

Exhibit 32

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

IN RE: :
CAMP LEJEUNE WATER :
LITIGATION :
: No. 7:23-CV-897
This Document Relates to: :
ALL CASES :

VOLUME II

CONTINUED REMOTE VIDEOTAPED DEPOSITION OF
ARI KELMAN, PH.D.

Tuesday, April 8, 2025

12:02 p.m.

REPORTED BY: CAROL A. KIRK, RPR/RMR/CSR

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R E M O T E A P P E A R A N C E S

- - -

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ALSO PRESENT:

Jerry Ensminger

Jessica Ans, DOJ

Brian McGee, Videographer

- - -

INDEX TO EXAMINATION

WITNESS	PAGE
ARI KELMAN, PH.D.	
CROSS-EXAMINATION (CONT'D) BY MR. HUGHES	120

1
2 - - -
3 P R O C E E D I N G S
4 - - -

5 THE VIDEOGRAPHER: We are now on
6 the record.

7 My name is Brian McGee. I am a
8 videographer for Golkow, a Veritext
9 division.

10 Today's date is April 8, 2025, and
11 the time is 12:02 p.m.

12 This remote video deposition is
13 being held in the matter of Camp Lejeune
14 Water Litigation v. United States of
15 America for the United States District
16 Court for the Eastern District of North
17 Carolina. The deponent is Ari Kelman,
18 Ph.D.

19 All parties to this deposition are
20 appearing remotely and have agreed to
21 the witness being sworn in remotely.

22 Due to the nature of remote
23 reporting, please pause briefly before
24 speaking to ensure all parties are heard

1 completely.

2 Will counsel please identify
3 themselves for the video record.

4 MR. HUGHES: Sure. This is
5 John Hughes, Wallace and Graham for the
6 plaintiffs.

7 And also I think on remote also
8 may be Noelle Musolino from Wallace and
9 Graham who will not be talking, but
10 she's a lawyer here that's listening in.

11 MS. HURT: For the United States
12 is Cindy Hurt. Also for the United
13 States is Hanley Gibbons and Jessica
14 Ans.

15 THE VIDEOGRAPHER: The court
16 reporter is Carol Kirk, and will now
17 swear in the witness.

18 - - -

19 ARI KELMAN, Ph.D.
20 being by me first duly sworn, as hereinafter
21 certified, deposes and says as follows:

22 CROSS-EXAMINATION (CONT'D)

23 BY MR. HUGHES:

24 Q. Dr. Kelman, can you hear me okay?

1 A. I can, yes.

2 Q. Okay.

3 MR. HUGHES: Can I ask the court
4 reporter and videographer to bring back
5 up your expert report. It should be
6 Exhibit 2 from the prior deposition, the
7 prior day of deposition, that we did
8 back on April 1st.

9 If we can go to numbered page 1 of
10 the report. It says, "Introduction and
11 Expert Opinions" at the top.

12 THE VIDEOGRAPHER: What page are
13 you on? I'm sorry.

14 MR. HUGHES: Keep going. It will
15 say numbered page 1 at the bottom.
16 There will be a 1 at the bottom center
17 of the page.

18 That's the one. Thank you.

19 BY MR. HUGHES:

20 Q. Dr. Kelman, have you ever done an
21 expert report in the past for any case regarding
22 the topic of the use of oral histories in a court
23 case?

24 A. I have not.

1 Q. Okay. Have you ever done an expert
2 report for a legal matter in the past regarding
3 the topic of the differences between an oral
4 history and an interview?

5 A. I have not.

6 Q. Okay. If you look at numbered
7 page 1 of your report, the first opinion, which
8 pertains to oral histories, interviews,
9 depositions. Have you ever done an opinion along
10 those lines, what we see in opinion number 1, in
11 any other legal matter?

12 MS. HURT: Objection to form.

13 A. Could you repeat the question?

14 And, actually, is it also possible
15 to perhaps make this a little bit larger?

16 Q. Sure.

17 A. Thank you.

18 Q. So if you look at opinion number 1,
19 in the first couple lines, it references "Oral
20 histories, interviews, depositions, other
21 information conveyed verbally."

22 Do you see those lines?

23 A. I do, yes.

24 Q. Okay. Have you ever done an expert

1 report in any other court matter where you opined
2 on those subjects, the subjects of oral histories,
3 interviews, depositions, other information
4 conveyed verbally?

5 MS. HURT: Objection to form.

6 A. I have not.

7 Q. Okay. And when I'm -- and I'm not
8 asking -- let me ask some more questions to make
9 it more clear.

10 I'm not asking whether you've done a
11 prior report that cited a deposition or something
12 like that. I'm asking if you've done a prior
13 report that had an opinion on whether another
14 expert's use of things like oral histories or
15 interviews or depositions was acceptable or not.

16 Do you understand my question?

17 A. I do understand your question.

18 Q. Okay. And I'm just trying to make
19 it clear that you haven't done a report like that
20 in another case, right?

21 A. No, I have not.

22 Q. Okay. And then if we look at
23 number 2, which talks about collection of verbal
24 communications, standards of professional

1 historians to question the sources on things like
2 bias.

3 Have you ever issued an opinion in
4 another case regarding another expert's use of
5 verbal communications and questioning the sources
6 for bias?

7 A. No, I have not.

8 Q. Okay. And then number 3, you talk
9 about citation practices. And, for example, you
10 note towards the bottom the page, you say that he
11 has images that did not have accurate citations or
12 any citations.

13 Have you ever done a report in
14 another case on that subject regarding another
15 expert's use of photos or citations?

16 A. No.

17 Q. Okay. Has a court ever found you to
18 be qualified as an expert in the area of the use
19 of interviews and oral histories by historian
20 experts in court?

21 MS. HURT: Objection to form.

22 A. I'm sorry. Again, would you mind
23 repeating the question.

24 Q. Sure.

1 So you've been an expert in some
2 other cases like Ideker, right?

3 A. Yes.

4 Q. Okay. And what I'm asking is
5 whether a court has ever, to your knowledge, found
6 you to be a qualified expert in the topic area of
7 the use of interviews and oral histories by
8 historians in court?

9 A. No. I don't -- sorry. No.

10 Q. Okay. Have you ever used oral
11 histories in any expert report submitted in any
12 court case in the past?

13 A. Not that I recall.

14 Q. Okay. Fair enough.

15 We had the first day of your
16 deposition back on April 1st.

17 Have you reviewed any documents
18 relevant to this matter since April 1st?

19 A. Yes.

20 Q. Okay. What have you looked at?

21 A. I've looked at my report and
22 Dr. Longley's report.

23 Q. Okay. When you say "Dr. Longley's
24 report," are you aware that he has three reports?

1 A. I am, yes. Sorry. I should -- to
2 be clear, I looked at his original report, and
3 then I looked at his response to the report that
4 I wrote.

5 Q. Okay. Have you reviewed any
6 documents besides those reports?

7 A. I have not, no.

8 Q. Are you aware whether Dr. Longley
9 has done any expert reports in other legal matters
10 such as immigration matters?

11 A. I'm not aware of that.

12 Q. Okay. I take it you've not reviewed
13 any reports that Dr. Longley has done as an expert
14 in any immigration matters, right?

15 A. No, I have not.

16 Q. Okay. Have you reviewed any expert
17 reports by Dr. Longley in any other cases to see
18 if there were any errors in his reports?

19 MS. HURT: Objection to form.

20 A. No, I have not.

21 Q. Do you know whether Dr. Longley has
22 ever been excluded as an expert in any other prior
23 lawsuit?

24 A. No, I do not.

1 Q. Okay. Do you know if Dr. Longley's
2 opinions as an expert have ever been excluded in
3 whole or in part in any prior lawsuit?

4 A. No, I do not.

5 MR. HUGHES: Okay. If we can go
6 to page 3 of the report in front of you
7 on the screen.

8 Okay. That's good.

9 Let's see. All right.

10 Actually, if we go ahead to
11 page 5. Go to page 5.

12 BY MR. HUGHES:

13 Q. Okay. Do you see where in the
14 middle of the page, it references to a quote from
15 Bloch on cross-examination as a "necessity of
16 well-conducted historical research"?

17 Do you see that?

18 A. I do.

19 Q. Okay. Do you agree that
20 cross-examination can be useful and sometimes
21 necessary for well-conducted historical research?

22 MS. HURT: Objection to form.

23 A. I agree that as Bloch is defining
24 cross-examination, I think it's important -- yes,

1 I think that historians need to be mindful of the
2 biases of their sources, of the positionality of
3 the people who generated the sources of the goals
4 of the people who created those sources.

5 And as a consequence of that, they
6 need to -- I don't know how I'd put it other than
7 to say they need to analyze them very, very
8 carefully.

9 And so what Bloch is doing here is
10 he's using an analogy. He's using the phrase
11 "cross-examination." What he really means is that
12 you need to push on your sources. You need to
13 interrogate them. Again, not the way that
14 necessarily we mean that verb in the context of
15 law enforcement, but in the context of historical
16 research, yes. I do agree.

17 Q. Okay. If you look at page -- if we
18 can go ahead to page 8 of your report, middle of
19 the page.

20 Okay. Do you see bottom of that big
21 paragraph in the middle, it talks about -- it
22 says, "In my experience, deponents are questioned
23 by attorneys."

24 Do you see that?

1 A. I do see that.

2 Q. What experience are you referring to
3 when you talk about "in my experience"?

4 A. I've been deposed in the past.

5 Q. Okay. And would that be in
6 connection with one or more of the cases that are
7 listed in your disclosures, like Ideker?

8 A. Yes.

9 Q. Okay. Page 9 of your report.

10 MR. HUGHES: Thank you.

11 BY MR. HUGHES:

12 Q. The bottom half. One thing you say
13 is that he used the phrase "oral histories" when
14 it appears what he should have labeled the sources
15 were interviews, right?

16 A. Yes.

17 Q. Okay. Do you agree that for
18 purposes not of what you call an oral history, but
19 an interview, a historian may take notes, but the
20 historian may stop short of recording the
21 interview in order to use it?

22 MS. HURT: Objection to form.

23 A. Yes. In my experience, it's --
24 historians will sometimes use what I would

1 describe as interviews, oral communication that
2 does not meet the same standard as an oral history
3 in their work.

4 And in those instances, they do not
5 have an obligation to record that, to transcribe
6 it, or to archive it.

7 MR. HUGHES: If we look at page
8 11. Let's see. Page 10. Yeah.

9 BY MR. HUGHES:

10 Q. At the top of page 10, you see four
11 lines down where it says in part, "Notes may
12 suffice when conducting interviews," right?

13 You agree with that, right, that
14 statement?

15 A. One moment. I just want to read it
16 carefully, if that's okay.

17 Q. Yes, sir. Take your time.

18 A. I do agree with the statement, yeah.

19 Q. Okay. If we go to page 11, top of
20 the page. At the top of the page you reference
21 Mr. Ensminger and that Dr. Longley produced notes
22 dated January 2024, but his report was dated
23 December -- I think what you mean there is
24 January -- do you see the reference to January 7,

1 2024?

2 A. I do.

3 Q. Okay. Is that an error.

4 A. I don't believe so, but I don't
5 have --

6 Q. Okay. Should the date say 2025 --

7 A. Oh.

8 Q. -- instead of 2024?

9 A. Apologies. I think you're correct.
10 I think that that should -- I think it was dated
11 January 7, 2025.

12 Q. Okay. And so is that an error in
13 your report?

14 A. It does look like it, yes.

15 Q. Okay. Does that error, in your
16 opinion, disqualify you as a historian expert in
17 this case?

18 A. No.

19 Q. Okay. Let me show you -- okay.

20 MR. HUGHES: Can the court
21 reporter -- can y'all put -- it's
22 number --

23 A. Can I --

24 Q. Oh, yeah, go ahead. Yes, sir, go

1 ahead.

2 A. Yeah. The reason that I would say
3 that it doesn't disqualify me is that the reader,
4 as you've done in this case and fairly easily
5 sussed out what's happened with the error here.
6 And so there's not an effort to mislead. It's
7 simply a matter of a new year; in this case, one
8 that was quite fresh. But I do -- but it is an
9 error, yes.

10 Q. Okay. But it wasn't an intentional
11 effort to use the date 2024 to try to mislead
12 somebody in order to promote a position, correct?

13 A. Well, if you look at the sentence,
14 it would --

15 Q. Contextually from the sentence, it
16 raises the issue that if it's a month after
17 December 2024, it must be 2025, right?

18 A. That's correct.

19 Q. Okay. And so the error can be
20 solved and recognized pretty easily by looking at
21 the context?

22 A. That's correct.

23 Q. Okay. Let me ask you, are you aware
24 of whether the plaintiffs provided supplemental

1 information to the Department of Justice with
2 regard to some of Dr. Longley's reliance
3 materials?

4 MS. HURT: Objection to form.

5 A. I'm sorry. Could you clarify?

6 Q. Yeah. Let me try it this way.

7 A. Thanks.

8 Q. So we've produced some letters to
9 the Department of Justice with tables that provide
10 additional detail on some of the things that
11 Dr. Longley cited.

12 And what they show, to paraphrase,
13 is that the first time he spoke to Ensminger,
14 which is referenced in his December report, he
15 simply typed what Ensminger said into the report.
16 He didn't keep notes.

17 The second time he talked to
18 Ensminger, he took notes, and that's dated
19 January 7, 2025, and those notes were produced.

