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UNITED STATES DISTRICT COURT	
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION	
LA ALLIANCE FOR HUMAN RIGHTS, et al.,	) Case No. LA CV 20-02291-DOC- (KESx)
Plaintiffs,	)
vs.	) Los Angeles, California
CITY OF LOS ANGELES, et al.,	) Monday, August 28, 2023
Defendants.	) (8:55 a.m. to 12:12 p.m.)

TRANSCRIPT OF STATUS CONFERENCE MOTION  
TO INTERVENE BY MOVANT PAUL BORING [608]  
BEFORE THE HONORABLE DAVID O. CARTER  
UNITED STATES DISTRICT JUDGE

Appearances:	See next page.
Court Reporter:	Recorded; CourtSmart
Courtroom Deputy:	Karlen Dubon
Transcribed by:	Jordan Keilty Echo Reporting, Inc. 9711 Cactus Street, Suite B Lakeside, California 92040 (858) 453-7590

Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

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1 Los Angeles, California; Monday, August 28, 2023 8:55 a.m.

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3 (Call to Order)

4 THE COURT: And, Mr. Yagman, also you're here on  
5 the motion to intervene. Why don't you come up and be  
6 seated, probably down at this end. With the opposition  
7 that's been filed, you probably want to separate yourself a  
8 little bit from the parties.

9 All right. So, Counsel, let's begin with your  
10 appearances.

11 MS. HASHMALL: Good morning. Mira Hashmall for  
12 the County of Los Angeles.

13 THE COURT: Good morning.

14 MS. MITCHELL: Good morning, your Honor.  
15 Elizabeth Mitchell, Matthew Umhofer, and Cara Arnold, on  
16 behalf of the Plaintiffs.

17 THE COURT: Pleasure. Pleasure.

18 MS. MYERS: Good morning, your Honor. Shayla  
19 Myers on behalf of the Intervenors.

20 THE COURT: Pleasure.

21 Mr. Yagman? Just have a seat. Pretend it's  
22 State Court for a moment. Sit down. Pull your chair  
23 closer. Take the microphone in your hand, and move it  
24 towards you. Now, now we can hear you.

25 MR. YAGMAN: Good morning, your Honor. Stephen

1 Yagman for the proposed Intervenor Paul Boring, et al.

2 THE COURT: I received this motion for  
3 intervention concerning Mr. Yagman, and I choose at the  
4 present time not to take that motion at the beginning of our  
5 discussion between LA Alliance, the Intervenor, and the  
6 County.

7 Mr. Yagman, I want you to closely listen, see if  
8 you still want to bring this motion or not, but I'm going to  
9 delay that to later today. Okay. Now, you may after this  
10 discussion decide you really don't want to bring the motion  
11 to the Court. I have no idea what I'm going to do, but much  
12 of what I do depends upon what I'm about to hear today.

13 All right. I'm going to listen to anything that  
14 any of you want to bring up before I say anything. So,  
15 counsel on behalf of the County or LA Alliance, and then  
16 I've got a number of things to talk to you about, but I want  
17 to pay you the courtesy and reverse this and have you speak  
18 to the Court.

19 There are a number of complaints, your documents,  
20 et cetera. So, on either side.

21 MS. MITCHELL: Your Honor, there are a couple of  
22 things pending. We can talk about discovery. We can talk  
23 about --

24 THE COURT: We're going to.

25 MS. MITCHELL: -- there is also a stipulation.

1 THE COURT: We're going to talk about discovery.  
2 We're going to talk about stipulations. We're going to talk  
3 about Docket 600 and settlement. We're going to talk about  
4 nine people being deposed. We're going to talk about all of  
5 those things today. I'm just giving you the latitude  
6 throughout the day to discuss anything you want to first.

7 MS. MITCHELL: There's -- unless my co-counsel has  
8 something, I -- I have nothing. I think we're happy with  
9 where the papers are at, and we can answer questions if the  
10 Court has them.

11 THE COURT: Okay. On behalf of the County.

12 MS. HASHMALL: Thank you, your Honor. The parties  
13 have been working diligently on a very accelerated time  
14 frame, and the reason that we submitted the stipulation is  
15 because we do think that we would all benefit for a little  
16 -- with a little bit more time.

17 THE COURT: Sure.

18 MS. HASHMALL: It's two-pronged. The parties are  
19 re-engaging in settlement discussions and at the same time  
20 working through really a mountain of discovery issues,  
21 depositions, documents, and it's -- it's been diligently  
22 progressing.

23 THE COURT: Okay.

24 MS. HASHMALL: But I think we all agree that more  
25 time would be necessary and appropriate to get a case like

1 this ready for trial.

2 THE COURT: Okay. Fair enough. Thank you.

3 Ms. Myers, anything that you'd like?

4 MS. MYERS: No. I mean, the only thing that I  
5 would echo is that given the importance of these issues,  
6 allowing the parties sufficient time to develop the record  
7 seems critical, especially given what I imagine the space  
8 that these -- the airing of these issues will take up and  
9 the public conversation in Los Angeles.

10 THE COURT: There'd been a complaint in the past  
11 that you haven't been involved. Are you able to be involved  
12 in these discussions?

13 MS. MYERS: We certainly have been involved in the  
14 discovery process, your Honor.

15 THE COURT: All right.

16 (Pause.)

17 THE COURT: Do you have access to the docket? In  
18 other words, if I say Docket 600, can you pull that docket  
19 up? Because you're going to need it today. If I say 603,  
20 can you pull that docket up? If I say 613 or 614, can you  
21 pull those dockets up?

22 MS. MITCHELL: I believe so, your Honor.

23 THE COURT: I want to make sure because it's going  
24 to be very important to you that you have access to what I'm  
25 about to take you throughout. And, if not, I'll get MIS up

1 here. I'll help you with that. I'll take a recess, but  
2 you're going to need to follow these dockets and trace them.

3 And, Mr. Yagman, you're going to need to make some  
4 notes.

5 MS. MITCHELL: Your Honor, there is an Internet  
6 access issue with the Court's Internet. I'm not able to  
7 connect. I'm trying to --

8 THE COURT: We'll get MIS up there for you then.  
9 Okay.

10 Are you okay? Are you on Internet?

11 MS. MYERS: No, your Honor. I also am unable to  
12 connect to the Internet.

13 THE COURT: Somebody's coming to your aid right  
14 now. Okay. I'll take a recess for just a moment.

15 (Proceedings recessed briefly.)

16 THE COURT: -- wanted to pay him the courtesy of  
17 being heard, but he's got separate litigation in front of  
18 the Court right now.

19 Ms. Myers, LA Alliance, the County, previously the  
20 City, who settled, I was concerned when I took this case  
21 that -- that one of the benefits that the City had at least  
22 was that it kept the case from fragmenting because in the  
23 past -- and you were involved in the discussions, Ms.  
24 Mitchell, Mr. -- I'm not sure, Counsel on behalf of the  
25 County, that you were involved.

1           One of the things and efforts was to hope to  
2 decrease the litigation between the various entities that  
3 wanted to sue, including Venice and something or other.  
4 There were just a multitude of lawsuits ballooning. And, as  
5 such, I was worried that we wouldn't have any centralization  
6 where Ms. Myers, County, City, LA Alliance, you could come  
7 to one place, that you would continue just to fragment  
8 across the board.

9           Mr. Yagman's position is that -- and he's been  
10 told in his lawsuit that LA Alliance and your case has first  
11 priority to me, that if other lawsuits came into it from  
12 Venice homeowners, et cetera, that were before the Court,  
13 which the Court put off, it took away the ability for all of  
14 you to resolve on behalf of the City, eventually which you  
15 did, but potentially the County in the future because you  
16 have all of these little strings. And one of the things  
17 that we've been able successfully to do in another county  
18 was we literally flattened the litigation to almost zero.  
19 We started working for settlements, and you can go to Brook  
20 Weitzman and ask because I'm on her speed dial at 11:00  
21 o'clock at night. I kid you not. She's a terrific  
22 advocate. But we resolved an awful lot of things just  
23 informally that's been to the benefit of her client.

24           And the one thing I'd say to -- to all of you is  
25 that, regardless of the litigation, when you get into this



1 involving homeless people, first of all, you don't know in  
2 the future that your client even exists. They're moving.  
3 It's hard, Ms. Myers, for you to keep track of some of the  
4 folks. Some of the folks it's not, but one of the things  
5 that Ms. Weitzman and Tom Sobol were able to do was to  
6 center that litigation, and I -- I think it's worked very  
7 well, but you'd have to talk to them and see how that's  
8 working for them. They may disagree, but -- the second  
9 thing is we decreased the number of lawsuits significantly,  
10 but behind the scenes, we probably settled through good  
11 faith efforts over City's a -- minimally 8 to 10 lawsuits,  
12 minimally, which would have been significant.

13           Now, it may be that one or more of the parties  
14 enjoyed the litigation -- and I'm just joking, but I'm not  
15 -- and fragmented with multiple lawsuits coming in. But I  
16 think if we could keep that centralized with LA Alliance as  
17 the leader, because you're the first out of the box, and  
18 you've expanded from Skid Row in the Business District now  
19 to city wide and county wide. Mr. Yagman's been told that,  
20 and that's why you've seen his papers, that he's now moved  
21 to intervene. And my guess is is he's made a very wise  
22 tactical decision to try to intervene at this point.

