

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE DAVID O. CARTER, JUDGE PRESIDING

- - - - -

ECHOSTAR SATELLITE CORP., et)	
al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. SACV 03-950 DOC
)	Day 19, Verdict
NDS GROUP PLC, et al.,)	
)	
Defendants.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Jury Trial

Santa Ana, California

Thursday, May 15, 2008

Debbie Gale, CSR 9472, RPR
 Federal Official Court Reporter
 United States District Court
 411 West 4th Street, Room 1-053
 Santa Ana, California 92701
 (714) 558-8141

EchoStar 2008-05-15 D19 Verdict

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

FOR PLAINTIFF ECHOSTAR SATELLITE CORPORATION, ET AL.:

T. WADE WELCH & ASSOCIATES

BY: CHAD M. HAGAN

CHRISTINE D. WILLETTS

WADE WELCH

DAVID NOLL

Attorneys at Law

2401 Fountainview

Suite 700

Houston, Texas 77057

(713) 952-4334

FOR DEFENDANT NDS GROUP PLC, ET AL.:

O'MELVENY & MYERS

BY: DARIN W. SNYDER

DAVID R. EBERHART

Attorneys at Law

275 Embarcadero Center West

Suite 2600

San Francisco, California 94111

(415) 984-8700

-and-

HOGAN & HARTSON

BY: RICHARD L. STONE

KENNETH D. KLEIN

Attorneys at Law

1999 Avenue of the Stars

Suite 1400

Los Angeles, California 90067

(310) 785-4600

ALSO PRESENT:

David Moskowitz

Dov Rubin

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

PROCEEDINGS	PAGE
Discussion re Juror No. 1	4
Verdict	35

1 SANTA ANA, CALIFORNIA, THURSDAY, MAY 15, 2008

2 Day 19, Verdict

3 (8:06 A.M)

4 (Outside the presence of the jury.)

5 THE COURT: We're on the record.

6 Both NDS's and EchoStar's counsel are here. The
7 parties are present.

8 This is outside of the jury's presence.

9 And I've actually brought up the Court security
10 officer. Why don't you remain with us. You're not going to
11 get the jury right now.

12 COURT SECURITY OFFICER: Yes, sir.

13 THE COURT: The Court's learned some considerable
14 factors this morning.

15 Let me begin by saying the background of this
16 issue involves jurors who were properly admonished to avoid
17 speaking to counsel for either party and that counsel would
18 avoid speaking to the jurors. Additionally, these jurors
19 were admonished at the close of each session that they were
20 not to discuss the case with anyone nor form nor express any
21 opinion about the case.

22 At the close of trial on Wednesday, May 7th, 2008,
23 the lawyers (sic) were instructed to meet on the first floor
24 of the courthouse on Tuesday, May 13th, 2008, so the bailiff
25 could bring them to the jury room for deliberation.

1 Kristee, thank you for coming in from vacation.
2 The Court Clerk who admonished them is present if any
3 counsel has any questions of her in that regard.

4 But, Kristee, were they properly admonished?

5 THE CLERK: Yes, they were.

6 THE COURT: And state to counsel what you told
7 them.

8 THE CLERK: They were instructed to all meet on
9 the first floor in the jury assembly room, and the bailiff
10 would bring them all up as a group. It was also explained
11 to them that the reason being because the evidence was going
12 to be in that room, and they cannot -- they always have to
13 view the evidence as a group together.

14 THE COURT: I've represented to you, Counsel,
15 about Kristee being present because that's been the Court's
16 habit and custom also for the last ten years. It also was
17 for 17 years in Superior Court. It's never varied.

18 And the reason for that is to stop the obvious,
19 and that is any potentiality of a juror or jurors beginning
20 to deliberate regardless of an instruction before a late
21 juror might arrive.

22 Seven of those jurors appropriately and properly
23 appeared in the jury room as instructed. One juror, No. 1,
24 did not.

25 Now, most of the counsel before this Court are

1 from out of the jurisdiction. Plaintiff's counsel, I
2 believe, are from Texas. Most of defense counsel, if I'm
3 not mistaken, are from San Francisco. All of you or some
4 are Los Angeles. A couple are from Los Angeles. But lead
5 counsel, Mr. Snyder, is from San Francisco, and
6 Mr. Eberhart -- San Francisco. Remaining counsel are from
7 Los Angeles.

8 Now, yesterday, there was a statement by
9 Mr. Snyder that somewhat concerned this Court. Mr. Snyder,
10 yesterday you stated that this Court instructed you to be
11 here at 1:00 o'clock. It made it appear that that was an
12 order. Let me set the record very clear about that so that
13 there's no equivocation at all.

14 I initially had called lead counsel into the
15 hallway and had stated to you to be here at 10:00 o'clock,
16 not 1:00 o'clock, feeling that there was no reason to have
17 defense counsel from San Francisco flying back; they could
18 catch an early flight that morning. And then I realized in
19 that discussion that you're from Texas, and it didn't appear
20 to be fair to have counsel have the morning at home if they
21 wanted to and take a flight and that you had to, you know,
22 fly in the night before.

23 So I changed that. And my statement to each of
24 you was, "You don't have to be here until 1:00 o'clock."
25 Your 1:00 o'clock date was a drop-dead date. You had to be

1 here. But you didn't have to be here before that date.

2 Mr. Welch, I believe, told me in the hallway that
3 you're flying in anyway. You're bringing everybody out,
4 quote/unquote, by plane the night before.

5 And Mr. Snyder, my recollection is, thanked the
6 Court. And I didn't know if you were going to appear or
7 not. It doesn't matter to the Court as long as all parties
8 were here by 1:00 o'clock.

9 Now, let me state to you that to one of my
10 concerns last evening was, not only a trial and how it's
11 perceived in terms of fairness and in terms of rulings, but
12 one of the little things that happen that can have a bias or
13 prejudice that the record never captures, but being involved
14 in trial work so long gives one of the parties an unfair
15 edge.

16 I brought the Court security officer up today, and
17 I've also brought Kristee in, and the information that's
18 going to be relayed to you in a few moments is that whatever
19 this contact was with this particular juror had no effect on
20 the other seven.

21 In other words, you didn't have lurking attorneys
22 in the hallway when the group was re-brought back up. So
23 you didn't have what I call the "stare-down" of the -- of
24 the side of attorneys sitting in the hallway when the other
25 eight jurors were brought down the hallway. At least that's

1 the information relayed to me, but I'm going to find out
2 quickly for my record.

3 Even then, I doubt that that would be enough for
4 mistrial, but I will want to know what are the perceptions
5 taking place.

6 The Court has been informed of the following
7 regarding the incident with Juror No. 1. I was told on the
8 first day of deliberations, May 13, 2008, that the bailiff
9 arrived in chambers at approximately 8:00 to 8:15 and
10 informed the staff that he could not locate one or more of
11 the jurors. The best I can piece together in this time
12 frame is, 8:15 to 8:20 an individual indicated via the
13 chambers intercom that one or more jurors were in the
14 hallway and could not enter the courtroom. She was
15 instructed that the staff would not let the jury into the
16 jury room.

17 Ms. Willetts, apparently -- I'm guessing that must
18 have been you calling into chambers. And this incident must
19 have already taken place when you called into chambers.
20 Kristee was not the recipient of that phone call, by the
21 way. One of the law clerks was.

22 Upon opening the door to the jury room, the law
23 clerks told Ms. Hopkins, the courtroom deputy for this
24 Court, that the jurors were in the hallway, and Ms. Hopkins
25 entered the hallway where she saw Juror No. 1 apparently

1 speaking to counsel. That turns out not to be true -- there
2 was one juror in the hallway, not the multitude. They were
3 still downstairs.

4 Ms. Hopkins then called Counsel into the courtroom
5 and asked what the juror had stated to them, and counsel for
6 plaintiff, Mr. Hagan, stated that Juror No. 1 had stated,
7 "Good morning and good luck" to defense counsel and that
8 "he," referring to Mr. Hagan, had merely smiled. Counsel
9 for plaintiff, Mr. Noll or Mr. Welch indicated that the
10 juror had stated "Good morning and good luck" and that
11 Mr. Noll stated "Good morning," and then Mr. Welch said
12 nothing.

13 Now, besides the record that was created
14 yesterday, the Court has the benefit of having talked to my
15 own court clerk, and the same information that you relayed
16 to me yesterday had previously been relayed to the Court. I
17 simply wanted your statement on the record so I have a very
18 clear record.

19 Ms. Hopkins indicated that plaintiff's counsel may
20 be required to disclose these events, but the Judge would
21 make that decision, and Counsel apparently were on the way
22 from San Francisco or from -- because they weren't in the
23 courtroom at that time and couldn't be located.

24 Now, that's no fault of defense counsel.

25 The Court was informed of these facts, and I held

1 an informal discussion around 2:30 p.m. I want to relay to
2 you what occurred between that time.

3 The Court phoned in about 12:00 o'clock your time
4 and was told that the jurors had gone to lunch, that
5 plaintiffs' counsel were here, that defense counsel were not
6 present but had been informed, of course, and I was reminded
7 that they were not required to be here before 1:00 o'clock
8 nor were plaintiffs' counsel.

9 And I was told that not only the Headnet (sic)
10 Reports had been met with the consent of all of you
11 informally, but -- strike that -- had gone back to the
12 jury -- but also that the -- I said -- Headend Reports.
13 Headend Reports.

14 But also I was told that there had been some kind
15 of communication with one of the jurors and that Kristee
16 knew about that and wanted to relay that to the Court.

17 Kristee was not available. It was the lunch hour,
18 and I had called back about 1:00 -- between 1:00 and 2:00
19 and talked to one of the law clerks at that time.

20 Kristee got on the phone and relayed to me the
21 information she's about to relay to you.

22 I had a conversation with all counsel some time
23 between 2:00 o'clock and 2:30 -- I can't remember the exact
24 time -- but in that range someplace. You were informed in
25 that very first conversation about the Headend Reports and

1 agreed to the eight copies having gone back to the jurors,
2 which is a no-think call, by the way.

3 You also were informed at that time, the very
4 first conversation with this Court, about that problem or
5 potential problem. And, in fact, I think if my memory's
6 correct -- and Kristee, you can disagree at any time -- that
7 I actually put Kristee on the phone with you and had her
8 relay the information with my law clerks present as well.

9 I asked what you wanted to do. We had court
10 reporters available. At that time I think I indicated to
11 Mr. Snyder that that was your lead call; that is, any bias
12 or prejudice that might befall any of the parties really
13 seemed to be something that could be damaging to the
14 defense. So I think I made the statement to you -- and
15 please correct me if I'm wrong -- that regardless of
16 plaintiffs' position, I thought you had the first call in
17 that regard. In other words, I was going to take my lead, I
18 think, quote/unquote, from what you were going to say to me.

