## SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE

KEVIN MUELLER,	)
Plaintiff,	)
VS.	) ) No. 30-2017-00948339- ) CU-BC-CJC
ABRAHAM SAMUEL NAGER, individually and as Truste	) e of )
the Nager Family Trust, da December 19, 2006; and DOE	ted )
1-10, inclusive,	)
Defendants	. )
	J

DEPOSITION OF KEVIN MUELLER

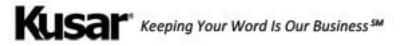
Thursday, January 17, 2019

Long Beach, California

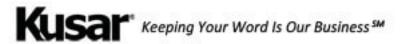
REPORTED BY: Lyn Corrin Aaker, CSR No. 6228

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3	FOR THE COUNTY	OF ORANGE
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7		
8	KEVIN MUELLER,	)
9	Plaintiff,	) )
10	vs.	) No. 30-2017-00948339- ) CU-BC-CJC
11	ABRAHAM SAMUEL NAGER, individually and as Trustee of	)
12	the Nager Family Trust, dated December 19, 2006; and DOES	) )
13	1-10, inclusive,	) )
14	Defendants.	) )
15		,
16		
17	Deposition of KEVIN MUE	LLER, the Plaintiff, taken
18	on behalf of the Defend	ant, at 111 West Ocean
19	Boulevard, Suite 1200,	Long Beach, California
20	90802, commencing at th	e hour of 11:05 a.m.,
21	Thursday, January 17, 2	019, before Lyn Corrin
22	Aaker, CSR No. 6228, pu	rsuant to Notice of Taking
23	Deposition.	
24		
25		

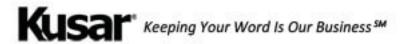
1	APPEARANCES OF COUNSEL:
2	For Plaintiff KEVIN MUELLER:
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4	Attorney at Law
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7	sweerasuriya@kushnercarlson.com
8	For Defendants:
9	GLICKMAN & GLICKMAN
10	BY: STEVEN C. GLICKMAN  Attorney at Law  9460 Wilshire Boulevard
11	Suite 330
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13	scg@glickman-law.com
14	HANGER, STEINBERG, SHAPIRO & ASH, ALC BY: JONATHAN P. CYR
15	Attorney at Law (Not present at deposition)
16	21031 Ventura Boulevard Suite 800
17	Woodland Hills, California 91364 (818) 226-1222
18	jpc@hssalaw.com
19	For Cross-Defendant KEVIN MUELLER:
20	SLAUGHTER, REAGAN & COLE, LLP BY: JEFFREY J. HALFEN
21	Attorney at Law
22	625 East Santa Clara Street Suite 101
23	Ventura, California 93001 (805) 658-7800
24	jhalfen@srllplaw.com
25	Also Present: ABRAHAM SAMUEL NAGER



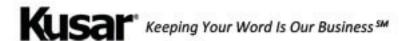
Kevin	Mueller	Kevin Mueller vs. Abraham Samuel Nager		1133/00
1		I N D E X		
2				
3	WITNESS	EXAMINATION	PAGE	
4	KEVIN MUELLER	By Mr. Glickman	5	
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9		EXHIBITS FOR IDENTIFICATION		
10	Defendants'			
11	Exhibit 1	Color copy of photograph; 1 page	59	
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17	QUESTIO	NS WITNESS INSTRUCTED NOT TO ANSWER		
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1	THURSDAY, JANUARY 17, 2019, LONG BEACH, CALIFORNIA
2	11:05 A.M.
3	* * *
4	
5	KEVIN MUELLER,
6	the witness herein, having been first duly sworn, was
7	examined and testified as follows:
8	
9	EXAMINATION +
10	BY MR. GLICKMAN:
11	Q. Would you please state your full name for us.
12	A. Kevin G. Mueller.
13	Q. Have you ever gone by any other name?
14	A. No.
15	Q. Where do you currently reside?
16	A. 32372 Via Antibes, Dana Point, California 92629.
17	Q. And when did you move in there?
18	A. I believe it was November of 2011, December 2011.
19	Q. What was your immediately prior address before
20	Via Antibes?
21	A. I lived in western Virginia, 1830 Fountain Drive.
22	Q. So the Via Antibes address is the first address
23	that you had in California after moving from Virginia?
24	A. Correct.
25	Q. Did you ever have any other address in California



- 1 at any time?
- 2 A. Prior to living in Virginia.
- Q. At any time before Via Antibes, did you ever have
- 4 | any other California address?
- 5 A. Yeah, sure.
- 6 Q. Maybe it will be easier this way. How many
- 7 different times have you lived in California?
- 8 A. I've lived in California off and on most of my
- 9 life.
- 10 Q. Where did you grow up?
- 11 A. Can you be a little more specific, say time
- 12 periods?
- Q. Where did you go to high school?
- 14 A. Culver City High School.
- 15 Q. When did you graduate?
- 16 A. 1984.
- 17 Q. Did you go to any school after graduating from
- 18 | high school?
- 19 A. I took a year off, and then I went back to school
- 20 | and began to attend West Los Angeles Community College.
- 21 Q. And what years were you at West Los Angeles
- 22 | Community College?
- 23 A. '85 maybe to '86.
- Q. Did you get an AA degree there?
- 25 A. I did.

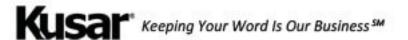


1	Q. And what did you do next with your educational
2	background?
3	A. I transferred to UCLA.
4	Q. And when did you transfer to UCLA?
5	A. '88, I believe.
6	Q. And how long were you at UCLA?
7	A. About two years, a little over two years, I
8	think.
9	Q. Did you get a degree from UCLA?
10	A. I did.
11	Q. In what?
12	A. Bachelor of Arts, Political Science.
13	Q. And then what did you do after graduating UCLA?
14	A. I began to pursue aviation full time.
15	Q. What do you mean "pursue aviation"?
16	A. To develop the rating skills and credentials that
17	are needed for employment in the field of aviation,
18	particularly for airlines.
19	Q. Are you talking about being a pilot?
20	A. Yeah.
21	Q. And so are you currently a pilot?
22	A. I am.
23	Q. When did you first become licensed to be a pilot?
24	A. I am not sure. I think I got my private pilot's
25	license in the late '80s.

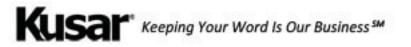


1 And have you held a private pilot's license Ο. 2 continuously since then? Theoretically, yes. I mean a commercial pilot's 3 Α. license supersedes a private pilot's license. An airline 4 5 transport pilot's license supersedes a commercial license. So as you move up the rung, if you will, or you attain 6 7 higher ratings, they supersede -- you know, a private pilot's license is a very basic rating. 8 So you got the private pilot's license in the 9 10 late '80s. Right? 11 Α. Yes. 12 What was your next license relating to aviation? Q. 13 Α. Instrument, I believe. And when did you get that? 14 Ο. 15 Α. Late '80s as well. 16 Ο. What was your next license relating to aviation? 17 Commercial multi-engine. Α. When did you get that? 18 Q. I'm going to go with maybe '90 on that one. 19 Α. And the next license? 20 Q. 21 Airline transport pilot. Α. 22 Q. The commercial multi-engine allows you to fly 23 passengers. Is that right? 24 Α. Correct. 25 Q. And what's the airline --

- 1 A. Transport pilot.
- Q. -- transport pilot? What's that one?
- 3 A. So in order to fly aircraft that weigh in excess
- 4 of 12,500 pounds, you need to have a type rating in that
- 5 | airplane. You can't amend a type rating to a commercial
- 6 license. You can only amend it to an airline transport
- 7 | pilot's rating. So generally smaller commuter airlines,
- 8 you can fly there with a commercial rating. But for any
- 9 | airline that's flying anything in excess of 12,500 pounds
- 10 requires an airline transport rating.
- 11 Q. Okay. And when did you first get the airline
- 12 | transport rating?
- 13 A. Say like '92.
- 0. And what's the next license after that?
- 15 A. That's it.
- 16 Q. And so the private pilot's license, who issues
- 17 that?
- 18 A. The FAA.
- 19 Q. And are all these issued by the FAA?
- 20 A. All.
- 21 Q. And what license do you currently have?
- 22 A. Airline transport pilot.
- Q. What do you have to do to keep that license
- 24 current?
- 25 A. I don't know that the license ever really



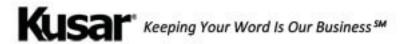
1	expires.	Currency is maintained by maintaining your
2	currency	in the aircraft that you are flying.
3	Q.	Do you have to have physicals on a certain
4	frequency	7?
5	Α.	Every six months.
6	Q.	And so do you ever not pass the physical?
7	Α.	No.
8	Q.	Where do you report the physical findings to?
9	Α.	The FAA.
10	Q.	And when was your last physical?
11	А.	October of last year.
12	Q.	And do you have siblings?
13	А.	I have a brother, yeah.
14	Q.	What's your brother's name?
15	А.	Kenneth Mueller.
16	Q.	Say it again.
17	А.	Kenneth Mueller.
18	Q.	And you are Kevin, and he is Kenneth?
19	А.	Correct.
20	Q.	So you guys are both Ks.
21	Α.	Correct.
22	Q.	What's his middle initial?
23	Α.	C.
24	Q.	What's your middle initial?
25	Α.	G.



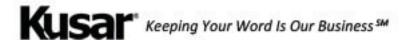
1	Q.	And who is older, you or your brother?
2	Α.	My brother.
3	Q.	How much older?
4	А.	A year and a month.
5	Q.	Do you guys look alike?
6	А.	Some people say yes; some people not so much.
7	Q.	Is your brother a pilot, also?
8	Α.	He is.
9	Q.	Have you ever used your brother's pilot license
10	for anyt	ching?
11	Α.	No.
12	Q.	Has he ever used yours for anything?
13	А.	No.
14	Q.	What's his occupation?
15	А.	He is a pilot.
16	Q.	Has that been your occupation for a certain
17	number o	of years?
18	А.	Since 1993.
19	Q.	Since 1993 you have worked continuously as a
20	pilot?	
21	А.	Yeah. '93, '94.
22	Q.	Have you ever taken any time off for any reason
23	other th	nan like a vacation? Have you ever taken any leave
24	of abser	nce from working as a pilot?
25	Α.	I don't really recall.



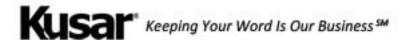
1	Q. And where does your brother live?
2	A. Rancho Santa Margarita.
3	Q. And do you know his address off the top of your
4	head?
5	A. No.
6	Q. Phone number? You probably have it in your
7	phone. Right?
8	A. Yeah, probably.
9	Q. Can we get his phone number?
10	MR. HALFEN: What's the relevance of this,
11	Counsel? The answer is no. What's the relevance?
12	MR. GLICKMAN: If you say no, then
13	MR. HALFEN: He is not required to bring anything
14	with him to the deposition today. The fact that he has
15	his phone with him is irrelevant. So if you can explain
16	to me what the relevance is, I will consider it, but I
17	don't think his brother's telephone number is relevant to
18	this deposition or this case, and I am not going to have
19	to have him give it; so why don't we move on. I will
20	instruct him not to answer.
21	MR. GLICKMAN: On relevance?
22	MR. HALFEN: That's right.
23	MR. GLICKMAN: I don't remember seeing that as a
24	proper objection at a deposition.
25	MR. WEERASURIYA: Pardon me. I will jump in with



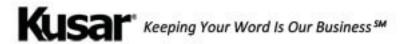
1 a privacy objection as well, third party privacy. 2 MR. HALFEN: Actually, I am not instructing him not to answer a question because I don't believe a 3 question was pending; so there is no instruction not to 4 5 answer a question, just for the record. If you want to ask a question, then maybe I will instruct him depending 6 7 upon what this question is. BY MR. GLICKMAN: 8 9 What's your brother's phone number? Ο. 10 Α. I don't know. 11 MR. WEERASURIYA: Objection on third party 12 privacy rights again. 13 MR. HALFEN: He answered the question he doesn't know, so let's move on. 14 BY MR. GLICKMAN: 15 16 Ο. Are you married? 17 Α. No, I am not. Have you ever been married? 18 Q. 19 Α. No. 20 Do you have any children? Q. 21 Α. I do not. 22 Q. At any time since you have lived in the 23 Via Antibes property, has anybody lived with you? 24 Define live with me. Α. 25 Q. Spent more than a week with you.



1 Α. Yes. 2 And how many different people? Ο. Α. 3 One. And who was that? 4 Ο. A friend of mine who came and lived with me for 5 about three or four months. He was going through a 6 7 divorce --Ο. Who was that? 8 9 Α. -- shortly after I moved in. 10 Ο. Name? 11 Is that really relevant? Α. 12 Well, we are talking about events that occurred Q. 13 at your house and your property and Mr. Nager's property, 14 and there was somebody who was at your property for a 15 period of time so. 16 Α. Thomas Maein. 17 Spell the last name. Q. I believe it's M-a-e-i-n. 18 Α. 19 Ο. And do you know his phone number? I do not know. 20 Α. 21 When did he live with you? Q. 22 Again, as I said, for a few months in the early 23 part of 2012. Did anything go on involving Mr. Nager and you 24 25 during that time that you believe he was a witness to?



1	Α.	No.
2	Q.	Where does he live now?
3	А.	I am not sure.
4	Q.	In the Southern California area?
5	А.	I don't think so, no.
6	Q.	What type of work does he do?
7	А.	He is a pilot.
8	Q.	Who does he work for?
9	А.	United Airlines.
10	Q.	Anybody else that lived with you at your house on
11	Via Ant:	ibes for any period of time more than a week?
12	А.	No.
13	Q.	Do you have any pets?
14	А.	I do not, no.
15	Q.	Have you ever had any pets?
16	А.	In my entire lifetime?
17	Q.	At Via Antibes.
18	А.	No.
19	Q.	Unless I say otherwise now, I am just going to
20	talk abo	out your time at Via Antibes. Okay?
21	А.	Okay. Sounds good.
22	Q.	So during the time that you have been at
23	Via Ant	ibes, have you worked for anybody in particular?
24	You said	d your friend worked for United. Did you work for
25	an airl:	ine of some sort?



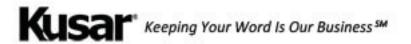
1 Α. I work for United Airlines. 2 So all your time that you have been at Ο. 3 Via Antibes, you have been employed as a pilot for United Airlines? 4 5 Α. Correct. Ο. And a passenger pilot? 6 7 Α. Correct. Do you fly certain routes? 8 Q. 9 Α. I do, yeah. Which route? 10 Ο. 11 It's not a specific route, but a majority of the Α. 12 time I fly long distance international routes. 13 Ο. And what type of planes do you fly? 14 Α. Currently I am flying a 787 or a 747, the 15 triple 7. 16 And so when you bought the Via Antibes property, 17 you bought it. Right? 18 Α. Yeah. 19 Ο. And then do you remember what the sales price 20 was? 21 I want to say 845-. Α. 22 Q. And do you have a mortgage outstanding on it? 23 Α. I do. 24 And how much is the mortgage? Q. 25 Α. I don't recall off the top of my head.



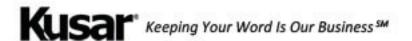
1	Q.	I'm sorry?
2	А.	I don't recall off the top of my head.
3	Q.	Do you have a ballpark estimate?
4	А.	About the same, like 780- maybe.
5	Q.	So there was about a 10 percent down payment or
6	so?	
7	А.	I think it was 20 percent.
8	Q.	Did you sell some other property to buy this
9	property	7?
10	А.	The apartment I owned in DC I sold, but that
11	wasn't ı	required for the purchase of this property, no.
12	Q.	In other words, you had cash on hand for the down
13	payment?	
14	А.	Yeah.
15	Q.	And have you ever been convicted of a felony?
16	А.	Never.
17	Q.	Do you own any guns?
18	А.	I do.
19	Q.	Are you carrying a gun now?
20	А.	I am not.
21	Q.	Do you have a license to carry a gun?
22	А.	No longer, no.
23	Q.	When did you have a license to carry a gun?
24	А.	I was a deputized Federal Marshal from about 2003
25	until ak	pout 2009.



1	Q.	And that had to do with your work as a pilot?
2	А.	Yeah.
3	Q.	Did you carry a gun as a pilot?
4	Α.	Yeah.
5	Q.	Other than carrying a gun while you were working
6	as a pil	ot, did you carry a gun outside of your work as a
7	pilot?	
8	Α.	No.
9	Q.	Do you have guns in your home?
10	А.	I do.
11	Q.	How many guns do you have in your home?
12	Α.	Two.
13	Q.	What kind of guns?
14	Α.	A pistol and a shotgun.
15	Q.	Have you ever carried the gun when you have been
16	around M	Ir. Nager?
17	Α.	Never.
18	Q.	And so has anybody ever told you that you were an
19	alcoholi	.c?
20	Α.	No.
21	Q.	And are you an alcoholic?
22	Α.	I am not.
23	Q.	Have you ever been to any drug or alcohol type of
24	rehab fa	acility?
25	Α.	I have not, no.



1 How about like a personality anger management Ο. 2 type rehab facility, anything like that? Α. No. 3 When exactly did you move into Via Antibes? 4 Ο. November or December of 2011. 5 Α. Ο. When did you first meet Mr. Nager in relation to 6 7 when you moved in? Shortly thereafter. 8 Α. And how did you meet him the first time? 9 Ο. 10 Α. I was in my -- on my driveway, and he came up and 11 introduced himself and told me that he couldn't be happier 12 to see me because the last people who lived here were the 13 biggest fucking assholes he ever met. What else did you tell you about the people that 14 Ο. lived there? 15 16 Α. All kinds of sordid allegations and rumors. His son was involved with illegal activity of some sort, 17 18 things of that nature. This was all in the first conversation? 19 Ο. 20 Α. As the story progressed. No. 21 Did you have a good relationship with Mr. Nager Q. 22 when you first moved in? 23 Α. I did. And when did -- strike that. You met Mr. Nager's 24 Q. 25 daughter?



25

1 Α. Yeah. 2 When did you first meet her in relation to when Ο. you moved in? 3 I think he introduced me shortly after I moved Α. 4 5 in. Did you ever speak with Mr. Nager's daughter 6 Ο. without Mr. Nager being around? 7 Α. Never. 8 Did you ever ask Mr. Nager for help or a referral 9 Ο. 10 for any landscaping? 11 Α. Yes. 12 And tell me about that. What did you ask about? Q. 13 What did he tell you about landscaping? It wasn't really landscaping specifically. 14 Α. was more like I think I asked him if he knew of a good 15 16 gardener in the neighborhood. He recommended one --17 Q. Do you remember -- I'm sorry. Go ahead. Α. No. Please. 18 19 Ο. No. Finish. 20 Α. Where were we? 21 I'm sorry. It was my fault for interrupting you. Q. 22 You asked Mr. Nager if he knew of any good gardener, and 23 he recommended somebody to you?