23           I don't know what I'm going to do about that, but  
24 a lot of this depends upon what you folks are about to tell  
25 me today.

1           Second, if this is just a request to have these  
2 discovery disputes not resolved, then I've got a different  
3 viewpoint about trial dates. In other words, if I'm just  
4 dealing with these same concerns that you've raised in  
5 February, I have no interest in working with you in that  
6 regard. But if you're making some meaningful progress, you  
7 need to share that with me today.

8           For instance, you have nine depositions supposedly  
9 taking place in September. I'm going to ask you about them  
10 in just a moment. That's why I want you to have these  
11 docket numbers.

12           So, is this up and running from MIS? Do you guys  
13 -- do you have -- do you have access yet?

14           MS. MYERS: No, your Honor.

15           THE COURT: Well, I promise you we'll get it  
16 because you can't follow what I'm about to say unless you  
17 have it.

18           The third thing is the document 600 that you don't  
19 have yet -- so, I'll come down and start so we don't waste  
20 time.

21           (Pause.)

22           THE COURT: Okay. This is Document 600, and it's  
23 the stipulation that you've reached regarding discovery, and  
24 on page one -- actually, page three of four, in paragraph  
25 four, you state that the moving party will submit joint

1 statement to the Court via email, and the clerk will file it  
2 on the docket because the part -- because the parties cannot  
3 file a motion without selecting a hearing date.

4 I'm going to change that. I want to make certain  
5 that what you're filing is not something that we're missing  
6 if Karlen's out, for instance. So, from now on, you'll file  
7 it on the docket. That will save me filing it on the  
8 docket, because I've been trying to keep up with your  
9 filings, and I hope that I've caught up, and if I haven't,  
10 tell me. Okay.

11 All right. Docket 603 -- there's a concern that I  
12 want you to raise today because there's been a concern about  
13 this discovery and whether the Court was to examine 1  
14 through 3, 4, and 6. And, yet, the way that this was  
15 presented to me was a holistic discovery dispute that I  
16 believe covered every one of the 21 different areas you  
17 submitted to me.

18 I'm not inclined to change my rulings, but I am  
19 inclined to listen to you today. But in this document, on  
20 page three, Plaintiff LA Alliance For Human Rights and  
21 Defendant County of Los Angeles hereby submit this joint  
22 statement regarding discovery dispute, and then you go on to  
23 list 21 of those. And, yet, in the preamble, the County was  
24 asking for 1 through 3, 4, and 6. And I want you to make a  
25 record about your concern -- there seems to be a concern

1 about apex. The Court doesn't get to the apex issues until  
2 it's exhausted good faith discovery between the two of you.  
3 But I do expect that that's going to be in front of the  
4 Court at some point. And if I grant that, I want to make  
5 certain we pick the trial date so that we're not needlessly  
6 running in a member of the Board of Supervisors.

7 Docket 604 is the Court's discovery order. On  
8 August 7th, in Docket 606, at page two -- when the Court  
9 read this -- the parties have multiple discovery disputes  
10 pending, which have either been the subject of a court order  
11 or about which the parties are meeting and conferring.

12 I -- I agree. There must be a number of disputes.  
13 But what I'm not going to have is this simply delayed in  
14 abeyance for two or three months and then we go through this  
15 again if I do grant this continuance.

16 Number three, I had no idea what was about to  
17 happen. So, I literally cleared my calendar in November.  
18 Let me repeat that. I moved a lot of civil and criminal  
19 cases based upon not my dates. These are dates I adopted at  
20 your request. I'm willing to do that again, but that's  
21 quite a task when I take civil matters or I advance criminal  
22 matters where the parties are angling by a couple of weeks.  
23 That's quite a project on our part. So, if we pick a future  
24 date, that's the day it's going, and I need to make certain  
25 where we are with discovery.

1 All right. Okay. Document 609 -- Karlen, how are  
2 we doing downstairs with connecting these folks?

3 THE CLERK: He just updated me that they're  
4 working on it. They're resetting it.

5 THE COURT: Okay. Well, tell him to -- I want you  
6 to go to 609, and I'm going to take a recess so you can  
7 catch up. I think your factual rendition is absolutely  
8 correct.

9 I'm going to be bluntly asking, Ms. Myers, if you  
10 represent the Intervenor in this matter and you're signing  
11 off at a request for 300 bed spaces and acquiescing to this,  
12 thinking this litigation is a waste, I'm perplexed by it,  
13 and I'm going to tell you that bluntly on the record.

14 You represent the homeless. And, because the  
15 Court refused that, at least we moved to 1,000, which is  
16 totally inadequate. How do you as an Intervenor justify  
17 being willing to settle for 300 bed spaces? And I'm going  
18 to come back. I've got a number of questions, okay. I know  
19 you think that the litigation is a waste of time, but I'm  
20 really concerned. I'm going to leave you on this case.  
21 Don't worry about that. But 300 bed spaces? At least the  
22 County, in good faith, believes that they've tripled that to  
23 1,000. You know that I feel that's completely inadequate.  
24 I think all of you know the magic place that the Court might  
25 be willing to get involved in.

1 But, if you're intervening, we're certainly not at  
2 300, and we're certainly not at 1,000. So, there's going to  
3 be conflict. So, as you look to LA Alliance, the question's  
4 going to be can you two work together for the benefit of the  
5 homeless.

6 All right. Now, I'm going to go to some pages  
7 here.

8 (Pause.)

9 THE COURT: Ms. Hashmall, I agree with you. On  
10 page five of eight, I think you've accurately quoted:

11 "Whereas May 9th" --

12 This is Document 609.

13 "At the May 9th, 2023 hearing, the  
14 Court indicated that it was flexible  
15 about the trial schedule and that a  
16 trial date in 2024 might be the best  
17 date."

18 I agree with you. One -- one reason was when we  
19 looked at November 6, we've got Thanksgiving. So, we get --  
20 I have no idea whether you're going to be with us two weeks  
21 or two months. You've got Thanksgiving in there. You've  
22 got the Jewish and Christian holidays in there. I've never  
23 been able to hold a jury between Christmas and New Year's.  
24 And over Thanksgiving, everybody wants to get away. So, I  
25 always adopted this date thinking -- all right. Document

1 609, page four, line 25.

2 "Whereas there are currently more  
3 than nine fact witness depositions, six  
4 of whom are in dispute" --

5 Now, what's that telling the Court? That's  
6 telling me that you've got major problems that I'm not aware  
7 of that I'm just delaying until January. I want to hear who  
8 those nine witnesses are and which six are in dispute.

9 (Pause.)

10 THE COURT: Okay. Who are the nine?

11 MS. HASHMALL: Your Honor, I've asked my  
12 colleague, Lauren Brody, to come in.

13 THE COURT: It's nice -- it's a pleasure to see  
14 you. Okay. Who are the nine?

15 MS. MITCHELL: So, there are three names --

16 THE COURT: No, no. I want names now.

17 MS. MITCHELL: Okay. Harry Tashdjian.

18 THE COURT: Who? Just a moment.

19 MS. MITCHELL: Harry.

20 THE COURT: H-A-R-R-Y?

21 MS. MITCHELL: T-A-S-H --

22 THE COURT: C-A-S-H --

23 MS. MITCHELL: T as in Tom --

24 THE COURT: Okay.

25 MS. MITCHELL: A-S-H.

1 THE COURT: S-H. Thank you.

2 MS. MITCHELL: D-J-I-A-N.

3 THE COURT: D-J --

4 MS. MITCHELL: Tashdjian, D-J-I-A-N. I believe  
5 it's an Armenian name.

6 THE COURT: Could be Georgian. Just came back  
7 from Batumi, Georgia. Could be Georgian.

8 All right. Who is he?

9 MS. MITCHELL: He's one of the named Plaintiffs,  
10 your Honor.

11 THE COURT: Hmm?

12 MS. MITCHELL: He's a named Plaintiff.

13 THE COURT: Okay.

14 MS. MITCHELL: He is not in dispute.

15 THE COURT: Has he been deposed?

16 MS. MITCHELL: Not yet.

17 THE COURT: Do you want him deposed?

18 MS. HASHMALL: Yes, your Honor.

19 THE COURT: Okay. When is the date for deposition  
20 going to take place? I'm just joking with you, but I'm not.  
21 My guess is -- and I'm going to embarrass you. You probably  
22 don't have a date for deposition right now. No, that's  
23 fine. I'm not going to press you on that, but you can see  
24 what I'm thinking. It just all gets kicked over to January,  
25 et cetera, and then another request for continuance. No.



