET HERE.

16 THE COURT: ALL RIGHT. NOW, I'VE GOT TO PLAY
17 ANOTHER WILD CARD. THIS IS HOT OFF THE PRESSES. I'M
18 RETIRING. I'M RETIRING AT THE END OF THE MONTH. YOU'RE
19 GETTING ANOTHER JUDGE. I DIDN'T HAVE ANYTHING TO DO WITH
20 IT.

21 AND BY THE WAY, I ENJOY CASES LIKE THIS.
22 THEY'RE A LOT OF FUN AND REALLY ROLL UP MY SLEEVES AND GET
23 INTO THEM. BUT IF WE WERE TO HAVE THIS HEARING BEFORE I
24 RETIRED, WHATEVER I DID WOULD JUST END UP IN THE HANDS OF
25 ANOTHER JUDGE, AND YOU'D RATHER HAVE THE GUY WHO'S GOING
26 TO BE BABYSITTING THE CASE TO ITS CONCLUSION.

1 SO IT SEEMS TO ME THAT THE BEST I CAN DO IS
2 SET A HEARING, LET'S SAY, IN JANUARY TO DO ALL THESE
3 THINGS THAT YOU'RE LOOKING FORWARD TO, BUT I CAN'T APPOINT
4 MY PREDECESSOR. THAT'S UP TO THE PRESIDING JUDGE, AND
5 THAT WILL BE DONE IN THE FULLNESS OF TIME. I ASSUME IT
6 WILL BE DONE BEFORE THE END OF THE MONTH, BUT I CAN'T SAY
7 WHO IT WILL BE AND WHEN IT WILL BE DONE.

8 SO THIS WILL COME AS A DISAPPOINTMENT TO
9 YOU. I'VE DONE ALL THIS WORK, AND I DON'T KNOW THAT I CAN
10 GO FORWARD ON IT.

11 SO LET'S GO BACK TO MR. DUNN. DO YOU THINK
12 I'M DOING THE RIGHT THING? WHAT DO YOU SUGGEST?

13 MR. DUNN: YOUR HONOR, FIRST OFF, CONGRATULATIONS
14 ON YOUR RETIREMENT. YOU KNOW, THE CIRCUMSTANCES ARE WHAT
15 THEY ARE. I DON'T KNOW THAT -- I MEAN, IF YOU'RE RETIRING
16 WITHIN 30 DAYS BASICALLY, EVEN IF YOU TOOK THIS UNDER
17 SUBMISSION, THAT SEEMS LIKE THE RECORD HERE IS QUITE
18 SUBSTANTIAL.

19 THE COURT: AS A PRACTICAL MATTER, I DON'T MIND
20 TELLING YOU, THAT I GOT ELECTED A COUPLE MONTHS AGO. ON
21 JANUARY 3RD I GET TO TAKE THE OATH OF OFFICE AGAIN. I'M
22 STILL GOING TO BE A JUDGE NEXT JANUARY. ON THE OTHER
23 HAND, WE GET VACATION TIME. WE GET ONE-MONTH VACATION
24 EVERY YEAR PLUS MANY YEARS AGO BACK IN THE 25 YEARS THAT
25 I'VE BEEN ON THE BENCH, YOU COULD BANK YOUR VACATION TIME,
26 SO ESSENTIALLY I'M GOING TO BE A JUDGE PROBABLY UNTIL THE

1 END OF MAY. I'M PROBABLY NOT GOING TO BE HERE. I'LL
2 PROBABLY BE ELSEWHERE. BUT IF SOMETHING WERE TO HAPPEN, I
3 COULD ACTUALLY COME BACK IN AND PLAY JUDGE IN A PINCH, BUT
4 I DON'T THINK THAT'S PROBABLY A GOOD IDEA. I'M CLEARLY
5 TELLING THE PJ THAT, BUT I'LL TELL YOU THAT I DON'T THINK
6 IT DOES ANY GOOD FOR YOU GUYS.