Kusar Keeping Your Word Is Our Business SM

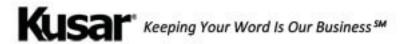
What happened with that recommendation?

He did.

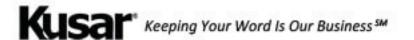
Α.

Q.

1	A. I hired him.
2	Q. And who was that?
3	A. Jose Barraza.
4	Q. Is Mr. Barraza still your gardener?
5	A. No.
6	Q. When did he stop being your gardener?
7	A. Probably about eight, nine months after the
8	assault allegation.
9	Q. "After the assault allegation." What do you
10	mean?
11	A. The assault allegation that came from your
12	client, Mrs. Barraza or Mrs. Nour, pardon me, and
13	Jose Barraza.
14	Q. Oh, the allegation that they made that you
15	assaulted them?
16	A. Correct.
17	MR. HALFEN: Objection; vague and ambiguous, also
18	assumes facts not in evidence, also compound as phrased.
19	BY MR. GLICKMAN:
20	Q. I'm just trying to find out what you're talking
21	about when you said "the assault allegation."
22	A. Did he not submit three affidavits of alleged
23	assault, one in my back yard?
24	Q. So that's what you're talking about?
25	A. Yes.
l	



1 Okay. Up until that time was there any issue Ο. 2 that you had with Mr. Barraza? Α. I have never had an issue with Mr. Barraza. 3 No. You felt he was doing a good job as a gardener? 4 Ο. Α. Sure. 5 Did you ask Mr. Nager's advice about colors for 6 Ο. 7 your house or any other matter of work on your house other than the gardening recommendation? 8 9 I don't remember ever discussing colors. Α. The only recommendation for work of any kind that 10 Ο. 11 you got from Mr. Nager was for a gardener? 12 MR. HALFEN: Objection; overbroad, vague and 13 ambiquous. 14 BY MR. GLICKMAN: 15 Ο. You can answer. 16 Α. I mean there might have been discussions about, you know, contractors that do this work or that work. 17 can't really remember any specifics, to be honest with 18 19 you. 20 Q. When you moved in to your property at 21 Via Antibes, were there any hedges between your house 22 and Mr. Nager's house? 23 Α. There were. What kind of hedges? Do you know what the plant 24 Q. 25 is?

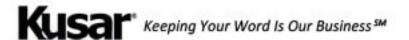


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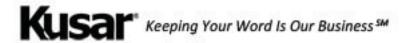
- I don't know the species. Α.
- 2 And the hedges were where? They were on the Ο.
- border between your house and Mr. Nager's house? 3
- The entire, the entire landscaping all around the Α. 4 5 entire home was overgrown, you know, everywhere. So, you
- know, on every probably border, perimeter to the house. 6
- 7 Ο. But there is one common border that you have with Mr. Nager's house. Right?
- 9 Α. Yeah.
- And there was a hedge on that border when you 10 moved in? 11
- To my recollection, yes. 12 Α.
- 13 Ο. Did Mr. Nager plant a hedge after you moved in on the border between your house and his house? 14
- 15 Α. No.
- 16 Ο. Did you plant any hedge after you moved in on the 17 border between your house and Mr. Nager's house?
- Α. No. 18
- 19 And this hedge, does it flower? Ο.
- 20 I believe there are parts of it that do. Α.
- 21 not one -- as I recall, it's not one specific species the
- 22 entire length, so there may be some that flower. I am not
- 23 really sure.
- Is there a wall also where the hedge is that 24
- 25 separates your house from Mr. Nager's house?



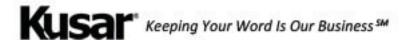
- A. There is now, yeah.
- Q. And when you moved in, was there a wall?
- A. There was a wooden fence that was falling down
- 4 between our two properties when I moved there.
- Q. And at some point in time did you ask Mr. Barraza
- 6 to cut down the hedges between your house and Mr. Nager's
- 7 | house?
- 8 A. Can you be specific to what hedges you are
- 9 talking about?
- 10 Q. Well, the hedge that is on the common border
- 11 between your house and Mr. Nager's house.
- MR. HALFEN: Well, objection; mischaracterizes
- 13 prior testimony.
- 14 | BY MR. GLICKMAN:
- 15 Q. Go ahead. You can answer.
- 16 A. No. I have never asked Mr. Barraza to cut
- 17 | anything that was on anyone else's property other than my
- 18 own.
- 19 Q. Okay. And so was the hedge on your property or
- 20 Mr. Nager's property?
- 21 A. Again, which hedge specifically are you referring
- 22 to?
- Q. Well, there is a common border between your
- 24 property and Mr. Nager's property.
- 25 A. There is.



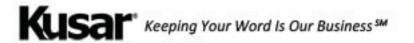
1	Q. That property line runs perpendicular to
2	Via Antibes?
3	A. It does. It runs from the street to the meadow.
4	Q. So that's the only common border that you have
5	with Mr. Nager. Right?
6	A. Correct.
7	Q. And so did you ever instruct strike that. Is
8	the hedge on your property or Mr. Nager's property?
9	MR. HALFEN: Again objection; mischaracterizes
10	prior testimony, and also vague and ambiguous based on
11	prior testimony.
12	BY MR. GLICKMAN:
13	Q. Go ahead.
14	A. So there is a hedge in the front of the property
15	and a hedge in the rear of the property. The hedge in the
16	rear of the property is on Mr. Nager's property. The
17	hedge in the front of the property is on my property.
18	That's why I'm having a little
19	Q. Okay. So when you say the front and the rear of
20	the property, how are you distinguishing between those two
21	areas?
22	A. Front is the west facing, and rear would be east
23	facing.
24	Q. Okay. So on the front area, that's the area that
25	the hedge is on your property?



1 Α. Correct. 2 And did you have Mr. Barraza cut down the hedge Ο. on that part of the property? 3 I had Mr. Barraza replace some landscaping there. Α. 4 5 And the hedge that's on the rear side of the Ο. property, that's on Mr. Nager's side. Is that right? 6 7 Α. I'm sorry. Was there a question? The hedge that's on the rear side of the 8 Ο. 9 property, that's on Mr. Nager's side of the property line? 10 Α. Right. 11 I am going to object to the extent MR. HALFEN: 12 that it calls for an expert opinion and, therefore, lacks foundation. 13 MR. GLICKMAN: Go ahead. 14 15 MR. HALFEN: I think he answered it, though. 16 BY MR. GLICKMAN: You said "Right"? 17 Q. Correct. 18 Α. 19 Ο. So did you ever have Mr. Barraza do anything with 20 that part of the hedge that's on the rear part of the 21 property? 22 MR. WEERASURIYA: Objection; vague and ambiguous. 23 MR. HALFEN: Also same objection as to expert 24 opinion. THE WITNESS: As I stated before, I have never 25



1	asked nor had Jose Barraza cut any landscaping anywhere
2	other than on my property.
3	BY MR. GLICKMAN:
4	Q. Okay. So if we are talking about the hedge that
5	runs along the common property line with you and
6	Mr. Nager, the only area of the hedge that you had
7	Mr. Barraza do any trimming or cutting of any kind would
8	be on what you are calling the front part of the common
9	property boundary?
10	MR. HALFEN: Objection; mischaracterizes prior
11	testimony.
12	THE WITNESS: I would contend that the hedge on
13	the front of the property is completely on my property.
14	There may be, you know, like a very small portion of it
15	that is on his property. That would be need to be
16	measured to be found out for certain.
17	BY MR. GLICKMAN:
18	Q. But without saying whose side of the property
19	it's on, just the hedge that runs along the common border
20	either on your side or his side, the only area that you
21	had Mr. Barraza do any trimming or cutting of any kind was
22	on what you are calling the front side of that property
23	border?
24	MR. HALFEN: I'm going to object. Again it
25	mischaracterizes the witness's prior testimony.



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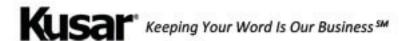
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- BY MR. GLICKMAN:
- 2 O. Go ahead.
- A. I am not sure I understand the question. Could you maybe make it a little more clear for me.
  - Q. If we take the entire common border that you have between Mr. Nager and your property, where did you have Mr. Barraza do any cutting?
  - A. Solely on my side of the property.
  - Q. And when you say solely on your side of the property, you are talking about what you have described as the front part of the property. Is that correct?
- A. Anywhere on my property, solely on my side of the property.
- Q. Okay. Did you ever talk with Mr. Nager about
  getting any permission for Mr. Barraza to do any trimming
  or cutting of the hedge that runs along your property
  boundary?
- 18 MR. HALFEN: Objection; vague and ambiguous.
- 19 THE WITNESS: Which hedge are you referring to 20 now again?
- 21 BY MR. GLICKMAN:
- Q. There's only one hedge that runs along your common border. Right?
- MR. HALFEN: Well, objection; again

  mischaracterizes the witness's testimony, his previous



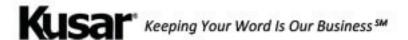
testimony.

THE WITNESS: As I have stated, there are two hedges or maybe more. I don't know exactly what's in his back yard. But there is a hedge in the front part of the house, which is solely on my property, and then at the rear of the property, both properties, Mr. Nager has a hedge on his side of the wall that runs to the eastern boundary.

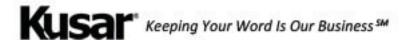
## 9 BY MR. GLICKMAN:

- Q. Okay. On either of those two hedges that you just described, did you ever talk with Mr. Nager to get his permission to do any trimming or cutting or anything of those hedges?
- A. The hedge in the front part is solely on my property. I do not believe I need nor did I seek

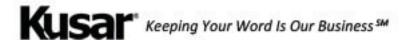
  Mr. Nager's permission to trim hedges that are on my own property.
- Q. Okay. So the portion on the front you never talked with Mr. Nager about "Hey, I am thinking about trimming this. Do you have any input on this or anything?" You never had that discussion with him?
- A. I think I told him I was planning on changing -just in discussion changing the landscaping that was there
  because it was a number of different species, many
  overgrown, many, you know, pretty much out of -- you know,



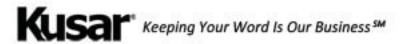
1 that I was thinking about changing, but I was not looking 2 for his permission, no. But you were talking to him and telling him here 3 Ο. is what you are thinking of doing? 4 5 Α. I believe that was discussed, yeah. Ο. When was this? 6 I can't really recall. Α. Was Mr. Barraza a witness to your conversation? 8 Ο. I don't recall. 9 Α. 10 Was anybody a witness to your conversation? Ο. I don't think so. 11 Α. 12 Can you ballpark what year this conversation took Q. 13 place? 14 Α. Well, it was prior to 2015. 15 And was it a friendly conversation? Q. 16 Α. It was, as I recall. 17 What did Mr. Nager say in response to your Q. discussion with him? 18 19 Α. He had concerns about what I was going to replace 20 it with and that the existing hedges, bushes, whatever 21 would be taken down because he said to me, "I don't want 22 to have to see your shitty truck." 23 Q. What type of truck? Pickup truck. 24 Α. 25 Q. What year?



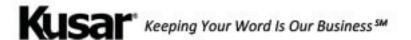
1 I don't really recall. It was fairly new, Α. 2 probably 2013. You parked the pickup truck in the driveway? 3 Ο. I did. It does not fit in the garage. Α. 4 5 Okay. Was there something about the truck Ο. that --6 7 Α. Nothing whatsoever. MR. HALFEN: Hang on. He hasn't finished his 8 9 question. You have to wait until he finishes, and then 10 you answer. 11 THE WITNESS: Pardon me. 12 BY MR. GLICKMAN: 13 Ο. But you gave the description of Mr. Nager as, quote, "your shitty truck," close quote? 14 15 Α. Correct. 16 MR. HALFEN: Objection; vaque and ambiguous. BY MR. GLICKMAN: 17 Is that the way you described what Mr. Nager said 18 19 about your truck? That is what he said about my truck. 20 Α. 21 Is there anything that you saw about your truck 22 that would lead you to say that was an accurate or 23 inaccurate assessment of your truck? MR. WEERASURIYA: Objection; calls for 24 25 speculation, vague and ambiguous.



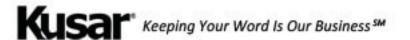
1	THE WITNESS: No.
2	BY MR. GLICKMAN:
3	Q. Your truck was in good condition?
4	A. It was brand-new.
5	Q. And it was too big to park in your garage. Is
6	that what you said?
7	A. Yes.
8	Q. What type of truck?
9	A. Toyota.
10	Q. What type?
11	A. Tacoma four crew cab. I believe it has four
12	seats, a long bed.
13	Q. How many cars did you have at that time?
14	A. Just the one.
15	Q. And was it that you had other stuff in your
16	garage that prevented you from parking the truck in the
17	garage?
18	A. No.
19	Q. Why couldn't you park the truck in the garage?
20	MR. WEERASURIYA: Objection; asked and answered,
21	I believe.
22	THE WITNESS: Too long.
23	BY MR. GLICKMAN:
24	Q. Okay. Was there anything else that was said when
25	you had that discussion with Mr. Nager about your plans to



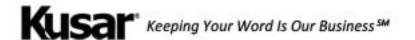
- 1 do changes to the landscaping in the front area?
- 2 A. I recall assuring him that the new landscaping
- 3 | would be more than adequate, satisfactory. It will be
- 4 | brand-new, very nice. There will be no problem. He won't
- 5 | have to see my truck.
- 6 Q. Anything else Mr. Nager said at that time?
- 7 A. Not that I recall.
- 8 Q. And so did you go ahead and change the
- 9 | landscaping in the front area?
- 10 A. I did, yeah.
- 11 Q. When did you do that?
- 12 A. Shortly thereafter.
- Q. Did you need to get any permission from the
- 14 | homeowners association in any way to do the landscaping in
- 15 | the front?
- 16 MR. HALFEN: Objection; calls for a legal
- 17 | conclusion, lack of foundation.
- 18 THE WITNESS: No, I don't believe so.
- 19 BY MR. GLICKMAN:
- Q. Did you inquire of anybody at the homeowners
- 21 association that you needed to get permission?
- 22 A. I do not remember doing that.
- Q. So when did you change the hedges at the front?
- 24 A. As I said, I am not really sure.
- 25 Q. It was before or after you filed the lawsuit?



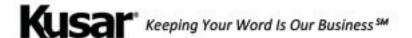
1 Oh, we are talking about somewhere between 2012 Α. 2 and 2015, so probably like 2013, '14. I don't know. What about the back area where your common 3 Ο. boundary line is? You are saying that the hedge is fully 4 5 on Mr. Nager's property at that point. MR. HALFEN: Objection; mischaracterizes prior 6 7 testimony. BY MR. GLICKMAN: 8 9 Is that correct? Ο. 10 Α. I'm sorry? Did you ever have any discussion with Mr. Nager 11 12 about the back hedge, about doing any trimming of any kind 13 on the back hedge, the one that is on the common boundary between his property and your property? 14 15 Α. The rear hedge. 16 Ο. The rear edge. We will call it that. 17 Many conversations. Α. When did you first have a conversation with 18 Q. 19 Mr. Nager about the rear hedge? 20 Α. Probably beginning in the early part of 2014. 21 And what was discussed at that point? Q. 22 Α. About getting him to trim the hedge to allow me 23 to have the ocean view that the property was meant to 24 have. 25 Q. When you moved in, did you have an ocean view?



1 As I said, the vast majority of the landscaping Α. 2 in the back yard was significantly --3 MR. HALFEN: Try to listen to the question that's asked, and answer the question that's asked. Can we have 4 5 the question read back, please. BY MR. GLICKMAN: 6 7 I thought you were doing a good job. Q. (Question read as follows: 8 9 When you moved in, did you have an ocean "O. 10 view?") 11 MR. HALFEN: That's a yes-or-no question. 12 BY MR. GLICKMAN: 13 Ο. Or an explanation. I would say it's a yes and a no question, to be 14 15 honest with you. 16 Ο. So let me see -- I think I got the sense of what 17 you were saying. You said that there was an ocean view, but the hedge was --18 19 Α. Obstructing it, yes. 20 It was overgrown at that point? Q. 21 The hedge was significantly obstructing the ocean Α. 22 view to the south, yeah. 23 If we take the wall that you subsequently put Q. 24 in --25 Α. I'm sorry. Which wall?



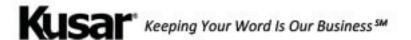
Along the rear hedge. You put a wall up there, 1 Ο. 2 right, on your property? The rear hedge meaning the south boundary 3 Α. property line? 4 5 The boundary between you and Mr. Nager where there's that common boundary line where there is the hedge 6 7 that's on his property. He and I put in --8 Α. The wall? 9 Ο. 10 Α. -- the wall. But without arguing about that, I am just trying 11 12 to get an idea if you can estimate how much higher than 13 the wall was the vegetation when you moved in. I understand there wasn't a wall there at the time. 14 15 we take the wall that's there now, was the vegetation 16 higher than the height of the wall now? 17 MR. HALFEN: Objection; vague and ambiguous. THE WITNESS: Higher than the wall that is there 18 19 now --20 BY MR. GLICKMAN: 21 Q. Right. 22 -- or the wall that was there? The wall that's 23 Is that the question? there now. Yes, because we can objectively see the height of 24 25 the wall now. If we go out to the property, we can



1 measure it and see how high it is. I am just trying to 2 get an idea if you can in your mind say that the vegetation was a foot higher than the wall that's there 3 now or two feet higher or lower, or what? 4 5 A couple of feet, a number of feet. A couple of feet what? 6 Ο. 7 MR. HALFEN: He said, "A couple of feet, a number of feet" is what I heard him say. 8 9 BY MR. GLICKMAN: 10 Ο. Right. But was it higher or lower than the wall? 11 Α. Higher. 12 Okay. So if we go out to the property now and we Q. 13 look at the wall now and if we imagine a couple feet higher, that would be the height of the vegetation when 14 15 you moved in? 16 MR. HALFEN: Objection; mischaracterizes prior 17 testimony. MR. GLICKMAN: I thought I said it exactly right, 18 19 but go ahead. MR. HALFEN: Well, you said "a couple." He said 20 21 "a couple, a number of feet," which is a different 22 statement, Counsel. So you don't have to revise his 23 testimony when you ask the next question. His testimony is clear. He said, "a couple, a number of feet." 24 25 MR. GLICKMAN: What does that mean, "a couple, a

1 number of feet"? 2 MR. HALFEN: Well, you can ask him a follow-up question if you don't understand it, but you are 3 mischaracterizing his testimony and repeating his answer 4 5 inaccurately, and you have been doing that a number of times, Counsel. 6 7 BY MR. GLICKMAN: What does that mean, "a couple, a number of 8 Ο. feet"? 9 10 Α. I don't know the exact measurement. Are you talking about two feet, three feet, five 11 Ο. 12 feet? What are you talking about? 13 Α. I'd rather not quess. I don't know. What's your best estimate? You were the one who 14 15 was there when you moved in, and you could see what it looked like. 16 17 Objection; argumentative. MR. HALFEN: MR. WEERASURIYA: Calls for speculation as well. 18 19 BY MR. GLICKMAN: What's your best estimate? 20 Q. 21 MR. HALFEN: Objection; asked and answered. 22 THE WITNESS: Two feet maybe. 23 BY MR. GLICKMAN: 24 Okay. So at any time -- strike that. When did

you first have any discussion with Mr. Nager then about



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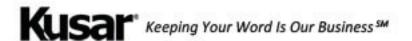
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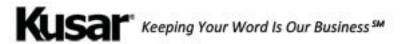
- doing any trimming of any kind on that rear hedge?