1 Who's your second witness -- or who's your second  
2 deposition?

3 MS. MITCHELL: Joe -- Joseph Burk, B-U-R-K.

4 THE COURT: I don't have -- who's that?

5 MS. MITCHELL: He is a named Plaintiff. He's also  
6 not in dispute.

7 THE COURT: Has he been deposed -- strike that.  
8 Has he been deposed?

9 MS. MITCHELL: He has not yet been deposed.

10 THE COURT: Do you have a date?

11 MS. MITCHELL: No.

12 THE COURT: Third?

13 MS. MITCHELL: Wenzial Jarrell.

14 THE COURT: W-A-Y-N?

15 MS. MITCHELL: W-E-N --

16 THE COURT: W-E-N --

17 MS. MITCHELL: -- Z-I-A-L.

18 THE COURT: -- Z-I-A-L.

19 MS. MITCHELL: Last name Jarrell, J-A-R-R-E-L-L.

20 THE COURT: Excellent. Thank you. Named  
21 Plaintiff?

22 MS. MITCHELL: Yes.

23 THE COURT: Deposed yet?

24 MS. MITCHELL: Not yet.

25 THE COURT: Date set yet?

1 MS. MITCHELL: Not yet, your Honor.

2 THE COURT: All right. Well, let me stop with  
3 those three. Is there any difficulty in deposing these  
4 three, any disputes between the two of you?

5 MS. MITCHELL: No, your Honor.

6 THE COURT: Okay. Fourth?

7 MS. MITCHELL: Jamie Paige.

8 THE COURT: J-A-M-I-E?

9 MS. MITCHELL: Yes. Last name P-A-I-G-E.

10 THE COURT: -- U-E (sic). Thank you. And who's  
11 that?

12 MS. MITCHELL: She is a former member of the Board  
13 of Directors of LA Alliance.

14 THE COURT: Board of Directors of who?

15 MS. MITCHELL: LA Alliance.

16 THE COURT: Okay. And I'm going to assume no  
17 deposition date yet?

18 MS. MITCHELL: No deposition date, your Honor.

19 THE COURT: Okay. Any disagreement about this  
20 person being deposed?

21 MS. MITCHELL: Yes.

22 THE COURT: What's the difficulty?

23 MS. MITCHELL: Yes, your Honor.

24 THE COURT: Okay. What's the difficulty?

25 MS. MITCHELL: The County is far beyond their 10

1 deposition limit at this point. We have not agreed to go  
2 beyond the 10 deposition limit.

3 THE COURT: Okay. Now, just a moment. Then we  
4 need to raise that today if you have a request to go beyond  
5 10 depositions. Fair enough? Okay. Ten deposition limit.

6 Who's your fifth?

7 MS. MITCHELL: John Steier, S-T-E-I-E-R.

8 THE COURT: All right. And who's that?

9 MS. MITCHELL: He's the Chair of the Board of  
10 Super -- he's the Chair of the Board of Directors of LA  
11 Alliance.

12 THE COURT: Okay. And the difficulty, beyond the  
13 10?

14 MS. MITCHELL: Yes, your Honor.

15 THE COURT: Okay. Beyond the 10.

16 Number six?

17 MS. MITCHELL: Daniel Conway.

18 THE COURT: I know who that is from your past.

19 MS. MITCHELL: Yes, your Honor.

20 THE COURT: Okay. Okay.

21 MS. MITCHELL: Paul Webster.

22 THE COURT: And, for the record, who's Paul  
23 Webster?

24 MS. MITCHELL: Paul Webster is he Executive  
25 Director of LA Alliance.

1 THE COURT: Okay. Got it. Who else?

2 MS. MITCHELL: Howard Rubinroit, R-U-B-I-N-R-O-I-  
3 T.

4 THE COURT: Okay. And who, help me.

5 MS. MITCHELL: Rubinroit, oh, he's a former member  
6 of the Board of Directors of LA Alliance.

7 THE COURT: Okay.

8 MS. MITCHELL: And then the final one is Larry  
9 Rauch.

10 THE COURT: And help me with the spelling.

11 MS. MITCHELL: I think it's R-A-U-C-H. I don't  
12 have it off the top of my head.

13 THE COURT: That's close enough. And first name  
14 Larry?

15 MS. MITCHELL: Larry.

16 THE COURT: Who is that?

17 MS. MITCHELL: I don't -- well, he's a former  
18 member of LA Alliance.

19 THE COURT: Former. Okay. I'm just going to  
20 assume that those deposition times haven't been set yet.

21 MS. MITCHELL: That's right, your Honor. And, in  
22 addition to going beyond the 10k, it's also redundant and  
23 unnecessary.

24 THE COURT: Okay. So, that's one of the disputes  
25 then?

1 MS. MITCHELL: Yes.

2 THE COURT: Now, just a moment. Eight FRCB  
3 30(b)(6) witnesses, who are they?

4 MS. MITCHELL: If I could have a moment, your  
5 Honor?

6 (Pause.)

7 MS. MITCHELL: Oh, is there an additional one?  
8 Did I miss --

9 UNIDENTIFIED SPEAKER: Karyn Pinsky. I can't  
10 remember if she's a named Plaintiff or a representative  
11 member.

12 THE COURT: Just help me with the spelling.

13 UNIDENTIFIED SPEAKER: K-A-R-Y-N P-I-N-S-K-Y.

14 THE COURT: And what's -- I've got the Karyn.  
15 Slowly for the last one again.

16 UNIDENTIFIED SPEAKER: P-I-N-S-K-Y.

17 THE COURT: S-K-Y, Tinsky?

18 UNIDENTIFIED SPEAKER: Pinsky.

19 THE COURT: Pinsky, P, okay. Thank you. All  
20 right.

21 All right. Let's go to the eight. You'll find  
22 this in Document 9. It's going to be on the five of eight,  
23 be labeled at page four, though, in line 26. Who are the  
24 eight?

25 MS. MITCHELL: Your Honor, before we go to the

1 30(b)(6) witnesses, there are additional depositions, and  
2 that goes to the apex witness issue.

3 THE COURT: Oh. Okay.

4 MS. MITCHELL: That -- that we intend to notice,  
5 but there is a standing objection.

6 THE COURT: No, I'm going to get to all that.  
7 Trust me. I've spent days with your record.

8 MS. MITCHELL: Okay.

9 THE COURT: Okay. Trust me. I can delay the  
10 30(b)(6) for a moment. Okay. All right. So, I'll put this  
11 document off to the side other than, for the first time, on  
12 August 17th, on page five -- and pardon the yellow  
13 underlining. It's mine -- on page five, line 14:

14 "Whereas the settling parties have  
15 also resumed settlement negotiations and  
16 are in discussions about a further  
17 addendum to the settlement agreement,  
18 including discussions about potentially  
19 appointing a monitor for the settlement  
20 agreement."

21 When that was filed, Judge Birotte had no notice  
22 of any settlement. Michelle Martinez had no notice of any  
23 settlement negotiations. Judge Birotte's available if you  
24 need him. We've talked. He did inform me that LA Alliance  
25 had reached out to him. That was the substance of our

1 conversation, but that was five days ago.

2           If you need more time and it's meaningful at the  
3 end of the day, I'm inclined to grant that. But if it's not  
4 meaningful, I need to know that because we're just back in  
5 the same position, whether I have an Intervenor or not, and  
6 additional, et cetera, if we're going to litigation I'm not  
7 sure.

8           All right. Docket 612 -- Karlen, how are they  
9 doing down there?

10           THE CLERK: No update yet. I'll check, Judge.

11           THE COURT: It's not your responsibility, but  
12 thank you. Okay.

13           All right. This is where I've got grave concerns  
14 about the representations each of you are making to me, and  
15 I'm getting from one side that everything's proceeding  
16 smoothly and from the other side it's not proceeding  
17 smoothly at all, and I'm going to set my record and then  
18 have you respond because somebody's, quite frankly, not  
19 being candid.

20           Document 612, page three, which is page three of  
21 four:

22                   "The parties exchanged search terms  
23 and custodians on August 11th and again  
24 on August 13 in an effort to narrow and  
25 clarify Plaintiffs' RFPs and hopefully

1 eliminate the concerns underlying the  
2 County's objections and motion. The  
3 County is currently working conducting  
4 the searches and returning hit items for  
5 the revised search terms and custodians  
6 the parties have been discussing."

7 All right. Document 613, County's statement to  
8 the Court:

9 "First, the request that this Court  
10 amend and limit the scope of the order  
11 for RFPs 4 and 6, the only RFPs that  
12 were before the Court."

13 I disagree that those were the only RFPs before  
14 the Court.

15 "Second, the Court agreed with the  
16 County and denied Plaintiffs' motion as  
17 to three of the five disputed RFPs."  
18 Correct.

19 "However, the order went far beyond  
20 the dispute presented in the RFPs 1  
21 through 4 and 6."

22 So, I want you to make your record today so you  
23 have a good record.

24 "The RFPs were not before the  
25 Court. The County was never given an



1 opportunity to be heard on any of its  
2 objections to these RFPs."

3 The concern is with HIPAA. That's why I ordered  
4 you to meet and confer. Anybody knows that HIPAA is  
5 protected, and that's what you were to sort out, which was  
6 why you were supposed to have a meet and confer, and that's  
7 obvious.

8 There's a discovery disproportionate, but that's  
9 why you were to meet and confer concerning the search terms  
10 and try to narrow that before each of you did, before I got  
11 a special master involved or started charging money to do  
12 that for you. I was giving you that opportunity to save  
13 some money. If you can't do it, I will. That will be  
14 Daniel Gary, by the way. He's in New York.