19 You had absorbed that information for the first
20 time and said you wanted until the following day to consider
21 it. I don't think any of us anticipated, quite frankly, a
22 verdict that first day. I think we all felt we had plenty
23 of time, and we knew that Mr. Bender was scheduled to
24 undergo this interview or solicitation for some contract and
25 that the jury was leaving at 11:30 and that Wednesday was a

1 half day or just a morning session.

2 Meanwhile, sometime between 4:00 o'clock and 4:30,
3 to my memory, the jury reached a verdict. I now know the
4 exact time because, thank goodness, the jury dated it. It
5 was 4:02.

6 Kristee sealed that verdict. You were sent home,
7 and we decided to hash this out on today's date and bring
8 the jury back in one session because I didn't know how long
9 this was going to take, whether it was going to take an hour
10 or hours. So it seemed wise to bring the jury back on
11 Thursday morning.

12 Now, in the meantime, I want to specifically ask
13 Mr. Noll and any of the counsel: When the jury was brought
14 back up -- just the equity of this -- were you in the Court
15 when the jurors were brought back up en mass? Were you in
16 the hallway? Did you see the jurors, Mr. Noll?

17 MR. NOLL: No, Your Honor, I never saw the jurors.

18 THE COURT: Where were you after this initial
19 contact by Juror No. 1? In other words, when the jurors --
20 were you down in the cafeteria, did you leave the building,
21 or did you come into the courtroom?

22 MR. NOLL: We would have come into the courtroom
23 and spoke with Kristee. And then, we left. I believe we
24 went to lunch.

25 THE COURT: Mr. Hagan, did you see this mass of

1 jurors? In other words, were you the lurking counsel out in
2 the hallway?

3 MR. HAGAN: No, sir.

4 THE COURT: Where were you?

5 MR. HAGAN: After we came into the courtroom,
6 Kristee told us that we could use the courtroom if we
7 wanted; we could use the attorney conference room --

8 THE COURT: Okay.

9 MR. HAGAN: I think we left and went to Starbucks.
10 By the time we came back, they had already been in the room
11 for a while.

12 THE COURT: Seems to be all counsel's favorite
13 haunt these days in this trial.

14 Mr. Welch.

15 MR. WELCH: Your Honor, I do not recall being
16 outside. I believe I was inside.

17 THE COURT: Inside the courtroom?

18 MR. WELCH: Yes, sir.

19 THE COURT: Ms. Willetts, did you see any of the
20 jurors coming down? I don't mean any -- Juror No. 1 -- I'm
21 trying to find out if I've got the situation, and I think
22 Mr. Snyder would like to know also if I've got the situation
23 with this mass of jurors coming down the hallway with one
24 side sitting out in the hallway basically eyeballing them.

25 MS. WILLETTS: I did not see any jurors.

1 THE COURT: Kristee, what's your recollection? I
2 want to get clear through this.

3 THE CLERK: I believe all the attorneys or some of
4 the attorneys were inside, 'cause we were discussing what
5 happened and what actions to take. So by the time the
6 jurors came up --

7 THE COURT: CSO, coming down the hallway?

8 COURT SECURITY OFFICER: I vaguely remember some
9 suits on the right side over by 9B.

10 THE COURT: By Judge Carney's court?

11 COURT SECURITY OFFICER: I didn't pay attention
12 what attorneys they were. We walked down this way. There
13 was no contact.

14 THE COURT: So I'm fairly satisfied, then, that I
15 don't what might be perceived to be an inequitable position.

16 What the Court can basically piece together was
17 apparently that as Juror No. 1 approached the courtroom and
18 the jury room, she passed defense counsel Mr. Noll and
19 Mr. Welch who were standing near the windows, near the
20 elevator. Mr. Noll stated he was facing the window, could
21 not see her peripherally, did not recognize her when she
22 neared Mr. Noll and Mr. Welch, said "Good morning," to which
23 Mr. Noll replied, "Good morning," as he turned to see who
24 was approaching. Mr. Welch did not say anything to the
25 jury -- or to the juror. The juror then said, "Good luck"

1 and continued down the hallway toward the courtroom and the
2 jury room.

3 Is that correct, Mr. Noll?

4 MR. NOLL: That's correct, Your Honor.

5 THE COURT: Repeating what I heard yesterday, from
6 my notes, she then reached the jury room entrance which was
7 locked, attempted unsuccessfully to open the door. She
8 attempted to open the door to courtroom D also
9 unsuccessfully as it was also locked. And there's a good
10 reason, and that is because it was supposed to be locked.
11 She was supposed to be downstairs in the jury room as the
12 other seven jurors were and apparently just misunderstood.

13 It's my understanding that she then asked
14 Mr. Lenoir and plaintiffs' other representative why the door
15 was locked and whether Ms. Hopkins was around and how she
16 could get into the jury room. And they indicated that she
17 should go downstairs where there was a sign directing the
18 jury.

19 Mr. Lenoir, is that correct?

20 MR. LENOIR: That's correct. I also mentioned
21 that the marshal was up here a few minutes before that.

22 THE COURT: All right. Thank you.

23 Anything else said to her?

24 MR. LENOIR: No, Your Honor.

25 THE COURT: In the interim period -- apparently

1 from what I could piece together last night and this
2 morning -- Ms. Willetts, apparently you used the chambers
3 intercom to inform the Court that there was a juror in the
4 hallway. One of my law clerks responded to that. After
5 speaking to them, I figured out that that must have been
6 you.

7 Is that correct?

8 MS. WILLETTS: That's correct, Your Honor.

9 THE COURT: Are you the one who placed the
10 intercom call?

11 MS. WILLETTS: That's correct.

12 THE COURT: When Ms. Hopkins entered the hallway,
13 she told the juror to go downstairs, which the juror did,
14 and then the entire group was brought back up.

15 First of all, I'm persuaded that there's no what I
16 call "prejudice" in terms of one of the parties being absent
17 and one of the parties being present in the hallway with the
18 mass of the jurors. It's this one juror that seems to be
19 the issue.

20 So I don't have any imbalance, even equitably,
21 from the Court's perception, unless this juror relates
22 something, and we'll find that out in a few moments.

23 Now, the present hearing is going to be held to
24 determine whether any inappropriate communications took
25 place between plaintiffs' counsel and Juror No. 1.

1 I've asked the further questions once again of
2 Mr. Noll and Mr. Welch today. Regardless of your testimony,
3 I wanted to hear that statement again, and I wanted to
4 summarize what I thought I'd heard yesterday.

5 I've asked Ms. Hopkins to come in off of vacation.
6 My apologies, but thank you. You're an absolute saint,
7 Kristee. I've also asked the same CSO to come up who
8 brought the majority of jurors up. So we have all the
9 people here at one time.

10 Mr. Snyder, I want to listen to you one more time
11 about why I should take the verdict first, you know, and
12 then delay questioning of this juror.

13 I've thought through last evening that perhaps the
14 Court is ill-advised to do that, but from everything I see,
15 the Court is apparently -- well, first of all, the decision
16 to grant a new trial for misconduct, or by relating to
17 jurors, is within the trial Court's discretion. The Court
18 cites *Moleski v. MJ Cable*, Ninth Circuit, and also
19 *Washington Times v. Bonner*, DC Circuit case.

20 And really, whether a mistrial is to be declared
21 or a new trial granted because of alleged misconduct of or
22 interference with a juror is a matter within the discretion
23 of the trial Court.

24 Now, any unauthorized communication between a
25 juror and a witness or interested party is presumptively

1 prejudicial. But the parties seeking to avoid a new trial
2 may overcome that presumption by making a strong contrary
3 showing, and the Court cites *Caliendo v. Warden of*
4 *California Men's Colony* and also *Maddox v. The*
5 *United States*, 146 U.S. 140, 142, 1892 case. That
6 overturned a murder conviction based on the bailiff's
7 comment to the jury. However, quote, "If an unauthorized
8 communication with a juror is de minimis, the parties
9 seeking a new trial must show that the communication could
10 have influenced the verdict before the burden of proof
11 shifts to the party opposing a mistrial."

12 The Maddox presumption of prejudice applies when
13 an unauthorized communication crosses the low threshold to
14 create a potential for prejudice. The Court cites
15 *The United States v. Day*, 10th circuit 1987 case. There the
16 Government agent asked the juror in the men's room, "How you
17 holding up?" And the Court found it does not trigger a
18 presumption of prejudice.

19 The Court from *Smith* -- or the quote from *Smith v.*
20 *Phillips* is quite strong. United States Supreme Court case.
21 Indeed, the Courts recognize that, quote, "It is virtually
22 impossible to shield jurors from every contact or influence
23 that might theoretically influence their vote. Accordingly,
24 we must distinguish between deliberate and intentional
25 conduct and mere inadvertent or accidental contact involving

1 only an exchange of greeting in order to avoid an appearance
2 of discourtesy." Cite: U.S. v Harry Barfield Company, 359
3 F.2d, Fifth Circuit, 1966 case as well.

4 Under the Maddox framework, the statements will
5 only be grounds for new trial if they are not or
6 non-de minimis and create a risk.

7 I think the wise course is to find out right at
8 the very beginning of this because, first, the jury's
9 already rendered a verdict. That verdict's been in a sealed
10 condition. The jury has it in their presence.

11 That verdict also -- the Court's taken
12 extraordinary caution along with counsel of having each
13 juror sign that verdict. Normally, the foreperson signs the
14 verdict, the verdict's brought in, and then the jury's
15 polled. Well, here, there's signature lines for each of the
16 jurors. So it defies imagination that there's going to be a
17 change, although I'll certainly conduct polling for either
18 the defense or the plaintiff in this matter.

19 Mr. Snyder, let me turn to you one more time as a
20 courtesy.

21 I'm fairly concerned that any misgivings you might
22 have had or I might have felt also in terms of the entire
23 jury being exposed to one party in the hallway, that
24 uncomfortable feeling that I'm not there, is set aside; that
25 it's one juror potentially, once again, that we're dealing

1 with.

2 MR. SNYDER: Thank you, Your Honor.

3 I appreciate the additional information that you
4 provided this morning.

5 My point yesterday -- and it remains our position
6 today -- is that under the actual prejudice standard, that
7 can only be determined after the verdict is read. And so
8 while I understand the Court's point about inquiring of the
9 people involved now for purposes of making a record, whether
10 or not that prejudiced, the verdict, can only be determined
11 after the verdict was read. And that was why I suggested
12 that the inquiry need not be made until after the verdict.

13 THE COURT: Is your feeling still the same?

14 MR. SNYDER: Yes. I still believe that the
15 standard could only be determined after the verdict's read.

16 THE COURT: All right. Now, if I bow to that
17 wisdom, you're taking away a potential remedy. In other
18 words, the Court is best able to act if it has information.
19 And the difficulty with that position is that if, in fact, I
20 had determined that there was some type of prejudice after I
21 spoke to the jury before the verdict came in, I could
22 determine two things that I wouldn't be able to do following
23 your advice:

24 First, I'd be able to find out if whatever that
25 prejudice was, was conveyed to the other seven jury members.

1 In other words, if it wasn't, then your position would be,
2 well, there's prejudice anyway because that juror
3 participated in the proceedings.