  A. As I said before, it began in the early part of

  2014.
- Q. And did he talk to you, or did you talk to him first?
- 6 A. I talked to him.
- Q. And where were you when you talked to him the first time?
- 9 A. I don't recall.
- 10 Q. Anybody else around?
- 11 A. I don't recall.
- Q. What do you recall discussing with Mr. Nager in that first conversation about the rear hedge?
- 14 A. That I would very much appreciate it if he 15 trimmed his hedge.
- Q. And what did he say?
- A. He gave a litany of excuses as to why he didn't want to, couldn't do it.
- 19 Q. What do you mean "a litany of excuses"?
  - A. He said he had significant privacy concerns. He said a doctor that lived in the neighborhood had been coming down into the meadow and spying on his daughter while she sunbathed in their back yard, you know, things of that nature, you know.
- Q. So he wanted the hedge to prevent the doctor from



1	spying on his daughter. Is that the way you understood
2	what he was saying?
3	MR. HALFEN: Objection; that calls for
4	speculation.
5	THE WITNESS: I don't know why, what all the
6	reasons were that he wanted the hedge.
7	BY MR. GLICKMAN:
8	Q. But he told you something about a doctor spying
9	on his daughter?
10	A. Yeah. That was his reasoning for privacy, and he
11	mentioned that. He mentioned some doctor that lived in
12	the neighborhood, like I said, that he said would come
13	down into the meadow and peek into his back yard and spy
14	on his daughter.
15	Q. This hedge that was on the rear part of the
16	property between your property and Mr. Nager's property,
17	was that a hedge that would block the view from the
18	meadow?
19	A. No.
20	Q. Who is this doctor that he was talking about? Do
21	you know?
22	A. I don't know who he is.
23	Q. Anything else that Mr. Nager said to you in that
24	first conversation when you discussed trimming the hedge
25	that's on your common property?



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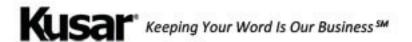
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- A. Not that I can recall, no.
  - Q. Was there still a wooden fence at that point?
- A. I don't remember.
  - Q. At some point in time you had some discussion that led to the wooden fence coming down and a wall going up on that rear part of the common property boundary.
- 7 | Right?
- 8 A. Correct.

sooner or later.

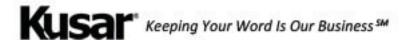
- Q. And how did that come about?
- A. As I said before, when I moved in, the fence that
  was all along the southern boundary was completely rotten,
  termite ridden, and falling down in sections, falling
  down, downhill into his property, towards his property; so
  it was obviously something that needed to be addressed
- Q. Okay. So you approached Mr. Nager about doing something with that wood fence?
- 18 A. I don't remember how it was decided. I don't
  19 recall if I approached him or he approached me.
- Q. Do you recall Mr. Nager coming to you and saying,
  "Look, let's talk about doing a new fence or a new wall
  here"?
  - A. We had a discussion or two about the need to resolve the problem, you know what I mean, by putting in -- you know, either replacing or repairing a new fence



- 1 because it was an obvious problem that couldn't be denied.
- Q. Was this a cordial conversation about dealing
- 3 | with the fence?
- 4 A. Yeah.
- 5 O. And what was the outcome of the fence discussion?
- 6 A. To put in a new fence.
- 7 Q. Okay. And what type of fence?
- 8 A. A block wall fence.
- 9 Q. Did you have some written agreement of some sort 10 relating to the new -- do you call it a fence or a wall?
- 11 A. A wall. I guess a wall would be more 12 appropriate.
- Q. Like what Trump says: Is it a wall, or is it a fence?
- MR. HALFEN: Objection; vague and ambiguous.
- MR. GLICKMAN: Objection; bad joke.
- 17 MR. HALFEN: Yeah. I think counsel was joking.
- 18 | I was half joking, too, actually.
- 19 BY MR. GLICKMAN:
- Q. Okay. But the discussion was eventually going
- 21 towards putting in a wall as opposed to a new wood fence?
- 22 A. Correct.
- 23 Q. And who brought up the idea of putting in a wall?
- 24 A. I don't recall. I recall the wall, the idea
- 25 behind the wall was so that the same thing wouldn't occur,



- the termites, the rot that occurred to the wood.
- 2 Q. Before the old fence was taken down and the wall
- 3 | was put up, did you ever have Mr. Barraza do any work on
- 4 | that hedge where the back area is of your house dividing
- 5 | your property and Mr. Nager's property?
- 6 MR. WEERASURIYA: Objection; asked and answered.
- 7 BY MR. GLICKMAN:
- 8 O. Go ahead.
- 9 A. On my property.
- 10 Q. At all. Did you ever ask Mr. Barraza to do any
- 11 | trimming, any work on that hedge before the wall was put
- 12 | up on that common area between your property and
- 13 Mr. Nager's property?
- MR. WEERASURIYA: Objection; same.
- 15 THE WITNESS: No.
- 16 BY MR. GLICKMAN:
- 17 Q. So with the wall did you and Mr. Nager have
- 18 | anything in writing relating to the wall that was put up?
- 19 A. I don't think so, but I'd have to look.
- 20 Q. For purposes of this question I want you to
- 21 assume that Mr. Barraza is going to testify that you told
- 22 | him, Mr. Barraza, that Mr. Nager had given approval for
- 23 cutting hedges on -- the part of the hedge that was in the
- 24 back part of your property on the common property
- 25 | boundary. Do you recall ever giving Mr. Barraza that



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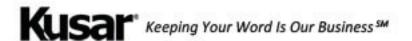
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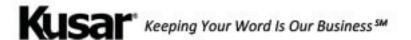
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1	statement?
2	MR. HALFEN: Objection; as phrased the question
3	is vague and ambiguous, but beyond that it assumes a fact
4	that's not in evidence here, calls for speculation on the
5	part of the witness.
6	THE WITNESS: I didn't even understand the
7	question.
8	BY MR. GLICKMAN:
9	Q. I will just ask it afresh. Did you ever tell
10	Mr. Barraza that you had spoken with Mr. Nager and that
11	Mr. Nager gave approval for Mr. Barraza to trim the hedge
12	that's separating your property and his property on the
13	back side of the property?
14	MR. HALFEN: Objection; vague.
15	THE WITNESS: Anywhere other than on my property?
16	BY MR. GLICKMAN:
17	Q. What you are saying is
18	A. What I'm saying is Mr. Barraza was my landscaper.

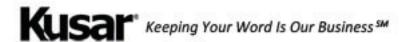
- What I'm saying is Mr. Barraza was my landscaper. He had free rein to cut, trim, whatever my landscaping on my property. I never instructed Mr. Barraza to cut or trim landscaping anywhere other than on my property, any hedge, any whatever.
- Q. Okay. Did you ever tell Mr. Barraza that Mr. Nager had given approval for any landscaping you were doing?



1 MR. WEERASURIYA: Objection; asked and answered. 2 THE WITNESS: Any landscaping that I was doing on 3 my property? BY MR. GLICKMAN: 4 5 Of any kind. Did you ever tell Mr. Barraza, "I spoke with Mr. Nager, and Mr. Nager gave his approval for 6 7 doing this." MR. WEERASURIYA: Objection; the same. 8 9 BY MR. GLICKMAN: 10 Ο. -- "Here's what I'd like done"? 11 Α. No. 12 Did you make any improvements on your house Q. 13 before you moved in? MR. WEERASURIYA: Objection; vaque and ambiquous. 14 THE WITNESS: Before I moved in? 15 16 BY MR. GLICKMAN: 17 Q. Yes. No. Α. 18 19 Ο. And after you moved in, did you make any 20 improvements of any kind? 21 Significant improvements. Α. 22 Q. Let's talk about the exterior improvements. What 23 exterior improvements did you make after you moved in? Almost everything was painted. There was some 24 Α. 25 siding and brick work that didn't match on the front of

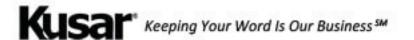


- the house that was stuccoed, all stuccoed to match, the
  windows, you know, that were leaking were repaired, things
  of that nature.
- Q. Okay. Did you do any building of any kind in the rear of your house; that would be the area facing the back yard of Mr. Nager's house?
- 7 A. How do you mean "building"?
- Q. Well, I don't know. I think you put in some sort of deck, a sun deck of some sort or something.
- 10 A. No, I did not.
- 11 Q. What did you put in? You put something in.
- 12 A. I put in an arbor awning.
- Q. There were some posts put in, and then there was some covering of the area with curtains around it?
- 15 A. It was an awning installed by an awning company in my back yard.
- Q. Okay. What other work did you do in your back yard?
- A. Relandscaped the entire back yard, put fresh
  grass. There was some old growth trees that were falling
  down. A lot of debris was taken out.
- Q. Did you put in an area where you have chaise lounges now?
- A. I did not put in the area, no.
- Q. That was there when you moved in?



1 It was. Α. 2 Did you do anything to that area other than paint Ο. 3 it? I repaired -- I did not. The concrete that was Α. 4 on the floor of that area and the stairs that led down 5 from it, I had that repaired. 6 7 Ο. So did you change the footprint at all or just make --8 9 Α. I did not change the footprint in any way. 10 -- repairs, not any change to the footprint? Ο. 11 Correct. Α. 12 And so the only, quote, unquote, "new change" Q. 13 that you made in the back yard was putting in the arbor? MR. HALFEN: Objection; mischaracterizes his 14 15 prior testimony. BY MR. GLICKMAN: 16 17 Is that right? Q. When you say like construction --18 Α. 19 Ο. Right. Other than repairing existing structures, 20 the only change you made was adding the arbor? 21 The only significant change, yes. Α. 22 Q. Okay. Did you have to get any permits of any 23 kind for any of the work that you did on the outside of 24 your house?

I will object to the extent that it



MR. HALFEN:

1 calls for a legal conclusion. Go ahead. 2 THE WITNESS: Yes. BY MR. GLICKMAN: 3 Who did you get permits from? 4 Ο. 5 MR. WEERASURIYA: Objection; compound. THE WITNESS: The City of Dana Point. 6 7 BY MR. GLICKMAN: And these were permits for doing what? 8 Ο. Installing that arbor. 9 Α. Other than installing the arbor, did you get any 10 Q. 11 other permit for work on your house from the City of Dana Point? 12 13 MR. HALFEN: Objection; overbroad as to time 14 frame, vaque and ambiguous. 15 THE WITNESS: Not that I recall. 16 BY MR. GLICKMAN: Did you have to get any permission of any kind 17 from the homeowners association for any work you did in 18 19 your back yard? 20 MR. HALFEN: Again, I will object on the grounds 21 that as phrased the question calls for a legal conclusion. 22 THE WITNESS: Yes. 23 BY MR. GLICKMAN: What permission did you get from the homeowners 24 25 association?



1	A. I received written permission from the homeowners			
2	association.			
3	Q. For the arbor?			
4	A. For the arbor.			
5	Q. Anything else?			
6	A. I think it was some landscaping things, you know,			
7	landscaping issues. I can't really recall, to be honest			
8	with you.			
9	Q. Did you ever ask any of your neighbors to sign			
10	off and give it permission for any work you were doing on			
11	the outside of your house?			
12	A. I asked all of my neighbors with the exception of			
13	Mr. Nager.			
14	Q. Is there a reason you did not ask Mr. Nager?			
15	A. Yes.			
16	MR. HALFEN: Objection; vague and ambiguous,			
17	overbroad.			
18	THE WITNESS: Yes.			
19	BY MR. GLICKMAN:			
20	Q. What was your reason?			
21	A. It was downstream of the letter from you			
22	requesting that I have no contact or, you know, whatever			
23	with your client, Mr. Nager. So I got the it's not			
24	really approval. It's just letting your neighbors see the			
25	plans. And I took it to the HOA, and I informed the board			



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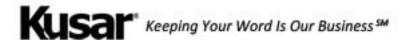
1 president that he had not seen it because of the letter 2 that you wrote and that he would make sure that he could 3 get a look at it or what have you. I don't really know 4 what happened after that point. 5 Who was the board president? Ο. At that time it was Randy Jones. 6 Α. So what other neighbors did you get permission Q. from? 8 9 MR. WEERASURIYA: Objection; mischaracterizes the testimony. 10 11 The Tianos, who live just to the THE WITNESS: 12 north of me, and at the time the Lemonadis that lived to 13 the east of me. BY MR. GLICKMAN: 14 15 Q. Across the street? 16 Α. Across Mentone, not across Antibes but across. 17 Your house is on the corner. Q. Correct. 18 Α. 19 Ο. You are familiar with a neighbor impact form that the homeowners association has? 20 21 That is it, I believe. Α. 22 Q. I'm sorry? 23 I believe that is it. Α.

Okay. And so how many times did you have a

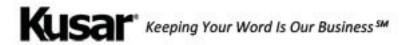
neighbor impact form signed by different neighbors?



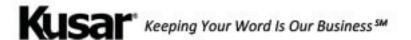
- 1 A. Any time it was required.
  - Q. How many times did you do it?
- A. Are we talking about the arbor now again?
- 4 Q. Just in terms of work that you did on your house,
- 5 | how many times, separate times did you use a neighbor
- 6 | impact form?
- 7 A. I can't recall. Numerous times.
- Q. And did you ever have Mr. Nager at any time sign a neighbor impact form?
- 10 A. I can't recall.
- 11 Q. Did you ever --
- 12 A. I can recall after 2015, after the letter from
- 13 | you, no.
- Q. But before 2015 you were there for four years,
- 15 more or less. During those four years did you ever ask
- 16 Mr. Nager to sign a neighbor impact form?
- 17 A. I don't recall.
- Q. Was there a cement mixer truck that came to the
- 19 back of your house at some point in time?
- 20 A. Can you be more specific?
- 21 Q. Did you ever have a cement mixer truck at your
- 22 | property that poured concrete for anything in your back
- 23 yard?
- A. When the concrete on that was repaired, there was
- 25 a cement mixer truck that pulled onto Antibes.



1	Q.	What do you call that area where the concrete was	
2	repaired?		
3	A.	I don't know exactly what you would call it, to	
4	be honest with you. I believe its main function is a		
5	retainin	g wall.	
6	Q.	Did you ever call it a viewing deck?	
7	A.	No.	
8	Q.	This is an area now that you have chaise lounges	
9	on?		
10	A.	I do.	
11	Q.	Did you have to get a permit for the cement mixer	
12	truck to come on?		
13	A.	No. Repairing cement does not require a permit.	
14	Q.	Do you have a view of Mr. Nager's house from your	
15	property?		
16		MR. WEERASURIYA: Objection; vague and ambiguous.	
17		MR. GLICKMAN: I will agree with that one.	
18	Q.	From your back yard do you have a view of	
19	Mr. Nager's property?		
20	A.	I can see portions of his property from my back	
21	yard, ye	S.	
22	Q.	What portions of his property can you see?	
23	Α.	Mainly his back yard area.	
24	Q.	Can you see any part of his house?	
25	А.	Yeah. The eastern end of the home, some of the	



- 1 roof.
- Q. Has anybody ever told you that you were invading
- 3 Mr. Nager's privacy from your back yard?
- 4 MR. HALFEN: You mean other than in this lawsuit?
- 5 MR. GLICKMAN: Right.
- 6 MR. HALFEN: Other than in this lawsuit. That's
- 7 | obviously an allegation, Counsel, in this lawsuit. Am I
- 8 | correct about that?
- 9 MR. GLICKMAN: I think so, yes.
- 10 MR. HALFEN: Okay. He is aware of the lawsuit.
- 11 Do you know of any other time when that issue came up
- 12 other than this lawsuit?
- 13 THE WITNESS: No. Mr. Nager is the only one
- 14 | who's ever alleged that.
- 15 BY MR. GLICKMAN:
- 16 Q. Did he say anything to you directly about that?
- 17 A. I think he said it to anyone who would listen to
- 18 | him, including me.
- 19 Q. When did Mr. Nager first say anything to you
- 20 | about that you were invading his property? Strike that.
- 21 When did Mr. Nager ever say anything to you about that you
- 22 were invading his privacy?
- 23 A. I don't remember couching it in terms of invading
- 24 his privacy. Violating, you know, whatever, that kind of
- 25 thing.



When did Mr. Nager say anything about violating 1 Ο. 2 his privacy or whatever he was talking to you about? With any discussion, as I recall it, numerous 3 Α. 4 times. 5 When did this first come up, this concept of Ο. violating his privacy? 6 7 Probably in the latter part of 2014. Α. What was the context? 8 Ο. Just that context. 9 Α. What context? I mean you had to be talking to 10 Ο. 11 him somehow. 12 Oh, again about trimming the bushes to allow me 13 the view that I am entitled to per the CC & Rs and the view maintenance policy. 14 15 What are you referring to when you say the view 16 maintenance policy? 17 Emerald Ridge's view maintenance policy. Α. What is that? 18 Q. 19 It lays down how much view can be blocked, who is Α. 20 given the responsibility, the sole responsibility to 21 determine that blockage, and that essentially any 22 decisions that they hand down are unassailable. That's 23 it. 24 Okay. So Mr. Nager said something to you about

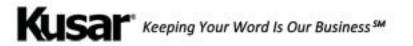


that he felt that you were invading his privacy?