15 Page eight, paragraph 28, lines 27, which is  
16 document -- or page 15 of 141. Document is 613 on the  
17 Court's calendar. It reads:

18 "The County is already negotiating  
19 a list of search terms and custodians  
20 with counsel for Alliance regarding the  
21 request."

22 A tremendous amount of what the Court's decisions  
23 are going to be based upon today is asking you where you  
24 stand with those requests and how quickly that's moving and  
25 if you've narrowed your search terms or you're going to be

1 ordered to meet and confer and come back at 3:00 o'clock or  
2 9:00 o'clock tonight.

3 All right. Now, here we get into Document 614.  
4 This is LA Alliance's opposition to response by the County.

5 "Plaintiffs have specifically and  
6 repeatedly represented that no personal  
7 or individual health information of any  
8 parties, third parties is being sought."

9 I would think that that's an easy thing to work  
10 out between the two of you. Obviously HIPAA applies.

11 Line 13:

12 "Plaintiffs notified Defendant  
13 County of their intention to seek  
14 communications from the Board of  
15 Supervisors and certain department heads  
16 to which the County indicated its  
17 intention to object and refused to  
18 provide such communications."

19 I want to hear more about that because all of a  
20 sudden, folks, we're going to get very very transparent now  
21 on behalf of the public. Unless there is something going on  
22 between the two of you, transparency now is going to be the  
23 rule of the day. But, obviously, not with exceptions like  
24 HIPAA.

25 Page three of six, Document 614, line one:

1 "However, it has since become clear  
2 the County has withheld all  
3 communications, not just those of the  
4 supervisors. Moreover, the objection in  
5 support of the County's refusal to  
6 provide 'any' communications are  
7 identical to the ones made in support of  
8 the County's refusal to produce  
9 supervisor and senior staff  
10 communication, and Defendants offer no  
11 further argument in support of the  
12 position that they have not previously  
13 articulated. After the orders, the  
14 parties met and conferred on August  
15 9th."

16 Now, that's not in the prior filing that I read.  
17 I read August 11th.

18 "Regarding both the RFPs on which  
19 the parties were ordered to meet and  
20 confer, Plaintiff suggested limiting  
21 factors to narrow the scope of the  
22 request, but the County declined to  
23 adopt any of the limiting factors or  
24 suggest any alternative limitations that  
25 would be acceptable."

1 Now, that's where my antenna's going up. If I've  
2 got these kinds of disputes, why am I granting a continuance  
3 to go through these again in January, other than maybe it's  
4 just a better trial date? Maybe it just makes more sense.  
5 So, today I want to find out where you're at.

6 Line 21:

7 "The County has not yet provided a  
8 hit list on any proposed search terms  
9 despite being sent over a week ago."

10 Now, wait a minute. This document was filed on  
11 August 21st, but I've got an earlier document telling me  
12 that everybody's working well on these search terms from the  
13 County. Which is it? Not now. You're going to have a lot  
14 of questions to respond to. Why am I getting two different  
15 variations?

16 Page four of six, Document 614, page four, line  
17 22:

18 "Every single factor weighs in  
19 favor of disclosure."

20 Now, I can go over these with you, but I'll  
21 telegraph it for you. The importance of the issues cannot  
22 be overstated. For goodness sakes, losing six homeless  
23 people dead a day, I can't overstate the travesty.

24 "Two, the amount in controversy  
25 involves billions of dollars, over \$20

1 billion."

2 Where is the accountability?

3 "Three, the County's in sole  
4 possession of this information."

5 It appears so, unless the State has it. I'm  
6 wondering why you haven't reached out to Newsom, but we'll  
7 keep it at this level to begin with.

8 The County's budget for 2020 is \$43 billion. It  
9 cannot claim poverty. Well, the City's about 11.8, by the  
10 way, just so you know.

11 And the summary is:

12 "Whatever undue burden Plaintiffs'  
13 RFPs places on these officials  
14 necessarily pale in comparison to the  
15 undue burden of more medical,  
16 psychiatric, or substance abuse  
17 disorders that the chronically homeless  
18 bear."

19 The problem is I don't have a gauge yet of the  
20 depth of information. And, so, I don't know if February is  
21 even a reasonable date or if a later date's even  
22 appropriate, and that's what I need to find out, because I  
23 won't move this case again if I -- if I continue it now.  
24 So, be very certain when you meet and confer what our dates  
25 are going to be if I move this. And I'm not representing I

1 am yet.

2 All right. The last page, page six, line 10:

3 "And to the extent Defendant needs  
4 additional assurance or needs to amend  
5 the existing protective order to include  
6 reference to and compliance with  
7 additional laws, of course, Plaintiffs  
8 are willing to do so."

9 This is something I expected you to work out in  
10 good faith. Anybody can do this. And if I have to put a  
11 special master in charge, I will. I don't want to.

12 "The Defendant cannot hide behind  
13 laws," et cetera.

14 That's -- line 17:

15 "Defendant has had months to run  
16 searches and work with Plaintiffs on  
17 these document productions but has,  
18 instead, failed to produce or apparently  
19 even review any responsive  
20 communications to date."

21 And yet in prior documents, I get this wonderful  
22 notation that everybody's working well together, that you've  
23 narrowed the search terms.

24 Okay. I'll let you explain it to me. I will get  
25 this up and running. I'm going to turn it back to you, but

1 I'm not representing that I'm going to continue this matter  
2 at the present time. I'm not going to represent or take  
3 this motion to intervene until I hear -- if you two want to  
4 meet and confer, here's what I expect.

5 I want to know if this discovery's really moving  
6 forward. I want to know dates and times. I want to know if  
7 the County's still taking the position that nobody's going  
8 to be deposed from your standpoint or there's good  
9 arguments, for instance, in the apex. Apex is way too early  
10 to even consider the Board of Supervisors. We need to  
11 exhaust other discovery means first. But if there's a  
12 pushback and you're not getting that minimalization, then I  
13 need to make a record. Now, I'm going to tell you  
14 something. Look up a case involving Rupert Murdoch called  
15 NDA -- I forget the case. I can get it to you. It's a  
16 shaggy dog story about a hacker named Karnick (phonetic).  
17 And what had happened in those days was that -- and I get  
18 the two mixed up, but I think Murdoch owned DirecTV. That  
19 initially NDX had -- or allegedly, Rupert was hacking into  
20 Canal Plus. And what was occurring was that they were  
21 basically in a sense able to hack in and distribute this,  
22 especially England, Europe, and parts of the United States.  
23 And pirates would go online and sell these to anybody who  
24 wanted to go online.

25 Then, when that was discovered allegedly -- but

1 eventually the jury found him by court -- but what the  
2 Defendants did was they simply put the code on the Internet  
3 so anybody could get on the Internet and decipher that code.  
4 And, so, what it did is it hurt the business because it --  
5 it let any of us get onto this streaming service, and we  
6 could get this for free.

7           By the way, an engineer was murdered in Berlin  
8 over this. There were hackers in Romania, Bulgaria, Israel,  
9 Russia, Canada, and DirecTV said at that time, Judge, you  
10 have no jurisdiction. My thought was I've got adverse  
11 inferences. When there's noncompliance with discovery, the  
12 Defendants found themselves very quickly in the opposition  
13 of an adverse inference from the Court that they had this  
14 information and wouldn't turn it over. That is devastating.

15           Guess what? Seventeen of those 21 hackers showed  
16 up voluntarily. So, I didn't have to issue that adverse  
17 inference except for the four Russians.

18           So, this Court has power in terms of noncompliance  
19 with my discovery order. So, I want that clear to both  
20 parties. And I'm not afraid to use it.

21           Okay. Now, you're going to be ordered to meet and  
22 confer. I want to give you that opportunity before you  
23 respond. I'm going to take a recess because I want to go  
24 get a cup of coffee for a moment.

25           And can you help us with the Internet?



1 UNIDENTIFIED SPEAKER: Yes, sir.

2 THE COURT: Okay. Put it on so we can have a  
3 thoughtful discussion. I'll meet you in 15 minutes. Thank  
4 you, Counsel.

5 ALL: Thank you, your Honor.

6 (Proceedings recessed briefly.)

7 THE COURT: This is Daniel Gary. And, Daniel,  
8 what we've got -- and I'm sure you know who he is. I've  
9 worked with him on the Orange County oil spill cases and a  
10 number of other issues. He's one of our country's foremost  
11 expert in cyber, et cetera. I've got him on the phone.

12 Daniel, here's the situation. I want this on the  
13 record. We've got a dispute going on with terms right now,  
14 and whether they're going to be narrowed or not, and I'm  
15 about to go back into session in the next 30 minutes and  
16 find out what these terms are and if they're unsuccessful or  
17 successful. If not, I'm going to appoint you in charge of  
18 each of them. Okay? So, I'll call you within an hour. All  
19 right. Bye bye.

20 All right. I'll introduce to who I'm going to  
21 choose in a just a moment. Go out in the hallway in the  
22 next 15 or 20 minutes. See if you can work out the terms or  
23 not. If you can't, come in in half an hour. Thank you.