20 The third time that he spoke with
21 Ensminger of significance, he did a Zoom session
22 of Ensminger and Partain.

23 So were you aware until I told you
24 now that for purposes of his December report, he

1 simply talked to Ensminger on the phone. He did
2 not say that he kept notes from that call.

3 A. I think I was aware of that, but
4 it's an odd practice. But I think that I was
5 aware of that.

6 Q. Okay. The next paragraph down in
7 this same page, you talk about a failure to
8 critically evaluate his sources.

9 Do you see that?

10 A. I do.

11 Q. Okay. Now, one question I have is,
12 the one thing that you say -- and I don't want to
13 put words in your mouth, but you say a historian
14 should evaluate sources for bias, right?

15 A. That's correct, yes.

16 Q. Okay. Is it your position that a
17 historian when they write a book or an article
18 that cites to a source or a witness, they need to
19 explicitly say words to the effect of "I have
20 evaluated this witness or source for bias and
21 decided that I can handle it"?

22 In other words, what Dr. Longley
23 I believe says is, "Yeah, he evaluated for bias,
24 but he didn't have to write that in his report."

1 Is it your position that you have to
2 write -- the historian has to actually physically
3 write out to confirm that they evaluated a source
4 for bias?

5 A. No. They --

6 MS. HURT: Objection.

7 THE WITNESS: Sorry.

8 MS. HURT: That's okay.

9 A. No, they don't have to write it out.
10 But they have to make it clear that they've done
11 so by -- in some way making it clear to their
12 reader what their analytical apparatus is.

13 So I'm going to refer back to
14 something that you just said a moment ago,
15 Mr. Hughes.

16 Q. Yes, sir.

17 A. I think what you just said is that
18 on December 7th, Dr. Longley just typed what
19 Mr. Ensminger said to him directly into his
20 report. I believe that's the words that you said.

21 So that's -- that's precisely this
22 sort of issue that I was raising here, that
23 I don't see how somebody who is simply
24 transcribing what someone says to them into their

1 report is critically evaluating the source.

2 I'm not sure if that makes sense to
3 you.

4 Q. I understand what you're saying.

5 A. Oh, okay. Great.

6 Q. I do. Let's keep going.

7 If you look at page 13 of your
8 report, at the bottom of 13, you see the reference
9 to two films, and that there's no time codes
10 listed on the films.

11 A. Yes.

12 Q. Very bottom of the page.

13 A. I do see that, yes. Thank you.

14 Q. Have you asked the DOJ whether they
15 have access to those films?

16 A. I have not asked them that.

17 Q. Okay. Do you know if they do?

18 A. I don't know.

19 Q. Okay. Have you tried to look at
20 either film to see whether it supports what it was
21 cited for?

22 A. No, because my point here was about
23 citation practices rather than the substance.

24 Q. Okay. Do you know whether

1 Dr. Brigham, Jay Brigham and his staff, fact
2 checked the citations in Dr. Longley's first
3 report?

4 A. I don't know.

5 MR. HUGHES: Okay. All right.
6 Let's look at Dr. Longley's report. So
7 if y'all can pull up Exhibit 5 from
8 before, which is Dr. Longley's first
9 report.

10 And we're done with that, the
11 first one.

12 BY MR. HUGHES:

13 Q. Okay. And, Doctor, do you recognize
14 that as Dr. Longley's -- the first page or two of
15 Dr. Longley's December 2024 report?

16 A. What's on my screen looks like the
17 table of contents, yes.

18 MR. HUGHES: Can we go to page 10,
19 very bottom of the page.

20 BY MR. HUGHES:

21 Q. Okay. At page 10, the very bottom
22 of the page, do you see a citation to "Oral
23 History via Zoom with Alan Howard, 30
24 August 2024"?

1 A. I do.

2 THE WITNESS: And I'm going to ask
3 whoever is handling the exhibits again
4 if they could maybe make this a bit
5 bigger. I do see it, but it's harder --
6 thank you so much. That's fantastic.

7 Q. Yeah, it was super tiny.

8 A. That's great.

9 Yes, I do see that, Mr. Hughes.

10 Q. Okay. In your mind, would that pass
11 muster if it said "interview" instead of "oral
12 history"?

13 MS. HURT: Objection to form.

14 A. I'm going to take a moment to look
15 at what's -- I'm looking at the material that's
16 being cited. I just need one moment.

17 So do you mind repeating the
18 question?

19 Q. Yeah. One thing your report says is
20 the oral history should have been called
21 interviews instead. And so I'm asking if we took
22 this footnote that says oral history with Alan
23 Howard and if it was recharacterized as an
24 interview with Alan Howard, would that be

1 acceptable in your opinion as a citation?

2 A. As a matter of citation practice, it
3 would.

4 Q. Okay. And then if we look at
5 page 19, page 19, footnote 46.

6 Okay. That says, "Oral historian
7 statement, Ensminger." And assume we don't have
8 notes for that. We don't have notes for that.

9 If that was relabeled as an
10 interview statement, interview with Ensminger,
11 would that be acceptable from your point of view,
12 or would it also need to result in a recording or
13 written notes?

14 MS. HURT: Objection to form.

15 A. If it was cited as an interview, it
16 wouldn't need to have a recording or written
17 notes. It would need to have the date that the
18 interview took place.

19 And, again, I think I mentioned when
20 we last met that part of the point, you I think
21 highlighted something from my work where I had
22 cited to an interview rather than an oral history,
23 and that was really helpful, I thought, because
24 what it pointed out was the way in which I was

1 trying to signal to a reader that I hadn't met
2 certain bars, and also that they might want to
3 treat that material with more skepticism.

4 And so, again, as a matter of
5 citation practice, if this had the date and if it
6 was called an interview, I do think that would
7 suffice, but I might be more skeptical about the
8 material than I would be as it's currently labeled
9 as an oral history or oral historian statement.

10 Q. Thank you.

11 A. Yeah, of course.

12 MR. HUGHES: We can go all the way
13 down to page 32, page 32, footnote 85.

14 And can you blow it up a little bit.

15 There you go.

16 BY MR. HUGHES:

17 Q. Okay. So do we see at footnote 85
18 another reference to the oral history with
19 Alan Howard, right?

20 A. I do see that, yes.

21 THE WITNESS: And thank you for
22 blowing it up.

23 Q. Yes, sir.

24 And I'll note it says, "Oral history

1 via Zoom by the Author with Alan Howard,
2 30 August 2024." And I had previously shown you
3 footnote 21 that talked about oral history with
4 Alan Howard, 30 August 2024. So that appears to
5 be another citation to the same thing.

6 Would your position, once again, be
7 that that should say "interview" instead of "oral
8 history"?

9 MS. HURT: Objection to form.

10 A. The answer to that is yes. And in
11 this case, the date is included, which is helpful.

12 MR. HUGHES: Okay. If we go to --
13 all right.

14 If you skip ahead all the way to
15 about ten pages before the end of this
16 document. It's going to start
17 renumbering again. I'm looking for
18 page 8 of the reliance list.

19 So if someone could sort of skip
20 all the way ahead to about ten pages up
21 from the end of the document. I'm going
22 to give you a workout.

23 Let's see. That is not it.

24 Okay. Can you I guess keep -- oh,

1 you almost got there. Go down. There's
2 the reliance -- no. Publications.

3 Keep going down. Let's see if
4 there's a reliance list in here. If you
5 can just keep going down.

6 Keep going.

7 There we go. Okay. So -- all
8 right. Stop there for a second.

9 BY MR. HUGHES:

10 Q. So do you see where it says
11 "Reliance List"?

12 A. I do.

13 MR. HUGHES: Okay. If we can go
14 down to page 8 of the reliance list,
15 which is entry 127. Keep going.
16 Page 8, entry 127.

17 MS. HURT: I would like to note on
18 the record that the reliance list was
19 not submitted with Dr. Longley's report.
20 Is this --

21 MR. HUGHES: That's true.

22 Go ahead. Sorry.

23 Yes, ma'am. Go ahead.

24 MS. HURT: That was it. That was

1 all I wanted to say.

2 MR. HUGHES: Okay. I will note on
3 the record my understanding was that the
4 operative schedule and protocol said
5 that the reliance list was due seven
6 days after the report.

7 And so I know that on this first
8 report, we served the reliance list, you
9 know, within seven days after the
10 report.

11 And his second and third report,
12 I think the reliance list is at the end
13 of the report.

14 But let's keep going.

15 BY MR. HUGHES:

16 Q. All right. If you look at
17 number 127, do you see another reference to the
18 Alan Howard oral history at number 127?

19 MS. HURT: I'm going to object
20 because I know that there was -- I don't
21 want to belabor this.

22 MR. HUGHES: Okay.

23 MS. HURT: But I do know that
24 there were some issues with us not

1 receiving all the reliance materials
2 within the seven days. But I just --
3 the reason I want to make it clear for
4 the record that this wasn't submitted is
5 because at the beginning you had the
6 witness swear that this was the report,
7 and I just want to make it clear that
8 this is different from the submitted
9 report, because it's been added -- the
10 reliance materials at the end.

11 That's the only distinction I'm
12 trying to make.

13 MR. HUGHES: That's true. So --
14 right. So to be clear, this document
15 is, I guess, a composite. It has his
16 report, and then it has the reliance
17 list, which was sent a week later. I've
18 put them together. And then there were
19 a couple letters in January I think
20 where we supplemented the supplemental
21 information.

22 BY MR. HUGHES:

23 Q. Okay. And so, once again, looking
24 at entry 127 from a citation perspective, your

1 position would be that should say "interview,"
2 right?

3 A. Assuming that this is referring to
4 the information that was conveyed orally that we
5 were discussing earlier, yes, I would say that
6 this should be labeled as an interview rather than
7 as oral history.

8 Q. Thank you.

9 And that is the assumption I'm
10 asking you to make.

11 And then if you look at the next
12 page, page 9, reliance item 148 where it says
13 "Oral history, Retired Master Sergeant
14 Jerry Ensminger," and I'll ask you to assume that
15 reliance list item is supposed to refer to the
16 same thing we saw in the footnotes to Ensminger.

17 My understanding is your position is
18 this should say "interview" and it needs to have a
19 date on it; is that right?

20 MS. HURT: Objection to form.

21 A. Yeah. And, actually, what I would
22 say here is that this is a -- it's a helpful
23 example of what the problem is, that I don't know
24 what he's referring to here because there is no

1 date.

2 And leaving aside whether it should
3 be labeled an oral history or an interview --
4 though I do agree with you, that it should be
5 labeled an interview -- without knowing the date,
6 it's very hard to pin down what this information
7 is referring to.

8 Q. I understand.

9 A. Okay.

10 Q. And if we look at the last page of
11 this whole thing at the top, can you see in the
12 last page the total number of reliance list items
13 comes to -- oh, we're almost there. There you
14 go -- 198 items.

15 Do you see that?

16 A. I do.

17 Q. Okay. And would you agree -- based
18 on looking at this report and looking at the
19 reliance list, would you agree with me the vast
20 majority of the items he puts in these footnotes
21 and puts in his reliance list have nothing to do
22 with oral histories?

23 MS. HURT: Objection to form.

24 A. I think I mentioned to you last time

1 that I hadn't counted, but that I take you at your
2 word, that the majority of these are written
3 rather than oral sources.

4 Q. Okay. Have you ever reviewed any of
5 the books or articles cited in Dr. Longley's CV?

6 A. Books or articles produced by
7 Dr. Longley?

8 Q. No. So are you aware that
9 Dr. Longley is an academic?

10 A. I am.

11 Q. Okay. Are you aware that he is at
12 Chapman University?

13 A. I am.

14 Q. Okay. And would it surprise you to
15 learn that he has a public web page that indicates
16 a biographical summary, including publications?

17 A. I wouldn't be surprised by that.

18 Q. Okay. And would you imagine that
19 someone like Dr. Longley would have a CV?

20 A. I would be surprised if he didn't.

21 Q. Okay. Have you seen his CV in this
22 case?

23 A. I have.

24 Q. Okay. Does the CV -- do you recall,

1 does it contain names of various articles and
2 books that he's published?

3 A. It does.

4 Q. Okay. Have you gone and read any of
5 those articles or books to see if they contained
6 errors?

7 A. No.

8 Q. Okay. Have you reviewed any of
9 those articles or books for purposes of this case?

10 A. Yes.

11 Q. Okay. Tell me what you've reviewed
12 for purposes of this case in terms of his articles
13 or books.

14 A. I looked at parts of his book, The
15 Morenci Marines.

16 Q. Okay. When you looked at parts of
17 his book on The Morenci Marines, did you see
18 anything that you would call an error, like a
19 citation error or a mislabeling of an oral history
20 or anything like that?

21 A. Not that I noticed.

22 Q. Okay. Do you know whether
23 Dr. Longley's methodology as a historian produces
24 any particular error rate?

1 MS. HURT: Objection to form.

2 A. I do not know that.

3 Q. Okay. And do you have an opinion as
4 to how high the error rate -- if the error rate
5 gets high enough for a historian, at what point do
6 they become a historian that has an unreliable
7 methodology? Do you have any opinion on that?

8 MS. HURT: Objection to form.

9 A. Errors come in different shapes and
10 sizes is what I would say. So an individual
11 historian could make a single error that could
12 potentially render them unreliable, or they could
13 make many errors and still be considered reliable.