4 But my response might be reinstructing this jury
5 to go back and begin their deliberations again if I found
6 prejudice in this matter and to start their deliberations
7 anew as if this juror hadn't participated.

8 So by taking that position, if I subscribe to this
9 position, it may weaken your position later on in a motion
10 for new trial, because I really would be following your
11 direction. And my initial thought is that this should take
12 place before the jury comes into court, that I should have
13 all the information at my disposal, that I'm better off as a
14 trial judge having that information in making decisions.
15 But if you think that that's prejudicial, then I want you to
16 state why it's prejudicial, especially in light of a signed
17 verdict form with eight signatures on it.

18 MR. SNYDER: I guess if I could ask for
19 clarification of the Court's question.

20 Are you asking whether it's our position that the
21 inquiry would be prejudicial or the --

22 THE COURT: That the inquiry prior to the verdict
23 would be prejudicial.

24 MR. SNYDER: No, Your Honor. My point is not that
25 I believe that the inquiry would be prejudicial. My point

1 is that the inquiry, the determination of whether the actual
2 prejudice test is met or has been met, can't be determined
3 until after the verdict is read. So it's not -- it is not
4 NDS's position or my position that the inquiry is itself
5 prejudicial.

6 THE COURT: All right. My preference is for the
7 inquiry now. I think that's the wisest course of action.

8 But let me pay the same courtesy to plaintiffs'
9 counsel.

10 MR. HAGAN: Your Honor, our position is that we
11 agree with the Court. Initially, we don't think that there
12 was any improper contact whatsoever, but I think that the
13 proper time to determine that is now, before the verdict is
14 read, because if there was a determination that it's safer
15 to assume that there was improper contact, you have
16 additional remedies that you will not have after the verdict
17 has been read and received by the Court.

18 THE COURT: I agree. And I think I'd already
19 determined that regardless of your respective positions that
20 that was the Court's feeling as well.

21 Counsel, I'm going to begin in this way: I'm
22 going to make the statement generally to the juror as
23 follows to somewhat set her at ease and let her do the
24 talking initially before questions are asked.

25 First, I'm going to tell her that the Court needs

1 to inquire into some communication or communications that
2 you may have had with one or more plaintiffs' counsel on
3 Tuesday morning, May 13th, before the deliberations and
4 explain to her that at any time a juror has contact with
5 people involved in the case, we have to ask those questions
6 to make sure nothing inappropriate occurred.

7 "I'm asking you these questions for my own record,
8 and the parties have not requested that I ask them of you.
9 I think that's an important statement by the Court so that
10 it doesn't appear that there's a disagreement between you or
11 that this is at your impetus. This should be from the
12 Court.

13 "Now, we understand that the jury has reached a
14 verdict, and the verdict will be read shortly, but for now I
15 do not want you to tell us what decision this jury's
16 reached." In other words, I don't want her blurting out any
17 indication. We're all very anxious, of course, to know, but
18 we don't even want a hint before the whole jury is present.

19 "I'm going to ask you a few questions about what
20 occurred in the hallway outside the courtroom before you
21 began your deliberations.

22 "First, initially before we start, we'd like to
23 know whether you took part in the jury's deliberations and
24 reached a verdict, without telling us a verdict on Tuesday
25 May 13th."

1 I think that's answer's obvious: Yes.

2 And second, "Could you describe for us generally
3 what happened when you first arrived at the courthouse on
4 Tuesday morning for deliberations and any communications you
5 may have had with anyone associated with the case?"

6 In other words, instead of me segmenting by
7 questions, I'd like to hear the first overall statement by
8 her.

9 I remember when I was practicing law, whenever a
10 witness was questioned, even if they were telling the truth,
11 they remembered about 70 to 80 percent of it. The second
12 time through, they remembered 90 percent, and the third time
13 through, a little bit more. And I was always surprised at
14 trial that they remembered something else. And that was
15 with a truthful witness.

16 The third would be, "If you remember, who
17 initiated these communications?" In other words, after I
18 hear her general statement, that may be obvious. She may
19 say, "I talked to counsel." But I want to specifically ask:
20 Who initiated this?

21 Fourth, "When you had these communications, had
22 you already reached a decision in your mind about this case?
23 If so, was anything said that might have suggested to
24 counsel what the decision you believed -- suggested to
25 counsel what decision you made?"

1 In other words, my feeling still is, after they're
2 properly instructed, that the attorneys have a right -- or
3 the witnesses at that point -- strike that -- the jurors at
4 that point have a right to form an opinion. They've been
5 properly instructed, et cetera. If they come into court
6 with a preconceived idea at that time, that may be grounds
7 for a motion for new trial. We'll take that up at that
8 time. But let's find out right now because that's going to
9 be one of the primary questions you're going to want to
10 know.

11 "When you returned to the first floor and met with the
12 other jurors or at any time, did you tell the jurors what
13 had happened up in the hallway?"

14 Okay. "And did you tell them that you had seen or
15 communicated with counsel or anyone associated with the
16 case?"

17 The sixth question: "Did the events of Tuesday morning
18 have any impact on your decision in this matter or the
19 decision of any of the other jurors -- in other words, the
20 brief discussion you had in the hallway?"

21 Finally, "Have you or any of the other jurors, to the
22 best of your knowledge, had contact with any person
23 associated with this case outside this trial." In other
24 words, what I want to find out is, this is the one juror who
25 apparently wandered up to court. All the other seven jurors

1 knew to go downstairs. I just want to make certain that
2 there's no other contact with this particular juror.

3 Now, I may have other questions, but that's as far as
4 I'm going to get right now until I have this juror speak to
5 us.

6 Would you please summon Juror No. 1, please.

7 Do you know her name?

8 THE CLERK: Susan Harris.

9 THE COURT: Good morning.

10 JUROR NO. 1: Good morning.

11 THE COURT: Ms. Harris, I need to inquire into
12 some communications that you may have had with plaintiffs'
13 counsel Tuesday morning, May 13th, before the deliberations.

14 Anytime a juror has contact with people involved
15 in the case, we have to ask questions to make sure that
16 nothing inappropriate occurred. And I'm asking these
17 questions for my own record. The parties have not requested
18 that I ask these of you.

19 Now, we understand that the jury's reached a
20 verdict, and the verdict is going to be read very shortly,
21 and I do not want to know at any time during this
22 conversation what you decided.

23 JUROR NO. 1: Okay.

24 THE COURT: We are all very anxious, of course, to
25 know, but we don't even want a hint during my conversation

1 with you.

2 So we'll go quickly in these questions, but you'll
3 be out of here briefly.

4 I'm going to ask you just a few questions about
5 what occurred in the hallway outside the courtroom before
6 you began deliberations. And initially before we start, I'd
7 like to know whether you took part in the jury's
8 deliberations and you reached a verdict, without telling us
9 the verdict, on Tuesday, May 13th.

10 JUROR NO. 1: Yes.

11 THE COURT: Okay. Could you describe to us
12 generally what happened when you first arrived at the
13 courthouse on Tuesday morning for deliberations and any
14 communications, including greetings, you might have had with
15 anyone associated with this case.

16 JUROR NO. 1: Well, unfortunately, I was the only
17 one who forgot that you told us to go downstairs, so I came
18 up here.

19 THE COURT: Okay.

20 JUROR NO. 1: Tried to go in the room, and it was
21 locked. And I think I asked them -- I think I asked 'em,
22 "Can you go ask Kristee to open the door," 'cause I kept
23 knocking on it, knocking on it, knocking on it, knocking on
24 it, and they said, "The courtroom is locked." And then
25 eventually Bob came and got me.

1 THE COURT: Do you remember who initiated the
2 first conversation? Did you initiate it with the attorney,
3 or did the attorney initiate it with you?

4 JUROR NO. 1: I did it with them. I'm sure
5 everybody saw me. I kept knocking, knocking, knocking,
6 knocking, you know, for a few minutes. I felt like
7 everybody was waiting for me. I was knocking on our door.
8 I wasn't knocking on the courtroom door.

9 THE COURT: Okay.

10 JUROR NO. 1: And I knew I couldn't come in the
11 courtroom, so I asked them, "Could you please go ask Kristee
12 to open the door for me?"

13 THE COURT: When you had these communications, had
14 you already reached a decision in your own mind about this
15 case? In other words, the jury hadn't started deliberating
16 yet, but had you already decided what this case should be in
17 your own mind?

18 I don't want to know which side.

19 JUROR NO. 1: Well, by the end you kind of have
20 a -- you might be tipped one way or the other, but you're
21 ready to discuss it with the others.

22 THE COURT: Was there anything said by the
23 attorneys in response to you asking about the courtroom that
24 indicated or might have influenced your decision in this
25 matter?

1 JUROR NO. 1: No, they just said that the
2 courtroom was locked.

3 THE COURT: Okay. When you returned to the first
4 floor and met with the other jurors, or at any time, did you
5 tell the jurors about any communication you had with the
6 attorneys up here on this floor?

7 JUROR NO. 1: I -- I might have just told them I
8 was upstairs knocking on the door, and I saw the attorneys
9 up in the hallway.

10 THE COURT: Okay. Did you indicate which side --
11 like the plaintiffs' attorneys or the defense attorneys --
12 or did you just say "the attorneys"?

13 JUROR NO. 1: I probably said I saw EchoStar
14 people up there.

15 THE COURT: And did you tell them -- or did the
16 events of Tuesday morning when you had this contact, this
17 brief contact with the attorneys and asked 'em about getting
18 into the Court -- did that have any impact on your decision
19 in this matter as you had deliberated with the other jurors?

20 JUROR NO. 1: No.

21 THE COURT: Okay. Have you or any of the other
22 jurors, to the best of your knowledge, had contact with any
23 person associated with this case outside the trial; in other
24 words, other than this conversation in the hallway?

25 JUROR NO. 1: Me -- do I know about me or any of

1 the other jurors?

2 THE COURT: Just you.

3 JUROR NO. 1: I haven't.

4 THE COURT: Okay. Finally, do you recall saying
5 to any of the attorneys, "Good morning and good luck"?"

6 JUROR NO. 1: I may have.

7 THE COURT: Okay. And if you did say that, what
8 were you conveying?

9 JUROR NO. 1: I was -- probably nothing. Just
10 like, saw -- walked by 'em coming to the door and just said
11 "Good morning, good luck," I guess.