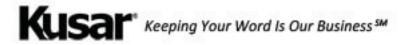
Q.

1	A. Not that I was invading his privacy. One of the
2	many excuses was privacy. He kept harping on his privacy,
3	his privacy.
4	Q. Many excuses for what?
5	A. For not cutting the bushes, trimming the bushes.
6	Q. And the bushes that you are talking about, this
7	is that hedge that we are talking about where that new
8	wall was put up?
9	A. The hedge on the, yeah, rear portion of the
10	property.
11	Q. And so when Mr. Nager and you were having some
12	discussion about you felt he should trim the hedge and he
13	was giving you the reasons why not because of privacy, was
14	the wall already in place at that time, or was this before
15	the wall was built?
16	A. I don't recall, to be honest with you.
17	Q. So, again, if we use the height of the wall
18	that's there now, when you were having this discussion
19	about Mr. Nager trimming the hedge, how high was the hedge
20	above where the wall is now?
21	A. As I said before, a couple of feet.
22	Q. So about the same as when you moved in?
23	A. It was hard to determine when I moved in where,
24	you know. There was no delineated line (indicating).

Well, did you feel that Mr. Nager was essentially

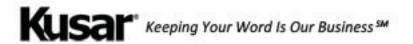


maintaining the hedge at the same height as it was when
you moved in?
MR. HALFEN: Objection; vague and ambiguous.
THE WITNESS: I don't really recall.
BY MR. GLICKMAN:
Q. You don't recall what?
A. What exact landscaping he was doing in his back
yard throughout the period
Q. But you were having some discussion with
Mr. Nager where you felt that you wanted Mr. Nager to trim
the hedge, and it was about two feet or so above where the
wall height is now, and Mr. Nager was saying he didn't
want to do it because of privacy and other issues.
I am just trying to compare that point in time to
2011, when you moved in, the height of the hedge. Was it
about the same?
A. About the same, yes, or similar.
Q. And this conversation you were having with
Mr. Nager, then, when you first started talking about the
hedge and he brought up the privacy issues, when was that?
Did you say 2014?
A. Yeah.
Q. And when was the wall built?
A. I don't recall, to be honest with you. It was

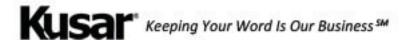


before 2013, 2014, somewhere in that time period.

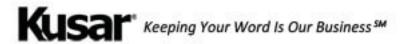
1	MR. HALFEN: Is now a good time for a break?
2	MR. GLICKMAN: Why not?
3	MR. HALFEN: All right.
4	(A 16-minute recess was taken.)
5	MR. GLICKMAN: Let's go back on the record.
6	Q. While we were off the record, did you think of
7	anything that you wanted to change of any of your answers
8	so far?
9	A. Not as of yet, no.
10	Q. You were at the property before you bought the
11	house. Weren't you?
12	A. I was.
13	Q. And you saw the back yard. You saw the foliage.
14	You saw whatever view there was at the time you bought the
15	property before you bought the property?
16	A. I saw the property, yeah.
17	Q. You walked all the way through. You walked in
18	the back yard?
19	A. There were a number of areas that were very hard
20	to access because of the amount of junk and crap and
21	everything in the back yard was one of those.
22	Q. Did you see whatever view there was in the back
23	yard before you bought the property?
24	MR. WEERASURIYA: Objection; vague and ambiguous.
25	THE WITNESS: You know, I saw the back yard. I



1 saw the potential that I thought was there, yeah. 2 BY MR. GLICKMAN: You were there during the daytime when you looked 3 Ο. at the property? 4 5 Α. Daytime, yeah. Did you go by yourself or with somebody? 6 Ο. 7 Α. I was with a realtor. Who was that? 8 Ο. Diane. I don't recall her last name. 9 Α. 10 What company? Q. 11 I think it was BRE, which I believe is Better Α. I think that's it. Better Real Estate 12 Real Estate. 13 something. Do you know if she is still with the same 14 15 company? 16 Α. I don't believe she is, no. I think she is retired. 17 Did you have to sign some sort of 18 19 acknowledgements of having inspected the property and 20 waiving inspections and things like that when you bought 21 the property? 22 MR. HALFEN: Objection; vague and ambiguous. 23 THE WITNESS: Can you be more specific? BY MR. GLICKMAN: 24 25 Q. Sure. When you bought the property, do you



1	recall signing any documents acknowledging that you had		
2	visited the property and saw the conditions of the		
3	property?		
4	A. I signed all the documents in escrow that were		
5	required of me to sign.		
6	Q. Did you have any inspections done at the property		
7	before you bought it? This is before escrow closed.		
8	A. Yeah. There was an inspector.		
9	Q. What kind of inspection?		
10	A. I think they inspected electrical, plumbing, the		
11	roof, things of that nature.		
12	Q. How many times were you on the property before		
13	escrow closed?		
14	A. Twice, I believe.		
15	Q. And both times during the day?		
16	A. Yes.		
17	Q. Let me show you a photo that we will mark this as		
18	Exhibit 1 to your deposition.		
19	(The aforementioned document was marked by the		
20	court reporter as Defendants' Exhibit 1 for		
21	identification; attached hereto.)		
22	THE WITNESS: Do you have a copy for		
23	BY MR. GLICKMAN:		
24	Q. I only have two copies. Sorry.		
25	Exhibit 1, this is a photo taken from Mr. Nager's		



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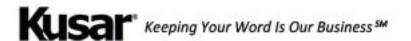
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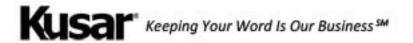
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- property looking back towards your property across that wall that was built?
  - A. Correct.
  - Q. And so the area that we see to the left of the property where there is the curtains, is that the arbor area we are talking about?
    - A. It is.
  - Q. And so that was something that was not there when you bought the property that you built. Is that correct?
- 10 A. Correct.
- Q. And the area where the three lounges are with the two umbrellas, what do you call that area?
- A. You can call it whatever you like. Again, I said its main function was a retaining wall, I believe. It was there before I bought the property.
  - Q. And if I call that area where the three chaise lounges are and the two umbrellas the upper deck area, would that be a sensible way of calling it?
- 19 A. You can call it whatever you'd like to call it.
  - Q. Why don't we just call it the upper deck area so I don't have to keep on saying the area where the three chaise lounges and the two umbrellas are. Okay with you?
- 23 A. Sure.
  - Q. From the upper deck area have you ever had your ocean view obstructed?

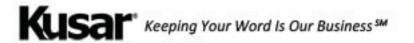


1	A. The view of the ocean from the upper deck area,
2	was it ever obstructed by any of Nager's landscaping?
3	Q. Where was the obstruction?
4	A. There were a number of areas that were
5	obstructing even to a person being that high up on the
6	property, like the birds of paradise, things of that
7	nature. But never was there a claim to an ocean view from
8	this spot, and never and there was never any assessment
9	of an unreasonable view blockage done from anywhere other
10	than the ground level of the back yard.
11	Q. Okay. So where do you believe that Mr. Nager had
12	obstructed your view?
13	A. The view obstruction, you can only see a portion
14	of the area that encompassed the view obstruction from
15	this picture. But the hedge was quite a bit higher
16	(indicating) so that standing in the back yard, it was
17	significantly obstructing the ocean view in that
18	direction.
19	Q. Is there any obstruction of the ocean view that
20	you believe that we can see in this picture, Exhibit 1?
21	MR. WEERASURIYA: Objection; calls for
22	speculation, vague and ambiguous.
23	THE WITNESS: The only part that he is not
24	complying with here based upon the ARC is this one area,
25	the area over here (indicating) to the left, which is also



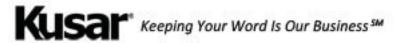
Q.

1	supposed to be at the area all the way back to the eave
2	of his roof or the
3	BY MR. GLICKMAN:
4	Q. When we are looking at the property
5	MR. HALFEN: I don't think he was quite finished,
6	Steve.
7	MR. GLICKMAN: Sorry.
8	THE WITNESS: That area does not meet the ARC's
9	instructions for resolving the view blockage. All of this
10	(indicating) does.
11	BY MR. GLICKMAN:
12	Q. So the area that you are saying did not meet the
13	requirements for getting rid of the view blockage is the
14	area that's just to the left of the photo where there is
15	the foliage that is above the height of the wall? Let me
16	see if I have a Sharpie.
17	(Brief interruption.)
18	MR. GLICKMAN: Let's go back on the record.
19	Q. So we have a Sharpie now. Can you put a circle
20	around where you believe there is a view blockage.
21	A. So it's hard to determine in this picture because
22	it's facing north. The limit was, you know, the end of
23	the house structure, and I believe that to be this
24	(indicating) is in noncompliance.



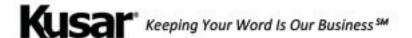
Make a box.

1	A. (Witness complies.)
2	Q. There you go. And the area that you put the box
3	around, was that foliage there when you moved in?
4	A. I don't know.
5	Q. Do you know who planted that foliage there where
6	the box is?
7	A. I would assume Mr. Nager did.
8	Q. Were you ever aware of anybody from the
9	homeowners association other than Mr. Nager planting any
10	foliage?
11	A. That's correct. The homeowners association
12	planted some, I believe planted some foliage in his back
13	yard at one time. I don't know the specific details.
14	Q. The area that you put the box around, isn't that
15	the foliage that the homeowners association planted?
16	MR. WEERASURIYA: Objection; calls for
17	speculation.
18	THE WITNESS: As I said, I don't know.
19	BY MR. GLICKMAN:
20	Q. Why don't you know?
21	MR. WEERASURIYA: Objection; asked and answered.
22	THE WITNESS: I wasn't privy to the planting or
23	what was arranged or what was decided. That was between
24	the homeowners association and Mr. Nager.



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	DV	MD	GITCKMAN.

- Q. But how did you find out that the homeowners association had planted some foliage on Mr. Nager's
- 4 property?
- 5 A. I think I learned about it later from someone 6 else on the board.
  - Q. Later meaning when?
- 8 A. Later.
- 9 Q. After your lawsuit was filed?
- 10 A. No. Before that.
- Q. Before the lawsuit was filed, you were aware that the foliage that was causing some of your blockage was
- 13 | actually planted by the homeowners association?
- MR. HALFEN: Objection; mischaracterizes his prior testimony.
- MR. WEERASURIYA: Also calls for speculation.
- 17 THE WITNESS: I don't even understand the
- 18 | question, to be honest with you. You are saying did I
- 19 what, now?
- 20 BY MR. GLICKMAN:
- 21 Q. Before the lawsuit, before you filed your
- 22 | lawsuit, you were aware that the homeowners association
- 23 | had planted some foliage on Mr. Nager's property.
- 24 | Correct?
- 25 A. Correct. I had been told that, yes.



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the HOA.

1133700 Kevin Mueller Kevin Mueller vs. Abraham Samuel Nager And were you told which foliage it was? 1 Q. 2 Α. No. Were you told that some of the foliage that you 3 Ο. believe was blocking your ocean view was planted by the 4 5 homeowners association? Α. 6 No. 7 Did you ever make any request of the homeowners Ο. association to trim or cut the foliage that the homeowners 8 association had planted on Mr. Nager's property? 9 10 Α. As I just said, I don't know what they exactly 11 planted on his property. And I'd go a little further to 12 say that if this were trimmed to the fence line and if 13 this is the boundary of the roof and what the ARC determined as the area that needed to be cleared, if this 14

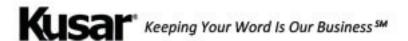
19 Ο. Okay. Is that what you believe the foliage was 20 that was put in by the HOA, the part that you just marked 21 with --

part of the foliage was cut, there would not be an issue.

All this foliage (indicating) is the same, you know, if

this is the foliage that you are saying was put in by

- I don't know where -- I don't know. That's what you said.
- Well, I thought you said -- I am not going to argue with you. But before you filed your lawsuit --



- Kevin Mueller Kevin Mueller vs. Abraham Samuel Nager 1 I am just trying to answer you as best I can. Α. 2 Right. But before you filed the lawsuit, you Ο. knew there was foliage that the HOA had planted on 3 Mr. Nager's property? 4 5 That's what I was told, yes. Α. MR. HALFEN: Objection; asked and answered. 6 7 BY MR. GLICKMAN: Did anybody tell you why that was planted on his 8 9 property? 10 Not really that I recall, no. Α. Did somebody tell you the homeowners association 11 12 felt that there needed to be some privacy between your 13 property, and the homeowners association planted that 14 foliage there to provide Mr. Nager with some privacy? 15
  - Α. No. As I recall --
- 16 MR. HALFEN: You have answered the question.
- 17 BY MR. GLICKMAN:

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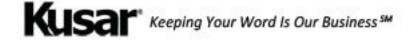
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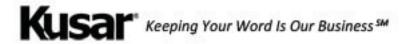
- As you recall what? 18 Q.
  - As I recall, it was part of, you know, he was Α. saying that -- I believe arguing that, you know, some of his landscaping had been damaged or, you know, if it was trimmed, it would be damaged, what have you, and that to appease him, the association paid for or picked up the tab to plant some landscaping back on that slope there.
    - Q. The landscaping damaged how?



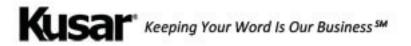
1 From cutting, from trimming. Α. 2 Trimming by Mr. Barraza? Ο. MR. WEERASURIYA: Objection; calls for 3 4 speculation. THE WITNESS: I don't know who trimmed it. 5 6 BY MR. GLICKMAN: 7 Who else would have been on the property to trim Ο. the property other than Mr. Barraza? 8 9 MR. WEERASURIYA: Objection; calls for speculation. 10 11 THE WITNESS: Mr. Barraza has an entire crew of 12 guys. BY MR. GLICKMAN: 13 Mr. Barraza's crew is who you are talking about, 14 15 then, who you believe trimmed this? 16 MR. HALFEN: Objection; vaque and ambiguous and 17 calls for speculation. 18 THE WITNESS: That is who I would assume trimmed 19 it. BY MR. GLICKMAN: 20 21 So at some point in time you learned that 22 Mr. Nager was complaining that there was trimming that was 23 done of foliage. Is that true? 24 MR. HALFEN: Objection; vaque and ambiguous. THE WITNESS: That sounded like a half done 25



1	question. I'm sorry. One more time on that.
2	BY MR. GLICKMAN:
3	Q. You learned at some point in time that Mr. Nager
4	was contending that there was foliage on his property that
5	was trimmed without his permission?
6	A. No. That's not what I am contending at all.
7	Q. But the foliage that was planted by the
8	homeowners association, that was on Mr. Nager's property
9	or your property?
10	MR. HALFEN: Objection; vague and ambiguous and
11	also calls for speculation, lacks foundation, and is
12	inconsistent with prior testimony.
13	THE WITNESS: Nager's property.
14	BY MR. GLICKMAN:
15	Q. But you were aware that there was some dispute
16	that was going on that eventually led to the homeowners
17	association planting the foliage on Nager's property?
18	MR. HALFEN: Objection; lack of foundation, calls
19	for speculation.
20	THE WITNESS: Can you repeat that question?
21	BY MR. GLICKMAN:
22	Q. Sure. You were aware that there was some issue
23	of some sort that Mr. Nager was claiming that there was
24	inappropriate cutting of foliage on his property that was
25	eventually resolved by the homeowners association planting



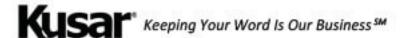
1	foliage on his property?
2	MR. WEERASURIYA: Objection; calls for
3	speculation, vague and ambiguous as to "resolved."
4	THE WITNESS: No. That's totally wrong. What I
5	heard later after the fact was that there was, you know, a
6	complaint or beef made or whatever that some of the
7	landscaping was damaged in the trimming; and in order to
8	appease Mr. Nager, the homeowners association picked up
9	the tab to replant landscaping of his choice, you know, in
10	his back yard.
11	BY MR. GLICKMAN:
12	Q. Were you ever aware of this, put in quotes,
13	"beef," the term you used, around the time that Mr. Nager
14	was making this beef?
15	A. No. I only heard about it later.
16	Q. And who did you hear about it from?
17	A. I believe it was a board member.
18	Q. Which one?
19	A. I am not certain.
20	Q. Give me back the photo that you marked up over
21	there. We are going to have the one marked up, then, as
22	Exhibit 1. Let me show you another document that I will
23	mark as Exhibit 2.
24	(The aforementioned document was marked by the
25	court reporter as Defendants! Exhibit 2 for



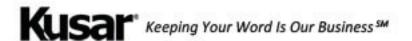
1 identification; attached hereto.) 2 BY MR. GLICKMAN: This is another photo taken from Mr. Nager's 3 Ο. property. Do you recognize that photo? 4 5 MR. HALFEN: Objection; vague and ambiguous. THE WITNESS: I don't recognize the photo. I did 6 7 not take the photo. BY MR. GLICKMAN: 8 9 Ο. But you recognize what is shown. Right? 10 Α. Yes. 11 It's taken from Mr. Nager's property looking back Ο. 12 towards your property? 13 Α. Correct. Is that you on the upper deck area there? 14 15 I cannot tell in this picture, to be honest with Α. 16 you. I would assume so. 17 Okay. So from any area on your house can you Q. actually see the ocean? 18 Pardon me? 19 Α. 20 From any area on your house, can you see the Q. 21 ocean? 22 MR. WEERASURIYA: Vague and ambiguous as to time. 23 BY MR. GLICKMAN: Now. Let's talk about now. Can you see the 24 Q. 25 ocean?



- A. Yes.
- Q. Where do you have to be where you can see the
- 3 ocean?
- 4 A. In the back yard, in the dining area, a little
- 5 | bit in the kitchen. It's quite a nice ocean view now.
- 6 Q. I'm sorry?
- 7 A. It's a nice ocean view now.
- 8 Q. And do you see Mr. Nager's house as you are
- 9 looking towards the ocean?
- 10 A. No.
- 11 | Q. You can see the ocean without seeing Mr. Nager's
- 12 house at all?
- 13 A. If I am in my back yard, I can see portions of
- 14 | his house. If I am in my home, I don't see any of his
- 15 house at all.
- 16 Q. What about Mr. Hill, the Hills' house? Can you
- 17 | see their house when you look out towards the ocean?
- 18 A. No. I take that back. Actually, if I am in my
- 19 back yard, you know, in this very southeastern corner
- 20 | (indicating), I can see a part of the Hills' back yard or
- 21 their fence and a little of their roof.
- 22 Q. Did you ever ask permission to build a rail along
- 23 | the upper deck?
- 24 A. I did.
- Q. And who did you ask to build the rail?