14 So, again, there are errors of
15 omission. There are errors of commission.
16 They're a little bit like sins, right?

17 Q. True enough.

18 A. And in this case -- so what I would
19 say is I don't know -- I would not have an opinion
20 about a particular error rate, no. I have
21 opinions about the kind of errors that people make
22 at which point I think that they might be
23 considered unreliable.

24 Q. Okay. Are you aware that

1 Dr. Brigham was deposed on March 27th in the case?

2 A. No, I wasn't aware of the date.

3 Q. Okay. Have you reviewed the
4 transcript of Dr. Brigham's deposition?

5 A. No.

6 Q. Okay. Have you reviewed the
7 transcript of Dr. Longley's deposition?

8 A. No.

9 Q. Are you aware that Dr. Longley was
10 deposed on April 3rd?

11 A. I don't think I knew the precise
12 date.

13 Q. Okay. Do you -- are you aware as to
14 whether Dr. Longley's three reports were timely
15 under the scheduling order in this case? Do you
16 know one way or the other?

17 MS. HURT: Objection to form and
18 foundation.

19 A. I don't know about the timeliness of
20 his reports.

21 Q. Okay. Are you aware of whether, in
22 fact, his three reports were all issued before
23 Dr. Brigham was deposed, before Dr. Longley was
24 deposed, and before you were deposed?

1 MS. HURT: Objection to form.

2 A. I believe that they were.

3 Q. Okay. Are you aware that
4 Dr. Longley provided an errata sheet for his first
5 report at his deposition on April 3rd?

6 A. I was not aware of that.

7 Q. Okay. Are you aware that under the
8 federal rules, a party has a duty to supplement a
9 report or correct a report when they learn that in
10 some material respect, the disclosure is
11 incomplete or incorrect?

12 MS. HURT: Objection to form and
13 foundation.

14 A. I was not aware of that.

15 Q. Okay. Do you believe that if an
16 expert during the process of a case learns they
17 had a mistake and corrects it, do you believe that
18 should disqualify the expert?

19 MS. HURT: Objection to form and
20 foundation.

21 A. It would depend on the kind of
22 mistake that they had made, I would say.

23 Q. Okay. All right. You wrote a book
24 called A River and Its City, correct?

1 A. Yes.

2 Q. And that book was published in 2006?

3 A. I thought it was published --
4 I thought it was published in 2003.

5 Q. It could be. I'm reading from the
6 University of California Press.

7 Was it published, to your
8 recollection, in the early 2000s?

9 A. It was. I think you're probably
10 looking at the paperback edition. There was a new
11 paperback edition.

12 Q. You know what? You must be right,
13 because there's some book reviews from 2004.

14 Have you read any book reviews of
15 your book, A River and Its City?

16 A. I have never read a single review of
17 my work.

18 Q. Okay. Do you know who Gay Gomez is?

19 A. I do not.

20 Q. Okay. You don't know of a Gay Gomez
21 who is an assistant professor at McNeese State
22 University?

23 A. I've never heard of that person.

24 Q. Okay. Are you aware that there's a

1 journal called Louisiana History, the Journal of
2 the Louisiana Historical Association?

3 A. Yes.

4 Q. Okay. It sounds like you weren't
5 aware, but were you aware before now that
6 Professor Gomez published a book review of your
7 book, A River and Its City, in the Louisiana
8 History, Journal of the Louisiana Historical
9 Association in its issue which was Summer 2004
10 Volume 45, Number 3, Page 359?

11 Were you aware of that before now?

12 A. I was not.

13 Q. Okay. And in Professor Gomez's
14 review, she says that there was "an error needs
15 correction," and she cited the following
16 inaccuracy. She said that your book said there
17 were three steamboat accidents that were described
18 as occurring in a little over -- a little more
19 than a month. But, in fact, the accidents spanned
20 from November 1849 to December 1850.

21 Are you aware of that?

22 A. No.

23 Q. Okay. Do you recall whether your
24 book, A River and Its City, referenced various

1 steamboat accidents?

2 A. It did.

3 Q. Okay. And does the time range of
4 November 1849 to December 1850 sound accurate in
5 terms of when those accidents were?

6 A. You're going to have to forgive me.
7 It was a long time ago, and I cited many more
8 steamboat accidents than just that. So the
9 particulars of this case -- sorry. When I say
10 "this case," of the instance that you're
11 describing, I just don't know.

12 Q. Okay. And so you don't recall
13 whether you characterized those three accidents as
14 occurring in a little more than a month?

15 A. No. But if I'm understanding you
16 correctly, it sounds like what -- sorry. Is it
17 Professor Gomez? Is that right?

18 Q. Yeah.

19 A. It sounds like what they found is --
20 again, if I'm understanding you correctly, it
21 sounds like if what they found is that I wrote
22 that something happened between November and
23 December, and I got the dates wrong, and,
24 actually, instead of it being in a little over a

1 month, it was a little over a year and a month.

2 Q. Yeah.

3 A. Is that correct? That instead of --
4 it was from November of 1849 to December of 1850,
5 not December of 1849?

6 Am I understanding you?

7 Q. Yes, sir.

8 A. Okay.

9 Q. Here's what she said, and I've given
10 people the cite. I'm not going to make it an
11 exhibit, but I've give the cite so people know
12 what it is.

13 She said, "Finally, an error needs
14 correction: Three steamboat accidents - dated
15 November 15, 1849, December 14, 1850, and
16 December 17, 1850 - are described as occurring 'in
17 just a little more than month.'" That's what she
18 said.

19 Does that ring any bell to you in
20 terms of that part of your book?

21 A. No. But I take her at her word at
22 that time.

23 Q. Okay. And if that's correct, would
24 you believe that disqualifies you from being an

1 historian expert on methodological grounds or
2 reliability grounds?

3 MS. HURT: Objection to form and
4 foundation.

5 A. No. At the risk of defending
6 myself, what I would say is that that error sounds
7 a little bit like the one that you discovered in
8 my expert report.

9 It's the sort of thing that a
10 critical reader looking at what I've written could
11 suss informations out relatively easily where
12 I had gone awry.

13 So there's no effort to mislead the
14 reader. This is a simple error, and the sort of
15 thing that does every now and again regrettably
16 crop up in my work.

17 Q. I understand.

18 The same review said "I also saw it
19 but did not find a detailed list of maps and other
20 illustrations that appear in the work. While
21 captions and a seemingly incomplete map section in
22 the work cited provides some information,
23 including dates and repositories, perhaps the next
24 edition of the book could include a listing that

1 also reveals the full title and photographer of
2 each map and the original source of the sketches,
3 i.e., Harper's Weekly."

4 My question to you is, do you
5 recall, is it true that there is not a detailed
6 list of maps and other illustrations for that
7 book --

8 A. Do you mind reading the --

9 Q. -- with regard --

10 A. Oh, sorry.

11 Q. Yeah, go ahead -- with regard to
12 A River and Its City?

13 A. Yeah, I don't -- I don't have this
14 material in front of me, so I'm afraid -- do you
15 mind reading what the author wrote again, the
16 reviewer wrote again?

17 Q. Yep.

18 A. It sounds like I have to find
19 Dr. Gomez one of these days.

20 Q. I can -- well, I'll send the cite
21 list to DOJ counsel after this. I didn't want to
22 put in new exhibits, but these are some things
23 I found.

24 What she said was "I also saw but

1 did not find a detailed list of maps and other
2 illustrations that appear in the work." That's
3 the first sentence.

4 And so my question to you is, is
5 that true? Was there -- was there a lack of a
6 detailed list of maps and other illustrations from
7 your perspective?

8 A. I think she went on to say in the
9 passage that you read earlier that I had noted the
10 repositories where these were found, the dates
11 that they were found in my captions. So these
12 were captions in the book. I really do think that
13 I cited them appropriately.

14 Q. Okay. Fair enough.

15 Do you know who Gregory Bush is?

16 A. I've never heard of that person.
17 I'm sorry.

18 Q. Okay. So Gregory Bush was the
19 associate professor of history and director of the
20 Institute for Public History at the university of
21 Miami. He retired in 2018. He wrote a review in
22 the Journal of Heritage Stewardship, CRM.

23 Are you aware of that journal?

24 A. I've never heard of it.

1 Q. Okay. In his review, which was in
2 the Volume 1, Number 1, Fall 2003 issue, which is
3 available online, he says, "Although the breadth
4 of Kelman's sources is impressive, there is an
5 inadequate feel for how residents or seamen
6 reacted to the waterfront."

7 Would you agree that your book on
8 Louisiana could be criticized for having an
9 inadequate feel for how residents or seamen
10 reacted to the waterfront?

11 A. No. I think he's wrong.

12 Q. Okay. When I was Googling you,
13 I found an article called In the shadow of
14 disaster: Rebuilding in harm's way in The Nation
15 from January of 2006.

16 Does that ring a bell for you?

17 A. It does.

18 Q. Okay. I didn't see it in your CV.
19 However, there were other articles in The Nation
20 that were in your CV.

21 Do you know why this one was not in
22 your CV?

23 A. Did you say that that one was from
24 2006?

1 Q. It is.

2 A. I believe that what I said is that
3 I had a comprehensive list of my publications over
4 the preceding ten years, and prior to that,
5 I had -- I had just a selection of them.

6 Q. Okay. Fair enough. Fair enough.
7 But you do recall doing an article
8 of that name?

9 A. Yeah, I do.

10 Q. Okay. My point is, in the article
11 you say things -- like, you refer to a geographer
12 named Peirce Lewis, but there's no citations.

13 Is it correct that you've published
14 articles from time to time that reference
15 communications with individuals or sources, yet
16 have no citations to how they were recorded or
17 saved?

18 A. The Nation is not a scholarly
19 publication. It's a mass market magazine. They
20 don't have footnotes or endnotes, I don't believe.

21 Q. Okay. Is that a yes?

22 MS. HURT: Objection to form.

23 Q. Let me try again.

24 Have you published articles in which

1 you have used information from communications with
2 individuals, yet without any citations about how
3 they were recorded or saved?

4 A. I have when I publish in mass market
5 magazines that don't have footnotes or endnotes
6 included information that I do not cite.

7 Q. Okay. And do you believe in that
8 context, it's appropriate not to give footnotes,
9 endnotes, or citations?

10 A. Yes. If there is no scholarly back
11 matter or apparatus for including citations,
12 I think it is appropriate not to include them.

13 Q. All right. Do you know who
14 John H. Moore is?

15 A. I don't think so.

16 Q. Okay. So there is a John H. Moore,
17 Ph.D., professor of anthropology, University of
18 Florida.

19 Does that ring a bell? It may not.
20 I'm just asking.

21 A. No, it doesn't.

22 Q. Okay. Are you aware of a journal
23 called the UCLA American Indian Culture and
24 Research Journal?

1 A. Never heard of it.

2 Q. Okay. Well, they did --

3 Professor Moore did a review of a misplaced
4 massacre, the Sand Creek book. It is found in
5 that journal at Volume 38, Number 4, from 2014.

6 And in that review, he says, "A
7 major weakness of this book is Kelman's lack of
8 ethnological knowledge, especially a technical
9 vocabulary." Then he says, "For example, he
10 throws the word 'chief' around rather carelessly."

11 You've never read that before,
12 right?

13 A. No, I haven't.

14 Q. Okay. Would you agree that a
15 weakness in the book is your lack of ethnological
16 knowledge, especially of technical vocabulary?

17 A. No, I would not agree.

18 Q. Okay. You wrote an article called
19 Ripples of Memory from Sand Creek that was
20 published in 2023.

21 Do you remember that?

22 A. Honestly, no.

23 Q. Okay.

24 A. I'm sure I did, but I don't remember

1 the specifics.

2 Q. Well, it's -- okay. Let me tell you
3 a little bit about it. So it's in your CV, and
4 it's -- so it's in the CV under Ripples of Memory
5 from Sand Creek, Parks Stewardship Forum:
6 Interdisciplinary Journal of Place-Based
7 Conservation."

8 A. Oh, yep, yep. I got it now.

9 Q. I found it under your name.

10 A. Yeah, I got it now.

11 Q. And so on this one, my point is this
12 one has endnotes. And one of them, for example,
13 says, "Quotes from Alexa Roberts to Ari Kelman,
14 Conversation, October 15, 2022, Notes in Author's
15 Possession."

16 Would that be an example of an
17 interview and how you cite it and it's not an oral
18 history?

19 A. Yes.

20 Q. Okay. I'll give you one more.

21 So there's another footnote in there
22 that says -- or endnote. It says, "Gail Ridgley
23 to Ari Kelman, Conversation, April 19, 2023, Notes
24 in Author's Possession."

1 So, again, that would be an example
2 of a citation to something that's less than an
3 oral history in terms of being recorded or
4 archived, correct?

5 MS. HURT: Objection to form.

6 A. The answer is yes.

7 Q. Okay. Do you know who Amy Breakwell
8 is?

9 A. I don't think so.

10 Q. So Amy Breakwell is a professor in
11 the history department at South Puget Sound
12 Community College, who wrote a review of the
13 Sand Creek book in a journal called Civil War
14 History.

15 Are you aware of a journal called
16 Civil War History?

17 A. I don't think so, no.

18 Q. Okay. Well, the citation is Civil
19 War History, Volume 60, Number 3, 2014, Page 353.
20 And one thing she says is, "It struck this
21 reviewer -- it struck this reviewer as regrettable
22 that Kelman did not seek permission to access the
23 oral histories collected by Native Americans
24 during the cite search process, as he was,

1 therefore, unable to quote from them."