12 THE COURT: Okay. I want to thank you very much.

13 JUROR NO. 1: Okay.

14 THE COURT: I'm going to ask you not to relay any
15 of our conversation back to the other jurors.

16 JUROR NO. 1: Okay.

17 THE COURT: And we'll see you in just a few
18 moments.

19 Thank you for your courtesy.

20 JUROR NO. 1: Okay.

21 THE COURT: All right. Counsel, under the Maddox
22 framework, it's unlikely that these communications -- it's
23 unlikely that Juror No. 1's communications with counsel were
24 initiated by this juror, from all that I can gather --
25 weren't initiated by counsel. These were initiated by the

1 juror, obviously, and from what I can discern at this point,
2 I'm going to find that these are mere pleasantries and a
3 brief discussion of where to meet for deliberations. They
4 do not rise to the level of potential prejudice and trigger
5 the Maddox issues and -- of actual prejudice here.

6 Now, Counsel, of course, that can be developed.
7 You're not foreclosed.

8 That's an initial ruling before I bring the jury
9 out. There may be other inquiry if the verdict's adverse to
10 NDS. This does not foreclose, of course, a request by you
11 for new trial.

12 But by the same token, I think that the Court's
13 made an adequate inquiry at this time, at least both on
14 equitable grounds that there's not an imbalance of
15 perception in the hallway, which you never see on the
16 record, but in trial work there's a lot of things that occur
17 in the Court that the Circuit would never see, but trial
18 judges understand very well any imbalance.

19 And second, I'm absolutely convinced, quite
20 frankly, at least at this juncture with the information in
21 front of the Court, that Counsel, you did not initiate the
22 contact. You conducted yourselves appropriately. I can't
23 find any prejudice here. It appears to be a "good morning"
24 greeting.

25 And I think her statements, when, in fact -- I

1 think at the end of the case, the slowing down of the case
2 probably gave this jury, after they looked at these exhibits
3 four, five, and six times and the excellent presentation by
4 both sides in this matter, quite frankly, a pretty clear
5 indication for all the jurors, and that's reflected in a
6 one-day verdict, which is not strange as people may think in
7 a five-week trial, because many of these issues involved
8 these documents being repeatedly shown to the jury by
9 plaintiff and defense counsel.

10 Having made that record, Counsel, of course I want
11 to be courteous. I want to turn to the plaintiff and then
12 to the defendant for additional comments.

13 On behalf of the plaintiff.

14 MR. HAGAN: Your Honor, I think the answers given
15 by Mrs. Harris are consistent with the information provided
16 by plaintiffs and plaintiffs' counsel and the Court clerk,
17 and it demonstrates that there was absolutely no improper
18 contact or attempt to influence the jury in any way
19 whatsoever, and it was simply morning pleasantries.

20 THE COURT: Let me turn to Mr. Snyder.

21 MR. SNYDER: Nothing further, Your Honor. Thank
22 you.

23 THE COURT: Preserve your record in this regard in
24 case there's -- obviously, if it's a defense verdict, the
25 issue is moot. If there's a plaintiffs' verdict, you're not

1 foreclosed from coming back to the Court on a motion for new
2 trial.

3 MR. SNYDER: Thank you, Your Honor. That's our
4 understanding.

5 THE COURT: All right.

6 Then, Counsel, is there anything further before I
7 summon the jury?

8 MR. WELCH: No, sir, Your Honor.

9 MR. SNYDER: No.

10 THE COURT: All right. Would you be kind enough
11 to summon the jury.

12 (In the presence of the jury.)

13 THE COURT: Good morning. First of all, we're
14 back in session.

15 All counsel are present from EchoStar and NDS and
16 the parties.

17 And, first of all, before I inquire into the
18 verdict, I want to thank all of you. Some of you literally
19 volunteered vacation time, not getting paid, so many of
20 you -- very busy in your respective businesses, new job --
21 we're all very well aware of that, and I think all counsel,
22 regardless of your verdict -- of course, one side will be
23 excited; the other will be disappointed; that's trial
24 work -- but I think Mr. Snyder on behalf of NDS is thanking
25 you along with all of his counsel. Mr. Hagan Mr. Welch on

1 behalf of EchoStar, they're thanking you also.

2 Now, later on, one of them may not be thanking
3 you -- I'm just kidding -- but, you know, I think we take
4 the jurors for granted, and I hope we used your time
5 productively. I hope that we didn't have a lot of sidebars
6 and a lot of wasted time 'cause you really did donate your
7 time.

8 Let me say one thing else also to you.

9 It's really important we did it that way.
10 Otherwise, if we just ask for the volunteers, we get one
11 type of juror sometime. Maybe they're all in public service
12 or they're all retired or they're all unemployed. And
13 that's not the American system of justice. We're unique in
14 terms of the jury system. Your wisdom really prevails.

15 Well, say you one, say you all: Has the jury in
16 this matter reached a verdict? If so, would you indicate by
17 saying "yes."

18 THE JURY: Yes.

19 THE COURT: Your foreperson is Mr. Bender.

20 Mr. Bender, you have an envelope, please. Would
21 you be kind enough to hand it to the bailiff.

22 JUROR FOREPERSON: (Complies.)

23 THE COURT: We had this placed in a sealed
24 condition and signed by Mr. Bender.

25 I'll read the verdict.

VERDICT

1
2 THE COURT: Claim No. 1: Digital Millennium
3 Copyright Act, 17 U.S.C. Section 1201(a)(1)(A) -- Liability.

4 Question No. 1: Have Plaintiffs EchoStar and
5 NagraStar proven by a preponderance of the evidence that NDS
6 violated the Digital Millennium Copyright Act, 17 U.S.C.
7 Section 1201(a)(1)(A)?

8 No.

9 Claim No. 2: Digital Millennium Copyright Act,
10 17 U.S.C. Section 1201(a)(2) -- Liability.

11 Question No. 2: Have Plaintiffs EchoStar and
12 NagraStar proven by a preponderance of the evidence that NDS
13 violated the Digital Millennium Copyright Act, 17 U.S.C.
14 Section 1201(a)(2)?

15 No.

16 Claim No. 3: Communications Act, 47 U.S.C.
17 Section 605(a) -- Liability.

18 Question No. 3: Have Plaintiffs EchoStar and
19 NagraStar proven by a preponderance of the evidence that NDS
20 violated the Communications Act, 17 U.S.C. Section 605(a)?

21 Yes.

22 If you answered YES on Question No. 3, please
23 calculate actual damages (taking into account any reduction
24 you may find based on any failure to mitigate damages by
25 Plaintiffs) and statutory damages. Statutory damages are

1 based on the number of violations and amount per violation,
2 which are for you to determine. Plaintiffs must elect
3 either (a) actual damages or (b) statutory damages if you
4 return a verdict for Plaintiffs.

5 If you answered NO on Question No. 3, go to
6 Question No. 4.

7 Actual damages: EchoStar's actual damages:
8 You've listed 45.69; is that correct?

9 JURY FOREPERSON: That's right.

10 THE COURT: I'll come back and inquire about that
11 in just one moment.

12 NagraStar's actual damages: You've listed 0.00;
13 is that correct? That's an affirmance by all of the jurors?

14 JURY FOREPERSON: Yes.

15 THE COURT: Statutory damages: Total number of
16 Defendants' violations against Plaintiffs: You've listed
17 one.

18 Amount per violation) (within range of \$1,000 to
19 \$10,000): You've listed \$1,000 and you've totaled that for
20 total statutory damages of \$1,000.

21 If that's correct, would you nod your head once
22 again.

23 THE JURY: (Nods.)

24 THE COURT: The verdict in that indicates a yes by
25 all of the jurors.

1 Claim No. 4: Have Plaintiffs EchoStar and
2 NagraStar proven by a preponderance of the evidence that NDS
3 violated California Penal Code Section 593d(a)?

4 You've answered Yes.

5 If you answered YES on Question No. 4, please
6 calculate actual damages (taking into account any reduction
7 you may find based on any failure to mitigate damages by
8 Plaintiffs) and go to Question No. 5 after calculating
9 actual damages.

10 Actual Damages: EchoStar's actual damages: You
11 listed 45.69.

12 NagraStar's actual damages: You listed 0.00.

13 Question No. 5: If you answered YES on Question
14 No. 4, do you find that Defendants acted with oppression,
15 fraud, or malice?

16 You've answered No.

17 Question No. 6: Have Plaintiffs EchoStar and
18 NagraStar proven by a preponderance of the evidence that NDS
19 violated California Penal Code Section 593e(b)?

20 Your answer is Yes.

21 If you answered YES on Question No. 6, please
22 calculate actual damages (taking into account any reduction
23 you may find based on any failure to mitigate damages by
24 Plaintiffs) and statutory damages, and go to Question No. 7
25 after calculating damages. Statutory damages are based on

1 the number of violations and amount per violation, which are
2 for you to determine. Plaintiffs must elect either (a)
3 actual damages or (b) statutory damages if you return a
4 verdict for Plaintiffs.

5 Actual Damages: EchoStar's actual damages:
6 You've listed 0.00.

7 NagraStar's actual damages: The jury has listed
8 0.00.

9 Statutory Damages: Total number of Defendants'
10 violations against Plaintiffs: You've listed one.

11 Amount per violation (within range of \$500 to
12 \$10,000): The jury has written 500.00.

13 Total statutory damages: 500.00.

14 I take it that indicates, obviously, \$500; is that
15 correct?

16 JURY FOREPERSON: Yes.

17 THE COURT: That's an affirmative answer by all
18 jurors nodding their heads.

19 Question No. 7: If you answered YES on Question
20 No. 6, do you find that Defendants acted with oppression,
21 fraud, or malice?

22 The jury's responded No.

23 Question No. 8: If you answered YES on
24 Question No. 6, do you find that Defendants engaged in a
25 conspiracy to violate California Penal Code Section 593e(b)?

1 The jury has answered No.

2 Question No. 9: If you answered YES on
3 Question No. 6, do you find that Plaintiffs EchoStar and
4 NagraStar have proven by clear and convincing evidence that
5 NDS's conduct was sufficiently malicious, oppressive, or in
6 reckless disregard of Plaintiffs EchoStar's and NagraStar's
7 rights to warrant an award of punitive damages to
8 Plaintiffs?

9 The jury has answered No.

10 Question No. 10, involving Claim No. 6, the RICO
11 violation under 18 U.S.C. Section 1962(c) -- Liability.

12 Question No. 10 reads: Have Plaintiffs EchoStar
13 and NagraStar proven by a preponderance of the evidence that
14 NDS committed Criminal Copyright Infringement in violation
15 of 17 USC Section 506?

16 The jury has answered No.

17 Question No. 11: Have Plaintiffs EchoStar and
18 NagraStar proven by a preponderance of the evidence that NDS
19 committed misconduct in connection with an Access Device in
20 violation of 47 U.S.C. Section 1029?