1 The homeowners association. Α. 2 And what was the result of that? Ο. It was approved. 3 Α. And did you ever build the rail? 4 Ο. Not yet, no. 5 Α. 6 Ο. Is there a reason why not? I am currently spending my money on other things. Α. Like what? 8 Ο. 9 MR. WEERASURIYA: Objection; invades the client's privacy. 10 11 BY MR. GLICKMAN: 12 Are you talking about this lawsuit? Q. 13 Α. It could have an impact on it, yeah. Okay. Was this part of the permit process from 14 Ο. 15 the City that you were supposed to build a rail there as well? 16 17 MR. HALFEN: Objection; vague and ambiguous. THE WITNESS: I went to the City to build the 18 19 rail. Do you know what I mean? I went to them for the 20 permit to build the rail. 21 BY MR. GLICKMAN: 22 So you got a permit from the City to build the 23 rail? 24 Again, that's ongoing. There was another matter 25 that they wanted some information on, and, you know,

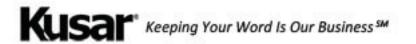


- that's kind of where the project ran out of money a little
  bit; so it's kind of on hold right there.
  - Q. What was the other matter?
- A. They wanted a little bit of structural information with regard to this wall (indicating), this retaining wall.
- Q. That's the retaining wall between the upper deck and the lower deck?
- 9 A. Yeah, between the upper part of the property and 10 the lower part of the property.
- Q. And what you are calling the retaining wall, that was there when you moved in?
- A. Correct. So I didn't have that. I did not build it, so I didn't have that information.
- Q. Right. So the only thing that you did with that wall was paint it and a couple repairs of any cracks?
- A. And stuccoed it, yeah, painted and stuccoed, as I did to the upper wall as well.
- Q. Right. So you never pulled a permit to do any work on the retaining wall?
- 21 A. I have not done any work on the retaining wall.
- Q. Okay. But because -- how did it come about that
  you came up with the idea of putting the safety rail on
  the upper deck?
- 25 A. For safety.



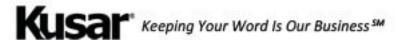
1	Q. It was something you just came up with on your							
2	own, or was this something that the homeowners association							
3	or the City I am just throwing out ideas, but I am just							
4	trying to find out how it came about.							
5	A. I don't really recall. I mean I personally							
6	wanted it from a safety standpoint.							
7	Q. And did you get approval from the homeowners							
8	association to put the safety wall in?							
9	A. I did.							
10	Q. Safety rail, not wall.							
11	A. Sorry. I thought that's what you meant.							
12	Q. Yeah. Have you discussed Mr. Nager or his							
13	daughter with anybody else at the homeowners association?							
14	MR. WEERASURIYA: Objection; compound.							
15	BY MR. GLICKMAN:							
16	Q. We can do them separately if you want. Have you							
17	discussed Mr. Nager's daughter with anybody at the							
18	homeowners association?							
19	A. Never.							
20	Q. Did you discuss anything about Mr. Nager with							
21	other people at the homeowners association?							
22	MR. HALFEN: Do you mean any members, or do you							
23	mean board members or what, Counsel? Did he discuss it							
24	with his neighbors, or who are you talking about?							

MR. GLICKMAN: Anybody who is at the homeowners

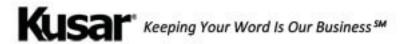


about?

1 association. MR. HALFEN: All right. I will object; it's 2 vaque and ambiguous. 3 THE WITNESS: Can we be more specific? 4 5 BY MR. GLICKMAN: Ο. Sure. 6 7 Α. With board members? Yes. Have you discussed with anybody at the homeowners 8 Ο. 9 association, either a board member or a neighbor, any of 10 the issues that you have with Mr. Nager? 11 Α. Yes. And who have you discussed it with? 12 Q. Various board members. 13 Α. Okay. Well, tell me which board members you have 14 Ο. 15 had discussions with about Mr. Nager and the issues that 16 you have with Mr. Nager. In board meetings I would say that that would 17 Α. 18 encompass all the board members. 19 Ο. How about outside of board meetings? Outside of board meetings? 20 Α. 21 Q. Right. I have had discussions with the Hills, with the 22 Α. 23 Can you get more specific about like what items Tianos. 24 of discussion? I mean like what exactly are you talking

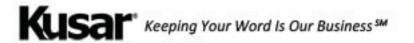


1	Q. Let's talk about let's just kind of make a
2	list of what issues you have had with Mr. Nager since you
3	moved in. You have issues relating to the maintenance of
4	the foliage in between your two properties. Right?
5	A. Yeah.
6	Q. What other issues?
7	MR. WEERASURIYA: Objection; Rifkind, calls for a
8	narrative. You can respond if you understand.
9	MR. HALFEN: Also overbroad as phrased.
10	BY MR. GLICKMAN:
11	Q. I am trying to get a list of the areas where you
12	and Mr. Nager have had disagreements, so, obviously, one
13	is the view and the foliage. Right?
14	A. Yeah.
15	Q. What else?
16	A. Well, after the alleged assault dispute in my
17	back yard, Mr. Nager essentially went to war, you know,
18	against me in the community, disparaging my name, you
19	know, saying all kinds of terrible things about me, my
20	reputation, alleging that I am a peeping Tom. I am an
21	alcoholic. I abuse animals. I assault people. I point
22	finger guns, you know. The list goes on and on and grows
23	constantly.
24	Q. Okay. So what else in terms of broad topics are



there that you believe is some sort of area of dispute

1	between you and Mr. Nager? So far I have foliage and								
2	views, I have the assault issue, and then I have the								
3	broader issue of "disparaging my name and reputation."								
4	MR. WEERASURIYA: Once again, I am going to lodge								
5	a Rifkind objection. You may respond, though, if you								
6	know.								
7	THE WITNESS: Where are we at again now?								
8	BY MR. GLICKMAN:								
9	Q. I have foliage and views as No. 1, assault								
10	dispute as No. 2, "disparaging my name and reputation" as								
11	No. 3.								
12	A. And the question is give me the question one								
13	more time.								
14	Q. Yeah, I am just trying to find out what areas of								
15	disputes you and Mr. Nager have.								
16	A. As I said, telling anyone in the neighborhood								
17	that will listen I am an alcoholic. I am a peeping Tom.								
18	I assault or abuse animals, attempt to abuse animals, you								
19	know, I point finger guns at people, you know. It's								
20	somewhat hard to remember exactly at this point in time								
21	the litany.								
22	Q. When did things first start between you and								
23	Mr. Nager? When do you feel, looking back on it, you								
24	could say here is where things turned south?								



MR. WEERASURIYA:

Objection; calls for

- 1 speculation, vaque and ambiguous. THE WITNESS: Right after, right after the 2 meeting in the back yard and --3 BY MR. GLICKMAN: 4 5 Which meeting in the back yard? Where the alleged -- where he alleges they were 6 Α. 7 They were met in the back yard to look at the view obstruction and try to work it out between neighbors. 8 9 So this was after the wall was already built. Ο. 10 Right? 11 The block wall between our two properties? Α. 12 Right. Q. 13 Α. Yes. 14 And so let's go to that event. At some point in 15 time there was you, Mr. Barraza, Mr. Nager, and Ms. Nour 16 in your back yard. Right? 17 Α. Correct. Anybody else? 18 Q. 19 Α. No. When did this occur? 20 Q.
  - A. Early February of 2015.
  - Q. And what was the purpose of having the meeting in your back yard?
  - A. To try and come to a neighbor-to-neighbor
    resolution of a problem that the association was already



- 1 putting some pressure on him to resolve.
  - Q. And up until this point you felt you had a good neighborly relationship with Mr. Nager?
    - A. Acceptable, yes.
    - Q. So tell me as best you can recall, then, what happened from your point of view in your back yard at that time with Mr. Nager, Mr. Barraza, Ms. Nour, and you.
- 8 MR. WEERASURIYA: Objection; calls for a 9 narrative.

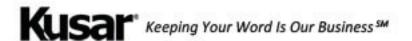
THE WITNESS: We were to meet I believe it was a Sunday at 3:00 p.m. We were to meet and discuss a resolution to the view obstruction and the landscaping.

Mr. Nager kept rolling back the meeting. At 3:00 he texted me and said, you know, he was running late. It would be like 3:45. Closer to 3:45 he called me and said it was probably going to be more like 4:30.

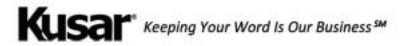
I made a number of suggestions saying, "Well, let's get in touch with Jose. You want me to call Jose so that he is not waiting around? We can catch him at home, you know, whatever."

He kept telling me, "No, no, no, no. Don't worry about Jose. I will take care of Jose. I will see you later, whatever."

So about 4:30-ish he texted me and said he will be there shortly. He gets home at 5:00, texts me, and



1	said he is home, and he is going to go walk his dogs real									
2	quick, and then he is going to come over. So a little									
3	after 5:00 I am down in the front of my property waiting									
4	for the three of them. They come up, you know. Everybody									
5	says hello.									
6	MR. WEERASURIYA: Counsel.									
7	BY MR. GLICKMAN:									
8	Q. You are talking kind of soft.									
9	MR. ABRAHAM NAGER: I can't hear him. I have a									
10	hearing problem. I cannot hear him, so I am trying to									
11	listen to him.									
12	MR. GLICKMAN: You can sit back, and you can									
13	speak up. How is that?									
14	MR. ABRAHAM NAGER: Speak up.									
15	THE WITNESS: Everybody says hello, whatever, in									
16	the front yard. As we start heading to the back yard, he									
17	tells me he feels like									
18	Q. He?									
19	A. Nager. Sorry. He, meaning Mr. Nager, tells me									
20	that he feels like I stabbed him in the back by going to									
21	the HOA and that he didn't appreciate that.									
22	All right. I kind of didn't respond and do									
23	anything and blew that off and went to the back yard to									
24	where we could view this part (indicating), the major part									



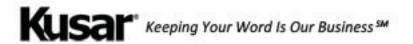
of the view obstruction.

1 He says to me, "What exactly do you expect me to 2 do here?" And I said to him, "Well, how about you pretend 3 that you live where I live and I live where you live? How 4 5 would you like me to cut my landscaping? Or how about you cut the landscaping on the northern end of your property 6 7 exactly the way you cut the landscaping on the southern end of your property to maximize your ocean view? Or how 8 9 about you comply with the ARC directive and cut it that 10 way?" And he says to me, "Well, I don't want to have to 11 12 look into your shitty back yard." 13 I don't say anything to that other than "You know all the work that I've done on the front yard. You know 14 15 all the work that I've done to the house, cleaning up this 16 house. You know this back yard. The back yard is going 17 to look really nice. You don't have to worry anything 18 about it." 19 And he says, "Well, then, maybe I will just wait and see how your back yard turns out, and then I will 20 21 decide how much I am going to cut." 22 And I said to him, "That's not your prerogative. You know, the view maintenance policy dictates that no 23 homeowner can obstruct more than 15 percent of another 24

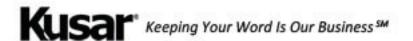


owner's ocean view."

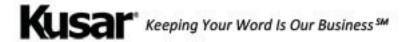
1	At this time it was probably about 5:15, 5:20,									
2	maybe ten minutes before dark, getting pretty late. And I									
3	said, "So listen, pick your 15 percent. Let's start									
4	cutting."									
5	And he says to me, "I don't like your attitude."									
6	I said, "Okay. That's it. That's enough. We									
7	are done here. I'd like the three of you to leave my									
8	property. I'd like you to get off my property."									
9	I followed them back they began to get off my									
10	property. I followed them back along the southern									
11	boundary of the property. All three of them exited the									
12	gate, where I exited the gate last, locked the gate behind									
13	me, followed the three of them down to the curb, went up									
14	to Jose, apologized to him for the waste of his afternoon,									
15	shook his hand, turned around, and went back into my									
16	house.									
17	Q. Okay. And so that's the extent of what happened?									
18	A. Yeah.									
19	Q. You never touched anybody inappropriately?									
20	A. Never.									
21	Q. Never slammed the gate on anybody?									
22	A. Never.									
23	Q. I mean you have heard these allegations, or you									
24	have seen them. Right?									
25	A. Yeah.									



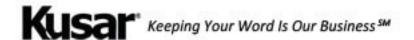
1 So you are saying that those are not true? Q. 2 MR. WEERASURIYA: Objection; vague and ambiguous, overbroad, calls for speculation, misstates the testimony. 3 You can respond if you understand it. 4 5 THE WITNESS: One more time again. 6 BY MR. GLICKMAN: 7 Right. I mean you have read Mr. Barraza's Q. statement. Right? 8 The alleged affidavit, yes. 9 Α. You think it's a fake affidavit? 10 Ο. 11 MR. WEERASURIYA: Objection; calls for 12 speculation. BY MR. GLICKMAN: 13 Why did you call it alleged? 14 Ο. I personally don't believe Mr. Barraza wrote it. 15 Α. 16 I am aware of the allegations that you are talking about. 17 Q. Okay. And you dispute those? 18 MR. WEERASURIYA: Objection; compound, vaque and 19 ambiquous. 20 THE WITNESS: Certainly. Absolutely. 21 BY MR. GLICKMAN: 22 You read Ms. Nour's declaration? Q. 23 Α. I have. And you dispute what she's written? 24 Q. 25 Α. I do.



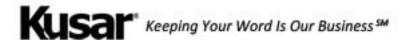
1	Q. And what you are saying is basically that nothing								
2	happened other than there was a disagreement that broke up								
3	the meeting, and you left with nobody being touched,								
4	nobody being injured, nobody being assaulted?								
5	MR. WEERASURIYA: Objection; compound, misstates								
6	the testimony, vague and ambiguous.								
7	THE WITNESS: That's absolutely correct.								
8	BY MR. GLICKMAN:								
9	Q. Okay. So that's sort of like the time you point								
10	to well, wait.								
11	A. As relationships								
12	Q. I mean you point to that day when you were in the								
13	back yard as when things really disintegrated between your								
14	neighborly relationship?								
15	MR. HALFEN: Objection; mischaracterizes prior								
16	testimony.								
17	THE WITNESS: I'm sorry. One more time.								
18	BY MR. GLICKMAN:								
19	Q. Yes. That's the event that you say led to the								
20	disintegration of your relationship with Mr. Nager?								
21	MR. HALFEN: Same objection.								
22	THE WITNESS: Yes.								
23	BY MR. GLICKMAN:								
24	Q. And it was the events that occurred at that time								
25	or when you subsequently found out that there were								



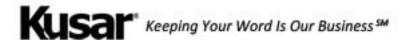
1 allegations made that were different than you remember 2 what occurred at that event? MR. WEERASURIYA: Objection; vaque and ambiguous, 3 lacks foundation. 4 5 MR. HALFEN: I would add the objection I think it also mischaracterizes his prior testimony. 6 7 THE WITNESS: So the event in the back yard led me to decide personally that I know longer wanted anything 8 9 to do with Mr. Nager in any way, social, business, or otherwise. As I began to learn about the things that he 10 was saying about me in the community to other people, from 11 12 that point on the relationship was forever tarnished. 13 BY MR. GLICKMAN: 14 Who was the first person that told you that 15 Mr. Nager was saying something bad about you? 16 Α. The quard, Mike Crylen. 17 Can you spell his name for us? Do you have it? Q. I don't. 18 Α. 19 I have it as C-r-y-l-e-n. Does that sound right? Ο. 20 Sounds about right, yeah. Α. 21 So what was it that Mr. Crylen told you? Q. 22 Α. That he was saying all kinds of --23 Q. Mr. Nager? 24 He, sorry, Mr. Nager was saying all kinds of 25 nasty and disparaging things about me in the neighborhood,



- 1 | which I --
- Q. But what was it specifically Mr. Crylen told you?
- 3 | Did he just tell you that Mr. Nager was saying nasty
- 4 | things, or did he tell you what Mr. Nager was saying?
- 5 A. No. He was saying that I am an alcoholic, that I
- 6 assaulted people, that I am a peeping Tom, that I abuse
- 7 animals, you know, things of that nature.
- 8 O. Abuse animals how?
- 9 A. Attempting to kick dogs.
- 10 Q. Have you ever attempted to kick dogs?
- 11 A. Never in my life.
- 12 Q. Have you ever kicked a dog?
- 13 A. I never kicked a dog in my life.
- 14 Q. What else did Mr. Crylen tell you?
- 15 A. That's not enough?
- 16 Q. I just want to make sure I got everything.
- 17 A. You know, this is almost four years ago. Right
- 18 | now I don't really, you know --
- 19 Q. Who else told you that Mr. Nager said anything
- 20 bad about you?
- 21 A. You know, specifically I think Randy Jones.
- 22 Q. What did Randy Jones tell you?
- 23 A. That Mr. Nager has a hate on for me.
- Q. Has a what?
- 25 A. A hate on for me.



1 Okay. Did he tell you any specifics? Q. 2 I can't really recall. Α. Who else told you that Mr. Nager was saying 3 Q. anything bad about you? 4 I recall Riza Lemonadi. 5 Α. Ο. And that's a woman? 6 7 Α. No. It's a man. Man, Riza. 8 Q. R-i-z-i, I believe. No. R-i-z-a. 9 Α. 10 What did Mr. Lemonadi say? I can say it very Q. 11 sloppily. She will fix it. 12 Basically the same things; that he was saying 13 some very unkind, very disrespectful things about me. 14 Any specifics? Ο. 15 Again, you know, it was about four years ago so. Α. 16 Ο. But as you sit here today, are there any 17 specifics you can tell us other than what you've already 18 told us about what Mr. Lemonadi told you? 19 Α. Not that I recall at this time. 20 Anybody else that told you that Mr. Nager was Q. 21 saying something bad about you? I believe Lee Hill, Leland Hill, told me that as 22 Α. 23 well. 24 What did Mr. Hill tell you Mr. Nager was saying 25 bad about you?

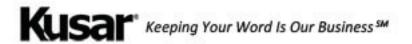


Α.