24 ALL: Thank you, your Honor.

25 THE COURT: All right.

1 (Proceedings recessed briefly.)

2 THE COURT: Come on up, folks.

3 Now, depending on all of you, I've got clerks, so,  
4 I'm willing to give up my lunch hour and go through, so  
5 hopefully I can get you out of here. But, if not, I've got  
6 a full afternoon, and my apologies. You'll be here.

7 MR. YAGMAN: I've got a court mandated meeting in  
8 Venice.

9 THE COURT: That's great. You don't have to be  
10 here. I would suggest you are here if you want to be  
11 included, but, no, you can go now.

12 All right. Counsel, what -- where would you like  
13 to start?

14 MS. HASHMALL: Well, your Honor, I want to just  
15 acknowledge the Court's comments earlier about how you seem  
16 to be getting mixed messages. On one hand it seems like the  
17 parties are sort of a juggernaut on discovery and on the  
18 other hand, we think -- we show that we're making progress.

19 I think, quite frankly, it's a -- it's a matter of  
20 filings are on a schedule, and then the continuing  
21 discussion between counsel evolved.

22 THE COURT: Okay.

23 MS. HASHMALL: So, it -- it is true that when  
24 the --

25 THE COURT: By the way, have a seat. You don't

1 have to stand. It will be more comfortable. And you can  
2 use the lectern if you want to. I'm just trying during flu  
3 season to keep you safe.

4 MS. HASHMALL: Thank you. So, the initial  
5 discovery dispute in front of the Court was limited to just a  
6 handful of requests for production. And, so, that's what  
7 the parties' submission was based on, and the Court's order  
8 from our perspective addressed a much broader set of  
9 discovery.

10 So, what that meant is that the parties had to get  
11 to the table and meet and confer and discuss a number of  
12 issues, objections, scope, process for collection, that had  
13 not been the subject of a prior meet and confer because it  
14 just hadn't been teed up. We had only teed up a small  
15 subset.

16 That discussion process has been ongoing. My  
17 colleagues have been working with Plaintiffs' counsel, and  
18 we've been hacking away at it and I think making a lot of  
19 progress, but we also had a firm deadline to file a motion  
20 for protective order before the Court as directed.

21 And, so, we filed the motion. We raised our  
22 concerns, and we were also hopeful that we were able to sort  
23 of put a little more substance as to our real concerns about  
24 burden because when we ran hit counts on the initial  
25 discovery that had been propounded, it was millions and

1 millions and millions of documents coming out.

2           Now, we filed the motion because we -- we felt it  
3 was appropriate. We also wanted to keep the Court aware of  
4 our concerns. But at the same time, we've kept talking, and  
5 we've been exchanging search terms and -- and a process to  
6 sort of get what the Plaintiffs want without creating a  
7 hugely disproportionate burden for the County on discovery.

8           And those conversations are going, and I think  
9 they're productive. So, I know the Court has asked whether  
10 we think we need a special master, and I think the person  
11 you have suggested, he looks imminently qualified, but he  
12 also looks specialized in sort of technical forensic issues.

13           I'm not sure we're there yet. I don't know that  
14 we -- we need that type of intervention or even that type of  
15 expertise.

16           THE COURT: Okay.

17           MS. HASHMALL: It's not that we're in need of  
18 guidance from a cyber expert. What we need to do is just  
19 kind of continue hacking away at the scope of the discovery  
20 and get to the same page. And -- and I think we can do that  
21 with a little more time.

22           THE COURT: Time period, how long would it take?

23           MS. HASHMALL: My guess is probably over the next  
24 14 to 28 days, all -- all of those document issues will have  
25 run to ground, and we'll either have an agreed protocol and

1 scope and search terms and implement a collection process  
2 or, if not, we'll have a much smaller area of concern and  
3 issues for the Court.

4           That's not to say that's going to be the only  
5 issue for discovery that the parties need to work out. We  
6 do need to continue to meet and confer about the 10  
7 deposition limit because we think we may need more than  
8 that.

9           THE COURT: Well, I'm -- I'm prepared to lift  
10 that. I think the case has too many potential people  
11 involved. If the apex rulings come down, if I rule that the  
12 Board has to testify, I mean, there's five more right off  
13 the bat. Okay. If not, you'll know, but I can't imagine 10  
14 is a sufficient -- so, I'm -- I'm prepared to lift that, but  
15 I -- I'm waiting for the two of you to come up with a  
16 reasonable number, which is why I wanted you to meet and  
17 confer before I took control, and if you don't, then I will  
18 take control.

19           MS. HASHMALL: Yeah, and we appreciate the Court's  
20 leadership on that, and I think our conversations are going  
21 to continue. There are other discovery issues that are  
22 coming up during the course of the depositions that we have  
23 conducted, some privilege objections the Plaintiffs have  
24 made that we don't -- we don't think are appropriate. We're  
25 continuing to meet and confer on that. But at the same

1 time, we also are re-engaging in settlement discussions.

2 And, so --

3 THE COURT: Okay.

4 MS. HASHMALL: -- when you look at -- at the sort  
5 of global picture of the case, on one hand extensive  
6 discovery, very very important issues that do need to get  
7 prepared for an appropriate trial before the Court, and the  
8 parties needing the -- and wanting the opportunity to re-  
9 engage in settlement, sort of -- that is what has informed  
10 the request for the stipulated continuance.

11 THE COURT: What's -- what -- if you are going to  
12 settle or potentially settle, what's holding that up? In  
13 other words, the parameters are pretty well set on this  
14 settlement. That's either just a yes or no between the two  
15 of you. I'm not going to get into funding issues, et  
16 cetera. Of course, I'm willing to work with you, but those  
17 are easy calls to make. We've been stretching this since,  
18 gosh, November, January, May.

19 I'll leave that to you. I won't inquire further,  
20 but it seems to me that if there's going to be a settlement,  
21 it's relatively easy to enter into. I mean, there's money  
22 out there. Just check Sacramento today and what they're  
23 voting on today. You're probably not aware of that, but  
24 there's plenty of money out there, and it's coming. I just  
25 think it could be resolved very easily but maybe not.

1           So, Ms. Myers, let me turn to you. Any comments  
2 are welcome.

3           MS. MYERS: Not about these issues, your Honor.  
4 We --

5           THE COURT: Are you participating in this process?

6           MS. MYERS: Yes, your Honor. We've been actively  
7 participating in discovery.

8           THE COURT: Okay. Is Carol -- I mean, Ms. Sobel,  
9 is she involved, Counsel?

10           MS. MYERS: Yeah. We've been staffing it as  
11 appropriate with the various firms. Your Honor, we have not  
12 been involved in the settlement negotiations, though. We  
13 want to be explicitly clear, given the record from this  
14 morning, that Intervenors have not been allowed to  
15 participate nor been invited nor been included by this Court  
16 in the settlement negotiations.

17           THE COURT: I'm not going to order you in right  
18 now, but if you're in front of Judge Birotte or something,  
19 that's a different matter. Okay. Right now, apparently  
20 these are private negotiations that I wasn't aware of until  
21 I read Document Number 600 or 603. And then I called Andre  
22 five days ago and said, Hey, you didn't know I was  
23 approached by LA Alliance. So, I assume that these were  
24 private negotiations. I didn't know if you're involved.  
25 That's why I'm asking. Okay.

1           Okay. Thank you for your courtesy.

2           What are your thoughts on my words?

3           MS. MITCHELL: Your Honor, I --

4           THE COURT: And, Mr. Yagman, we'll be with you in  
5 a moment, and I'll get you to that appointment. I promise  
6 you.

7           MS. MITCHELL: I echo a lot of what Ms. Hashmall  
8 said. I think the -- the motion for protective order,  
9 while, we vehemently disagreed with a lot of what was going  
10 on at the time, I think it was filed because the County had  
11 a hard deadline, and they filed the motion for protective  
12 order because they were required to do so, in my opinion, in  
13 order to -- to maintain their objection.

14           But we have continued to meet and confer. We're  
15 working through search terms.

16           THE COURT: When will you have these search terms  
17 completed?

18           MS. MITCHELL: Well, I think that's a better  
19 question for the County.

20           THE COURT: No. Just a moment. I'm asking you a  
21 direct question, and I want a direct answer. In other  
22 words, we're no longer floating out there. You either  
23 govern the case or I'll govern it now. How long?

24           MS. MITCHELL: Can I explain my answer, your  
25 Honor?



1 THE COURT: Hmm?

2 MS. MITCHELL: So, we have exchanged search terms.  
3 What needs to happen at that point is they go back through.  
4 They run the search terms. They provide me with a hit list,  
5 and it's an iterative process.

6 THE COURT: No, but I ordered you to meet and  
7 confer to try to narrow these. And, for instance HIPAA, I  
8 think that's a silly argument. HIPAA is -- being raised is  
9 a silly argument. We all understand HIPAA. HIPAA -- you  
10 were ordered to meet and confer because from now on the rule  
11 is transparency unless there's an exception. HIPAA's an  
12 obvious exception.