21 The jury has answered, No.

22 Question No. 12 only requires a response if the
23 jury answered Question No. 10 or 11 with a YES. They have
24 not. Therefore, 10 -- strike that.

25 Question No. 12 and Question No. -- Question

1 No. 12 is blank.

2 Question concerning Counterclaim 1.

3 California Civil Code Section 3426 -- Liability.

4 Question No. 13: Has NDS proven by a
5 preponderance of the evidence that EchoStar violated the
6 California Uniform Trade Secrets Act, California Civil Code
7 Section 3426?

8 The jury has answered No.

9 Question No. 14: Has NDS proven by a
10 preponderance of the evidence that NagraStar violated the
11 California Uniform Trade Secrets Act, California Civil Code
12 Section 3426?

13 The jury has answered No.

14 This has not only been signed and dated by the
15 foreperson, but the Court has asked for the signatures of
16 each of the other seven jurors which are also affixed to
17 this document.

18 Now, this Court has asked the jury previously if
19 these are the decisions by the jury. The jury has responded
20 Yes.

21 I'll turn to each of the parties and see if you
22 would like the jury polled as to any one or more of the
23 claims.

24 Let me turn to EchoStar first.

25 MR. WELCH: No, Your Honor.

1 THE COURT: NDS.

2 MR. EBERHART: No.

3 MR. SNYDER: No, Your Honor.

4 THE COURT: Is there anything further before the
5 Court orders that the clerk of the Court record this verdict
6 on behalf of EchoStar?

7 MR. HAGAN: Your Honor, it was a little unclear to
8 us what the 45.69 --

9 THE COURT: Let me come back to 45.69.
10 Is that dollars, or is that thousands of dollars
11 or --

12 JURY FOREPERSON: \$45.69.

13 THE COURT: Forty-five dollars and sixty-nine
14 cents.

15 Is there anything further on behalf of EchoStar?

16 MR. HAGAN: No, Your Honor.

17 THE COURT: Is there anything on behalf of NDS?

18 MR. SNYDER: No, Your Honor.

19 THE COURT: I'm going to order the honorable clerk
20 of this court to record the verdict at this time. The
21 findings of the eight jurors are unanimous. The verdict is
22 now recorded.

23 Now, Counsel, I would like a few minutes with the
24 jury to personally thank them for their service. I told you
25 I'd give you a brief tour. I know you're anxious to get out

1 of here, but we're also a criminal court, and we don't let
2 you go very quickly. I'm just kidding you.

3 So why don't you come back in chambers and visit
4 with me for a moment. I feel I've gotten to know you so
5 well in some ways, just seeing you every day.

6 I'm just going to give you kind of a
7 behind-the-scenes tour, and then we'll get you on your way
8 quickly.

9 If you'd like to leave, you're free to talk to any
10 counsel at any time. By the same token, you don't need to
11 speak to any counsel. That's entirely up to you.

12 So if you would like to come back in chambers, you
13 have to speak with me for a moment, though.

14 Counsel, if you would like to remain, you're more
15 than welcome to. If not, you're more than welcome to go on
16 your way.

17 Thank you very much.

18 Oh, we'll set date with Kristee any motions for
19 new trial that can be done outside of my presence.

20 Counsel, see Kristee.

21 MR. SNYDER: Thank you, Your Honor.

22 (At 8:59 a.m., proceedings were adjourned.)

23 -oOo-

24

25

1 -oOo-

2
3 CERTIFICATE

4
5 I hereby certify that pursuant to Section 753,
6 Title 28, United States Code, the foregoing is a true and
7 correct transcript of the stenographically reported
8 proceedings held in the above-entitled matter and that the
9 transcript page format is in conformance with the
10 regulations of the Judicial Conference of the United States.

11
12 Date: May 15, 2008

13
14
15 _____
16 DEBBIE GALE, U.S. COURT REPORTER

17 CSR NO. 9472, RPR
18
19
20
21
22
23
24
25

A	38:17 answered 35:22 36:5 37:4,5,13 37:16,21 38:19 38:23 39:1,2,9 39:16,21,23 40:8,13 answers 32:14 answer's 24:1 anticipated 11:21 anxious 23:17 26:24 41:25 Anytime 26:14 anyway 7:3 21:2 apologies 17:6 apparently 8:17 8:25 9:21 14:17 15:12,25 16:2 17:15 25:25 appear 6:11,19 7:6 23:10 appearance 19:1 APPEARANCES 2:1 appeared 5:23 appears 31:23 applies 18:12 appreciate 20:3 approached 14:17 approaching 14:24 appropriately 5:22 31:22 approximately 8:9 arrive 5:21 arrived 8:9 24:3 27:12 aside 19:24 asked 9:5 11:9 15:13 17:1,5,7 18:16 22:24 27:21,21 28:11 29:17 40:15,18 asking 21:20 23:7 26:16 28:23 assembly 5:9 associated 24:5 25:15,23 27:15 29:23	ASSOCIATES 2:4 assume 22:15 attempt 32:18 attempted 15:7,8 attention 14:11 attorney 13:7 28:2,3 attorneys 2:7,14 2:19 7:21,24 14:3,4,12 25:2 28:23 29:6,8,11 29:11,12,17 30:5 available 10:17 11:10 Avenue 2:20 avoid 4:16,18 18:1 19:1 award 39:7 aware 33:21 a.m 4:3 42:22	B	believe 6:2 7:2 12:23 13:16 14:3 20:14 21:25 believed 24:24 Bender 11:23 34:19,20,24 benefit 9:14 best 8:11 20:18 25:22 29:22 better 21:13 bias 7:12 11:11 bit 24:13 blank 40:1 blurting 23:16 Bob 27:25 Bonner 17:19 bow 20:16 brief 25:20 29:17 31:3 41:25 briefly 27:3 bring 4:25 5:10 12:7,10 31:8 bringing 7:3 brought 4:9 7:16 7:17,25 12:13 12:15 16:14 17:8 19:14 building 12:20 burden 18:10 businesses 33:20 busy 33:20	9:4 10:18 calling 8:18 captures 7:13 Carney's 14:10 CARTER 1:3 case 4:20,21 17:19 18:5,15 18:20 19:3 23:5 24:5,22 25:16 25:23 26:15 27:15 28:15,16 29:23 32:1,1,24 catch 6:18 cause 14:4 27:22 34:6 caution 19:12 Center 2:14 CENTRAL 1:2 cents 41:14 certain 26:1 certainly 19:17 CERTIFICATE 43:3 certify 43:5 cetera 25:5 CHAD 2:5 chambers 8:9,13 8:18,19 16:2 42:3,12 change 19:17 changed 6:23 CHRISTINE 2:5 circuit 17:18,19 18:15 19:3 31:17 Cite 19:2 cites 17:18 18:3 18:14 Civil 40:3,6,11 Claim 35:2,9,16 37:1 39:10 claims 40:23 clarification 21:19 clear 6:12 9:18 14:2 32:4 39:4 clerk 5:2,5,8 9:15 14:3 26:8 32:16 41:5,19 clerks 8:21,23
C	Cable 17:18 cafeteria 12:20 calculate 35:23 37:6,22 calculating 37:8 37:25 Caliendo 18:3 California 1:2,16 1:23 2:15,21 4:1 18:4 37:3,19 38:25 40:3,6,6 40:11,11 call 7:23 8:20 11:2,11,16 16:10,16 called 6:14 8:19				

<p>10:19 11:8 16:4 close 4:19,22 Code 37:3,19 38:25 40:3,6,11 43:6 Colony 18:4 come 12:21,22 17:5,7 25:5 28:10 36:10 41:9 42:3,12 comes 21:12 coming 5:1 13:20 13:23 14:7 30:10 33:1 comment 18:7 comments 32:12 committed 39:14 39:19 communicated 25:15 communication 10:15 17:24 18:8,9,13 23:1 29:5 communications 16:24 23:1 24:4 24:17,21 26:12 27:14 28:13 30:22,23 35:16 35:20 Company 19:2 Complies 34:22 concerned 6:9 19:21 concerning 40:2 concerns 7:10 condition 19:10 34:24 conduct 18:25 19:17 39:5 conducted 31:22 conference 13:7 43:10 conformance 43:9 connection 39:19 consent 10:10 consider 11:20 considerable 4:13 consistent 32:15</p>	<p>conspiracy 38:25 contact 7:19 12:19 14:13 18:22,25 22:12 22:15 23:4 25:22 26:2,14 29:16,17,22 31:22 32:18 continued 15:1 contract 11:24 contrary 18:2 conversation 10:22,25 11:4 26:22,25 28:2 29:24 30:15 conveyed 20:25 conveying 30:8 conviction 18:6 convinced 31:19 convincing 39:4 copies 11:1 Copyright 35:3,6 35:9,13 39:14 CORP 1:5 CORPORATI... 2:3 correct 11:6,15 15:3,4,19,20 16:7,8,11 36:8 36:13,21 38:15 43:7 counsel 4:6,17,17 5:3,6,14,25 6:1 6:2,5,6,14,17,20 9:1,4,5,7,8,19 9:21,24 10:5,5,8 10:22 12:13 13:1 14:18 16:25 19:12 22:9,21 23:2 24:19,24,25 25:15 26:13 30:21,23,25 31:6,21 32:9,10 32:16 33:6,15 33:21,25 41:23 42:10,11,14,20 counsel's 13:12 Counterclaim 40:2</p>	<p>couple 6:4 course 10:6 19:7 22:7 23:17 26:24 31:6,10 32:10 33:22 court 1:1,21,22 4:5,9,12,13 5:2 5:6,14,17,25 6:9 6:10 7:6,7,16 8:6,24 9:14,15 9:16,25 10:3,16 11:4,9 12:14,18 12:25 13:4,8,12 13:17,19 14:1,7 14:8,10,10,11 14:14,16 15:5 15:22,25 16:3,9 16:12 17:14,15 17:17,23 18:3 18:14,17,19,20 20:13,16,18 21:12,22 22:6 22:11,17,18,25 23:9,12 25:5,25 26:9,11,24 27:11,19 28:1,9 28:13,22 29:3 29:10,15,18,21 30:2,4,7,12,14 30:17,21 31:17 31:21 32:16,20 32:23 33:1,5,10 33:13 34:19,23 35:2 36:10,15 36:24 38:17 40:15,18 41:1,4 41:5,5,9,13,17 41:19,20 42:1 43:15 courteous 32:11 courtesy 19:20 22:8 30:19 courthouse 4:24 24:3 27:13 courtroom 8:14 8:23 9:4,23 12:21,22 13:5,6 13:17 14:17 15:1,8 23:20 27:5,24 28:8,11</p>	<p>28:23 29:2 Courts 18:21 Court's 4:13 5:15 16:21 17:17 19:11 20:8 21:19 22:20 31:12 create 18:14 19:6 created 9:13 criminal 39:14 42:1 crosses 18:13 CSO 14:7 17:7 CSR 1:21 43:16 custom 5:16</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 2:5,19 3:1 15:8 damages 35:23,24 35:25,25 36:3,3 36:7,7,12,15,20 37:6,7,9,10,10 37:12,22,23,24 37:25,25 38:3,3 38:5,5,7,9,13 39:7 damaging 11:13 DARIN 2:13 date 6:25,25 7:1 12:7 42:18 43:12 dated 12:4 40:14 David 1:3 2:6,13 2:24 day 1:8 4:2 8:8 11:20,22 12:1 18:15 42:5 days 13:13 DC 17:19 de 18:8 dealing 19:25 Debbie 1:21 43:15 decided 12:7 26:22 28:16 decision 9:21 17:15 23:15 24:22,24,25 25:18,19 28:14 28:24 29:18 decisions 21:14</p>	<p>40:19 declared 17:20 defendant 2:11 32:12 Defendants 1:9 36:16 37:14 38:9,20,24 defense 6:2,17 9:7 9:24 10:5 11:14 14:18 19:18 29:11 32:9,24 defies 19:16 delay 17:12 deliberate 5:20 18:24 deliberated 29:19 deliberating 28:15 deliberation 4:25 deliberations 8:8 21:5,6 23:3,21 23:23 24:4 26:13 27:6,8,13 31:3 demonstrates 32:17 deputy 8:23 describe 24:2 27:11 determination 22:1,14 determine 16:24 20:22 22:13 36:2 38:2 determined 20:7 20:10,15,20 22:2,19 developed 31:6 Device 39:19 difficulty 20:19 Digital 35:2,6,9 35:13 directing 15:17 direction 21:11 disagree 11:6 disagreement 23:10 disappointed 33:23 discern 31:1</p>
---	---	--	---	--