2 Is that true? Was there some issue
3 about getting oral histories collected by Native
4 Americans that you can recall for purposes of the
5 Sand Creek book?

6 A. That is untrue. She is wrong.

7 Q. Okay. Then tell me what you say
8 about that.

9 A. I collected well over 100 oral
10 histories for the book. I'm not sure how many of
11 them were with native people, but it's got to
12 be -- well, I just -- roughly half of them or more
13 were with native people.

14 In each of those instances, I did
15 seek their permission. I just -- I don't know
16 what she's referring to. I'm sorry.

17 Q. It's okay.

18 And what I'm getting at is what she
19 says is -- she talks about -- she says, "It struck
20 this reviewer as regrettable that Kelman did not
21 seek permission to access the oral histories
22 collected by Native Americans." I read that,
23 Professor Kelman, to mean maybe there were other
24 oral histories that Native Americans themselves

1 had collected.

2 A. I do -- I do know what she means.

3 Q. Please explain.

4 A. There were oral histories collected
5 by tribal communities during the site location
6 process for the Sand Creek massacre national
7 historic site. Those oral histories were
8 collected by the Northern Cheyenne, the Northern
9 Arapaho and the Cheyenne and Arapaho tribes of
10 Oklahoma.

11 I don't know precisely how many oral
12 histories were collected, but it was fewer than
13 20. Those oral histories in their entirety were
14 made available through the site location study,
15 and, therefore, individuals did not need
16 permission to access them because they were part
17 of a federal repository.

18 Q. Okay.

19 A. And I did consult them.

20 Q. Okay. Thank you.

21 MR. HUGHES: Can I have the Ideker
22 case pulled up. It's an order. It's
23 number 27 in the exhibits that
24 I circulated before the last time.

1 Can you go to page 41. One second.

2 THE WITNESS: Thank you for
3 increasing the size.

4 MR. HUGHES: Okay. Can you go
5 forward to page 51. I'm sorry. It's
6 not 41. It's 51.

7 Okay. Let's see. Yeah.

8 BY MR. HUGHES:

9 Q. So this is an order the Court
10 entered in the Ideker case. And you can see
11 halfway down the page where it says, "The
12 government presented as its first witness
13 Dr. Ari Kelman, an environmental historian."

14 Do you see that?

15 A. I do.

16 Q. Okay. And the next sentence says,
17 "Dr. Kelman testified that properties next to the
18 Missouri River have always been subject to
19 extensive flooding," right?

20 A. It does say that.

21 Q. Okay. Have you seen this order
22 before?

23 A. I don't recall.

24 Q. Okay. If you look at the bottom

1 sentence on the screen, it says, "Dr. Kelman's
2 opinions were based solely on the review of
3 documents concerning historical flood events
4 identified in public records; he did not consult
5 the plaintiffs regarding their experience of
6 flooding on the representative tracks before or
7 after the MRRP."

8 Do you see that language?

9 A. I do.

10 Q. Okay. Is that true? Did you review
11 any information from the plaintiffs in that case,
12 to your recollection?

13 A. Hold on.

14 No, I don't think that's entirely
15 accurate. I did look at depositions of the
16 plaintiffs.

17 MR. HUGHES: Okay. Let me go down
18 a little further and see if it flushes
19 it out.

20 If you can go down to the
21 paragraph that says "However."

22 Keep going down a little bit.

23 Let's find it. One sec.

24 Okay. Yeah, go to page 64,

1 page 63, 64. Sorry.

2 Okay. Yeah.

3 BY MR. HUGHES:

4 Q. All right. So if you look at the
5 top of page 64, it says, "However, as stated
6 above, the Court gives Dr. Kelman's testimony
7 little weight. Dr. Kelman conducted no interviews
8 with the representative plaintiffs regarding their
9 expectations or what information they had
10 available when forming their expectations despite
11 acknowledging that such information is relevant to
12 its opinions," and cites to a transcript.

13 Do you see that?

14 A. I do.

15 Q. And then it says, "On
16 cross-examination, Dr. Kelman admitted that the
17 representative plaintiffs' personal observations
18 for the period of time they lived on the river and
19 how that was managed are relevant and important
20 considerations."

21 Do you see that?

22 A. I do.

23 Q. Okay. Does that summary by the
24 Court match your recollection of the case?

1 A. It matches my recollection of what's
2 being described here.

3 Q. Can you elaborate on your answer.

4 A. Well, the case is broader than just
5 this. It appears to me that -- I'm going to read
6 this again.

7 "As stated above" -- yeah, I did not
8 do any interviews with the representative
9 plaintiffs. That is accurate. I had their
10 depositions, which I consulted to have a sense of
11 their expectations.

12 I did believe that their
13 expectations were relevant, and I believe that
14 their personal observations for the period of time
15 they lived on the river was also relevant.

16 Q. Okay. Do you know if you did a
17 written report in that case?

18 A. I did.

19 Q. Do you have it?

20 A. Not at hand, no.

21 Q. Is it something you could dig up
22 easily, or no?

23 A. I expect I could find it given a few
24 minutes.

1 Q. Well, if you can find it and --
2 after the deposition is over, I'll ask DOJ if they
3 could see if they can get from you and give to us
4 a copy of your report from that case, and then
5 I'll take it up with them. So don't worry about
6 it yourself right now.

7 A. Okay.

8 Q. Now, Jay Brigham, you've worked with
9 Jay Brigham before, right?

10 A. Yes.

11 Q. Okay. Do you know whether Professor
12 Brigham has been -- has had his opinions excluded
13 in part in a prior case? Do you know one way or
14 the other?

15 A. I don't know.

16 Q. Okay. Do you know of a case
17 called -- I'm going to spell it. It's L-a-c new
18 word C-o-u-r-t-e, new word, O-r-e-i-l-l-e-s, Band
19 of Lake Superior Chippewa Indians of Wisconsin
20 versus Evers.

21 Have you ever heard of that case
22 before?

23 A. No.

24 Q. Okay. And -- all right.

1 In that case, the Court entered an
2 order on April 9, 2021 granting in part a motion
3 in limine, Daubert motion, to exclude the
4 testimony of Dr. Brigham.

5 You're not aware of that topic,
6 correct?

7 A. No, I'm not aware of it.

8 Q. Okay. Have you ever written an
9 article about life on a military base?

10 MS. HURT: Objection to form.

11 A. I've written about life on military
12 bases, but I've not written an article that has
13 exclusively been about that topic.

14 Q. Okay. Have you written any articles
15 or, for that matter, books or parts of books about
16 life on military bases in the last 100 years?

17 MS. HURT: Objection to form.

18 A. I wrote a piece at one point that
19 was in part about life on Fort Carson --

20 Q. Tell me more about that.

21 A. -- in the last 100 years.

22 Q. Okay.

23 A. It was about what's called a staff
24 ride, which as I understand it, is an effort to

1 understand a particular military action that took
2 place in the past. And it was about a staff ride
3 that came out of Fort Carson, and I wrote in part
4 about life on the base.

5 Q. Did you go to the base?

6 A. I did.

7 Q. Okay. And did you interview any
8 sources or take any oral histories in connection
9 with that project?

10 A. I interviewed people.

11 Q. Okay. And did that result in a
12 publication?

13 A. You know, I don't remember. I think
14 it did, but I -- I'm not positive.

15 MR. HUGHES: Okay. Fair enough.

16 All right. Let's take -- it's
17 4:05 my time. Let's take a five-minute
18 break, and then I will wrap up. And it
19 will take me about -- you know, ten
20 minutes or less to wrap up.

21 THE VIDEOGRAPHER: The time is
22 1:05 p.m.

23 We are off the record.

24 (Recess taken.)

1 THE VIDEOGRAPHER: The time is
2 1:11 p.m., and we are on the record.

3 BY MR. HUGHES:

4 Q. Do you recall what you were paid
5 roughly for your work as an expert in the past
6 cases where you were an expert, Dr. Kelman?

7 A. I don't. I'm sorry.

8 Q. Did you have a staff, other people,
9 helping you and being paid for it and working as
10 an expert in past cases?

11 A. I have always worked as a
12 subcontractor of Morgan, Angel or Morgan, Angel,
13 Brigham. And in some instances, I have had access
14 to other Morgan, Angel, Brigham employees to help
15 with -- to help serve as research assistants.

16 Q. Okay. Your report in this case
17 appears limited to discussing Dr. Longley's report
18 dated December 7, 2024.

19 With regard to Dr. Longley's other
20 two reports, the one from January 2025 and the one
21 from March of 2025, have you formulated any expert
22 opinions with regard to those two reports?

23 MS. HURT: Objection to form.

24 A. Not at this time, no.

1 Q. Okay. So looking at
2 Dr. Longley's --

3 MR. HUGHES: Let's pull it up just
4 for a second. It's number 6. It's
5 Dr. Longley's rebuttal report. It's
6 dated January 13, 2025.

7 BY MR. HUGHES:

8 Q. Okay. With regard to this report,
9 am I correct that you have no opinions as an
10 expert regarding Dr. Longley's opinions as a
11 rebuttal expert as expressed in this January 2025
12 report; is that correct?

13 MS. HURT: Objection to form.

14 A. Sorry. I'm going to take a moment
15 if that's all right.

16 Q. Yes, sir.

17 A. No, I have not offered any expert
18 opinions on this report.

19 Q. Okay. So sitting here today, you do
20 not contend that Dr. Longley should be excluded as
21 a rebuttal expert based on his January 2025
22 report, correct?

23 MS. HURT: Objection to form and
24 foundation.

1 A. I'm afraid I don't know what that
2 means.

3 Q. Okay. That's fine.

4 Can we pull up the Exhibit 7,
5 Longley's report from March of 2025.

6 Have you seen this report before,
7 Dr. Longley's report, from March of 2025?

8 A. Yes.

9 Q. Okay. I have not seen where you
10 have put into writing any opinions regarding this
11 report from March of 2025.

12 Am I correct that you have not put
13 any opinions in writing as to this report?

14 A. That is correct.

15 MS. HURT: Objection to form.

16 MR. HUGHES: Can you pull up just
17 for a sec Dr. Longley's CV, which is --
18 it's number 13 from last time.

19 Thank you.

20 BY MR. HUGHES:

21 Q. All right. You're looking at
22 Dr. Longley's CV that was produced.

23 Based on what you see in his CV, do
24 you have an opinion that Dr. Longley is not

1 qualified by education, experience, or training to
2 be a historian expert in this case?

3 MS. HURT: Objection to form.

4 A. Based on his education, training,
5 I don't have an opinion about that.

6 MR. HUGHES: Okay. All right.

7 Can we look at -- and I don't think we
8 need to make that an exhibit for this
9 deposition, because everyone already has
10 it.

11 Can you look at number 14, pull up
12 number 14 for a second.

13 BY MR. HUGHES:

14 Q. Have you seen this before,
15 Dr. Kelman? It's an oral history release form and
16 a draft that's been updated.

17 Have you seen it before?

18 A. No.

19 Q. Okay. Then I'm not going to worry
20 about it.

21 Dr. Kelman, would you consider
22 yourself an expert on military history of the U.S.
23 after 1941?

24 A. No.

1 Q. Okay. With regard to Dr. Brigham,
2 let me -- I'm going to summarize something and ask
3 you if you've heard of it before.

4 Dr. Brigham gave testimony in a case
5 called the Raytheon case involving Herington
6 H-e-r-i-n-g-t-o-n Army Air Force Base.

7 In that case, he did an expert
8 report that was filed at Docket Number 284-1 in
9 which he referred to inspections of bombers that
10 occurred every 6,000 miles and every 1,000 miles.

11 When he was deposed, he was asked
12 about it, and he said -- and this was in his
13 deposition excerpts filed at Document 284-2. He
14 was asked whether his statements on 1,000-mile
15 inspections and 6,000-mile inspections were in
16 error. And his answer was, "I may be in error
17 there."

18 And he went on to explain that
19 1,000-mile inspections appeared to be related to
20 automobiles, not to bombers.

21 Here's my question: Were you aware
22 before now that in a prior case, Dr. Brigham had
23 said in a deposition that he may have been in
24 error in his written expert report?

1 MS. HURT: Objection to form.

2 A. No, I was not aware of that.

3 MR. HUGHES: Okay. Those are all
4 the questions I have.

5 MS. HURT: I'd like to note on the
6 record that our prior agreement that no
7 new exhibits would be entered into
8 today's deposition, while that was not
9 the case and that didn't happen,
10 Mr. Hughes discussed several documents
11 without providing the documents to the
12 witness.

13 And so I think that kind of
14 violates the spirit of our agreement, if
15 not the word. So I just want to put
16 that on the record.

17 MR. HUGHES: Well, I guess I'll
18 put on the record that we were planning
19 to depose him last time on some of the
20 book reviews, and I did go pull other
21 book reviews, and so I understand what
22 you're saying.

23 However, I think it's fair game to
24 ask him about errors that are in public

1 documents since our expert, Dr. Longley,
2 has been asked about similar things.