1 Α. Just along the same lines. It wasn't -- you 2 know, just that "He is trying to trash your name. He is 3 ruining your name. He is saying very disrespectful things." 4 5 Anybody else ever tell you that Mr. Nager was Ο. saying anything bad about you? 6 7 Α. You know, a number of people. I can't really recall, to be honest with you. 8 9 As you sit here today, is there anybody else that Ο. you can recall who told you that Mr. Nager was saying 10 11 anything bad about you? 12 I think Sandy Rough told me some things, also. Α. 13 Ο. Who is that? Rough, R-o-u-q-h, I believe. 14 Α. 15 Okay. Is that a man or woman? Q. 16 Α. A woman. 17 What did Ms. Rough tell you? Q. Just again the same thing in broad terms. 18 Α. She is 19 not the kind of person to bring up --20 Q. Anybody else tell you that Mr. Nager was saying 21 anything bad about you? Not that I can recall at this time. 22 Α. 23 So we talked about abusing animals, and you say Q. you've never abused any animal. Right? 24

Correct.

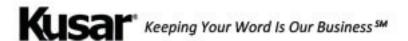
1	Q.	You are not an alcoholic?					
2	A. Correct.						
3	Q. And are you a peeping Tom?						
4	А.	A. No.					
5	Q.	Have you ever looked into Mr. Nager's windows					
6	when the	curtains were open?					
7	А.	Never.					
8	Q.	And how about have you ever pointed a finger in a					
9	gun-like	position at Mr. Nager?					
10	А.	I have never.					
11	Q.	So was your truck ever broken into while it was					
12	parked in your driveway?						
13	А.	It was.					
14	Q.	When was that?					
15	А.	I don't recall exactly.					
16	Q. Has anybody asked you to park your truck in your						
17	garage?						
18	А.	No. My truck won't fit in my garage, as I					
19	mentioned to you.						
20	Q.	Were you on the homeowners association board at					
21	some time	e?					
22	А.	I was.					
23	Q.	When was that?					
24	А.	For a few months in 2017.					
25	Q.	And you resigned from the board?					



- A. I did.
  - Q. Why did you resign?
- A. I was unhappy with the way that business was being conducted and was not willing to be a part of it.
  - Q. What type of business?
  - A. Homeowners association business.
  - Q. What was it that you were unhappy about?
- A. There were a number of issues. If we start with the board president and the make-up of the board, I asked the board president, Randy Jones, a number of times to consider bringing in other talent in the community that could assist with the board, talent with regard to landscaping, with regard to security, with regard to communication, things of that nature, having committees, as most boards do, that are recommended by the Accell Management Company. No committees were in place.

Pretty much everything, a decision of any kind, you know, went through a very small group of people. And then even those decisions weren't communicated to the members of the HOA before they were implemented, some of which spent significant amounts of HOA monies.

At the time during the election -- or let me say this. Shortly after the election information came to light that Mr. Nager was misinforming residents about the election procedure, how many votes could be attributed to



how many members type of thing. I spoke with Sabrina

Davoodian, who is the liaison -- or was the liaison

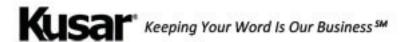
between Accell and Emerald Ridge at the time, and asked

her if she heard anything about this.

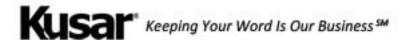
She said that she did, had gotten quite a few calls that seemed very odd to her. And basically what it came down to was the allegation from other homeowners, not from me, that Mr. Nager was going around and telling people that they could place all of the available votes that they had to cast for him and that they did not need to vote for incumbents because incumbents were going to be reelected anyway. That statement is untrue.

I brought that concern to the board president and asked for a resolution of nothing more than asking him the question in a board meeting whether or not that occurred, yes-or-no answer. He was unwilling to answer the question. The board president was unwilling to, you know, examine the issue. That bothered me.

And then probably the third and last thing was that for the majority of the time that I was on the board, Mr. Nager was in violation of the CC & R's, which I brought up to the board in a board meeting in Nager's presence, saying that I found it I believe a very inappropriate situation that a sitting board member could be in violation of the CC & R's and at the same time pass



- 1 | judgment on another member of this community.
  - Q. And what was Mr. Nager in violation for?
- 3 A. View obstruction. I believe he was fined in
- 4 | February 2017, but I'd have to check.
- Q. Did you ever drive behind Mr. Nager in an aggressive manner of some sort?
- 7 A. No.
- Q. How about did you ever drive behind Mr. Jones in an aggressive manner of any sort?
- 10 A. No.
- Q. You understand that there's allegations that you were tailgating and driving very close to Mr. Nager?
- 13 A. To Mr. Nager, yes, I do understand that there are allegations.
- Q. And you are saying it never happened?
- 16 A. It never happened.
- Q. When you moved into your property, were there cameras on the property?
- 19 A. No.
- Q. When did you install cameras on the property?
- A. I don't remember the exact date, but it was very
- 22 shortly after Mr. Nager modified Mr. Hill's -- or the wall
- 23 between he and Mr. Hill's property when Mr. Hill was on
- 24 vacation.
- 25 Q. So did that have something to do with your desire

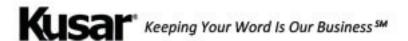


to put the cameras in?

A. Yeah. You know, like I wish I had had them in from the day I moved in. I wish I had had them from the discussions that occurred in the back yard with this assault allegation. I only wish they were in there then.

So, you know, I had been thinking about security cameras, and I am gone a fair amount of the time. But when that incident occurred that he is now modifying a fence, a common wall fence with another neighbor while that neighbor was on vacation, that was the impetus that got me to install the cameras.

- Q. How did you find out about this event, this modification of the fence?
  - A. Mr. Hill called me.
  - Q. And what did Mr. Hill say?
- A. He said that he had just gotten a call from another neighbor and that Mr. Nager was installing plexiglass panels into the common wall fence and if there was any way could I go down there and take a look and tell him what I saw.
- Q. And what did you do?
- A. I went down the street. I went into the back of Mr. Hill's property on the north side. I went along the wall into his back yard, and, sure enough, there were two guys that were there standing on Mr. Hill's slope,



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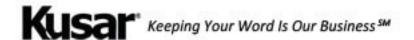
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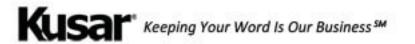
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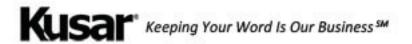
- 1 | installing plexiglass panels into the fence.
  - Q. And what did you do?
  - A. I said to the guys, "Listen, I know you guys are just doing your jobs, but I want you to know that I have spoken to the owner of this home. He in no way approves what's happening. He's called the police department, and my understanding is they are on the way. And he asked me that if I found anyone on the property to tell them that they were not to be on his property. They did not have permission to be on his property."
  - And then I left, and I went back to my house, and I called Mr. Hill, and I told him essentially --
- Q. Did the guys leave the property when you said that to them?
  - A. Did the guys get off of Mr. Hill's property?
- 16 Q. Right.
- A. You know, one of them did. One of them did. The other one stayed on the downslope side because in fairness to him, I think it's pretty hard to install a glass panel (indicating) downhill than compared to uphill.
- 21 Q. So were you there -- did the police come?
- 22 A. I believe they did, yeah.
- 23 Q. Are you the one that called the police, or
- 24 Mr. Hill called the police?
- 25 A. Mr. Hill called the police.



1	Q. Where was he?							
2	A. He was on vacation.							
3	Q. Did you talk to the police when they came?							
4	A. I did not, no.							
5	Q. Did you see Mr. Nager in the vicinity when you							
6	were on the Hills' property?							
7	A. I think I saw him for a second in his kitchen							
8	window. I don't know. I didn't speak to him.							
9	Q. You consider yourself a friend of the Hills?							
10	A. Yeah.							
11	Q. Do you go over there and have dinner with them at							
12	their house from time to time?							
13	A. Occasionally, yeah.							
14	Q. And they take your trash in; you take their trash							
15	in if they are on vacation, that sort of thing?							
16	A. Yeah, occasionally, yeah.							
17	MR. ABRAHAM NAGER: Can I use the restroom a							
18	second?							
19	MR. GLICKMAN: Sure. Should we take a break?							
20	MR. HALFEN: It's a good time for a break anyway.							
21	MR. GLICKMAN: Let's take a break, then.							
22	MR. HALFEN: Why don't we take a five-minute							
23	break.							
24	(A 13-minute recess was taken.)							
25	MR. GLICKMAN: Let's go back on.							

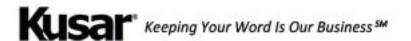


1	Q. Was there anything that you thought about that								
2	you wanted to change or add?								
3	A. I didn't think about it.								
4	Q. So I think we kind of got off on this thing that								
5	was going on with the Hills, and you went down there on								
6	the property, and you told us about what you did. That								
7	was what triggered you to put the security cameras up?								
8	A. Correct.								
9	Q. And what was the connection? Why did you want to								
10	put security cameras up?								
11	A. Well, you know, taking into account the								
12	experience that I had had with him in my back yard and the								
13	false accusations that came after that, added to the fact								
14	that, to my knowledge, from what I am being told by								
15	Mr. Hill, he is now modifying a common wall fence that he								
16	didn't even pay for in the first place while that neighbor								
17	is on vacation and not present. You know, I thought why								
18	would I not want security cameras?								
19	Q. So the only reason why you put security cameras								
20	up were to monitor Mr. Nager's activities on your								
21	property?								
22	MR. WEERASURIYA: Objection; misstates the								
23	testimony.								
24	THE WITNESS: No. My security cameras view the								
25	perimeters of my home, so anything that happens on my								

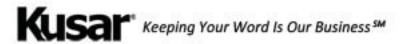


Q.

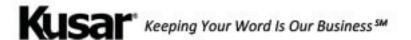
1 property with the exception of a few small areas will be 2 videotaped. BY MR. GLICKMAN: 3 Okay. So where did you put cameras up? 4 Ο. 5 The commercial camera company that I contracted Α. with installed the cameras, and basically they are -- like 6 7 I said, they are at various points along the eaves of the home, you know, filming the perimeter of the house, the 8 9 front yard, the back yard. 10 Ο. How many cameras? 11 Α. Six. 12 And when did you install these cameras? Q. 13 Α. As I say, I can't really remember. I have that information at home. 14 15 Q. What year was it? 16 Α. I want to say 2015. Was it before or after you filed your lawsuit? 17 Q. Α. Before. 18 19 Ο. From any of your cameras can you see any of 20 Mr. Nager's property? 21 Α. Yes. 22 Q. And how many cameras can you see Mr. Nager's 23 property from? 24 Α. One. And which one is that?



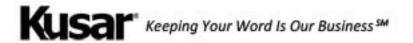
1	A. The one that is on the do you have a picture								
2	of my house?								
3	Q. Is it this one here (indicating)?								
4	A. That's upside down.								
5	MR. HALFEN: Are you going to mark that as an								
6	exhibit, Counsel?								
7	MR. GLICKMAN: If it's the one, we will figure it								
8	out.								
9	Q. Is that the one that you are talking about?								
10	MR. HALFEN: Do you see the camera?								
11	THE WITNESS: I do. Yes, that is the one.								
12	MR. GLICKMAN: Okay. So we will get a picture								
13	of this printed out, and we will mark that picture as								
14	Exhibit 3.								
15	MR. HALFEN: Okay.								
16	(The aforementioned document was marked by the								
17	court reporter as Defendants' Exhibit 3 for								
18	identification; attached hereto.)								
19	BY MR. GLICKMAN:								
20	Q. So from the photo that we see in what we've								
21	marked Exhibit 3, what can you see on Mr. Nager's								
22	property?								
23	A. Not really much of anything. You can see the								
24	wall as it runs the length of the property, you know, some								
25	bushes on his side. I think that's about it.								



1 Has the camera aim been changed at all since it Ο. 2 was installed? Α. No. 3 So have you ever had a camera where you could 4 5 look inside any of the windows of Mr. Nager's property? Never. Α. 6 Who is Barbara Belkin? Ο. Barbara Belkin was -- she still is. I believe 8 Α. 9 she is a realtor now. Barbara Belkin worked for Accell 10 Property Management for a period of time -- I am not sure 11 of the exact period of time -- and was the liaison between 12 Accell and Emerald Ridge. 13 Ο. And Accell is A-c-c-e-l-l. Right? 14 Α. I believe that to be correct, yeah. 15 Q. Did you ever raise your voice at Barbara Belkin? 16 Α. Never. 17 Did you have any sort of a temper tantrum with Q. 18 Barbara Belkin? 19 Α. Never. Sabrina Davoodian we already talked about. 20 Q. 21 was with Accell. Did you ever raise your voice at her? 22 Α. Never. 23 Did you ever have a, quote, "temper tantrum" with Q. 24 her? 25 Α. Never.



1	Q. Did you ever raise your voice at Randy Jones?								
2	A. During board meetings we had some heated								
3	discussions. I would not categorize it as did I yell at								
4	Randy Jones, no.								
5	Q. Outside of board meetings, did you ever speak								
6	aggressively to Mr. Jones at all?								
7	A. No.								
8	Q. Did you ever have, quote, "temper tantrum" with								
9	Mr. Jones?								
10	A. No.								
11	Q. And so the reason why you sued Mr. Nager was								
12	because you felt he was not complying with the view								
13	requirements?								
14	MR. WEERASURIYA: Objection; Rifkind, calls for a								
15	legal contention.								
16	MR. HALFEN: Also may invade the attorney-client								
17	privilege.								
18	BY MR. GLICKMAN:								
19	Q. Go ahead.								
20	A. One more time with the question.								
21	Q. You sued Mr. Nager because you felt that the								
22	architectural review committee had told him to take								
23	certain actions, and he had not taken certain actions in								
24	relation to the foliage and your view rights?								
25	MR. WEERASURIYA: Objection; misstates the								



1	testimony,	Rifkind,	vague	and	ambiguous,	calls	for	a	legal
2	contention								

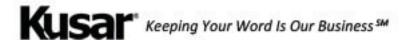
MR. HALFEN: Yeah. I am also going to instruct the witness to not answer the question to the extent that answering it would require divulging attorney-client communications because it seems to me that what you are asking him is in part infringing on any communications he had with his attorney.

## BY MR. GLICKMAN:

Q. Don't tell me anything that you and your attorney talked about. I am just trying to get an idea of what your reason was for suing Mr. Nager. I think it was because you felt that he wasn't complying with the architectural review committee in terms of trimming his foliage in light of your view rights. Is that your understanding?

MR. WEERASURIYA: Objection; misstates the testimony, again overbroad, vague and ambiguous, Rifkind, calls for a legal conclusion, and may invade the attorney-client privilege.

MR. HALFEN: I'd also interpose an objection that obviously the complaint in this case that was filed is a matter of public record. It speaks for itself. But you are asking, I think, for his understanding, so I am obviously not going to instruct him not to answer the



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So go ahead and answer it to the extent that you can and you understand the question.

THE WITNESS: Okay. I'm sorry. One more time
with the question after all that.

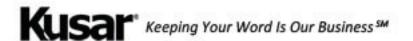
## 6 BY MR. GLICKMAN:

- Q. I'll just ask for it to be read back so we don't have to have a whole string of objection again so you can just listen to the question.
- 10 A. Okay. Good idea.

(Question read as follows:

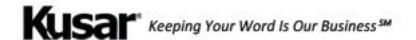
"Q. Don't tell me anything that you and your attorney talked about. I am just trying to get an idea of what your reason was for suing Mr. Nager. I think it was because you felt that he wasn't complying with the architectural review committee in terms of trimming his foliage in light of your view rights. Is that your understanding?")

THE WITNESS: Throughout the latter part of 2017 Mr. Nager was on the board, and the board had stopped pretty much doing anything. They weren't enforcing the CC & R's. They weren't fining him, you know, even though the obstructions had not been removed. And this was after about three years of just playing this game of a little bit of trim here, a little bit of trim there, but never



- Kevin Mueller Kevin Mueller vs. Abraham Samuel Nager 1 any actual full compliance with what was handed down by 2 the board by the ARC. And it was the last option I wanted to take but didn't really know what else to do other than 3 suing the association as well. 4 5 BY MR. GLICKMAN: Did you talk to somebody at the association and 6 Ο. 7 say, "Look, you know, you guys aren't enforcing this. What's going on here"? 8 9 I did. Α. 10 Who did you talk to? Ο. 11 Mainly it was e-mails with Sabrina. Α. What was Sabrina's response? 12 Q. 13 Α. That "We are well aware of the violation, and we are going to, you know -- you know, we are going to follow 14 15 through. We are going to follow this to make sure it's resolved." 16 17 Q. Did you talk to any board member? When I resigned from the board and I wrote a 18 Α. 19
  - letter to the members of the community explaining why I resigned, from that point on I was pretty much persona non grata with the board. I would say that that letter didn't exactly endear me.
- 23 I think I asked you, and I didn't write it down. Q.
- 24 But when were you on the board?
- 25 Α. 2017.

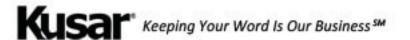
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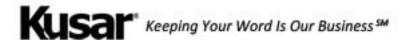
Q.