disclose 9:20	either 4:17 19:17	fact 11:5 20:19	foreclosed 31:7	16:23 19:16
discourtesy 19:2	36:3 38:2	31:25	33:1	22:21,22,25
discretion 17:17	elect 36:2 38:2	factors 4:14	foregoing 43:6	23:19 25:8,9
17:22	elevator 14:20	facts 9:25	foreperson 19:13	26:4,20 27:4
discuss 4:20 28:21	em 27:21 29:17	failure 35:24 37:7	34:19,22 36:9	30:14 31:2
discussing 14:4	30:10	37:23	36:14 38:16	41:19 42:6
discussion 3:3	Embarcadero	fair 6:20	40:15 41:12	good 9:7,7,10,10
6:19 10:1 25:20	2:14	fairly 14:14 19:21	forgot 27:17	9:11 14:22,23
31:3	en 12:15	fairness 7:11	form 4:20 21:17	14:25 15:9 26:9
disposal 21:13	engaged 38:24	far 26:3	25:4	26:10 30:5,5,11
disregard 39:6	enter 8:14	fault 9:24	format 43:9	30:11 31:23
distinguish 18:24	entered 8:25	favorite 13:12	Forty-five 41:13	33:13
District 1:1,2,22	16:12	Federal 1:21	found 18:17 21:5	goodness 12:4
DOC 1:7	entire 16:14 19:22	feel 42:4	Fountainview 2:7	gotten 42:4
document 40:17	entirely 42:11	feeling 6:16 19:24	four 32:3	Government
documents 32:8	entrance 15:6	20:13 22:20	Fourth 24:21	18:16
dollars 41:10,10	envelope 34:20	25:1	frame 8:12	grant 17:16
41:13	equitable 31:14	felt 11:22 19:22	framework 19:4	granted 17:21
donate 34:6	equitably 16:20	28:6	30:22	34:4
door 8:22 15:7,8	equity 12:14	Fifth 19:3	Francisco 2:15	greeting 19:1
15:14 27:22	equivocation 6:13	figured 16:5	6:3,5,6,17 9:22	31:24
28:7,8,12 29:8	especially 21:16	Finally 25:21 30:4	frankly 11:21	greetings 27:14
30:10	et 1:5,8 2:3,11	find 8:1 13:21	31:20 32:4	grounds 19:5 25:6
doubt 8:3	25:5	16:22 19:7	fraud 37:15 38:21	31:14
Dov 2:24	evening 7:10	20:24 25:8,24	free 42:9	group 1:8 2:11
downstairs 9:3	17:13	31:2,23 35:24	front 31:21	5:10,13 7:22
15:11,17 16:13	events 9:20 25:17	37:7,14,23	further 17:1	16:14
26:1 27:17	29:16	38:20,24 39:3	32:21 33:6 41:4	guess 21:18 30:11
drop-dead 6:25	eventually 27:25	findings 41:21	41:15	guessing 8:17
D19 1:25	everybody 7:3	first 4:23 5:9 8:8	F.2d 19:3	
	28:5,7	10:25 11:4,16		<hr/> H <hr/>
<hr/> E <hr/>	evidence 5:11,13	11:19,22 16:15	<hr/> G <hr/>	habit 5:16
E 3:1	35:5,12,19 37:2	17:11,15 19:8	Gale 1:21 43:15	Hagan 2:5 9:6,8
early 6:18	37:18 39:4,13	20:24 22:25	gather 30:24	12:25 13:3,5,9
ease 22:23	39:18 40:5,10	23:22 24:3,7	general 24:18	22:10 32:14
Eberhart 2:13 6:6	exact 10:23 12:4	25:11 27:12	generally 22:22	33:25 41:7,16
41:2	excellent 32:3	28:2 29:3 33:13	24:2 27:12	half 12:1
EchoStar 1:5,25	exchange 19:1	33:17 40:24	getting 29:17	hallway 6:15 7:2
2:3 29:13 33:15	excited 33:23	five 32:3	33:19	7:22,24,25 8:14
34:1 35:4,11,18	exhibits 32:2	five-week 32:7	give 41:25 42:6	8:24,25 9:2
37:1,17 39:3,12	explain 23:4	flight 6:18,21	given 32:14	12:16 13:2,23
39:17 40:5,24	explained 5:10	floor 4:23 5:9	gives 7:14	13:24 14:7 15:1
41:6,15	exposed 19:23	25:11 29:4,6	go 15:17 16:13	16:4,12,17
EchoStar's 4:6	express 4:20	fly 6:22	21:5 26:1 27:2	19:23 23:20
36:7 37:10 38:5	extraordinary	flying 6:17 7:3	27:17,20,22	25:13,20 27:5
39:6	19:12	following 8:6	28:11 36:5 37:8	29:9,24 31:15
edge 7:15	eyeballing 13:24	11:20 20:22	37:24 42:2,15	hand 34:21
effect 7:19		21:10	going 4:10 5:11	happen 7:12
eight 7:25 11:1	<hr/> F <hr/>	follows 22:23	7:6,18 8:1 11:17	happened 14:5
21:17 41:21	facing 14:20	foreclose 31:10	11:18 12:9,9	24:3 25:13

27:12	impossible 18:22	inquiring 20:8	29:7,13,20,25	KLEIN 2:19
Harris 26:8,11	improper 22:12	inquiry 20:12	30:3,6,9,13,16	knew 10:16 11:23
32:15	22:15 32:17	21:21,22,25	30:20,23,24	26:1 28:10
Harry 19:2	inadvertent 18:25	22:1,4,7 31:9,13	31:1 34:11,22	knocking 27:23
HARTSON 2:18	inappropriate	inside 13:16,17	jurors 4:16,18,18	27:23,23,23
hash 12:7	16:24 23:6	14:4	5:19,22 7:25	28:5,5,5,6,7,8
haunt 13:13	26:16	instructed 4:23	8:11,13,24 10:4	29:8
head 36:21	incident 8:7,18	5:8,23 6:10 8:15	10:15 11:1	know 6:21 7:6 8:4
Headend 10:12	including 27:14	25:2,5	12:15,16,17,19	12:3,8 13:22
10:13,25	indicate 29:10	instruction 5:20	13:1,20,23,25	17:11 23:17,23
Headnet 10:9	34:16	intentional 18:24	14:6 15:12	25:10 26:7,21
heads 38:18	indicated 8:12 9:9	intercom 8:13	16:18 17:8,17	26:25 27:7 28:6
hear 17:3 24:7,18	9:19 11:10	16:3,10	18:22 19:16	28:18 29:25
heard 15:5 17:4	15:16 28:24	interested 17:25	25:3,12,12,19	34:3 41:25 42:4
hearing 16:23	indicates 36:24	interference	25:21,25 29:4,5	knowledge 25:22
held 9:25 16:23	38:14	17:22	29:19,22 30:1	29:22
43:8	indication 23:17	interim 15:25	30:15 32:5 34:4	Kristee 5:1,4,15
hint 23:18 26:25	32:5	interview 11:24	36:13,25 38:18	7:17 8:20 10:15
HOGAN 2:18	individual 8:12	involved 7:13	40:16 41:21	10:17,20 11:6,7
holding 18:17	inequitable 14:15	20:9 23:5 26:14	jury 1:15 4:4,11	12:6,23 13:6
home 6:20 12:6	influence 18:22	32:7	4:25 5:9,23 8:15	14:1 17:7 27:22
Honor 12:17	18:23 32:18	involves 4:16	8:16,22 10:12	28:11 42:18,20
13:15 15:4,24	influenced 18:10	involving 18:25	11:25 12:3,4,8	
16:8 20:2 21:24	28:24	39:10	12:10,13 14:18	L
22:10 32:14,21	inform 16:3	issue 4:16 16:19	14:25 15:2,6,11	L 2:18
33:3,8 40:25	informal 10:1	32:25	15:16,18 18:7	Liability 39:11
41:3,7,16,18	informally 10:11	issues 31:5 32:7	19:10,23 20:21	late 5:20
42:21	information 7:17		20:25 21:4,12	law 2:7,14,19 8:21
honorable 1:3	8:1 9:15 10:21	J	23:13,18 28:15	8:22 10:19 11:8
41:19	11:8,19 20:3,18	job 33:20	31:8 32:2,8,18	16:4 24:9
hope 34:4,5	21:13,14 31:20	judge 1:3 9:20	33:7,11,12	lawyers 4:23
Hopkins 8:23,24	32:15	14:10 21:14	34:14,15,18	lead 6:4,14 11:11
9:4,19 15:15	informed 8:6,10	judges 31:18	36:9,14,23 38:7	11:17
16:12 17:5	9:25 10:6,24	Judicial 43:10	38:12,16 39:1,9	learned 4:13
hour 10:17 12:9	11:3	juncture 31:20	39:16,21,23	leave 12:20 42:9
hours 12:10	Infringement	jurisdiction 6:1	40:8,13,18,19	leaving 11:25
Houston 2:8	39:14	juror 3:3 5:19,21	40:19,22 41:12	left 12:23 13:9
	initial 12:18 21:11	5:23 7:19 8:7,25	41:24	Lenoir 15:14,19
I	31:8	9:2,5,6,10 12:19	jury's 4:8 19:8,14	15:20,24
idea 25:6	initially 6:14	13:20 14:17,25	23:15,23 26:19	let's 25:8
ill-advised 17:14	22:11,24 23:22	14:25 16:3,13	27:7 38:22	level 31:4
imagination	27:6	16:13,18,21,25	justice 34:13	Liability 35:3,10
19:16	initiate 28:2,3	17:12,22,25		35:17 40:3
imbalance 16:20	31:21	18:8,16 19:13	K	light 21:16
31:14,18	initiated 24:17,20	19:25 21:2,7	KENNETH 2:19	lines 19:15
impact 25:18	28:1 30:24,25	22:22 23:4	kept 27:22 28:5	listed 36:8,12,16
29:18	30:25	25:24 26:2,4,6	kidding 34:3 42:2	36:19 37:11,12
impetus 23:11	inquire 23:1	26:10,14,23	kind 10:14 28:19	38:6,7,10
important 23:9	26:11 33:17	27:10,16,20	33:10 34:21	listen 17:10
34:9	36:10	28:4,10,19 29:1	42:6	literally 33:18