7 I REALLY HAVE TO APOLOGIZE. I ONLY LEARNED
8 ABOUT THIS THIS MORNING. IF I HAD LEARNED ABOUT IT BACK
9 IN NOVEMBER, WE MIGHT HAVE BEEN ABLE TO MAKE SOME
10 ARRANGEMENTS, BUT WHAT GOOD WAS IT GOING TO DO TO CALL YOU
11 UP THIS MORNING AND GO THROUGH IT.

12 LET ME GO TO MS. PEARSON. DO YOU HAVE ANY
13 THOUGHTS ABOUT HOW I SHOULD PROCEED OTHER THAN THE OUTCOME
14 OF YOUR CASE?

15 MS. PEARSON: WELL, OBVIOUSLY WE WOULD LIKE THE
16 HEARING TO PROCEED TODAY, BUT IF YOU HAVEN'T CONSIDERED --
17 EVEN SEEN THE BRIEFS OR --

18 THE COURT: HAVEN'T SEEN THE EVIDENCE.

19 MS. PEARSON: THERE'S NOTHING FOR YOU TO CONSIDER
20 OR US TO EVEN ARGUE.

21 THE COURT: WELL, LET ME ASK YOU THIS. IS THERE
22 SOMETHING HANGING -- I MEAN IF IT'S LIKE AN INJUNCTION
23 CASE WHERE SOMETHING IS GOING TO HAPPEN IN THE NEXT 24
24 HOURS, THEN I CAN REACT TO THAT, BUT I TAKE IT THIS IS NOT
25 THAT KIND OF A SITUATION. SO THAT'S WHY I'M ASKING IS
26 JANUARY OKAY.

1 MR. DUNN: WE WILL ACCEPT THE COURT'S DATES.

2 THE COURT: I MEAN, FRANKLY, UNDER THE
3 CIRCUMSTANCES, EVEN IF I WASN'T RETIRING, I THINK I
4 PROBABLY WOULD HAVE TO PUT YOU IN JANUARY FOR THE HEARING.
5 PROBABLY NOT LOSING MUCH. OKAY.

6 MS. BARSOTTI: WE CERTAINLY WOULD APPRECIATE IT
7 BEING EARLIER THAN THAT, BUT GIVEN THE CIRCUMSTANCES.

8 THE COURT: I JUST DON'T SEE HOW IT WOULD BE FAIR
9 EVEN TO MY PREDECESSOR -- TO MY SUCCESSOR. SO I'M
10 PROBABLY -- I'M INTO LATE JANUARY.

11 MYRA?

12 THE CLERK: YES.

13 THE COURT: THE ENGLISH COURTS HAVE A DRESSER IN
14 HERE, A PERSON. I DON'T HAVE A DRESSER. I'VE GOT MYRA.

15 YOU SEE NOW THE NEXT PROBLEM IS A MINOR
16 PROBLEM BUT WHOEVER THE NEXT JUDGE IS WILL HAVE HIS OWN OR
17 HER OWN LAW AND MOTION CALENDAR. I DO MY LAW AND MOTION
18 CALENDAR FRIDAY AT 1:30. I CAN SET IT FOR THAT TIME WHICH
19 IS PROBABLY THE BEST THING TO DO BECAUSE THAT WAY THEY CAN
20 OFFICIALLY CHANGE IT, BUT IT MAY NOT BE ON FRIDAY AT 1:30.

21 MR. DUNN.

22 MR. DUNN: JUST A LOGISTICS INQUIRY. WOULD IT
23 STILL BE IN C23 DO YOU ANTICIPATE?

24 THE COURT: I DON'T ANTICIPATE THAT. IT'S
25 UNLIKELY THAT IT WOULD HAPPEN. WE DON'T LIKE TO MOVE
26 CHAMBERS IF WE CAN AVOID IT.

1 I SEE QUESTIONS ON THE FACES OF MAYBE
2 MS. BARSOTTI.

3 MS. BARSOTTI: WE WERE JUST DISCUSSING THE FACT
4 THAT THE NOTICE OF RELATED CASE, HAS THAT BEEN RESOLVED?
5 YOU DON'T KNOW; IS THAT CORRECT?