3 I'll leave it at that.

4 MS. HURT: And I have no further
5 questions.

6 THE VIDEOGRAPHER: The time is
7 1:20 p.m., and we are off the record.

8 THE COURT REPORTER: Mr. Hughes,
9 did you want to order this?

10 MR. HUGHES: Yeah, whatever our
11 normal order is for transcripts.

12 MS. HURT: And DOJ would like a
13 rough.

14 THE COURT REPORTER: And you're
15 going to order a copy of the transcript
16 as well?

17 MS. HURT: Yes. We'd also like to
18 have a rough draft.

19 THE COURT REPORTER: Then what
20 about signature?

21 Dr. Kelman, do you want to read
22 your transcript?

23 MS. HURT: He does.

24 THE COURT REPORTER: And where do

1 I send that?

2 MS. HURT: You can send it to me,
3 to the e-mail address that I sent you.

4 (Signature reserved.)

5 - - -

6 Thereupon, at 1:20 p.m., on Tuesday,
7 April 8, 2025, the deposition was concluded.

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CERTIFICATION

I, Carol A. Kirk, Registered Merit Reporter and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination, ARI KELMAN, Ph.D. was duly remotely sworn by me to testify to the truth, the whole truth, and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by me at the time, place, and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor an employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



Carol A. Kirk, RMR, CSR

Notary Public

Dated: April 16, 2025

DEPOSITION ERRATA SHEET

Case Caption: Camp Lejeune Water Litigation

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that
I have read the entire transcript of my deposition
taken in the captioned matter or the same has been
read to me, and the same is true and accurate, save
and except for changes and/or corrections, if any, as
indicated by me on the DEPOSITION ERRATA SHEET hereof,
with the understanding that I offer these changes as
if still under oath.

ARI KELMAN, Ph.D.

SUBSCRIBED AND SWORN TO
before me this _____ day
of _____, A.D. 20____

Notary Public

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Page No. _____ Line No. _____ Change to: _____

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Reason for change: _____

Page No. _____ Line No. _____ Change to: _____

Reason for change: _____

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Ari Kelman, Ph.D.

1	1850 153:20 154:4 155:4,15 155:16 19 139:5,5 163:23 19103 116:22 1941 177:23 198 146:14 1:05 173:22 1:11 174:2 1:20 180:7 181:6 1st 121:8 125:16,18	2022 163:14 2023 162:20 163:23 2024 130:22 131:1,8 132:11 132:17 137:15 137:24 141:2,4 174:18 2025 116:14 119:10 131:6 131:11 132:17 133:19 174:20 174:21 175:6 175:11,21 176:5,7,11 181:7 182:23 21 141:3 27 166:23 27th 150:1 28144 117:8 284-1 178:8 284-2 178:13	4 4 162:5 41 167:1,6 45 153:10 46 139:5 4:05 173:17
1 121:9,15,16 122:7,10,18 159:2,2 1,000 178:10,14 178:19 10 130:8,10 137:18,21 100 165:9 172:16,21 11 130:8,19 1100 117:15 120 118:4 127 142:15,16 143:17,18 144:24 12:02 116:15 119:11 13 136:7,8 175:6 176:18 13149 182:21 14 155:15 177:11,12 148 145:12 15 155:15 163:14 16 182:23 1650 116:21 17 155:16 1849 153:20 154:4 155:4,5 155:15	2 2 121:6 123:23 20 166:13 183:21 20005 117:15 2000s 152:8 2003 152:4 159:2 2004 152:13 153:9 2006 152:2 159:15,24 2014 162:5 164:19 2018 158:21 202-307-5788 117:16 2021 172:2	3 3 124:8 127:6 153:10 164:19 30 137:23 141:2,4 32 140:13,13 353 164:19 359 153:10 38 162:5 3rd 150:10 151:5	5 5 127:11,11 137:7 51 167:5,6 5150 116:21 525 117:7
			6 6 175:4 6,000 178:10,15 60 164:19 63 169:1 64 168:24 169:1,5
			7 7 130:24 131:11 133:19 174:18 176:4 704-633-5244 117:8 7:23 116:6 7th 135:18
			8 8 116:14 119:10 128:18 141:18 142:14 142:16 181:7

85 140:13,17 877.370.3377 116:23 897 116:6	145:21 154:24 added 144:9 additional 133:10 address 181:3 admitted 169:16 afraid 157:14 176:1 ago 135:14 154:7 agree 127:19 127:23 128:16 129:17 130:13 130:18 146:4 146:17,19 159:7 162:14 162:17 agreed 119:20 agreement 179:6,14 ahead 127:10 128:18 131:24 132:1 141:14 141:20 142:22 142:23 157:11 air 178:6 alan 137:23 138:22,24 140:19 141:1,4 143:18 alexa 163:13 america 119:15	american 161:23 americans 164:23 165:4 165:22,24 amy 164:7,10 analogy 128:10 analytical 135:12 analyze 128:7 angel 174:12 174:12,14 ans 117:19 120:14 answer 141:10 164:6 170:3 178:16 anthropology 161:17 apologies 131:9 apparatus 135:12 161:11 appear 156:20 158:2 appeared 178:19 appearing 119:20 appears 129:14 141:4 170:5 174:17 appropriate 161:8,12	appropriately 158:13 april 116:14 119:10 121:8 125:16,18 150:10 151:5 163:23 172:2 181:7 182:23 arapaho 166:9 166:9 archive 130:6 archived 164:4 area 124:18 125:6 ari 116:12 118:3 119:17 120:19 163:13 163:23 167:13 182:6 183:17 184:24 army 178:6 article 134:17 159:13 160:7 160:10 162:18 172:9,12 articles 147:5,6 148:1,5,9,12 159:19 160:14 160:24 172:14 aside 146:2 asked 136:14 136:16 178:11 178:14 180:2
--	---	---	--

asking 123:8,10 123:12 125:4 138:21 145:10 161:20 assistant 152:21 assistants 174:15 associate 158:19 association 153:2,9 assume 139:7 145:14 assuming 145:3 assumption 145:9 attorney 182:15,17 attorneys 128:23 august 137:24 141:2,4 author 141:1 157:15 author's 163:14,24 automobiles 178:20 available 159:3 166:14 169:10 aware 125:24 126:8,11 132:23 133:23	134:3,5 147:8 147:11 149:24 150:2,9,13,21 151:3,6,7,14 152:24 153:5,5 153:11,21 158:23 161:22 164:15 172:5,7 178:21 179:2 awry 156:12 b back 121:4,8 125:16 135:13 161:10 band 171:18 bars 140:2 base 172:9 173:4,5 178:6 based 146:17 163:6 168:2 175:21 176:23 177:4 bases 172:12 172:16 beginning 144:5 behalf 117:3,11 belabor 143:21 believe 131:4 134:23 135:20 151:2,15,17 155:24 160:2 160:20 161:7	170:12,13 bell 155:19 159:16 161:19 best 182:12 bias 124:2,6 134:14,20,23 135:4 biases 128:2 big 128:20 bigger 138:5 biographical 147:16 bit 122:15 138:4 140:14 149:16 156:7 163:3 168:22 bloch 127:15 127:23 128:9 blow 140:14 blowing 140:22 bombers 178:9 178:20 book 134:17 148:14,17 151:23 152:2 152:13,14,15 153:6,7,16,24 155:20 156:24 157:7 158:12 159:7 162:4,7 162:15 164:13 165:5,10 179:20,21	books 147:5,6 148:2,5,9,13 172:15,15 bottom 121:15 121:16 124:10 128:20 129:12 136:8,12 137:19,21 167:24 breadth 159:3 break 173:18 breakwell 164:7,10 brian 117:20 119:7 briefly 119:23 brigham 137:1 137:1 150:1,23 171:8,9,12 172:4 174:13 174:14 178:1,4 178:22 brigham's 150:4 bring 121:4 broader 170:4 bush 158:15,18 c c 117:1 119:3 171:17,18 california 152:6
--	---	---	---

call 129:18 134:2 148:18 called 138:20 140:6 151:24 153:1 159:13 161:23 162:18 164:13,15 171:17 172:23 178:5 camp 116:5 119:13 183:4 caption 183:4 captioned 183:10 captions 156:21 158:11 158:12 carefully 128:8 130:16 carelessly 162:10 carol 116:19 120:16 182:3 182:22 carolina 116:2 117:8 119:17 carson 172:19 173:3 case 121:21,23 123:20 124:4 124:14 125:12 131:17 132:4,7 141:11 147:22 148:9,12	149:18 150:1 150:15 151:16 154:9,10 166:22 167:10 168:11 169:24 170:4,17 171:4 171:13,16,21 172:1 174:16 177:2 178:4,5 178:7,22 179:9 183:4 cases 116:7 125:2 126:17 129:6 174:6,10 center 121:16 certain 140:2 certification 182:1 certified 120:21 182:4 certify 182:4,9 182:14 change 184:2,4 184:5,7,8,10,11 184:13,14,16 184:17,19,20 184:22 changes 183:12 183:14 chapman 147:12 characterized 154:13	checked 137:2 cheyenne 166:8 166:9 chief 162:10 chippewa 171:19 cindy 117:13 120:12 cindy.m.hurt 117:13 circulated 166:24 citation 124:9 136:23 137:22 139:1,2 140:5 141:5 144:24 148:19 164:2 164:18 citations 124:11,12,15 137:2 160:12 160:16 161:2,9 161:11 cite 155:10,11 157:20 161:6 163:17 164:24 cited 123:11 133:11 136:21 138:16 139:15 139:22 147:5 153:15 154:7 156:22 158:13 cites 134:18 169:12	city 151:24 152:15 153:7 153:24 157:12 civil 164:13,16 164:18 clarify 133:5 clear 123:9,19 126:2 135:10 135:11 144:3,7 144:14 codes 136:9 collected 164:23 165:3,9 165:22 166:1,4 166:8,12 collection 123:23 college 164:12 come 149:9 comes 146:13 commencem... 182:5 commission 149:15 communication 130:1 communicati... 123:24 124:5 160:15 161:1 communities 166:5 community 164:12
--	---	---	--

completely 120:1 composite 144:15 comprehensive 160:3 concerning 168:3 concluded 181:7 conducted 127:16,21 169:7 conducting 130:12 confirm 135:3 connection 129:6 173:8 consequence 128:5 conservation 163:7 consider 177:21 considerations 169:20 considered 149:13,23 consult 166:19 168:4 consulted 170:10 cont'd 118:4 120:22	contain 148:1 contained 148:5 contend 175:20 contents 137:17 context 128:14 128:15 132:21 161:8 contextually 132:15 continued 116:11 conversation 163:14,23 conveyed 122:21 123:4 145:4 copy 171:4 180:15 correct 131:9 132:12,18,22 134:15 151:9 151:24 155:3 155:23 160:13 164:4 172:6 175:9,12,22 176:12,14 correction 153:15 155:14 corrections 183:12 correctly 154:16,20	corrects 151:17 counsel 120:2 157:21 182:15 182:18 counted 147:1 couple 122:19 144:19 course 140:11 court 116:1 119:16 120:15 121:3,22 123:1 124:17,20 125:5,8,12 131:20 167:9 169:6,24 172:1 180:8,14,19,24 created 128:4 creek 162:4,19 163:5 164:13 165:5 166:6 critical 156:10 critically 134:8 136:1 criticized 159:8 crm 158:22 crop 156:16 cross 118:4 120:22 127:15 127:20,24 128:11 169:16 csr 116:19 182:22 culture 161:23	currently 140:8 cv 116:6 147:5 147:19,21,24 159:18,20,22 163:3,4 176:17 176:22,23 d d 119:3 date 119:10 131:6 132:11 139:17 140:5 141:11 145:19 146:1,5 150:2 150:12 182:12 184:23 dated 130:22 130:22 131:10 133:18 155:14 174:18 175:6 182:23 dates 154:23 156:23 158:10 daubert 172:3 day 121:7 125:15 183:20 days 143:6,9 144:2 157:19 dc 117:15 december 130:23 132:17 133:14,24 135:18 137:15 153:20 154:4
---	---	--	--