little 7:12 24:13 41:7	mind 24:22 28:14 28:17	NDS 1:8 2:11 31:10 33:15,24	26:23 27:11,19	38:25
locate 8:10	minimis 18:8 19:6	35:5,12,19 37:2	28:9 29:3,10,21	people 17:9 20:9
located 9:23	minutes 15:21	37:18 39:14,18	30:4,7,12,13,16	23:5 26:14
locked 15:7,9,10 15:15 27:21,24	28:6 41:23	40:4,9 41:1,17	30:20	29:14 32:6
29:2	misconduct 17:16	NDS's 4:6 22:4	once 17:1 19:25	perceived 7:11
long 7:7,14 12:8	17:21 39:19	39:5	36:21	14:15
looked 32:2	misgivings 19:21	near 14:19,19	one-day 32:6	percent 24:11,12
Los 2:21 6:4,4,7	mistaken 6:3	neared 14:22	oOo 42:23 43:1	perception 16:21
lot 31:16 34:5,6	mistrial 8:4 17:20	need 20:12 26:11	open 15:7,8 27:22	31:15
low 18:13	18:11	42:10	28:12	perceptions 8:4
luck 9:7,10 14:25	misunderstood	needs 22:25	opening 8:22	period 15:25
30:5,11	15:12	never 5:17 7:13	opinion 4:21 25:4	peripherally
lunch 10:4,17	mitigate 35:24	12:17 31:15,17	opposing 18:11	14:21
12:24	37:7,23	new 17:16,21 18:1	oppression 37:14	person 25:22
lurking 7:21 13:1	MJ 17:18	18:9 19:5 21:10	38:20	29:23
	Moleski 17:18	25:7 31:11 33:1	oppressive 39:5	personally 41:24
	moment 36:11	33:20 42:19	order 6:12 19:1	persuaded 16:15
	42:4,13	night 6:22 7:4	41:19	Phillips 18:20
M	moments 7:18	16:1	orders 41:5	phone 8:20 10:20
M 2:5	16:22 30:18	Ninth 17:18	outside 4:4,8	11:7
Maddox 18:4,12	moot 32:25	nod 36:21	13:16 23:20	phoned 10:3
19:4 30:21 31:5	morning 4:14	nodding 38:18	25:23 27:5	piece 8:11 14:16
majority 17:8	6:18,20 9:7,10	Nods 36:23	29:23 42:19	16:1
making 18:2 20:9	9:11 12:1,11	Noll 2:6 9:9,11	overall 24:7	place 8:5,19 16:25
21:14	14:22,23 16:2	12:13,16,17,22	overcome 18:2	21:12
malice 37:15	20:4 23:3 24:4	14:18,20,22,23	overturned 18:6	placed 16:9 34:23
38:21	25:17 26:9,10	15:3,4 17:2	o'clock 6:11,15,16	plaintiff 2:3 9:6,9
malicious 39:5	26:13 27:13	non-de 19:6	6:24,25 7:8 10:3	19:18 32:9,11
marshal 15:21	29:16 30:5,11	Normally 19:13	10:7,23 12:2	32:13
mass 12:15,25	31:23 32:19	notes 15:6	O'MELVENEY	plaintiffs 1:6 10:5
13:23 16:18	33:13	no-think 11:2	2:12	10:8 11:16
matter 7:7 17:22	Moskowitz 2:24	number 36:1,15		15:14 16:25
19:18 21:6	motion 21:9 25:7	38:1,9	P	22:8 23:2 26:12
25:18 28:25	33:1		page 3:2 43:9	29:11 32:16,16
29:19 32:4	motions 42:18	O	paid 33:19	32:25 35:4,11
34:16 43:8	multitude 9:2	O 1:3	part 23:23 27:7	35:18,25 36:2,4
mean 13:20	murder 18:6	obvious 5:18 24:1	participated 21:3	36:16 37:1,8,17
meet 4:23 5:8	MYERS 2:12	24:18	21:7	37:24 38:2,4,10
31:3		obviously 31:1	particular 7:19	39:3,6,8,12,17
members 20:25	N	32:24 38:14	26:2	plaintiff's 6:1
memory 12:3	N 3:1	occur 31:16	parties 4:7 7:7,14	9:19
memory's 11:5	NagraStar 35:5	occurred 10:2	11:12 16:16,17	plane 7:4
mentioned 15:20	35:12,19 37:2	23:6,20 26:16	18:1,8 23:8	PLC 1:8 2:11
men's 18:4,16	37:18 39:4,13	27:5	26:17 33:16	pleasantries 31:2
mere 18:25 31:2	39:18 40:10	officer 4:10,12	40:21	32:19
merely 9:8	NagraStar's	7:16 14:8,11	party 4:17 17:25	please 11:15 26:6
met 10:10 22:2,2	36:12 37:12	Official 1:21	18:11 19:23	26:6 28:11
25:11 29:4	38:7 39:6	Oh 42:18	passed 14:18	34:20 35:22
Millennium 35:2	name 26:7	Okay 13:8 25:14	pay 14:11 22:8	37:5,21
35:6,9,13			Penal 37:3,19	plenty 11:22

point 20:5,8 21:24 21:25 25:3,4 31:1	previously 9:16 40:18	R	relating 17:16	RICO 39:10
polled 19:15 40:22	primary 25:9	R 2:13	relay 10:1,16,21 11:8 30:14	right 4:11 14:9 15:22 19:7
polling 19:17	prior 21:22	range 10:24 36:18 38:11	relayed 7:18 8:1 9:15,16 10:20	20:16 22:6 25:2 25:4,8 26:4
position 11:16 14:15 20:5,19 21:1,8,9,9,20 22:4,4,10	probably 29:13 30:9 32:2	reached 12:3 15:6 23:13,16,24 24:22 26:19 27:8 28:14 34:16	remain 4:10 42:14	30:21 33:5,10 36:9
positions 22:19	problem 11:4,5	read 20:7,11,15 22:3,14,17 23:14 26:20 34:25	Remaining 6:6	rights 39:7
potential 11:5 18:14 20:17 31:4	proceedings 1:14 3:2 21:3 42:22 43:8	ready 28:21	remains 20:5	rise 31:4
potentiality 5:19	productively 34:5	reads 39:12	remedies 22:16	risk 19:6
potentially 19:25	proof 18:10	really 11:12 17:20 21:10 34:6,9,14	remedy 20:17	room 1:22 4:25 5:9,12,23 8:16 8:22 13:7,10 14:18 15:2,6,11 15:16 18:16 27:20
practicing 24:9	proper 22:13	reason 5:11,18 6:16 15:10	remember 10:23 14:8 24:9,16 28:1	RPR 1:21 43:16
preconceived 25:6	properly 4:16 5:4 5:22 25:2,5	recall 13:15 30:4	remembered 24:11,12,14	Rubin 2:24
preference 22:6	proven 35:5,12,19 37:2,18 39:4,13 39:18 40:4,9	received 22:17	reminded 10:6	ruling 31:8
prejudice 7:13 11:12 16:16 18:12,14,18 20:6,20,25 21:2 21:6 22:2 31:4,5 31:23	provided 20:4 32:15	reckless 39:6	rendered 19:9	rulings 7:11
prejudiced 20:10	public 34:11	recognize 14:21 18:21	repeatedly 32:8	
prejudicial 18:1 21:15,16,21,23 21:25 22:5	punitive 39:7	recollection 7:5 14:1	Repeating 15:5	S
preponderance 35:5,12,19 37:2 37:18 39:13,18 40:5,10	purposes 20:9	recipient 8:20	replied 14:23	SACV 1:7
presence 4:4,8 19:10 33:12 42:19	pursuant 43:5	reckless 39:6	reported 43:7	safer 22:14
present 2:23 4:7 5:2,15 10:6 11:8 16:17,23 23:18 33:15	put 11:7	record 4:5 6:12 7:13 8:2 9:13,17 9:18 20:9 23:7 26:17 31:16 32:10,23 41:5 41:20	Reporter 1:21 43:15	saint 17:6
presentation 32:3	p.m 10:1	recorded 41:22	reporters 11:10	San 2:15 6:3,5,6 6:17 9:22
Preserve 32:23		reduction 35:23 37:6,22	REPORTER'S 1:14	Santa 1:16,23 4:1
PRESIDING 1:3		referring 9:8	Reports 10:10,12 10:13,25	SATELLITE 1:5 2:3
presumption 18:2 18:12,18		reflected 32:5	representative 15:14	satisfied 14:14
presumptively 17:25		regard 5:3 11:17 32:23	represented 5:14	saw 8:25 12:17 28:5 29:8,13 30:10
pretty 32:4		regarding 8:7	request 31:10	saying 4:15 30:4 34:17
prevails 34:14		regardless 5:20 11:15 17:2 22:19 33:22	requested 23:8 26:17	scheduled 11:23
		regulations 43:10	required 9:20 10:7	sealed 12:6 19:9 34:23
		reinstating 21:4	requires 39:22	second 24:2,11 31:19
		relates 16:21	respective 22:19 33:20	Secrets 40:6,11
			responded 16:4 38:22 40:19	Section 35:3,7,10 35:14,17,20 37:3,19 38:25 39:11,15,20 40:3,7,12 43:5
			returned 25:11 29:3	security 4:9,12 7:16 14:8,11
			re-brought 7:22	see 12:16,25
			RICHARD 2:18	