13 So, how long?

14 MS. MITCHELL: So --

15 THE COURT: Okay. Two weeks then. If you two  
16 don't have an answer, you've got two weeks. On September  
17 11th, I'm going to want in front of me a narrowing of these  
18 search terms, and I want to hear that at that time that  
19 you're really satisfied on behalf of LA Alliance and you're  
20 really satisfied on behalf of the County, or do I have the  
21 same argument that this is 35 billion gigabytes of something  
22 or other? At that time, I'm going to appoint a special  
23 master.

24 You've got two weeks. And you can -- I can order  
25 you out to meet and confer right now, and I don't have any

1 hours. By 9:00 o'clock, I guarantee that you'd have search  
2 terms or I'll have Daniel Gary flying out this week. Now,  
3 that's gracious on my part. So, you've got two weeks now.  
4 Those search terms get narrowed. And, from now on, this is  
5 transparent. Okay. Everything possibly that goes out is  
6 going to be transparent to the public from this point  
7 forward.

8 MS. MITCHELL: That's totally fine. We think --

9 THE COURT: All right. You've got two weeks.

10 Now, I want to hear from you, Mr. Yagman. You  
11 want to intervene. Are you sure you want to come into this  
12 case?

13 MR. YAGMAN: Absolutely.

14 THE COURT: Then you have to be certifiably nuts.  
15 No, I'm just kidding you.

16 MR. YAGMAN: I am.

17 THE COURT: Anybody coming into this case has to  
18 be by the time you're done with it.

19 MR. YAGMAN: Here's my two cents based on 50 years  
20 of doing these kinds of cases.

21 THE COURT: Pull the microphone closer.

22 MR. YAGMAN: Lift --

23 THE COURT: Pull the microphone closer. Thank  
24 you.

25 MR. YAGMAN: Here's my view of it. Immediately

1 lift the apex rule. Until the five supervisors are deposed  
2 on oral examination, this case will never resolve.

3 THE COURT: Okay. Now, stop. Let's go through it  
4 one by one. The present case law advises the Court usually  
5 not to get involved with the apex rule or order the board to  
6 testify until there's been a reasonable effort through  
7 discovery in a more generalized sense. I mean, it's the  
8 case law.

9 I'm not jumping into apex with the board of  
10 supervisors right now. But I am putting pressure on the  
11 County, and I'm putting pressure on LA Alliance to get to  
12 the basis of this discovery immediately, and that's why I'm  
13 going to pay them the courtesy of two weeks instead of  
14 bringing them back at 9:00 o'clock tonight.

15 So, I think if I did that, I think it's  
16 precipitous. I think it's wrong legally, but if they don't  
17 have an answer in two weeks, your position may be very well  
18 taken. But right now I'm giving them every opportunity to  
19 narrow this, to meet and confer.

20 Okay. Now your next point. So, that's denied.

21 MR. YAGMAN: It's --

22 THE COURT: But in two weeks it could be much  
23 different.

24 MR. YAGMAN: That's my only point.

25 THE COURT: Okay.

1 MR. YAGMAN: But it won't settle until they're  
2 deposed.

3 THE COURT: And you've got -- you've got  
4 corresponding litigation, and their point is that you're  
5 late to the party. You're late. That's their point. In  
6 both of their briefs, they say, you know, Mr. Yagman, you  
7 had a chance to come in before and right on the verge of  
8 litigation in November, but now we're here and we're asking  
9 for a continuance until February. So, if they're asking for  
10 a continuance until February, why shouldn't you come in?

11 MR. YAGMAN: I agree.

12 THE COURT: I'm not ruling that yet. But you've  
13 got corresponding ancillary litigation over here. And, by  
14 the way, within three weeks I'll have a ruling concerning  
15 the City -- oh, you're not the City -- I'll have a ruling  
16 concerning the City and your motions concerning the City.

17 I'm delaying the County for a while, okay, because  
18 of this litigation and some of the issues that the County  
19 brought, but those rulings will be coming down on 56, et  
20 cetera, for both you and the other party. It's about a 40-  
21 some page opinion right now for me to regurgitate and  
22 rethink about, but it's through the fifth iteration or  
23 something. I won't go any further because I don't know if  
24 it's ex parte, but you'll have a ruling within three weeks  
25 on the City issues.

1 MR. YAGMAN: When will this case next be here?

2 THE COURT: Well, right now I'm going to schedule  
3 it for September 11th, because what I don't want is this. I  
4 don't want to get into a situation where I'm not giving the  
5 parties time to resolve their own issues if they can. And  
6 I'm a little afraid, frankly, of sending them out the door  
7 and bringing them back in at 9:00 o'clock tonight because I  
8 think that they could nail the terms if they want to by 9:00  
9 o'clock, the whole lot. But by September 11th, I'm going to  
10 have Daniel Gary or another person on a plane out here, and  
11 I'm appointing a special master, and he or she will know  
12 that issues a great expense to both parties.

13 MR. YAGMAN: What time on September 11th and  
14 where?

15 THE COURT: Well, you know, I think I'm going to  
16 come back to LA actually and transfer my entire calendar up  
17 here just as a convenience for all you folks.

18 MR. YAGMAN: Can you make it at 10:00 o'clock  
19 instead of 8:30?

20 THE COURT: No.

21 MR. YAGMAN: Okay.

22 THE COURT: No. Most of the world goes to work at  
23 8:00 o'clock. You could be here at 8:30. Okay.

24 And the second thing is I don't quite know what to  
25 do with you because you've got that corresponding

1 litigation. And the other point you made was that the  
2 County and the Intervenors are too convenient and too cosy,  
3 as well as LA Alliance.

4 I don't know about that. LA Alliance has been  
5 pretty aggressive in this matter. And if the attack is on  
6 LA Alliance, I'm not -- I'm concerned. I'm not so concerned  
7 about the County if they're in good faith, and I think that  
8 they're proceeding forward, accept your representation, Ms.  
9 Hashmall. And I think that the Intervenors will also.

10 What I'm concerned about is if they're really on  
11 the verge of a settlement, everybody gives the Court, you  
12 know, some authority and they -- we don't know what that  
13 parameter is, and if the numbers are no longer so di minimus  
14 as 300 and 1,000 with this crisis, I might have to  
15 thoughtfully consider that.

16 But if it's during the litigation, that's a whole  
17 different matter.

18 MR. YAGMAN: If they settle, it's done. It  
19 doesn't make any difference. There's no issue.

20 THE COURT: Well, are you folks going to settle or  
21 not?

22 MS. HASHMALL: Your Honor, we are re-engaged --

23 THE COURT: No. Are you going to settle or not?

24 MS. HASHMALL: I think we're all --

25 THE COURT: All of you know -- all of you know the

1 parameters now.

2 MS. MITCHELL: I believe so. I think in -- within  
3 30 days.

4 THE COURT: Pardon?

5 MS. MITCHELL: I -- I believe from our position we  
6 think that we will have settlement within 30 days.

7 THE COURT: Then if that was the case, why would I  
8 inconvenience you by bringing you back on September 11th and  
9 putting you through the expense? I just need to know this.  
10 What I need to know is I'm not taking your position that the  
11 County's not supplying information to you -- and I'll read  
12 that again. It can't be more stark.

13 (Pause.)

14 MS. MITCHELL: Your Honor, I can cut to the chase  
15 on this.

16 THE COURT: No, no, no. I'm going to read exactly  
17 what both of you were writing to me. Don't have to cut to  
18 the chase of anything here.

19 And, also, I'm noticing that all of these  
20 depositions are LA Alliance. Where is the County deposition  
21 here?

22 MS. MITCHELL: We've been waiting for the 30(b)(6)  
23 witnesses, your Honor. We've been negotiating on the  
24 30(b)(6) witnesses.

25 THE COURT: When are we going to -- when are we

1 going to complete that?

2 MS. HASHMALL: We have an extensive schedule that  
3 we've been working with, and --

4 THE COURT: What is it?

5 MS. HASHMALL: -- it involves upwards of about a  
6 dozen dates over the next couple of weeks, but there are a  
7 lot of schedules that need to be coordinated. And, so, I --  
8 I think everyone's working in the same direction. Dates  
9 were on. Then they needed to be shifted a bit.

10 (Pause.)

11 THE COURT: Okay. I'm going to come down there  
12 one more time.

13 (Pause.)

14 THE COURT: I'm going to read this to you again  
15 because I'm not hearing with specificity to the Court's  
16 satisfaction yet.

17 Document 606, page two, line 14:

18 "Whereas the parties have multiple  
19 discovery disputes pending which have  
20 either been the subject of a court order  
21 or about which the parties are meeting  
22 and conferring."

23 This was filed on August 7th. First notice that  
24 the Court had of any potential settlement discussions, which  
25 I don't want to get in the way of if you can settle this --



1 you know the parameters of your settlement.

2 Document 609, filed August 17th:

3 "Whereas the settling parties have  
4 also resumed settlement negotiations and  
5 are in discussions about a further  
6 addendum to the settlement agreement."

7 Which is why, Ms. Myers, I keep asking you are you  
8 involved and how much,, and what I'm hearing is you're  
9 involved in the discovery, but you're not involved in any  
10 meaningful way right now in the settlement.