154:23 155:4,5 155:15,16 174:18 decided 134:21 declaration 183:6 declare 183:8 defendant 117:11 defending 156:5 defining 127:23 department 117:12 133:1,9 164:11 depend 151:21 deponent 119:17 deponents 128:22 depose 179:19 deposed 129:4 150:1,10,23,24 150:24 178:11 deposes 120:21 deposition 116:11 119:12 119:19 121:6,7 123:11 125:16 150:4,7 151:5 171:2 177:9 178:13,23 179:8 181:7 183:1,9,13	184:1 depositions 122:9,20 123:3 123:15 168:15 170:10 deps 116:24 describe 130:1 described 153:17 155:16 170:2 describing 154:11 despite 169:10 detail 133:10 detailed 156:19 157:5 158:1,6 differences 122:3 different 144:8 149:9 dig 170:21 directly 135:19 director 158:19 disaster 159:14 disclosure 151:10 disclosures 129:7 discovered 156:7 discussed 179:10 discussing 145:5 174:17	disqualifies 155:24 disqualify 131:16 132:3 151:18 distinction 144:11 district 116:1,2 119:15,16 division 116:3 116:21 119:9 doby 117:5 docket 178:8 doctor 137:13 document 116:7 141:16 141:21 144:14 178:13 documents 125:17 126:6 168:3 179:10 179:11 180:1 doing 128:9 160:7 doj 117:19 136:14 157:21 171:2 180:12 dr 120:24 121:20 125:22 125:23 126:8 126:13,17,21 127:1 130:21 133:2,11 134:22 135:18	137:1,2,6,8,14 137:15 142:19 147:5,7,9,19 148:23 150:1,4 150:7,9,14,23 150:23 151:4 157:19 167:13 167:17 168:1 169:6,7,16 172:4 174:6,17 174:19 175:2,5 175:10,20 176:7,17,22,24 177:15,21 178:1,4,22 180:1,21 draft 177:16 180:18 due 119:22 143:5 duly 120:20 182:6 duty 151:8 e e 117:1,1,1,1 119:3,3 171:18 171:18,18 178:6 181:3 earlier 145:5 158:9 early 152:8 easily 132:4,20 156:11 170:22
---	--	--	--

eastern 116:2 119:16 edition 152:10 152:11 156:24 education 177:1,4 effect 134:19 effort 132:6,11 156:13 172:24 either 136:20 elaborate 170:3 employee 182:15,17 employees 174:14 endnote 163:22 endnotes 160:20 161:5,9 163:12 enforcement 128:15 ensminger 117:19 130:21 133:13,15,18 133:21,22 134:1 135:19 139:7,10 145:14,16 ensure 119:24 entered 167:10 172:1 179:7 entire 183:9 entirely 168:14	entirety 166:13 entry 142:15,16 144:24 environmental 117:12 167:13 errata 151:4 183:1,13 184:1 error 131:3,12 131:15 132:5,9 132:19 148:18 148:19,24 149:4,4,11,20 153:14 155:13 156:6,14 178:16,16,24 errors 126:18 148:6 149:9,13 149:14,15,21 179:24 especially 162:8,16 esquire 117:4,5 117:6,13,14 ethnological 162:8,15 evaluate 134:8 134:14 evaluated 134:20,23 135:3 evaluating 136:1 events 168:3	evers 171:20 examination 118:1,4 120:22 127:15,20,24 128:11 169:16 182:5 example 124:9 145:23 162:9 163:12,16 164:1 except 183:12 excerpts 178:13 exclude 172:3 excluded 126:22 127:2 171:12 175:20 exclusively 172:13 exhibit 121:6 137:7 155:11 176:4 177:8 exhibits 138:3 157:22 166:23 179:7 expect 170:23 expectations 169:9,10 170:11,13 experience 128:22 129:2,3 129:23 168:5 177:1	expert 121:5,11 121:21 122:1 122:24 124:18 125:1,6,11 126:9,13,16,22 127:2 131:16 151:16,18 156:1,8 174:5 174:6,10,21 175:10,11,17 175:21 177:2 177:22 178:7 178:24 180:1 expert's 123:14 124:4,15 experts 124:20 explain 166:3 178:18 explicitly 134:19 expressed 175:11 extensive 167:19
f			
fact 137:1 150:22 153:19 failure 134:7 fair 125:14 158:14 160:6,6 173:15 179:23 fairly 132:4			

fall 159:2	footnote 138:22	forward 167:5	163:20 171:3
fantastic 138:6	139:5 140:13	found 124:17	given 155:9
federal 151:8	140:17 141:3	125:5 154:19	170:23
166:17	163:21	154:21 157:23	gives 169:6
feel 159:5,9	footnotes	158:10,11	go 121:9 127:5
fewer 166:12	145:16 146:20	159:13 162:4	127:10,11
filed 178:8,13	160:20 161:5,8	163:9	128:18 130:19
film 136:20	force 178:6	foundation	131:24,24
films 136:9,10	foregoing	150:18 151:13	137:18 140:12
136:15	182:9	151:20 156:4	140:15 141:12
finally 155:13	forgive 154:6	175:24	142:1,7,13,22
financially	form 122:12	four 130:10	142:23 146:14
182:18	123:5 124:21	fresh 132:8	157:11 167:1,4
find 156:19	126:19 127:22	front 127:6	168:17,20,24
157:18 158:1	129:22 133:4	157:14	173:5 179:20
168:23 170:23	138:13 139:14	full 157:1	goals 128:3
171:1	141:9 145:20	further 168:18	going 121:14
fine 176:3	146:23 149:1,8	180:4 182:9,14	135:13 136:6
first 120:20	150:17 151:1	g	138:2,14
122:7,19	151:12,19	g 119:3 178:6	141:16,21
125:15 133:13	156:3 160:22	gail 163:22	142:3,5,6,15
137:2,8,11,14	164:5 172:10	game 179:23	143:14,19
143:7 151:4	172:17 174:23	gay 152:18,20	154:6 155:10
158:3 167:12	175:13,23	generated	168:22 170:5
five 173:17	176:15 177:3	128:3	171:17 175:14
flood 168:3	177:15 179:1	geographer	177:19 178:2
flooding 167:19	forming 169:10	160:11	180:15
168:6	formulated	getting 165:3	golkow 116:21
florida 161:18	174:21	165:18	119:8
flushes 168:18	fort 172:19	gibbons 117:14	golkow.com
following	173:3	120:13	116:24
153:15	forth 182:12	give 141:22	gomez 152:18
follows 120:21	forum 163:5	155:11 161:8	152:20 153:6
			154:17 157:19

gomez's 153:13 good 127:8 googling 159:12 government 167:12 graham 117:4 120:5,9 granting 172:2 great 136:5 138:8 gregory 158:15 158:18 grounds 156:1 156:2 guess 141:24 144:15 179:17	hard 146:6 harder 138:5 harm's 159:14 harper's 157:3 hear 120:24 heard 119:24 152:23 158:16 158:24 162:1 171:21 178:3 held 119:13 help 174:14,15 helpful 139:23 141:11 145:22 helping 174:9 hereinafter 120:20 hereinbefore 182:12 hereof 183:13 herington 178:5 heritage 158:22 high 149:4,5 highlighted 139:21 historian 124:19 129:19 129:20 131:16 134:13,17 135:2 139:6 140:9 148:23 149:5,6,11 156:1 167:13 177:2	historians 124:1 125:8 128:1 129:24 historic 166:7 historical 127:16,21 128:15 153:2,8 168:3 histories 121:22 122:8 122:20 123:2 123:14 124:19 125:7,11 129:13 146:22 164:23 165:3 165:10,21,24 166:4,7,12,13 173:8 history 122:4 129:18 130:2 137:23 138:12 138:20,22 139:22 140:9 140:18,24 141:3,8 143:18 145:7,13 146:3 148:19 153:1,8 158:19,20 163:18 164:3 164:11,14,16 164:19 177:15 177:22 hold 168:13	honestly 162:22 howard 137:23 138:23,24 140:19 141:1,4 143:18 hughes 117:4 118:4 120:4,5 120:23 121:3 121:14,19 127:5,12 129:10,11 130:7,9 131:20 135:15 137:5 137:12,18,20 138:9 140:12 140:16 141:12 142:9,13,21 143:2,15,22 144:13,22 166:21 167:4,8 168:17 169:3 173:15 174:3 175:3,7 176:16 176:20 177:6 177:13 179:3 179:10,17 180:8,10 hurt 117:13 120:11,12 122:12 123:5 124:21 126:19 127:22 129:22 133:4 135:6,8
h			
h 161:14,16 178:6 half 129:12 165:12 halfway 167:11 hand 170:20 handle 134:21 handling 138:3 hanley 117:14 120:13 hanley.w.gib... 117:14 happen 179:9 happened 132:5 154:22			

138:13 139:14 141:9 142:17 142:24 143:19 143:23 145:20 146:23 149:1,8 150:17 151:1 151:12,19 156:3 160:22 164:5 172:10 172:17 174:23 175:13,23 176:15 177:3 179:1,5 180:4 180:12,17,23 181:2	impressive 159:4 inaccuracy 153:16 inadequate 159:5,9 include 156:24 161:12 included 141:11 161:6 including 147:16 156:23 161:11 incomplete 151:11 156:21 incorrect 151:11 increasing 167:3 index 118:1 indian 161:23 indians 171:19 indicated 183:13 indicates 147:15 individual 149:10 individuals 160:15 161:2 166:15 information 122:21 123:3 133:1 144:21	145:4 146:6 156:22 161:1,6 168:11 169:9 169:11 informations 156:11 inspections 178:9,15,15,19 instance 154:10 instances 130:4 165:14 174:13 institute 158:20 intentional 132:10 interdisciplin... 163:6 interested 182:18 interrogate 128:13 interview 122:4 129:19,21 138:11,24 139:10,10,15 139:18,22 140:6 141:7 145:1,6,18 146:3,5 163:17 173:7 interviewed 173:10 interviews 122:8,20 123:3 123:15 124:19	125:7 129:15 130:1,12 138:21 169:7 170:8 introduction 121:10 involving 178:5 issue 132:16 135:22 153:9 159:2 165:2 issued 124:3 150:22 issues 143:24 item 145:12,15 items 146:12,14 146:20
i			j
i.e. 157:3 ideker 125:2 129:7 166:21 167:10 identified 168:4 identify 120:2 ii 116:9 illustrations 156:20 157:6 158:2,6 images 124:11 imagine 147:18 immigration 126:10,14 important 127:24 169:19			january 130:22 130:24,24 131:11 133:19 144:19 159:15 174:20 175:6 175:11,21 jay 137:1 171:8 171:9 jerry 117:19 145:14 jessica 117:19 120:13 jhughes 117:5 john 117:4 120:5 161:14 161:16

journal 153:1,1 153:8 158:22 158:23 161:22 161:24 162:5 163:6 164:13 164:15 justice 117:12 133:1,9	182:22 knew 150:11 know 126:21 127:1 128:6 136:17,18,24 137:4 143:7,9 143:20,23 145:23 148:22 149:2,19 150:16,19 152:12,18,20 154:11 155:11 158:15 159:21 161:13 164:7 165:15 166:2 166:11 170:16 171:11,13,15 171:16 173:13 173:19 176:1 knowing 146:5 knowledge 125:5 162:8,16	larger 122:15 law 128:15 lawsuit 126:23 127:3 lawyer 120:10 learn 147:15 151:9 learns 151:16 leave 180:3 leaving 146:2 legal 122:2,11 126:9 lejeune 116:5 119:13 183:4 letters 133:8 144:19 lewis 160:12 life 172:9,11,16 172:19 173:4 limine 172:3 limited 174:17 line 184:2,5,8 184:11,14,17 184:20 lines 122:10,19 122:22 130:11 list 141:18 142:4,11,14,18 143:5,8,12 144:17 145:15 146:12,19,21 156:19 157:6 157:21 158:1,6 160:3	listed 129:7 136:10 listening 120:10 listing 156:24 litigation 116:6 117:12 119:14 183:4 little 122:15 140:14 149:16 153:18,18 154:14,24 155:1,17 156:7 163:3 168:18 168:22 169:7 lived 169:18 170:15 location 166:5 166:14 long 154:7 longley 126:8 126:13,17,21 130:21 133:11 134:22 135:18 147:7,9,19 150:9,23 151:4 175:20 176:24 180:1 longley's 125:22,23 127:1 133:2 137:2,6,8,14,15 142:19 147:5 148:23 150:7
k			
keep 121:14 133:16 136:6 141:24 142:3,5 142:6,15 143:14 168:22 kelman 116:12 118:3 119:17 120:19,24 121:20 163:13 163:23 164:22 165:20,23 167:13,17 169:7,16 174:6 177:15,21 180:21 182:6 183:17 184:24 kelman's 159:4 162:7 168:1 169:6 kept 134:2 kind 149:21 151:21 179:13 kirk 116:19 120:16 182:3	l I 117:15 171:17 171:18,18 labeled 129:14 140:8 145:6 146:3,5 lack 158:5 162:7,15 lake 171:19 language 168:8		