6 THE COURT: NO, THAT'S NOT A RESOLUTION. IT'S NOT
7 A MOTION. IT'S JUST HEADS UP. IT'S FILM AT 11. JUST
8 KEEP IN MIND, JUDGE, THERE'S ANOTHER CASE THAT'S GOING ON
9 AND PERMITS ME TO ASK QUESTIONS OF THE CHARACTER THAT I
10 JUST ASKED AND PERMIT JUDGE HOWARD TO DO THE SAME.

11 MS. BARSOTTI: OKAY.

12 THE COURT: AND BY THE WAY, JUDGES DO HAVE THE
13 POWER TO SAY, LOOK, LET'S HAVE A HEARING ON WHETHER OR NOT
14 IT SHOULD BE CONSOLIDATED AND, BY THE WAY, WHAT KIND OF
15 CONSOLIDATION IT COULD BE. CONSOLIDATIONS CAN COME IN A
16 NUMBER OF FLAVORS. JUST DISCOVERY CONSOLIDATION FOR
17 EXAMPLE. I DON'T KNOW WHETHER WE'VE EVER CONSOLIDATED A
18 WRIT CASE BEFORE, BUT I CAN'T SEE ANY REASON WHY IT
19 COULDN'T HAPPEN.

20 BUT YOU KNOW, THINK IT THROUGH, BUT THAT'S A
21 LAWYER'S JOB IS TO THINK THAT ONE THROUGH.

22 MS. BARSOTTI: WELL, JUST BRIEFLY. BEING RELATED
23 IS DIFFERENT THAN BEING CONSOLIDATED.

24 THE COURT: OH, YES. ABSOLUTELY. THOSE ARE TWO
25 ENTIRELY DIFFERENT -- BY THE WAY, THERE'S ANOTHER WORD OUT
26 THERE, TOO, YOU'VE PROBABLY HEARD, COORDINATED.

1 MS. BARSOTTI: RIGHT.

2 THE COURT: THERE'S CASES IN OTHER COUNTIES THAT
3 REQUIRES THE CHIEF TO GET INVOLVED AND GETS VERY
4 COMPLICATED.

5 MS. BARSOTTI: WELL, SO MY QUESTION WAS IF --
6 BECAUSE IT'S MY UNDERSTANDING WITH THE NOTICE OF RELATED
7 CASE IF THEY'RE DEEMED TO BE RELATED, THEN THEY WOULD BE
8 BROUGHT INTO THE SAME COURTROOM.

9 THE COURT: THEY'RE NOT NECESSARILY PUT ON THE
10 SAME JUDGE'S DESK.

11 MS. BARSOTTI: OKAY. ALL RIGHT.

12 THE COURT: THEY CAN STAY APART.

13 MS. BARSOTTI: UNDERSTOOD.

14 THE COURT: YOU'RE RIGHT. YOU CAN JUST SIMPLY
15 TRANSFER THE CASE SO YOU KEEP YOUR EYE ON BOTH -- THE
16 THREE OF THEM AT THE SAME TIME, BUT I'M NOT DOING THAT. I
17 MEAN, IT MAY BE MY SUCCESSOR WILL RAISE THAT QUESTION
18 AGAIN, BUT I WON'T DO THAT TO YOU RIGHT NOW.

19 MS. BARSOTTI: RIGHT. AND IT'S NEVER GOING TO GO
20 BACK TO JUDGE LEE. IT'S GOING TO BE A WHOLE NEW JUDGE.

21 THE COURT: NO, YOU LOST JUDGE LEE. THAT'S HOW IT
22 WORKS.

23 MS. PEARSON: WELL, WE'RE JUST CONCERNED WITH THAT
24 ISSUE -- THAT ISSUE PENDING. RIGHT NOW WE BELIEVE THAT WE
25 WERE IMPROPERLY KICKED FROM JUDGE LEE'S OFFICE WITH THIS
26 BELATED NOTICE OF RELATED CASES AND THEN WE WERE MOVED TO