11 MS. MYERS: Yes, your Honor. The stipulation is  
12 very clear that settling parties applies only to the Count  
13 and --

14 THE COURT: Okay.

15 MS. MYERS: -- to the LA Alliance.

16 THE COURT: I'm going to keep you on as an  
17 Intervenor, but I asked the question before. I was very  
18 concerned about your willingness to settle for 300 bed  
19 spaces on behalf of the Intervenors and you represent the  
20 homeless --

21 MS. MYERS: Your Honor --

22 THE COURT: Just a moment. Let me finish my  
23 statement. Then you can respond all day. I was very direct  
24 about this.

25 The Court turned that down. At least the County

1 came back with 1,000. Okay. I understand that. You all  
2 know that that's one-third of what Doctor Sharon requested  
3 in 2019, and you want to stretch that over five years, which  
4 means by 2028, this settlement that you propose would have  
5 one-third of the need in 2019, and we've gone up, what, 40  
6 percent in the meantime?

7 MS. MYERS: Correct.

8 THE COURT: And if I took your figures from both  
9 the County, LA, and you, but particular Carol Sobel, who  
10 I've worked with for a long time, who've told me from  
11 beginning one, Judge Carter, 25 percent of the people have  
12 mental illness. And that's allegedly, from her perspective  
13 and your perspective, the County's obligation. But we have  
14 25 percent of now 46,000 people on the streets in LA. Help  
15 me with the math. If we have 25 percent of 69,000 people,  
16 help me with the math. That doesn't even count substance,  
17 which you claim the County's responsible for.

18 So, I -- as you know, I turned that down. Second,  
19 you know, my main concern is this. This isn't going to be a  
20 situation where the Court just bows out with another  
21 meaningless consent decree. You've heard that in the last  
22 case where they took the representations of the Government,  
23 not you. You're not involved, but the United States  
24 Government and fell flat on their face with the VA because  
25 it was a meaningless document.

1 Now, I know you're wandering around about  
2 monitoring, but we don't even get there until the numbers.  
3 We don't even discuss it. And that's one-third, for  
4 goodness sakes, over -- by 2028. And you're willing to  
5 settle for 300.

6 MS. MYERS: Can I respond, your Honor?

7 THE COURT: Yeah, please respond. I -- by the  
8 way, I'm keeping you on the case. Don't worry. It's  
9 whether I'm letting Mr. Yagman come in or not.

10 MS. MYERS: So, your Honor, I want to be  
11 explicitly clear on the record. The Intervenors never  
12 signed off on any settlement agreements, were never part of  
13 settlement negotiations.

14 THE COURT: Okay.

15 MS. MYERS: Have been explicitly excluded from  
16 settlement negotiations, and this Court as well as Judge  
17 Birotte have allowed and facilitated the exclusion of  
18 Intervenors from those settlement negotiations.

19 THE COURT: Well, let me be direct with you then.  
20 Why did you approve --

21 MS. MYERS: We --

22 THE COURT: -- working for the homeless, 300 bed  
23 spaces?

24 MS. MYERS: Your Honor, we did not approve that  
25 number. We were not given an opportunity. The -- this

1 Court and Judge Birotte, the Intervenor -- or the LA  
2 Alliance in excluding unhoused folks from the settlement  
3 negotiations, as well as the County by excluding the  
4 Intervenors, have ensured that there's no voice at the  
5 table.

6           So, the suggestion, your Honor, that the  
7 Intervenors, that our clients, LA CAN and LA Catholic Worker  
8 and Orange County Catholic Worker, who have been defending  
9 these issues for a decade, signed off on a settlement  
10 agreement over which they had no part is incredibly  
11 problematic in terms of the construction of the record here.

12           THE COURT: Okay. So, you're willing --

13           MS. MYERS: We did not participate.

14           THE COURT: You're willing to work then to get  
15 these numbers up?

16           MS. MYERS: Your Honor, we have been --

17           THE COURT: Yes or no?

18           MS. MYERS: You -- we have been arguing since the  
19 beginning that the settlement negotiations in -- and the  
20 settlements that have been signed off on by this Court as  
21 well as the Plaintiffs and the County and certainly the City  
22 of Los Angeles do not go far enough.

23           THE COURT: So, you're willing to get these  
24 numbers up? That would -- would negate Mr. Yagman coming  
25 in, because you're vigorously going to try to increase. Is

1 this what I'm hearing?

2 MS. MYERS: Your Honor, we -- our clients have  
3 been arguing since the beginning that the settlement -- for  
4 example, the settlement that this Court signed off on and  
5 that Plaintiff signed off on that provided only for the  
6 provision of less than 60 percent of beds from the City of  
7 Los Angeles --

8 THE COURT: Umm-hmm.

9 MS. MYERS: -- we have been clear about the  
10 Plaintiffs' or the Intervenors' position relative to these  
11 settlement negotiations. Our concern is that by holding up  
12 the settlement negotiations, that it's having implications  
13 for the settlements that the Plaintiffs signed off on with  
14 the City of Los Angeles and that this Court signed off that  
15 Intervenors vigorously objected to, your Honor. So --

16 THE COURT: So, you're willing to undertake  
17 accountability then? Is that what I'm hearing on behalf of  
18 your clients?

19 MS. MYERS: Your Honor, we have been arguing --

20 THE COURT: Want a billion dollars worth of  
21 accountability?

22 MS. MYERS: Your Honor, we have been arguing  
23 against the settlement agreement signed off by this Court  
24 and the monitoring provisions because of the lack of  
25 transparency that exists in the settlement -- in the

1 settlement agreements.

2           For example, the Intervenor and the public have  
3 not been involved in any discussions between the Plaintiff  
4 and the City related to the enforcement of the City's  
5 settlement agreement because of the monitoring provisions  
6 that exist. Intervenor have objected to the monitoring  
7 provisions that the Plaintiff and the County have been  
8 fighting over, your Honor, and that this Court has been  
9 forcing because it takes the settlement and the enforcement  
10 on the settlement outside of the public purview and outside  
11 of any participation by the Intervenor.

12           THE COURT: So, you agree --

13           MS. MYERS: The settlement agreement that exists  
14 between --

15           THE COURT: So -- hold on. With all these words,  
16 what I'm hearing is that you want supervision. I'll call it  
17 a consent decree.

18           MS. MYERS: We want --

19           THE COURT: Yes or no?

20           MS. MYERS: -- public transparency, your Honor.

21           THE COURT: Well, trust me. We're going to have  
22 public transparency.

23           MS. MYERS: We'd like the public transparency to  
24 extend to the settlement between the City and the LA  
25 Alliance, which it does not exist for.

1 THE COURT: How about general public transparency  
2 from now on? All of this is happening now with counsel, et  
3 cetera, over decades, behind closed doors with LASA. Let's  
4 open this up.

5 MS. MYERS: We've strongly been advocating for  
6 that. Our clients --

7 THE COURT: Okay.

8 MS. MYERS: -- have been advocating for that.

9 THE COURT: Okay. All right. Couple more things  
10 then. I know that you've got 35 million documents. Look at  
11 the agency, the fire department, the mental health, the  
12 executive office, public health, health services. That's a  
13 lot of good people out there and a lot of bureaucracies  
14 who've been generating a lot of documents concerning the  
15 homeless for decades. You two can narrow that meaningfully,  
16 okay. You're in the driver's seat on that. And what I've  
17 inferred is you will comply with my discovery orders or I  
18 will issue adverse inferences in front of a jury. I can't  
19 be clearer about that. And an adverse inference is  
20 devastating. I don't think we'll have to do that, but if we  
21 can get 17 hackers to show up across the world.

22 All right. Now, this is what's most disturbing to  
23 me, and I'm going to take -- because I trust my counsel.  
24 You hear that? I'm going to trust you for the time being.  
25 Let me refer you to Document 614:

1                   "However, it has since become clear  
2                   the County has withheld all  
3                   communications, not just those of the  
4                   supervisors."

5                   And, remember, that's the apex ruling that I will  
6 get to, either favorably or unfavorably, when we've gotten  
7 good faith discovery, because the Ninth Circuit instructs  
8 try discovery first before you inconvenience. But, by the  
9 same token, the factors with six people dying a day, I can't  
10 imagine a more important issue. And they won't be  
11 inconvenienced unnecessarily.

12                   "Note the objections in support of  
13                   the County's refusal to produce any  
14                   communications."

15                   Now, when you read that as a judge, any  
16 communications? And so far today I've just heard that you  
17 got 9 to 11 people you're having deposed. I've heard  
18 nothing on the County's side except, "We're working it out."  
19 And I've got nothing dispositive yet from the County  
20 concerning these 30(b)(6) witnesses.

21                   "Refusal to produce any  
22                   communications are identical to the ones  
23                   made in support of the County's refusal  
24                   to produce supervisor or senior staff  
25                   communications, and Defendants offered



1 no further argument in support of its  
2 position that they had previously  
3 articulated."