150:14 174:17 174:19 175:2,5 175:10 176:5,7 176:17,22 look 122:6,18 123:22 128:17 130:7 131:14 132:13 136:7 136:19 137:6 138:14 139:4 143:16 145:11 146:10 167:24 168:15 169:4 177:7,11 looked 125:20 125:21 126:2,3 148:14,16 looking 132:20 138:15 141:17 144:23 146:18 146:18 152:10 156:10 175:1 176:21 looks 137:16 louisiana 153:1 153:2,7,8 159:8	magazine 160:19 magazines 161:5 mail 181:3 main 117:7 major 162:7 majority 146:20 147:2 make 122:15 123:8,18 135:10 138:4 144:3,7,12 145:10 149:11 149:13,21 155:10 177:8 makes 136:2 making 135:11 managed 169:19 map 156:21 157:2 maps 156:19 157:6 158:1,6 march 150:1 174:21 176:5,7 176:11 marines 148:15 148:17 mark 117:5 market 116:21 160:19 161:4 mass 160:19 161:4	massacre 162:4 166:6 master 145:13 match 169:24 matches 170:1 material 138:15 140:3,8 151:10 157:14 materials 133:3 144:1,10 matter 119:13 122:2,11 123:1 125:18 132:7 139:2 140:4 161:11 172:15 183:10 matters 126:9 126:10,14 mcgee 117:20 119:7 mcneese 152:21 mdoby 117:6 mean 128:14 130:23 165:23 means 128:11 166:2 176:2 meet 130:2 memory 162:19 163:4 mentioned 139:19 146:24 merit 182:3 met 139:20 140:1	methodologi... 156:1 methodology 148:23 149:7 miami 158:21 middle 127:14 128:18,21 mile 178:14,15 178:19 miles 178:10,10 military 172:9 172:11,16 173:1 177:22 mind 124:22 138:10,17 157:8,15 mindful 128:1 minute 173:17 minutes 170:24 173:20 mislabeling 148:19 mislead 132:6 132:11 156:13 misplaced 162:3 missouri 167:18 mistake 151:17 151:22 moment 130:15 135:14 138:14 138:16 175:14
m			
m 117:1,13 ma'am 142:23 made 151:22 166:14			

month 132:16 153:19 154:14 155:1,1,17 moore 161:14 161:16 162:3 morenci 148:15 148:17 morgan 174:12 174:12,14 motion 172:2,3 mouth 134:13 mrrp 168:7 musolino 117:6 120:8 muster 138:11	necessity 127:15 need 128:1,6,7 128:12,12 134:18 138:16 139:12,16,17 166:15 177:8 needs 145:18 153:14 155:13 neither 182:14 182:17 never 152:16 152:23 158:16 158:24 162:1 162:11 new 132:7 152:10 157:22 171:17,18 179:7 nmusolino 117:7 noelle 117:6 120:8 normal 180:11 north 116:2 117:7,8 119:16 northern 166:8 166:8 notary 182:23 183:23 note 124:10 140:24 142:17 143:2 179:5	noted 158:9 notes 129:19 130:11,21 133:16,18,19 134:2 139:8,8 139:13,17 163:14,23 noticed 148:21 november 153:20 154:4 154:22 155:4 155:15 number 122:10 122:18 123:23 124:8 131:22 143:17,18 146:12 153:10 159:2 162:5 164:19 166:23 175:4 176:18 177:11,12 178:8 numbered 121:9,15 122:6 nw 117:15	124:21 126:19 127:22 129:22 133:4 135:6 138:13 139:14 141:9 145:20 146:23 149:1,8 150:17 151:1 151:12,19 156:3 160:22 164:5 172:10 172:17 174:23 175:13,23 176:15 177:3 179:1 obligation 130:5 observations 169:17 170:14 occurred 178:10 occurring 153:18 154:14 155:16 october 163:14 odd 134:4 offer 183:14 offered 175:17 oh 131:7,24 136:5 141:24 146:13 157:10 163:8 okay 120:24 121:2 122:1,6 122:24 123:7
n	new 132:7 152:10 157:22 171:17,18 179:7 nmusolino 117:7 noelle 117:6 120:8 normal 180:11 north 116:2 117:7,8 119:16 northern 166:8 166:8 notary 182:23 183:23 note 124:10 140:24 142:17 143:2 179:5	noted 158:9 notes 129:19 130:11,21 133:16,18,19 134:2 139:8,8 139:13,17 163:14,23 noticed 148:21 november 153:20 154:4 154:22 155:4 155:15 number 122:10 122:18 123:23 124:8 131:22 143:17,18 146:12 153:10 159:2 162:5 164:19 166:23 175:4 176:18 177:11,12 178:8 numbered 121:9,15 122:6 nw 117:15	124:21 126:19 127:22 129:22 133:4 135:6 138:13 139:14 141:9 145:20 146:23 149:1,8 150:17 151:1 151:12,19 156:3 160:22 164:5 172:10 172:17 174:23 175:13,23 176:15 177:3 179:1 obligation 130:5 observations 169:17 170:14 occurred 178:10 occurring 153:18 154:14 155:16 october 163:14 odd 134:4 offer 183:14 offered 175:17 oh 131:7,24 136:5 141:24 146:13 157:10 163:8 okay 120:24 121:2 122:1,6 122:24 123:7
n 117:1 119:3 178:6,6 name 119:7 160:8 163:9 named 160:12 names 148:1 nation 159:14 159:19 160:18 national 166:6 native 164:23 165:3,11,13,22 165:24 nature 119:22 necessarily 128:14 necessary 127:21	new 132:7 152:10 157:22 171:17,18 179:7 nmusolino 117:7 noelle 117:6 120:8 normal 180:11 north 116:2 117:7,8 119:16 northern 166:8 166:8 notary 182:23 183:23 note 124:10 140:24 142:17 143:2 179:5	noted 158:9 notes 129:19 130:11,21 133:16,18,19 134:2 139:8,8 139:13,17 163:14,23 noticed 148:21 november 153:20 154:4 154:22 155:4 155:15 number 122:10 122:18 123:23 124:8 131:22 143:17,18 146:12 153:10 159:2 162:5 164:19 166:23 175:4 176:18 177:11,12 178:8 numbered 121:9,15 122:6 nw 117:15	124:21 126:19 127:22 129:22 133:4 135:6 138:13 139:14 141:9 145:20 146:23 149:1,8 150:17 151:1 151:12,19 156:3 160:22 164:5 172:10 172:17 174:23 175:13,23 176:15 177:3 179:1 obligation 130:5 observations 169:17 170:14 occurred 178:10 occurring 153:18 154:14 155:16 october 163:14 odd 134:4 offer 183:14 offered 175:17 oh 131:7,24 136:5 141:24 146:13 157:10 163:8 okay 120:24 121:2 122:1,6 122:24 123:7
n 117:1 119:3 178:6,6 name 119:7 160:8 163:9 named 160:12 names 148:1 nation 159:14 159:19 160:18 national 166:6 native 164:23 165:3,11,13,22 165:24 nature 119:22 necessarily 128:14 necessary 127:21	new 132:7 152:10 157:22 171:17,18 179:7 nmusolino 117:7 noelle 117:6 120:8 normal 180:11 north 116:2 117:7,8 119:16 northern 166:8 166:8 notary 182:23 183:23 note 124:10 140:24 142:17 143:2 179:5	noted 158:9 notes 129:19 130:11,21 133:16,18,19 134:2 139:8,8 139:13,17 163:14,23 noticed 148:21 november 153:20 154:4 154:22 155:4 155:15 number 122:10 122:18 123:23 124:8 131:22 143:17,18 146:12 153:10 159:2 162:5 164:19 166:23 175:4 176:18 177:11,12 178:8 numbered 121:9,15 122:6 nw 117:15	124:21 126:19 127:22 129:22 133:4 135:6 138:13 139:14 141:9 145:20 146:23 149:1,8 150:17 151:1 151:12,19 156:3 160:22 164:5 172:10 172:17 174:23 175:13,23 176:15 177:3 179:1 obligation 130:5 observations 169:17 170:14 occurred 178:10 occurring 153:18 154:14 155:16 october 163:14 odd 134:4 offer 183:14 offered 175:17 oh 131:7,24 136:5 141:24 146:13 157:10 163:8 okay 120:24 121:2 122:1,6 122:24 123:7
n 117:1 119:3 178:6,6 name 119:7 160:8 163:9 named 160:12 names 148:1 nation 159:14 159:19 160:18 national 166:6 native 164:23 165:3,11,13,22 165:24 nature 119:22 necessarily 128:14 necessary 127:21	new 132:7 152:10 157:22 171:17,18 179:7 nmusolino 117:7 noelle 117:6 120:8 normal 180:11 north 116:2 117:7,8 119:16 northern 166:8 166:8 notary 182:23 183:23 note 124:10 140:24 142:17 143:2 179:5	noted 158:9 notes 129:19 130:11,21 133:16,18,19 134:2 139:8,8 139:13,17 163:14,23 noticed 148:21 november 153:20 154:4 154:22 155:4 155:15 number 122:10 122:18 123:23 124:8 131:22 143:17,18 146:12 153:10 159:2 162:5 164:19 166:23 175:4 176:18 177:11,12 178:8 numbered 121:9,15 122:6 nw 117:15	124:21 126:19 127:22 129:22 133:4 135:6 138:13 139:14 141:9 145:20 146:23 149:1,8 150:17 151:1 151:12,19 156:3 160:22 164:5 172:10 172:17 174:23 175:13,23 176:15 177:3 179:1 obligation 130:5 observations 169:17 170:14 occurred 178:10 occurring 153:18 154:14 155:16 october 163:14 odd 134:4 offer 183:14 offered 175:17 oh 131:7,24 136:5 141:24 146:13 157:10 163:8 okay 120:24 121:2 122:1,6 122:24 123:7

123:18,22	159:12,18	opinions	p
124:8,17 125:4	160:6,10,21	121:11 127:2	p 117:1,1 119:3
125:10,14,20	161:7,16,22	149:21 168:2	p.a. 117:4
125:23 126:5	162:2,14,18,23	169:12 171:12	p.m. 116:15
126:12,16	163:2,20 164:7	174:22 175:9	119:11 173:22
127:1,5,8,13,19	164:18 165:7	175:10,18	174:2 180:7
128:17,20	165:17 166:18	176:10,13	181:6
129:5,9,17	166:20 167:4,7	oral 121:22	page 118:2
130:16,19	167:16,21,24	122:3,8,19	121:9,12,15,17
131:3,6,12,15	168:10,17,24	123:2,14	122:7 124:10
131:19,19	169:2,23	124:19 125:7	127:6,11,11,14
132:10,19,23	170:16 171:7	125:10 129:13	128:17,18,19
134:6,11,16	171:11,16,24	129:18 130:1,2	129:9 130:7,8
135:8 136:5,17	172:8,14,22	137:22 138:11	130:10,19,20
136:19,24	173:7,11,15	138:20,22	130:20 134:7
137:5,13,21	174:16 175:1,8	139:6,22 140:9	136:7,12
138:10 139:4,6	175:19 176:3,9	140:9,18,24	137:14,18,19
140:17 141:12	177:6,19 178:1	141:3,7 143:18	137:21,22
141:24 142:7	179:3	145:7,13 146:3	139:5,5 140:13
142:13 143:2	oklahoma	146:22 147:3	140:13 141:18
143:22 144:23	166:10	148:19 163:17	142:14,16
146:9,17 147:4	omission	164:3,23 165:3	145:12,12
147:11,14,18	149:15	165:9,21,24	146:10,12
147:21,24	once 141:6	166:4,7,11,13	147:15 153:10
148:4,8,11,16	144:23	173:8 177:15	164:19 167:1,5
148:22 149:3	online 159:3	orally 145:4	167:11 168:24
149:24 150:3,6	operative 143:4	order 129:21	169:1,5 184:2
150:13,21	opined 123:1	132:12 150:15	184:5,8,11,14
151:3,7,15,23	opinion 122:7,9	166:22 167:9	184:17,20
152:18,20,24	122:10,18	167:21 172:2	pages 141:15
153:4,13,23	123:13 124:3	180:9,11,15	141:20
154:3,12 155:8	131:16 139:1	original 126:2	paid 174:4,9
155:23 158:14	149:3,7,19	157:2	
158:18 159:1	176:24 177:5		

paperback 152:10,11	pennsylvania 116:22	physically 135:2	practices 124:9 136:23
paragraph 128:21 134:6 168:21	people 128:3,4 149:21 155:10 155:11 165:11	piece 172:18	preceding 160:4
paraphrase 133:12	165:13 173:10 174:8	pin 146:6	precise 150:11
parks 163:5	period 169:18 170:14	place 139:18 163:6 173:2 182:11	precisely 135:21 166:11
part 127:3 130:11 139:20 155:20 166:16 171:13 172:2 172:19 173:3	perjury 183:6,8	plaintiffs 117:3 120:6 132:24 168:5,11,16 169:8,17 170:9	present 117:18
partain 133:22	permission 164:22 165:15 165:21 166:16	planning 179:18	presented 167:12
particular 148:24 149:20 173:1	person 152:23 158:16	please 119:23 120:2 166:3	press 152:6
particulars 154:9	personal 169:17 170:14	point 136:22 139:11,20 149:5,22 160:10 163:11 172:18	pretty 132:20
parties 119:19 119:24 182:16	perspective 144:24 158:7	pointed 139:24	previously 141:2
parts 148:14,16 172:15	pertains 122:8	position 132:12 134:16 135:1 141:6 145:1,17	prior 121:6,7 123:11,12 126:22 127:3 160:4 171:13 178:22 179:6 182:5
party 151:8	ph.d. 116:12 118:3 119:18 120:19 161:17 182:6 183:17 184:24	positionality 128:2	probably 152:9
pass 138:10	philadelphia 116:22	positive 173:14	problem 145:23
passage 158:9	phone 134:1	possession 163:15,24	process 151:16 164:24 166:6
past 121:21 122:2 125:12 129:4 173:2 174:5,10	photographer 157:1	possible 122:14	produced 130:21 133:8 133:19 147:6 176:22
pause 119:23	photos 124:15	potentially 149:12	produces 148:23
peirce 160:12	phrase 128:10 129:13	practice 134:4 139:2 140:5	professional 123:24
penalty 183:6,8			