13:19,25 14:21 14:23 17:14 30:17 31:15,17 40:21 42:20 seeing 42:5 seeking 18:1,9 seen 25:14 segmenting 24:6 sent 12:6 service 34:11 41:24 session 4:19 12:1 12:8 33:14 set 6:12 19:24 22:23 42:18 seven 5:22 7:20 15:12 20:25 25:25 40:16 shield 18:22 shifts 18:11 shortly 23:14 26:20 show 18:9 showing 18:3 shown 32:8 sic 4:23 10:9 side 7:24 13:24 14:9 28:18 29:10 33:22 sidebars 34:5 sides 32:4 sign 15:17 19:13 signature 19:15 signatures 21:17 40:15 signed 21:16 34:24 40:14 signs 19:13 simply 9:17 32:19 sir 4:12 13:3,18 33:8 sitting 7:24 13:24 situation 13:21,22 six 32:3 sixth 25:17 sixty-nine 41:13 slowing 32:1 smiled 9:8 Smith 18:19,19 Snyder 2:13 6:5,9	6:9 7:5 11:11 13:22 17:10 19:19 20:2,14 21:18,24 32:20 32:21 33:3,9,24 41:3,18 42:21 solicitation 11:24 someplace 10:24 somewhat 6:9 22:23 speak 26:4 42:11 42:13 speaking 4:17,18 9:1 16:5 specifically 12:12 24:19 spoke 12:23 20:21 staff 8:10,15 standard 20:6,15 standing 14:19 Starbucks 13:9 stare-down 7:23 Stars 2:20 start 21:6 23:22 27:6 started 28:15 state 5:6 7:9 21:16 stated 6:10,15 9:5 9:6,6,10,11 14:20 statement 6:8,23 9:17 11:14 17:3 22:22 23:9 24:7 24:18 statements 19:4 31:25 States 1:1,22 18:5 18:15,20 43:6 43:10 statutory 35:25 35:25 36:3,15 36:20 37:24,25 38:3,9,13 stenographically 43:7 STONE 2:18 stop 5:18 strange 32:6 Street 1:22	strike 10:11 25:3 39:24 strong 18:2,20 subscribe 21:8 sufficiently 39:5 suggested 20:11 24:23,24 Suite 2:8,15,20 suits 14:9 summarize 17:4 summon 26:6 33:7,11 Superior 5:17 supposed 15:10 15:11 Supreme 18:20 sure 23:6 26:15 28:4 surprised 24:13 Susan 26:8 system 34:13,14	thanked 7:5 thanking 33:24 34:1,2 theoretically 18:23 thing 34:8 things 7:12 20:22 31:16 think 11:5,10,14 11:18,21,22 13:9,21 19:7 21:15 22:7,11 22:12,18 23:9 24:1 27:21,21 31:12,25 32:1,6 32:14 33:21,24 34:3 third 24:12,16 thought 11:16 17:4,13 21:11 thousands 41:10 threshold 18:13 Thursday 1:17 4:1 12:11 time 8:11 9:23 10:2,3,19,22,24 11:3,6,10,20,23 12:4 13:10 14:5 17:9,10 19:19 22:13 23:4 24:12,12 25:6,8 25:12 26:21 29:4 31:13 33:19 34:4,6,7 41:20 42:10 times 17:19 32:3 tipped 28:20 Title 43:6 today 7:16 17:2 20:6 today's 12:7 token 31:12 42:10 told 5:6 7:2 8:7,23 10:4,9,14 13:6 16:13 27:17 29:7 41:24 total 36:15,20 38:9,13 totaled 36:19 tour 41:25 42:7	Trade 40:6,11 transcript 1:14 43:7,9 trial 1:15 4:22 7:10,14 13:13 17:16,17,21,23 18:1,9 19:5 21:10,14 24:14 25:7,23 29:23 31:11,16,17 32:7 33:2,23 42:19 Tried 27:20 trigger 18:17 31:4 true 9:1 43:6 truth 24:10 truthful 24:15 trying 13:21 Tuesday 4:24 23:3,24 24:4 25:17 26:13 27:9,13 29:16 turn 19:19 32:11 32:20 40:21,24 turned 14:23 turns 9:1 two 20:22 type 20:20 34:11
T				
T 2:4				
take 6:21 11:17 12:9,9 14:5 17:11 21:11 25:7 34:3 38:14 taken 8:19 19:11 talk 42:9 talked 9:14 10:19 24:19 talking 22:24 tell 22:25 23:15 25:12,14 29:5 29:15 telling 23:24 24:10 27:8 ten 5:16 terms 7:11,11 16:16 19:22 34:14 test 22:2 testimony 17:2 Texas 2:8 6:2,19 thank 5:1 12:4 15:22 17:6 20:2 30:12,19 32:21 33:3,18 41:24 42:17,21				
U				
unanimous 41:21 unauthorized 17:24 18:7,13 unclear 41:7 uncomfortable 19:24 undergo 11:24 understand 20:8 23:13 26:19 31:18 understanding 15:13 33:4 unemployed 34:12 unfair 7:14 unfortunately 27:16 Uniform 40:6,11 unique 34:13 United 1:1,22				

<p>18:5,15,20 43:6 43:10 unsuccessfully 15:7,9 upstairs 29:8 USC 39:15 use 13:6,7 U.S 18:5 19:2 43:15 U.S.C 35:3,6,10 35:13,16,20 39:11,20</p> <hr/> <p style="text-align: center;">V</p> <p>v 17:18,19 18:3,4 18:15,19 19:2 vacation 5:1 17:5 33:19 vaguely 14:8 varied 5:17 verdict 1:8,25 3:4 4:2 11:22 12:3,6 17:11 18:10 19:9,11,13,14 20:7,10,11,12 20:21 21:17,22 22:3,13,16 23:14,14,24,24 26:20,20 27:8,9 32:6,24,25 33:18,22 34:16 34:25 35:1 36:4 36:24 38:4 41:5 41:20,21 verdict's 19:9,14 20:15 31:9 view 5:13 violate 38:25 violated 35:6,13 35:20 37:3,19 40:5,10 violation 36:1,18 38:1,11 39:11 39:14,20 violations 36:1,16 38:1,10 virtually 18:21 visit 42:3 volunteered 33:19</p>	<p>volunteers 34:10 vote 18:23 vs 1:7</p> <hr/> <p style="text-align: center;">W</p> <p>W 2:13 WADE 2:4,6 waiting 28:7 walked 14:12 30:10 wandered 25:25 want 8:4 10:1 12:12 14:2 17:10 21:15 23:15,16,18 24:19 25:9,24 26:1,21,25 28:18 30:12 32:10,11 33:18 wanted 6:21 9:17 10:16 11:9,20 13:7 17:3,3 Warden 18:3 warrant 39:7 Washington 17:19 wasn't 21:1 28:8 wasted 34:6 way 8:21 9:21 11:2 14:12 22:21 28:20 32:18 34:9 42:7 42:16 ways 42:5 weaken 21:9 Wednesday 4:22 11:25 Welch 2:4,6 7:2 9:9,11 13:14,15 13:18 14:19,22 14:24 17:2 33:8 33:25 40:25 welcome 42:15,15 went 12:24 13:9 weren't 9:22 30:25 West 1:22 2:14 we'll 16:22 25:7 27:2 30:17 42:7 42:18</p>	<p>we're 4:5 19:25 23:17 33:13,21 34:13 42:1 whatsoever 22:12 32:19 Willets 2:5 8:17 13:19,25 16:2,8 16:11 window 14:20 windows 14:19 wisdom 20:17 34:14 wise 12:10 19:7 wisest 22:7 witness 17:25 24:10,15 witnesses 25:3 words 7:21 11:17 12:19 13:1 20:18 21:1 23:16 24:6,17 25:1,19,24 28:15 29:24 work 7:14 31:16 33:24 wouldn't 20:22 written 38:12 wrong 11:15</p> <hr/> <p style="text-align: center;">X</p> <p>X 3:1</p> <hr/> <p style="text-align: center;">Y</p> <p>years 5:16,17 yesterday 6:8,10 9:14,16 15:5 17:4 20:5</p> <hr/> <p style="text-align: center;">\$</p> <p>\$1,000 36:18,19 36:20 \$10,000 36:19 38:12 \$45.69 41:12 \$500 38:11,14</p> <hr/> <p style="text-align: center;">0</p> <p>0.00 36:12 37:12 38:6,8 03-950 1:7</p>	<hr/> <p style="text-align: center;">1</p> <p>1 3:3 5:23 8:7,25 9:6 12:19 13:20 14:17 16:25 26:6,10,23 27:10,16,20 28:4,10,19 29:1 29:7,13,20,25 30:3,6,9,13,16 30:20 35:2,4 40:2 1's 30:23 1-053 1:22 1:00 6:11,16,24 6:25 7:8 10:7,18 10:18 10 39:10,12,23,24 10th 18:15 10:00 6:15 1029 39:20 11 39:17,23 11:30 11:25 12 39:22,25 40:1 12:00 10:3 1201(a)(1)(A) 35:3 1201(a)(2) 35:10 35:14 1201(a)1(A) 35:7 13 8:8 40:4 13th 4:24 23:3,25 26:13 27:9 14 40:9 140 18:5 1400 2:20 142 18:5 146 18:5 15 1:17 4:1 43:12 17 5:17 35:3,6,10 35:13,20 39:15 18 39:11 1892 18:5 19 1:8 4:2 1962(c) 39:11 1966 19:3 1987 18:15 1999 2:20</p> <hr/> <p style="text-align: center;">2</p> <p>2 35:9,11</p>	<p>2:00 10:18,23 2:30 10:1,23 2008 1:17 4:1,22 4:24 8:8 43:12 2008-05-15 1:25 2401 2:7 2600 2:15 275 2:14 28 43:6</p> <hr/> <p style="text-align: center;">3</p> <p>3 35:16,18,22 36:5 310 2:21 3426 40:3,7,12 35 3:4 359 19:2</p> <hr/> <p style="text-align: center;">4</p> <p>4 3:3 36:6 37:1,5 37:14 4th 1:22 4:00 12:2 4:02 12:5 4:30 12:2 411 1:22 415 2:16 45.69 36:8 37:11 41:8,9 47 35:16 39:20</p> <hr/> <p style="text-align: center;">5</p> <p>5 37:8,13 500.00 38:12,13 506 39:15 558-8141 1:23 593d(a) 37:3 593e(b) 37:19 38:25</p> <hr/> <p style="text-align: center;">6</p> <p>6 37:17,21 38:20 38:24 39:3,10 605(a) 35:17,20</p> <hr/> <p style="text-align: center;">7</p> <p>7 37:24 38:19 7th 4:22 70 24:11 700 2:8 713 2:9 714 1:23</p>
---	--	--	--	--

753 43:5
77057 2:8
785-4600 2:21

8

8 38:23
8:00 8:9
8:06 4:3
8:15 8:9,12
8:20 8:12
8:59 42:22
80 24:11

9

9 39:2
9B 14:9
90 24:12
90067 2:21
92701 1:23
94111 2:15
9472 1:21 43:16
952-4334 2:9
984-8700 2:16