1 When? Q. First few months of 2017. 2 Α. Okay. So while you were on the board, did you 3 Q. have discussions with anybody saying, "Look, you know, 4 5 Nager is not complying, and can't we do something to get 6 him to comply? If not, I am going to sue"? 7 Α. Sue the board? Or Nager or sue somebody. You are going to have 8 Ο. 9 to take matters into your own hands because they are not 10 taking any action. 11 MR. HALFEN: Objection; vaque and ambiguous. THE WITNESS: I don't recall discussions in the 12 13 early part of February. In the early part of 2017 I was trying as hard as I could to get the board to enforce the 14 CC & R's. 15 BY MR. GLICKMAN: 16 17 In general or against Nager? Q. Against Nager and the view obstruction. 18 Α. 19 Ο. So who were you talking to to get the board to enforce --20 The remainder of the board. 21 Α. 22 Q. So who? Randy Jones, Sandy Rough, Bob Grivetz, and 23 Α. Mr. Nager was on the board, but, obviously --24

Because basically your complaint is the board



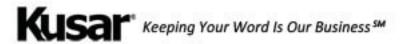
1 wasn't taking action, and you are taking action into your 2 own hands. Right? MR. WEERASURIYA: Objection; misstates the 3 testimony. You may respond. 4 5 MR. HALFEN: Also argumentative. BY MR. GLICKMAN: 6 7 Isn't that right? You are seeking to enforce the Ο. CC & R's because you felt the board wasn't enforcing the 8 9 CC & R's? 10 MR. WEERASURIYA: Objection; misstates the testimony, vaque and ambiguous, overbroad, and Rifkind, 11 12 and I am going to instruct my client not to respond to 13 that. BY MR. GLICKMAN: 14 15 You have a verified complaint. You read it. You 16 signed it. Right? 17 Α. Yeah. You recall that you said that the board wasn't 18 19 taking action and that you were taking action because the 20 board wasn't taking action. Right? 21 Let me just ask him, if you don't mind, why he'd 22 like me to not respond because I don't really think --23 MR. WEERASURIYA: Pardon the interruption, Kevin. 24 You know what? If you are comfortable responding to that, 25 go ahead. Just clarify your answer so you are not, you



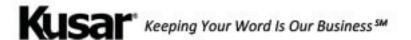
1	know go ahead.
2	THE WITNESS: So one more time the question is
3	what?
4	MR. GLICKMAN: Let her read it so that way we
5	don't have to worry about any more misleading objections.
6	Just kidding.
7	(Question read as follows:
8	"Q. You recall that you said that the board
9	wasn't taking action and that you were taking action
10	because the board wasn't taking action. Right?")
11	THE WITNESS: Like I said, I wasn't really I
12	don't really know an answer to that question.
13	BY MR. GLICKMAN:
14	Q. Okay. Why did you sue Elana Nager?
15	MR. HALFEN: Objection; Rifkind. You can respond
16	if you understand.
17	MR. HALFEN: I will again interpose sort of the
18	same objection I had before. To the extent it invades the
19	attorney-client privilege, I will object.
20	THE WITNESS: That was actually, you know, a
21	mistake as far as I am concerned. That was done by
22	Howard Neufeld when he filed the lawsuit because evidently
23	I believe her name is on the title. But I never intended
24	that she be brought into a lawsuit, and I conveyed that to
25	Howard shortly after I found that out



1	MR. HALFEN: Hold on a second. You have now gone
2	into attorney-client communications.
3	THE WITNESS: Sorry.
4	MR. HALFEN: So I will move to strike the latter
5	part of that testimony.
6	BY MR. GLICKMAN:
7	Q. Did you ever have Mr. Neufeld represent you for
8	anything else before the Nager matter?
9	A. No.
10	Q. How did you find Mr. Neufeld?
11	A. He is a local attorney.
12	Q. Did the Hills refer you there?
13	A. No.
14	Q. Did you ever meet with Mr. Neufeld with the
15	Hills?
16	A. Would that not be an attorney-client privilege?
17	Q. I don't think so. They are not involved in this
18	case.
19	A. Yes, I met with Howard with the Hills.
20	Q. How many times?
21	A. Once, twice maybe.
22	Q. Was your first meeting with Neufeld you met with
23	the Hills as well?
24	A. No.
25	Q. You think you met Neufeld on your own first, and



1 then you had a meeting with Neufeld and the Hills sometime 2 after that? Α. Correct. 3 And so when you had the meeting with Neufeld and 4 Ο. 5 the Hills, who was at that meeting? Neufeld and the Hills and myself. 6 Α. 7 Both Mr. and Mrs. Hill? Ο. I believe that is correct. I don't recall that. 8 Α. +And what was discussed at that meeting? 9 Ο. 10 MR. HALFEN: Objection; attorney-client 11 privilege. I am going to instruct him not to answer. MR. GLICKMAN: Isn't it violated when there is a 12 13 third party who is not involved in the lawsuit? MR. HALFEN: I don't believe so, Counsel, not in 14 15 this situation. I have made my objection. I have made my instruction. 16 17 MR. GLICKMAN: Okay. MR. HALFEN: Let's move on. 18 19 BY MR. GLICKMAN: 20 Q. Are you going to follow his instruction? 21 Α. Of course. 22 Q. And how many other times did you meet with 23 Neufeld when somebody else was present? Objection; vaque and ambiguous. 24 MR. HALFEN: 25 THE WITNESS: Somebody else meaning?



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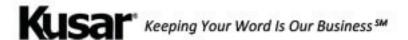
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$\square$	MR.	GLICKMAN:
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- Q. You had told us about one time where you met with Neufeld and the Hills. There was another time when you met with Neufeld and the Hills?
  - A. I said one or two times.
- Q. Any other times where you met with Neufeld with anybody else who was present aside from the Hills?
  - A. Not that I recall.
- Q. And tell me what occurred at that second meeting that you had with Neufeld, you, and the Hills.
- MR. HALFEN: I am going to object. It's vague and ambiguous. If what you mean by what happened, if you mean to include discussions of topics or what was said during those meetings, I am going to instruct him not to answer the question on attorney-client grounds as with the other question. But I am not clear on exactly what you are asking, Counsel, so maybe you want to just rephrase your question.
- 19 BY MR. GLICKMAN:
- Q. +What was said at that second meeting with you and the Hills and Neufeld?
- MR. HALFEN: Objection; attorney-client

privilege. Instruct you not to answer.

- 24 BY MR. GLICKMAN:
- 25 Q. Are you going to follow that instruction?



25

1	A. I am.
2	Q. Were you and the Hills ever joint clients of
3	Neufeld, to your understanding?
4	MR. HALFEN: Objection; vague and ambiguous, also
5	calls for the witness to make a legal conclusion.
6	THE WITNESS: I don't know what that means.
7	BY MR. GLICKMAN:
8	Q. +Did you and the Hills ever say, "Why don't we
9	combine together and let's sue Nager"?
10	MR. HALFEN: Again, I will object to the
11	question. To the extent that you are asking him for
12	anything that was divulged in a conference with the
13	attorney, that that's an attorney-client privileged
14	communication. I will instruct him not to answer it.
15	BY MR. GLICKMAN:
16	Q. Did you and the Hills ever talk on your own about
17	suing Nager together?
18	A. No.
19	Q. +Did the Hills tell you they were going to sue
20	Nager?
21	MR. HALFEN: Well, again, I am going to object.
22	To the extent that any communication was within the
23	purview of an attorney-client meeting, I will object that



instruct him not to answer.

it's attorney-client privileged material, and I will

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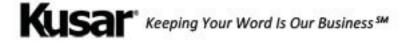
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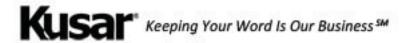
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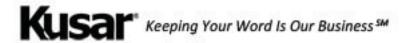
- BY MR. GLICKMAN:
- Q. Did you ever have any discussion with the Hills outside of Neufeld's presence about the Hills suing Nager?
  - A. I am going to need you to repeat that.
  - Q. Did the Hills ever tell you, "Hey, we are going to sue Nager, and here is what we are going to sue Nager for," those sorts of things? Did you ever have that discussion with the Hills outside of Neufeld's presence?
  - A. The Hills told me that they were contemplating suing Nager.
- 11 Q. For what?
  - A. For modifying the fence without their approval and that they had a number of other issues with him. I think they were pretty much at their wits end with how to handle it.
- Q. Did you ever -- strike that.
- 17 (Brief interruption.)
- 18 MR. GLICKMAN: So let's go back on the record.
- 19 Q. Currently is there a view blockage of any kind?
  - A. There is a small amount that for some reason he doesn't want to or won't trim.
- Q. Is it less than the 15 percent figure you talked about before?
- MR. WEERASURIYA: Objection; calls for
- 25 speculation.



1	THE WITNESS: It doesn't comply with what the ARC
2	instructed him to do. It's a small amount.
3	BY MR. GLICKMAN:
4	Q. Where is the small amount? Don't mark it. Just
5	tell us in words first.
6	A. It's hard to determine from this picture. It's
7	easier
8	MR. HALFEN: He's asking you to tell him in words
9	where it is. Can you do that? Is it possible?
10	THE WITNESS: Along here (indicating).
11	MR. HALFEN: Let the record reflect the witness
12	is pointing at Exhibit No. 1.
13	BY MR. GLICKMAN:
14	Q. I tell you what. We will mark another copy of
15	that as Exhibit No. 4, and why don't you use the Sharpie
16	and mark on there where you feel there is still an
17	obstruction.
18	A. (Witness complies.)
19	(The aforementioned document was marked by the
20	court reporter as Defendants' Exhibit 4 for
21	identification; attached hereto.)
22	BY MR. GLICKMAN:
23	Q. And so you marked a line along the top of the
24	wall?
25	A. On the northern yeah.



1	Q. So what you are saying is that there is foliage
2	that's growing up above the wall to a certain extent?
3	A. Yes.
4	Q. And how high above the wall?
5	MR. WEERASURIYA: Objection; calls for
6	speculation.
7	THE WITNESS: Maybe a foot. I don't really know.
8	BY MR. GLICKMAN:
9	Q. And so you feel that's blocking your view?
10	A. No. At the moment it does not block my view,
11	but, you know, the instructions from the ARC was that it
12	shouldn't be any higher than the wall height, and it's
13	always, you know, where does it stop? In the past it
14	hasn't.
15	Q. But are you satisfied now that the foliage issue
16	is being taken care of in an appropriate manner?
17	MR. WEERASURIYA: Objection; vague and ambiguous,
18	overbroad. You can respond if you understand.
19	THE WITNESS: For the most part, yes, I am.
20	However, when you say "taken care of," I don't exactly
21	know to what extent it has been taken care of in that
22	Nager refused to comply all through 2018 until the new
23	board enacted emergency provisions to increase the fine
24	levels.
25	So I believe he was fined it went from the



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which he cut.

- CC & R's were written in the '70s. It was like 50, 100,

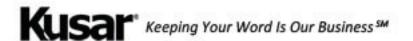
  250. That didn't get anybody's attention, so they

  increased the fine levels not just for him but for anybody

  in the community that didn't comply with the CC & R's to

  100, 500 and 1,000. I believe he was fined 100, I believe

  he was fined 500, and I believe that was the point at
  - I was at a board meeting a few months ago where he was speaking to the board, and he challenged the legality of that. So is it resolved? Is it done? I don't know.
- 12 Q. Are you friends with Jack Tiano?
- A. You know, we are neighbors. I wouldn't say
  friends. We don't really socialize outside of Emerald
  Ridge.
  - Q. Has he ever either talked or written to you about any privacy issues that Mr. Nager has?
- 18 A. Not that I am aware of, no.
- Q. Did he ever talk to you or write anything to you about that you were invading Mr. Nager's privacy?
  - A. No.
  - Q. Have you ever received anything from the homeowners association, either written or oral, notice about your cameras invading Mr. Nager's privacy?
- 25 A. No.



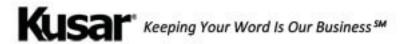
1 Did you ever curse at Mr. Nager as he was walking Q. 2 his dogs? 3 MR. WEERASURIYA: Objection; asked and answered, I believe. 4 5 THE WITNESS: No. 6 BY MR. GLICKMAN: 7 Ο. Did you ever curse at Ms. Nour? Α. No. 8 9 Ο. Did you ever spit at Mr. Nager or his dogs? 10 Α. Never. 11 Did you ever put dog feces in Mr. Nager's Ο. 12 mailbox? 13 Α. No. Did you ever complain to Mr. Nager that some dog 14 Ο. 15 was pooping in your front yard? 16 Α. Yes. When did you complain to him about that? 17 Q. Years and years ago, meaning 2012, '13. I don't 18 Α. recall. 19 What did Mr. Nager respond about you complaining 20 Q. 21 about dogs pooping in your front yard? 22 Α. He told me what dog he thought it was. 23 Are you aware of a witness who has seen you Q. 24 placing dog feces in Mr. Nager's mailbox? 25 Α. That's not possible.



1 Q. Why is it not possible? 2 Α. I never placed dog feces in Mr. Nager's mailbox. Did you ever put any movie disks in Mr. Nager's 3 Ο. mailbox? 4 I don't recall. 5 Α. Did Mr. Nager ever ask you about counterfeit 6 Ο. 7 movie disks that were put in his mailbox? I don't recall. 8 Α. 9 Did you ever tell Mr. Nager that you picked up Ο. 10 counterfeit bootleg movie disks from Hong Kong or China, 11 where you pick them up cheap? 12 Α. Yes. 13 Ο. You did tell him that? I brought some back for him from I think it was 14 Α. 15 Shanghai, actually. 16 Ο. What did you bring him? Just a collection of movies. 17 Α. Why did you bring them to him? 18 Q. 19 Α. He asked me to. 20 Q. When was that? 21 2012, 2013 maybe, somewhere in there. Α. 22 Q. How did you find out that Mr. Nager was claiming 23 that he was attacked by the Hills' dog? 24 Α. I'm sorry? 25 Q. At some point in time you found out that



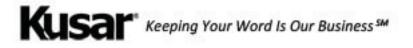
1	Mr. Nager was claiming to have been attacked by the Hills'
2	dog?
3	A. Mr. Hill told me.
4	Q. What did Mr. Hill tell you?
5	A. That I don't know the exact term. Like a
6	house or a dog minder or watcher or whatever that was
7	walking their dog while they were on vacation had walked
8	past was coming back to the Hills' home, walked past
9	Mr. Nager's property. His dogs ran out, and there was a
10	scuffle between the dogs. And then my understanding is
11	that all the people tried to pull all the dogs back, and I
12	believe he was bit at that point.
13	Q. Where were you at the time of the dog attack?
14	MR. HALFEN: Objection; calls for speculation.
15	THE WITNESS: I don't know. I was not home.
16	BY MR. GLICKMAN:
17	Q. Did you do anything to help the Hills in some way
18	to prove any issue in their case relating to the dog
19	attack?
20	MR. HALFEN: Objection; vague and ambiguous.
21	THE WITNESS: The Hills asked me if any of the
22	security cameras that I have on my home picked up any of
23	the incident that occurred. I went and cataloged and went
24	back through. He gave me the time, the date, and, sure
25	enough, there was some of the interaction that was caught.



Q.

I copied that and gave that to Mr. Hill.
BY MR. GLICKMAN:
Q. What did you find on your security cameras
relating to the dog incident?
MR. HALFEN: Objection; vague and ambiguous.
THE WITNESS: Can you be more specific?
BY MR. GLICKMAN:
Q. You said you looked at the video, and some of it
was caught. I'm trying to figure out what the, quote,
"some of it" was.
A. Oh, okay. So the house the dog
Q. Walker?
A walker that was staying at their house walks
down the sidewalk and then I think it kind of goes out of
frame. I don't remember exactly what all the footage
shows. Mr. Hill is in possession of it. Then you can
pick up a fair amount of scuffle that's occurring out in
the street, you know, kind of dog/people melee, people
trying to pull each other away, dogs away.
Then the gal that is walking the dog comes back
and sits on the curb in front of my house for a number of
minutes, and she is fairly shaken up, and that's about it.
Q. Do you still have a copy of that video?
A. I'd have to look.

But how long was the video that you gave to the



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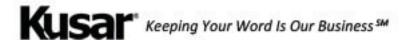
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- 2 A. I don't recall.
- Q. 30 seconds, a minute, two minutes? What's your recollection?
  - A. You know, to be honest with you, I'd like to change that. I think it was still shots, a series of still shots, not a video. But they were still shots that were sequenced, you know, literally like a second or half second after one another.

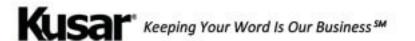
So what was the entire duration? I really don't know. It would be a number of minutes because, as I say, it captures the gal coming down around the hill, walking past my house, the scuffling, and then the gal coming back and sitting on my driveway for a little while. So maybe five minutes, seven minutes.

- Q. So when you say "the scuffling," what are you referring to?
- A. Dogs going -- you know, a dog fight and human beings trying to stop the dog fight.
  - Q. You could actually see that from your stills?
- A. You can make out quite a bit of that from what occurred in the street.
  - Q. And did you see Mr. Nager in any of those stills?
- 24 A. I believe so, yeah.
- Q. And did you see Ms. Nour in any of the stills?



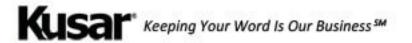
Q.

1 I believe so, yes. Α. And you saw the Hills' dog, Amber, in the stills? 2 Ο. 3 Yes? Α. You see dogs. I am certain it was the Hills' 4 5 dog, Amber. It's hard to make out, you know, a specific 6 dog because dogs are at a much lower level than the 7 humans. Ο. Right. But Amber --8 I am certain she was there. 9 Α. 10 She is much bigger than Mr. Nager's dogs? Ο. 11 Α. Yes. 12 How many other dogs did you see aside from Amber? Q. 13 Α. I think you see one of his dogs. Did you see in the video any biting activity 14 Ο. 15 going on? 16 Α. Not that I recall, no. 17 And so now that we've cleared this up that these Q. 18 are stills, do you still have these? 19 Α. As I said, I'd have to check. 20 And so you testified at the hearing that took Q. 21 place at CASA, C-A-S-A. Right? 22 Α. I did not testify. I was present. 23 You didn't testify? Q. 24 Α. No.



Did you meet with anybody before the hearing?

1	A. No.
2	Q. Did you meet with Mr. Neufeld before the hearing?
3	MR. WEERASURIYA: Objection; asked and answered.
4	THE WITNESS: No.
5	BY MR. GLICKMAN:
6	Q. Did you meet with the Hills before the hearing?
7	A. No.
8	MR. WEERASURIYA: Objection; same.
9	BY MR. GLICKMAN:
10	Q. So you just showed up at the hearing on your own
11	without talking with anybody about what was going to be
12	talked about at the hearing?
13	MR. HALFEN: Objection; argumentative,
14	mischaracterizes his testimony.
15	THE WITNESS: I knew when the hearing was going
16	to be, and I knew what the substance of the hearing was or
17	what the substance of the hearing was about. I did not go
18	to the hearing with the Hills. I did not meet with the
19	Hills prior to it. I attended the hearing.
20	BY MR. GLICKMAN:
21	Q. Did you consider the Hills' dog to be vicious at
22	all?
23	A. No.
24	Q. Had you ever seen any aggressive tendencies with
25	the Hills' dog?



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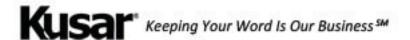
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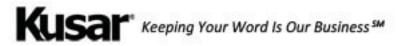
- 1 A. I personally have not, no.
  2 O. Were you aware at all that t
  - Q. Were you aware at all that the Hills had reported to their veterinarian that the dog was becoming more aggressive before the incident?
    - A. No. That would be news to me.
  - Q. You are aware that the Hills lost their appeal to reverse the mandate with CASA at that hearing. Right?
  - A. I am not, no.
    - Q. You never found out what happened as a result of that hearing that you attended?
- A. I remember hearing something about I think the
  dog had to wear a muzzle for a certain period of time or
  what have you. But I've got to be honest with you. That
  issue does not concern me directly. It's not something
  that, you know, I consider to be high on my list of things
  that I need to keep myself aware of.
  - MR. ABRAHAM NAGER: Excuse me. Will this help?