professor 152:21 153:6 153:13 154:17 158:19 161:17 162:3 164:10 165:23 171:11 project 173:9 promote 132:12 properties 167:17 protocol 143:4 provide 133:9 provided 132:24 151:4 provides 156:22 providing 179:11 public 147:15 158:20 168:4 179:24 182:23 183:23 publication 160:19 173:12 publications 142:2 147:16 160:3 publish 161:4 published 148:2 152:2,3 152:4,7 153:6 160:13,24 162:20	puget 164:11 pull 137:7 175:3 176:4,16 177:11 179:20 pulled 166:22 purposes 129:18 133:24 148:9,12 165:4 push 128:12 put 128:6 131:21 134:13 144:18 157:22 176:10,12 179:15,18 puts 146:20,21	quote 127:14 165:1 quotes 163:13 r r 117:1,1 119:3 171:18,18 178:6 raises 132:16 raising 135:22 range 154:3 rate 148:24 149:4,4,20 rather 136:23 139:22 145:6 147:3 162:10 raytheon 178:5 reacted 159:6 159:10 read 130:15 148:4 152:14 152:16 158:9 162:11 165:22 170:5 180:21 183:9,11 reader 132:3 135:12 140:1 156:10,14 reading 152:5 157:8,15 really 128:11 139:23 158:12 reason 132:2 144:3 184:4,7	184:10,13,16 184:19,22 rebuilding 159:14 rebuttal 175:5 175:11,21 recall 125:13 147:24 153:23 154:12 157:5 160:7 165:4 167:23 174:4 receiving 144:1 recess 173:24 recharacterized 138:23 recognize 137:13 recognized 132:20 recollection 152:8 168:12 169:24 170:1 record 119:6 120:3 130:5 142:18 143:3 144:4 173:23 174:2 179:6,16 179:18 180:7 recorded 160:16 161:3 164:3 recording 129:20 139:12 139:16
			qualified 124:18 125:6 177:1 question 122:13 123:16 123:17 124:1 124:23 134:11 138:18 157:4 158:4 178:21 questioned 128:22 questioning 124:5 questions 123:8 179:4 180:5 quite 132:8

records 168:4	relative 182:15	report 121:5,10	126:18 150:14
refer 135:13	182:17	121:21 122:2,7	150:20,22
145:15 160:11	relatively	123:1,11,13,19	174:20,22
reference	156:11	124:13 125:11	repositories
130:20,24	release 177:15	125:21,22,24	156:23 158:10
136:8 140:18	relevant 125:18	126:2,3 127:6	repository
143:17 160:14	169:11,19	128:18 129:9	166:17
referenced	170:13,15	130:22 131:13	representative
133:14 153:24	reliability	133:14,15,24	168:6 169:8,17
references	156:2	134:24 135:20	170:8
122:19 127:14	reliable 149:13	136:1,8 137:3	research
referred 178:9	reliance 133:2	137:6,9,15	127:16,21
referring 129:2	141:18 142:2,4	138:19 142:19	128:16 161:24
145:3,24 146:7	142:11,14,18	143:6,8,10,11	174:15
165:16	143:5,8,12	143:13 144:6,9	reserved 181:4
regard 133:2	144:1,10,16	144:16 146:18	residents 159:5
157:9,11	145:12,15	151:5,9,9	159:9
174:19,22	146:12,19,21	156:8 170:17	respect 151:10
175:8 178:1	remember	171:4 174:16	response 126:3
regarding	162:21,24	174:17 175:5,8	result 139:12
121:21 122:2	173:13	175:12,18,22	173:11
124:4,14 168:5	remote 116:11	176:5,6,7,11,13	retired 145:13
169:8 175:10	119:12,22	178:8,24	158:21
176:10	120:7	reported	reveals 157:1
registered	remotely	116:19	review 152:16
182:3	119:20,21	reporter	153:6,14
regrettable	182:6	120:16 121:4	156:18 158:21
164:21 165:20	render 149:12	131:21 180:8	159:1 162:3,6
regrettably	renumbering	180:14,19,24	164:12 168:2
156:15	141:17	182:3,4	168:10
relabeled 139:9	repeat 122:13	reporting	reviewed
related 178:19	repeating	119:23	125:17 126:5
relates 116:7	124:23 138:17	reports 125:24	126:12,16
		126:6,9,13,17	147:4 148:8,11

150:3,6 reviewer 157:16 164:21 164:21 165:20 reviews 152:13 152:14 179:20 179:21 ride 172:24 173:2 ridgley 163:22 right 123:20 125:2 126:14 127:9 129:15 130:12,13 132:17 134:14 137:5 140:19 141:13 142:8 143:16 144:14 145:2,19 149:16 151:23 152:12 154:17 161:13 162:12 167:19 169:4 171:6,9,24 173:16 175:15 176:21 177:6 ring 155:19 159:16 161:19 ripples 162:19 163:4 risk 156:5 river 151:24 152:15 153:7 153:24 157:12	167:18 169:18 170:15 rmr 116:19 182:22 roberts 163:13 rough 180:13 180:18 roughly 165:12 174:5 rpr 116:19 rules 151:8 s s 117:1 119:3 171:18 salisbury 117:8 sand 162:4,19 163:5 164:13 165:5 166:6 save 183:11 saved 160:17 161:3 saw 145:16 156:18 157:24 saying 136:4 179:22 says 120:21 121:10 128:22 130:11 134:23 135:24 138:19 138:22 139:6 140:24 142:10 145:12 153:14 159:3 162:6,9	163:13,22,22 164:20 165:19 165:19 167:11 167:16 168:1 168:21 169:5 169:15 schedule 143:4 scheduling 150:15 scholarly 160:18 161:10 screen 127:7 137:16 168:1 seamen 159:5,9 search 164:24 sec 168:23 176:17 second 133:17 142:8 143:11 167:1 175:4 177:12 section 156:21 see 122:10,22 126:17 127:9 127:13,17 128:20,24 129:1 130:8,10 130:24 134:9 135:23 136:8 136:13,20 137:22 138:5,9 140:17,20 141:23 142:3 142:10 143:17	146:11,15 148:5,17 159:18 167:7 167:10,14 168:8,18 169:13,21 171:3 176:23 seek 164:22 165:15,21 seemingly 156:21 seen 147:21 167:21 176:6,9 177:14,17 selection 160:5 send 157:20 181:1,2 sense 136:2 170:10 sent 144:17 181:3 sentence 132:13,15 158:3 167:16 168:1 sergeant 145:13 serve 174:15 served 143:8 session 133:21 set 182:12 seven 143:5,9 144:2
--	---	---	--

several 179:10 shadow 159:13 shapes 149:9 sheet 151:4 183:1,13 184:1 short 129:20 shorthand 182:4 show 131:19 133:12 shown 141:2 signal 140:1 signature 180:20 181:4 182:21 184:23 significance 133:21 similar 180:2 simple 156:14 simply 132:7 133:15 134:1 135:23 single 149:11 152:16 sins 149:16 sir 130:17 131:24 135:16 140:23 155:7 175:16 site 166:5,7,14 sitting 175:19 size 167:3 sizes 149:10	skeptical 140:7 skepticism 140:3 sketches 157:2 skip 141:14,19 solely 168:2 solved 132:20 somebody 132:12 135:23 sorry 121:13 124:22 125:9 126:1 133:5 135:7 142:22 154:9,16 157:10 158:17 165:16 167:5 169:1 174:7 175:14 sort 135:22 141:19 156:9 156:14 sound 154:4 164:11 sounds 153:4 154:16,19,21 156:6 157:18 source 134:18 134:20 135:3 136:1 157:2 sources 124:1,5 128:2,3,4,12 129:14 134:8 134:14 147:3 159:4 160:15	173:8 south 164:11 southern 116:3 spanned 153:19 speaking 119:24 specifics 163:1 spell 171:17 spirit 179:14 spoke 133:13 133:20 staff 137:1 172:23 173:2 174:8 standard 130:2 standards 123:24 start 141:16 state 152:21 stated 169:5 170:7 statement 130:14,18 139:7,10 140:9 statements 178:14 states 116:1 117:12 119:14 119:15 120:11 120:13 steamboat 153:17 154:1,8 155:14	stenographic... 182:11 stewardship 158:22 163:5 stop 129:20 142:8 street 116:21 117:7,15 struck 164:20 164:21 165:19 study 166:14 subcontractor 174:12 subject 124:14 167:18 subjects 123:2 123:2 submitted 125:11 142:19 144:4,8 subscribed 183:19 substance 136:23 suffice 130:12 140:7 suite 116:21 summarize 178:2 summary 147:16 169:23 summer 153:9 super 138:7
---	---	---	---

superior 171:19 supplement 151:8 supplemental 132:24 144:20 supplemented 144:20 supports 136:20 supposed 145:15 sure 120:4 122:16 124:24 136:2 162:24 165:10 surprise 147:14 surprised 147:17,20 suss 156:11 sussed 132:5 swear 120:17 144:6 sworn 119:21 120:20 182:6 183:19	138:14 147:1 155:21 171:5 173:8,16,17,19 175:14 taken 173:24 182:10 183:10 talk 124:8 129:3 134:7 talked 133:17 134:1 141:3 talking 120:9 talks 123:23 128:21 165:19 technical 162:8 162:16 tell 148:11 163:2 165:7 172:20 ten 141:15,20 160:4 173:19 terms 148:12 154:5 155:20 164:3 testified 167:17 testify 182:7 testimony 169:6 172:4 178:4 182:10 thank 121:18 122:17 129:10 136:13 138:6 140:10,21 145:8 166:20 167:2 176:19	thanks 133:7 thing 129:12 134:12 138:19 141:5 145:16 146:11 156:9 156:15 164:20 things 123:14 124:1 133:10 157:22 160:11 180:2 think 120:7 127:24 128:1 130:23 131:9 131:10,10 134:3,4 135:17 139:19,20 140:6 143:12 144:19 146:24 149:22 150:11 152:9 158:8,12 159:11 161:12 161:15 164:9 164:17 168:14 173:13 177:7 179:13,23 third 133:20 143:11 thought 139:23 152:3,4 three 125:24 150:14,22 153:17 154:13 155:14	throws 162:10 time 119:11 130:17 133:13 133:17,20 136:9 146:24 154:3,7 155:22 160:14,14 166:24 169:18 170:14 173:17 173:21 174:1 174:24 176:18 179:19 180:6 182:11 timeliness 150:19 timely 150:14 tiny 138:7 title 157:1 today 175:19 today's 119:10 179:8 together 144:18 told 133:23 took 133:18 138:21 139:18 173:1 top 121:11 130:10,19,20 146:11 169:5 topic 121:22 122:3 125:6 172:5,13
t			
t 117:1 171:18 178:6 table 137:17 tables 133:9 take 126:12 129:19 130:17			

torts 117:12 total 146:12 towards 124:10 tracks 168:6 training 177:1 177:4 transcribe 130:5 transcribing 135:24 transcript 150:4,7 169:12 180:15,22 182:10 183:9 transcripts 180:11 treat 140:3 tribal 166:5 tribes 166:9 tried 136:19 true 142:21 144:13 149:17 157:5 158:5 165:2 168:10 183:11 truth 182:7,7,8 try 132:11 133:6 160:23 trying 123:18 140:1 144:12 tuesday 116:14 181:6 two 136:9 137:14 174:20	174:22 typed 133:15 135:18	usdoj.com 117:13,14 use 121:22 123:14 124:4 124:15,18 125:7 129:21 129:24 132:11 used 125:10 129:13 161:1 useful 127:20 using 128:10 128:10	174:1 180:6 videotaped 116:11 view 139:11 violates 179:14 vocabulary 162:9,16 volume 116:9 153:10 159:2 162:5 164:19
	u	u 171:18 u.s. 177:22 ucla 161:23 unable 165:1 under 150:15 151:7 163:4,9 183:6,8,15 understand 123:16,17 136:4 146:8 156:17 172:24 173:1 179:21 understanding 143:3 145:17 154:15,20 155:6 183:14 united 116:1 117:12 119:14 119:15 120:11 120:12 university 147:12 152:6 152:22 158:20 161:17 unreliable 149:6,12,23 untrue 165:6 updated 177:16	w
		v v 119:14 various 148:1 153:24 vast 146:19 verb 128:14 verbal 123:23 124:5 verbally 122:21 123:4 verbatim 182:10 veritext 116:21 119:8 versus 171:20 video 119:12 120:3 videographer 117:20 119:5,8 120:15 121:4 121:12 173:21	wallace 117:4 120:5,8 wallacegraha... 117:5,6,7 want 130:15 134:12 140:2 143:21 144:3,7 157:21 179:15 180:9,21 wanted 143:1 war 164:13,16 164:19 washington 117:15 water 116:5 119:14 183:4 waterfront 159:6,10 way 128:13 133:6 135:11 139:24 140:12 141:14,20

150:16 159:14 171:13 we've 133:8 weakness 162:7 162:15 web 147:15 week 144:17 weekly 157:3 weight 169:7 went 158:8 178:18 wisconsin 171:19 witness 118:2 119:21 120:17 134:18,20 135:7 138:2 140:21 144:6 167:2,12 179:12 word 147:2 155:21 162:10 171:18,18 179:15 words 134:13 134:19,22 135:20 work 130:3 139:21 152:17 156:16,20,22 158:2 174:5 worked 171:8 174:11	working 174:9 workout 141:22 worry 171:5 177:19 wrap 173:18,20 write 134:17,24 135:2,3,9 writing 176:10 176:13 written 139:13 139:16 147:2 156:10 170:17 172:8,11,12,14 178:24 wrong 154:23 159:11 165:6 wrote 126:4 151:23 154:21 157:15,16 158:21 162:18 164:12 172:18 173:3	160:9 163:10 167:7 168:24 169:2 170:7 180:10 year 132:7 155:1 years 160:4 172:16,21 yep 157:17 163:8,8
		z
		zoom 133:21 137:23 141:1
	y	
	y'all 131:21 137:7 yeah 130:8,18 131:24 132:2 133:6 134:23 138:7,19 140:11 145:21 154:18 155:2 157:11,13	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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