4 And the previous articulation in Document 603 was  
5 that you weren't getting any results.

6 MS. MYERS: Right.

7 THE COURT: "You ordered and the parties  
8 have met and conferred on August 9th  
9 regarding both the RFPs on which the  
10 parties were ordered. Plaintiff  
11 suggested limiting factors to narrow the  
12 scope of the request" -- which I'm  
13 giving you the opportunity to do -- "but  
14 the County declined to adopt any of the  
15 limiting factors or suggest any  
16 alternative limitations that would be  
17 acceptable."

18 You know, as a judge, when you read that, that's  
19 why you're here today. And I'm not going to simply continue  
20 a trial date and then face these same issues and the same  
21 argument in February or whenever you're allegedly  
22 requesting.

23 "And the County has not yet  
24 provided a hit list of any proposed  
25 search terms being sent over a week

1           ago,"

2           -- which is why I'm asking where are those search  
3 terms, and by September 11th, if you don't have them, I'm  
4 going to appoint a special master, and you're just going to  
5 get charged. And if it's not Daniel Gary, then come up with  
6 some names. Okay. We can save you money, okay. I've got a  
7 couple other suggestions, but that will be my choice  
8 eventually. You'll suggest names to me.

9           All right. Page four. I ordered you to meet and  
10 confer and narrowly tailor these. That's why I think this  
11 HIPAA argument's silly. Of course we know we're not going  
12 to violate HIPAA. You were supposed to narrow that.

13           But, beyond that, the word from now on is  
14 transparency with the public.

15           And, finally:

16                   "Considering the portions of the  
17 issues at stake, every single factor  
18 that's been argued is in favor of  
19 disclosure"

20           The importance of the issues cannot be stated.  
21 Homeless has been regular cited, almost 30 years now in the  
22 making, decades, six deaths a day.

23           Now the controversy involves billions. This  
24 record is cited in so many places in front of me and others.  
25 The \$20 billion? Where is the accountability? County seems

1 to be in sole possession, a \$43 billion budget. The City  
2 has about \$13 billion for the budget.

3 Okay. Mr. Yagman, what I'm going to do is hold  
4 your motion in abeyance. You're ordered back, not  
5 requested, on September 11th --

6 MR. YAGMAN: I want to add I think there should be  
7 20,000 beds, by the way, over the next two years.

8 THE COURT: Well, if it's going to trial, you  
9 know, then that's the position that you talk to Ms. Myers  
10 over here. She was -- well, allegedly. I'll get a  
11 transcript for you, by the way, Ms. Myers, and --

12 MR. YAGMAN: I'll be here on September 11th.

13 THE COURT: Okay. But I'm not going to let you in  
14 yet. What I don't want to do is this. I don't want to  
15 disturb good faith settlement negotiations at a late time if  
16 you're really entering into them. But if we're going on to  
17 litigation, et cetera, we're going with 300 bed spaces  
18 initially or 1,000. So, you don't even get to monitoring  
19 before I hear the numbers.

20 Understood?

21 (No response.)

22 THE COURT: Okay. Now, I don't want to take your  
23 time. I was going to make you go out today. I'm not going  
24 to do that. That's under the Eighth Amendment cruel and  
25 unusual punishment. You'd have to come back tonight. Okay.

1 I'm going to trust you the next two weeks, but you're  
2 ordered to my court on September 11th.

3           Karlen, I think we're coming back here September  
4 11th. I'll transfer my calendar back up here as a  
5 convenience for all you folks, but we're up at 4:30 doing  
6 that. So, yeah. It's a courtesy order to extend to you.  
7 Either control this case or I will control it. And, now,  
8 I'm not continuing the November 6th, because unless I hear  
9 compliance, et cetera, I mean immediately between the two of  
10 you, in some good faith, then I'm going to take control.  
11 I'm going to set the schedule based on that. It may go over  
12 to -- to the 6th. Understood. It may be a better time  
13 period. I may agree with you on that.

14           Now, do you have questions?

15           MS. HASHMALL: Yes, your Honor.

16           THE COURT: And, by the way, my discovery order  
17 stands. I took that order as a broad-based discovery.  
18 You're arguing 1, 3, 4 and 6. I disagree. The way it was  
19 presented to me was 21 different issues to resolve. It's  
20 been resolved, okay. But you've got your record, and I've  
21 got mine.

22           MS. HASHMALL: Thank you, your Honor.

23           THE COURT: Anything that you need?

24           MS. HASHMALL: I just -- I understand the Court  
25 wants to hold the parties' feet to the fire and --

1 THE COURT: No, no. I don't care. You want to  
2 send this to litigation, then the public is going to get a  
3 really good look for a change. You want to litigate, that's  
4 just fine. Understood?

5 (No response.)

6 THE COURT: No problem. I just want to clear my  
7 calendar for it. Yeah, I want to know that this isn't  
8 getting passed over until February and I -- January, and  
9 we've got the same discovery disputes going on. And I'm  
10 giving good faith back to you to resolve that if you can.  
11 Okay?

12 MS. HASHMALL: I -- I hear you, your Honor. I  
13 also think our motion for protective order sets forth why  
14 these issues --

15 THE COURT: I'm denying it at the present time  
16 because I ordered you to meet and confer and narrow it.  
17 Narrow it. I'm giving you all that control. Of course, we  
18 know HIPAA.

19 MS. HASHMALL: The only thing I'd ask the Court to  
20 do is, if it's inclined, to withhold ruling on the motion  
21 for protective order.

22 THE COURT: No, absolutely not. From now on I  
23 told you transparency. That order goes out. It's going on  
24 the docket. It already is there. The public's going to  
25 now have a good look at this case.

1           Okay. Ms. Myers, anything else?

2           MS. MYERS: No, your Honor. Well, your Honor, I  
3 just want to make sure that the -- the record is clear that  
4 the 10 deposition rule was lifted, because I think that has  
5 been --

6           THE COURT: I can't hear you. I'm sorry.

7           MS. MYERS: I just want to make sure that the  
8 record is clear -- and perhaps the County agrees that it is  
9 -- about the 10 deposition rule, because I think that's been  
10 a significant issue.

11           THE COURT: I'm willing to lift that, but I'm  
12 waiting for the two of you to meet and confer. I'm trying  
13 to give you all of that control back, but I think you  
14 obviously need more than 10 depositions. And if you get  
15 involved, I think you're going to have other depositions  
16 that you're requesting. Okay. And you may -- you may go  
17 with the County. You may go with the -- on the apex ruling  
18 requesting the board be -- I don't know what you're going to  
19 do, but I want to get you involved.

20           MS. MYERS: Thank you, your Honor.

21           THE COURT: Okay. Okay. On behalf of LA  
22 Alliance?

23           MS. MITCHELL: Yes, your Honor. The current fact  
24 discovery date is September 8th.

25           THE COURT: I'll extend that obviously, but give

1 me a -- give me a date. That's why I'm pressing to get some  
2 resolution between the two of you, and I'm giving you two  
3 weeks now.

4 MS. MITCHELL: That's fine, your Honor. So, if --  
5 if the Court is extending the September 8, I would ask for,  
6 I suppose at this point October 6th. And then, if we  
7 ultimately continue the trial, to then --

8 THE COURT: Get together.

9 MS. MITCHELL: Okay.

10 THE COURT: Just reach out to the other side. As  
11 long as it's internal and you know that I'm not continuing  
12 November 6th at the present time.

13 MS. MITCHELL: Right.

14 THE COURT: I'm waiting to see if you come back  
15 with a meaningful settlement. And I just don't understand  
16 if you're settling, why that hasn't already occurred, why  
17 it's not with Judge Birotte and Special Master Martinez.  
18 And the Board knows what the parameters are. All the  
19 parties know what the parameters are. But if we're going  
20 forward, then I'm holding it in abeyance, and I'm going to  
21 wait because if the position's still 500 or 1,000 bed spaces  
22 for 25 percent of our population, no.

23 MR. YAGMAN: That's going to continue.

24 THE COURT: No. Okay. Okay.

25 Anything else?

1 (No response.)

2 THE COURT: Then why don't I free my litigants  
3 under the Eighth Amendment and now you go have a good lunch.  
4 Okay.

5 ALL: Thank you, your Honor.

6 THE COURT: Okay. Pleasure. Oh, by the way, I'll  
7 make this statement. I think that the attorneys are  
8 actively involved, but this also has to come from the board,  
9 okay. In other words, I need to know that the board's fully  
10 on board if we're going to reach a settlement, and I need to  
11 know that this is meaningful in terms of accountability and  
12 something meaningful in terms of numbers. So, we don't get  
13 to the monitoring situation at all until we also know what  
14 the numbers are. Okay.

15 And I will represent to you check with Sacramento.  
16 There's money out there. You could do a great service to  
17 the County. Okay.

18 MS. HASHMALL: Thank you.

19 THE COURT: You can take a look at the bills  
20 today, in fact.

21 ALL: Thank you, your Honor.

22 THE COURT: Okay. Thank you very much.

23 (Proceedings concluded.)  
24  
25



1 I certify that the foregoing is a correct  
2 transcript from the electronic sound recording of the  
3 proceedings in the above-entitled matter.

4  
5 /s/Jordan Keilty 8/30/2023  
6 Transcriber Date

7 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

8 /s/L.L. Francisco  
9 L.L. Francisco, President  
Echo Reporting, Inc.

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