    Can I give this to you?
- MR. GLICKMAN: That's okay. They don't need it.
- MR. ABRAHAM NAGER: They don't need it?
- MR. GLICKMAN: No.
- 22 MR. ABRAHAM NAGER: I was trying to help him.
- 23 BY MR. GLICKMAN:
- Q. Did you ever complain to anybody that because of
- 25 Mr. Nager's actions, you were going to list your house for

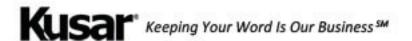


1	sale?
2	MR. HALFEN: Of course you mean other than
3	counsel. Is that correct?
4	MR. GLICKMAN: Of course.
5	MR. HALFEN: Okay. Other than counsel.
6	THE WITNESS: I joked about it, yeah, a couple
7	times.
8	BY MR. GLICKMAN:
9	Q. Where did you joke about it?
10	A. You know, just in passing saying like, you know,
11	if I had known what kind of neighbor he was before I moved
12	in, I wouldn't have bought the house.
13	Q. And that's really just because of the hedge
14	issue, or is there something else?
15	A. No. The hedge issue, you know, is quite minor, I
16	think, compared to everything in total. It's the false
17	allegations, the accusations of being a peeping Tom, being
18	an animal abuser, being an assaulter, you know, completely
19	unsubstantiated allegations that just go on and on.
20	I'd like to clarify something as far as the
21	hearing, the dog hearing. I did not testify, to my
22	knowledge. I was asked in the period of the hearing. I
23	don't know if it was the judge or the gentleman that was
24	running the hearing asked if anybody could speak about the

demeanor of the dog, Amber, and I did. I spoke that, you



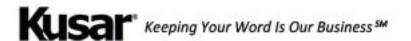
- know, I have known the dog since shortly after they got the dog. I have only known it to be very playful and very even-tempered. And that I believe I said also that I could corroborate that, you know, Mr. Nager has a long history of having his dogs in the community off leash.
- Q. Let's talk about that. So you have seen
  Mr. Nager with his dogs off leash?
  - A. Sure.
    - Q. And where have you seen Mr. Nager with his dogs off leash?
  - A. You know, pretty much all over. The meadow is an area that everybody has their dogs off leash. But back and forth from the meadow to people's homes, dogs are almost always put back on leash. But Mr. Nager had a tendency that he would never really do that.
    - Q. Did Mr. Nager's dogs ever act aggressively in any way towards you?
- 18 A. Towards me, no.
  - Q. Did you ever see them act aggressively towards anybody?
  - A. I have seen one of his dogs go after other dogs before, you know. I don't know -- the little blond dog seemed to be more aggressive. I have seen that dog barking and yapping towards other dogs.
- 25 Q. You felt that was like something more than just



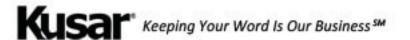
- one dog saying hi to another dog?
  - A. It could very well have been.
  - Q. Who knows what dogs do? I mean I have cats. But you felt that the little dog was being aggressive somehow towards another dog?
  - MR. HALFEN: Objection; asked and answered.

THE WITNESS: I would say most people, you know, when they have their dogs off the leash, that that dog is either very obedient and controlled or is on a leash. So if you are walking your dog, you don't expect someone else's dog to come up yapping and barking towards your dog which is on a leash.

- 13 BY MR. GLICKMAN:
- 14 Q. So that's what you saw --
  - A. Maybe that was friendly, I don't know, like you said.
    - Q. Did it seem like it was -- it's hard to anthropomorphize, where you are like trying to give human emotions or attributes to a dog. But just based on what you saw, did you see the dog off leash exhibit what you interpreted to be aggressive actions towards another dog?
      - MR. HALFEN: Objection; vague and ambiguous.
  - THE WITNESS: Only what I have already stated. I have never seen the dog bite another dog. I have never seen, you know.



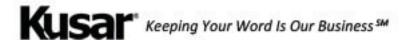
- 1 BY MR. GLICKMAN:
- Q. Aggressive action towards another dog other than
- 3 what you've testified?
- 4 A. What I've described, yeah.
- 5 Q. How about Nadine Johnson? Do you know her?
- 6 A. I know of her.
- 7 Q. Have the Hills ever talked with you about issues
- 8 | that they have with Ms. Johnson about view issues?
- 9 A. Yes.
- 10 | Q. What have they told you about that?
- 11 A. That she is obstructing their view and has
- 12 obstructed their view.
- 13 Q. In a similar way that Mr. Nager is, in your mind,
- 14 | obstructing your view?
- MR. HALFEN: Objection; vague and ambiguous,
- 16 | calls for speculation, lacks foundation on the part of the
- 17 | witness.
- 18 THE WITNESS: Yeah, I don't really want to
- 19 really --
- 20 BY MR. GLICKMAN:
- 21 Q. It was obstructing their view because of
- 22 | landscaping issues. Is that what they told you?
- MR. HALFEN: Objection; vague and ambiguous.
- 24 THE WITNESS: Yeah.
- 25



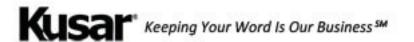
- 1 BY MR. GLICKMAN:
- Q. Did they show you how Ms. Johnson was obstructing
- 3 | their views?
- 4 A. Yes.
- 5 | Q. And what did you see?
- A. Significant overgrowth of trees and bushes along their southern boundary of their property.
- Q. Have you ever seen on the Hills' property any indication that the Hills were blocking Mr. Nager's view?
- 10 A. Not really. Not anywhere to the extent that, you 11 know, what I am used to.
- Q. When you and Mr. Nager had discussed building the new wall or the new fence on your property, was there some discussion about where that fence or the wall would be built in terms of on whose property?
- 16 A. Yes.
- 17 Q. What was the discussion that you had?
- A. He wanted the fence built as far onto my property
  as possible up to and including that the cinderblocks
  would marry up to and touch the concrete slab parts of the
- 21 | walkway on my property.
- Q. Did you agree to that?
- 23 A. I did.
- Q. And so is that the way the fence was built?
- 25 A. No.



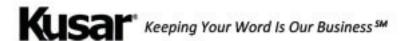
- Q. Why not?
- 2 A. The contractor came to me first, I believe, and
- 3 | said that for structural integrity he could not do that.
- 4 | He can't -- what he told me was that you can't place the
- 5 | block on one extremity of the foundation or the other. It
- 6 has to be in the center of the foundation or as close to
- 7 | the center of the concrete foundation as possible. So I
- 8 asked him, "How far can you cheat it towards my side?"
- 9 Q. And what did he say?
- 10 A. And he said, you know, "I will do the best I
- 11 | can." I think it was -- I think the distance between the
- 12 | block, the concrete block of the walkway and the wall on
- 13 | my side of the property is about three inches, so more so
- 14 on my -- go ahead.
- 15 Q. The contractor is Mr. Mendoza?
- 16 A. I believe that's correct, yes. It was
- 17 | Mr. Nager's --
- 18 Q. But you --
- 19 A. -- contractor.
- 20 Q. But you thought Mr. Mendoza did a good job on the
- 21 | wall. Didn't you?
- 22 A. I thought he did a fair job. He had some
- 23 | problems initially, you know, some things that had to be
- 24 addressed.
- 25 Q. But, I mean, you suggested that you and Mr. Nager



1 tip an extra \$200 each for Mr. Mendoza's work on the wall? 2 I don't remember that specifically, but I regularly tip people that work for me. 3 And Mr. Mendoza did other work on your property? Ο. 4 5 Α. Yeah. Ο. He did the concrete work? 6 7 Α. He tried. What do you mean "He tried"? 8 Q. 9 The job was terrible, completely botched. I Α. 10 didn't have runoff. You know, the concrete was cracking 11 immediately. It was an atrocious job and had to be 12 redone. 13 Ο. The difference where the wall was actually placed, did you discuss that with Mr. Nager? 14 I did. 15 Α. 16 Ο. And Mr. Nager agreed to that? 17 He was fully aware of it. I had Mr. -- what was Α. his name again, the contractor? 18 19 Ο. Mendoza. 20 -- Mr. Mendoza get Mr. Nager when that issue came Α. 21 up. 22 Q. And so you're saying Mr. Nager --23 -- was fully apprised of it. Α. And fully agreed to it? 24 Q. 25 Α. Yes, because the wall was continued. I would



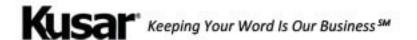
1 also add that, you know, in the building of the wall 2 everything had to be per his preference. The capstone in 3 the wall had to be exactly like the capstone of his home, matching. The stucco had to be exactly matching the 4 stucco of his home. The color of the stucco had to be 5 6 exactly the color of the stucco of his home so he wouldn't 7 have to paint it. All construction, all building, all materials, 8 9 all trash, all cutting of blocks all had to be done on my 10 property, none on his property. 11 You agreed to all that, though? Ο. 12 Α. I did. 13 Ο. I forgot to ask you when we started. Did you take any medications today? 14 15 Α. No. 16 Ο. Do you take any medications on a regular basis? 17 Α. No. Who is Vivian Stein? 18 Q. 19 Α. My girlfriend. 20 Have you discussed with Ms. Stein your issues Q. 21 that you have in general with Mr. Nager? 22 Α. I don't like to bring other people into negative 23 situations so. 24 She is a dentist? Q.



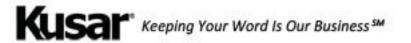
She is.

Α.

1 Have you told her that you are suing Mr. Nager, Ο. 2 and Mr. Nager is suing you? Of course she's aware of the --3 Α. Does she know Mr. Nager? 4 Ο. Α. Not to my knowledge, no. 5 Has anybody ever made an accusation against you, 6 Ο. 7 that you are aware of, of identity fraud? Α. Pardon me? 8 Has anybody made any accusation against you that 9 Ο. 10 you were inappropriately using somebody else's identity? 11 Α. Never. 12 MR. GLICKMAN: Okay. Why don't we take a short 13 break. Maybe we can finish up. (A six-minute recess was taken.) 14 BY MR. GLICKMAN: 15 16 Ο. Anything else that you are thinking of that --17 strike that. Anything else that you thought of that you want to change or add to your testimony so far? 18 19 Α. Not at this moment, no. Okay. I want to go back. You said that the 20 Q. 21 architectural review committee issued some sort of order 22 to Mr. Nager to trim to the top of the wall? 23 That was part their order or their Α. Yeah. instructions. 24 25 Q. It was in writing or oral?



1	A. I know for certain it was in writing.
2	Q. Do you have a copy of it?
3	A. Not on me, no.
4	Q. But you have seen a copy of it?
5	A. Yes.
6	Q. And what does it say?
7	A. It lays out what the architectural committee
8	believes needs to be trimmed and cut in order to comply
9	with the CC & R's to eliminate the unreasonable view
10	blockage.
11	Q. Do you have a copy of that with you?
12	A. No.
13	Q. Is there anything else in writing that you
14	believe was issued by the homeowners association or any
15	unit of the homeowners association setting forth Mr. Nager
16	needed to comply with X?
17	MR. WEERASURIYA: Objection; Rifkind. You can
18	respond if you recall.
19	MR. HALFEN: Also I will object that it's vague
20	and ambiguous as phrased.
21	THE WITNESS: There is numbers of, you know,
22	instructions to him to trim his landscaping, to remove the
23	view blockage. I mean dozens of letters from the HOA to
24	him.
25	



24

25

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1	BY MR. GLICKMAN:
2	Q. Okay. And you have seen these?
3	A. Yes.
4	Q. Do you have copies of these?
5	A. Yeah, I believe so.
6	Q. And essentially what they said is that he has to
7	trim all the foliage to no higher than the height of the
8	wall?
9	MR. WEERASURIYA: Objection; misstates the
10	testimony, compound, vague and ambiguous.
11	MR. HALFEN: I will also object that the
12	documents speak for themselves.
13	THE WITNESS: I would say the same.
14	BY MR. GLICKMAN:
15	Q. Say the same what?
16	A. The documents speak for themselves. There is a
17	large number of documents. I can't speak to all of them.
18	Q. Okay. But the essence is
19	A. Correct the view blockage.
20	Q. And the view blockage means cut so everything is
21	no higher than the height of the wall?
22	MR. HALFEN: Objection; vague and ambiguous. I

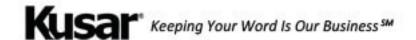
mean here is the trouble with it, Counsel. I don't know

if you want a speaking objection on the record, but the

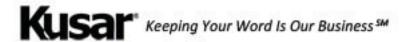
point is he said there is a large number of documents.



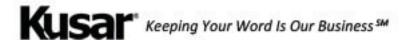
- 1 And if what you are doing is you are trying to sort of 2 pigeonhole all this large number of documents into one 3 sort of general proposition without having the documents in front of him, I think it's really calling for 4 5 speculation on the part of the witness, among other 6 problems. 7 But I am not instructing him. I think if he can sort of understand it, you know, he can take a shot at 8 9 giving an answer, I quess. 10 THE WITNESS: I'm sorry. One more time with the 11 question. BY MR. GLICKMAN: 12 13 Ο. I am just trying to get an idea. What was Mr. Nager supposed to do that he didn't do? 14 15 MR. WEERASURIYA: Objection; vague and ambiguous, 16 calls for a narrative, Rifkind, calls for speculation, 17 compound. THE WITNESS: Trim his landscaping to comply with 18 19 the instructions of the ARC. BY MR. GLICKMAN: 20 21 And the instructions were no higher than the 22 height of the wall? 23 That was part of it. That was part of the Α.
- 24 instructions.
  - Q. What was the other part?



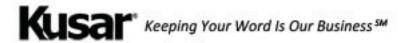
Т	A. There are numerous parts. I don't really feel
2	comfortable trying to lay them all out.
3	Q. Now, earlier you said something about a 15
4	percent view blockage was permitted under the CC & R's.
5	Do you recall that?
6	A. It was part of the view maintenance policy.
7	Q. So what did you mean by the 15 percent?
8	A. There was a clause, I believe, in the view
9	maintenance policy which said that, you know, no neighbor
10	could obstruct or block more than 15 percent of another
11	neighbor's view, ocean view. And I believe that since
12	then that verbiage has changed to unreasonable
13	obstruction, but in both cases all to be determined by the
14	ARC.
15	Q. Did you ever see some sort of calculation that
16	said that Mr. Nager was obstructing more than 15 percent
17	of your view?
18	MR. WEERASURIYA: Objection; calls for an expert
19	opinion.
20	THE WITNESS: So when the issue was initially
21	raised, the board took a look at it. The ARC came and
22	took a look at it, and then they went a step further and
23	hired a guy by the name of Jeff Smith, who I believe owns
24	Smith Architects and is somehow considered a view expert.
25	I am not really sure how you achieve that credential.



1 But he came out, took a number of pictures, and 2 then submitted a report to the HOA, which I was sent a copy of, that clearly stated in excess of 15 percent of 3 the view is obstructed. 4 BY MR. GLICKMAN: 5 Ο. And when was that? 6 The first time was in November of 2014. Α. And then there was a second one? 8 Ο. 9 Α. There was. 10 When was that? Ο. 11 I think it was November of 2015. I'm sorry. Α. 12 December, I think it was, of 2015. 13 Ο. And was there another one? 14 Not that I am aware of, no. 15 And both reports indicated that there was more Q. 16 than a 15 percent blockage? 17 MR. HALFEN: Objection; the reports speak for 18 themselves. 19 THE WITNESS: Yes. BY MR. GLICKMAN: 20 21 And you have copies of both reports? Q. 22 Α. I do. Okay. Those are all the questions I have for 23 Q. 24 you, then. 25 MR. HALFEN: I don't have any questions.

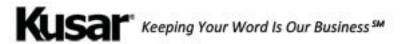


1	MR. WEERASURIYA: Neither do I.
2	MR. GLICKMAN: Okay. Why don't we stipulate,
3	then, that the original of the deposition transcript can
4	be sent to somebody. Who is the volunteer?
5	MR. HALFEN: That will be fine. If you want to
6	send it to Slaughter, Reagan & Cole, that's fine.
7	MR. GLICKMAN: Okay. And that counsel for
8	Mr. Mueller will make arrangements for Mr. Mueller to
9	read, review, and sign the transcript under penalty of
10	perjury; that we will ask that this all be done within 30
11	days of counsel's receipt of the original from the court
12	reporter or prior to commencement of trial, whichever
13	occurs first, since we are getting kind of in that range.
14	And if for some reason the document is not signed
15	or corrected within that time period, that an unsigned
16	copy can be used as if it had been signed and corrected.
17	And we will be notified of any changes or corrections
18	within that time period. And we will relieve the court
19	reporter of her statutory obligations upon delivery of the
20	original, and we will have counsel maintain custody of the
21	original and produce it whenever needed for any legitimate
22	purpose in this case.
23	MR. HALFEN: Sounds fine. So stipulated.
24	MR. WEERASURIYA: Okay. So stipulated.
25	MR. GLICKMAN: Okay.



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THE REPORTER: Would you like a copy, Counsel?
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 2
              MR. HALFEN: I'll take a copy, electronic copy,
 3
     and everything, please.
               (Proceedings concluded at 2:43 p.m.)
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1	DECLARATION
2	
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4	
5	I hereby declare I am the deponent in the within
6	matter; that I have read the foregoing deposition and
7	know the contents thereof, and I declare that the same is
8	true of my knowledge except as to the matters which are
9	therein stated upon my information or belief, and as to
10	those matters, I believe it to be true.
11	I declare under the penalties of perjury of the
12	State of California that the foregoing is true and
13	correct.
14	Executed this day of,
15	20, at, California.
16	
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21	KEVIN MUELLER
22	
23	
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1	REPORTER'S CERTIFICATE
2	
3	I, Lyn Corrin Aaker, a Certified Shorthand
4	Reporter, holding a valid and current license issued by
5	the State of California, CSR No. 6228, do hereby certify:
6	That said proceedings were taken down by me in
7	shorthand at the time and place therein set forth and
8	thereafter transcribed under my direction and
9	supervision.
10	Supervision.
11	I further certify that I am neither counsel for
12	nor related to any party to said action, nor in any way
13	interested in the outcome thereof.
14	The dismantling, unsealing, or unbinding of the
15	original transcript will render the Reporter's
16	Certificate null and void.
17	
18	IN WITNESS WHEREOF, I have hereunto subscribed
19	my name on this date January 22, 2019.
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22	an alen aller
23	
24	
25	Certified Shorthand Reporter