1 VU AND THEN BACK TO YOU AND THEN NOW WE'RE GOING TO GET
2 MOVED AGAIN SO OUR CONCERN, AND I'M NOT SURE IF YOUR HONOR
3 IS AWARE, WE DID MOVE AND ASK FOR AN EX PARTE
4 DETERMINATION ON THE NOTICE -- ON THE RELATION OF THE
5 CASES BECAUSE --

6 THE COURT: I'M AWARE OF THAT AND IT IS TRUE WHAT
7 YOU ARE ANTEGRATING IS REALLY IN YOUR HANDS. YOU NEVER
8 GET ANYTHING OUT OF A COURT UNLESS YOU ASK.

9 MS. PEARSON: WE HAVE ASKED.

10 THE COURT: SO YOU HAVE TO ASK. LET'S HAVE A
11 HEARING ON WHETHER OR NOT THAT CHALLENGE WAS GOOD OR BAD
12 OR SOMETHING LIKE THAT, AND THAT'S NOT ON MY DESK TODAY,
13 SO I WOULDN'T RULE ON THAT. AND FRANKLY, I DON'T KNOW
14 WHETHER JUDGE LEE OR JUDGE VU WOULD RULE ON IT OR THE PJ
15 OR WHO.

16 MS. PEARSON: RIGHT. WHICH IS THE PROBLEM. WE'RE
17 IN A LITTLE BIT OF A LIMBO.

18 SO IS YOUR HONOR SAYING THAT UNTIL THE END
19 OF THE MONTH -- ARE YOU CORRECT THE END OF THE MONTH IS
20 WHEN YOU --

21 THE COURT: THE CASE IS MINE UNTIL THE END OF THE
22 MONTH. SO EX PARTES AND THINGS LIKE THAT WILL COME BACK
23 TO ME.

24 NOW, IF THAT HAPPENS, THAT MIGHT BE THE
25 OCCASION FOR ME TO KNOCK ON THE DOOR OF THE PJ AND SAY,
26 LOOK, THESE PEOPLE NEED A JUDGE NOW. THAT WOULDN'T BE

1 WELCOME, BUT IT COULD HAPPEN. AND I SAY IF YOU DON'T ASK,
2 YOU DON'T GET.

3 MS. PEARSON: OUR CONCERN IS WE -- IT'S BEEN
4 ALMOST THREE YEARS OF THIS.

5 THE COURT: I KNOW.

6 MS. PEARSON: AND SO THERE IS -- THERE ARE
7 SIGNIFICANT HARMS THAT HAVE BEEN OCCURRING NOT ONLY TO OUR
8 CLIENTS BUT MILLIONS, SO WE WOULD LIKE A RESOLUTION AS
9 QUICKLY AS POSSIBLE.

10 THE COURT: SURE. YOU GOT THE RIGHT GUIDANCE.

11 MS. PEARSON: WE ARE VERY WELL AWARE OF THAT, YOUR
12 HONOR.

13 THE COURT: ANYTHING ELSE FROM ANY OF YOU?

14 ALL RIGHT. I THANK YOU FOR COMING. I
15 APOLOGIZE ONCE AGAIN AND STAY TUNED WE'LL SEE WHAT
16 DEVELOPS IN THE FUTURE.

17 (ALL SAY THANK YOU.)

18 THE COURT: THANK YOU FOR COMING, LADIES AND
19 GENTLEMEN. WE'RE IN RECESS.

20 (PROCEEDINGS CONCLUDED AT 2:02 PM.)
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22
23
24
25
26

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, LISA A. AUGUSTINE, RPR, CSR #10419, OFFICIAL
COURT REPORTER PRO TEMPORE IN AND FOR THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE, DO HEREBY
CERTIFY THAT THE FOREGOING TRANSCRIPT, IS A TRUE AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES, AND IS A FULL,
TRUE AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID
CAUSE.

DATED: DECEMBER 6, 2022

Lisa Augustine

LISA A. AUGUSTINE, CSR #10419

OFFICIAL COURT REPORTER PRO TEMPORE