

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

JOHN DiQUISTO, ROSEMARY KNOX, and
MILDRED EVANS,

Plaintiffs,

vs.

No. 1-04-CV-020671

COUNTY OF SANTA CLARA, BOARD
OF SUPERVISORS OF THE COUNTY
OF SANTA CLARA; PETER KUTRAS;
JR., COUNTY EXECUTIVE FOR THE
COUNTY OF SANTA CLARA; LUKE
LEUNG, HUMAN RESOURCES
DIRECTOR FOR THE COUNTY OF
SANTA CLARA; and DOES 1 TO 20
inclusive,

Defendants.

DEPOSITION OF PETER KUTRAS, JR.

DATE: August 24, 2004
TIME: 11:09 a.m.
LOCATION: WYLIE, McBRIDE, JESINGER,
PLATTEN & RENNER
2125 Canoas Garden Avenue
Suite 120
San Jose, CA 95125

REPORTED BY: KAREN L. BUCHANAN
CSR No. 10772

5060
15646

Bell & Myers

CERTIFIED SHORTHAND REPORTER, INC.

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1 APPEARANCES

2

3 For the Plaintiffs WYLIE, McBRIDE, JESINGER,
DiQuisto and Knox: PLATTEN & RENNER

4 BY: CHRISTOPHER PLATTEN
ATTORNEY AT LAW
2125 Canoas Garden Avenue
Suite 120
San Jose, CA 95125
(408) 979-2920

6 For the Plaintiff CLISHAM & SORTOR
Evans: BY: DAVID P. CLISHAM

8 ATTORNEY AT LAW
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San Francisco, CA 94109
(415) 775-1395

11 For the Defendants: OFFICE OF THE COUNTY COUNSEL
12 BY: MARTIN H. DODD
ATTORNEY AT LAW
13 70 West Hedding Street
East Wing, Ninth Floor
14 San Jose, CA 95110-1770
(408) 299-5900

15 Also Present: ROSEMARY KNOX
16 LUKE LEUNG

17 The Reporter: BELL & MYERS, CSR, INC.
18 BY: KAREN L. BUCHANAN, CSR
19 50 Airport Parkway
Suite 203
20 San Jose, CA 95110
(408) 287-7500

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1 PETER KUTRAS, JR.,

2 being duly sworn by the Certified Shorthand Reporter to

3 tell the truth, the whole truth, and nothing but the

4 truth, testified as follows:

5 EXAMINATION BY MR. PLATTEN:

6 Q. Thank you. Would you state your full name for

7 the record, please?

8 A. Peter Kutras Jr., K-U-T-R-A-S.

9 Q. Mr. Kutras, you're employed by the County of

10 Santa Clara as the County's chief executive officer; is

11 that correct?

12 A. Yes.

13 Q. That sort of makes you the big cheese, as it

14 were?

15 MR. DODD: Objection. Argumentative. He

16 doesn't look like a piece of cheese to me.

17 BY MR. PLATTEN:

18 Q. That's the chief position within the County

19 administration; is that correct?

20 A. Yes.

21 Q. You're appointed by the Board of Supervisors?

22 A. I am.

23 Q. You're a salaried employee?

24 A. Yes.

25 Q. What is your annual salary?

3

1 INDEX OF EXAMINATION

2 Page

3 By Mr. Platten.....4

4

5 --o0o--

6 INDEX OF EXHIBITS

7 Page

8

9 7 Document Bates stamped SCC 00001 21

10 8 April 7, 2004 Package Proposal 73

11 9 April 7, 2004 Package Proposal revised 74

12 4/12/04

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1 A. \$221,500.

2 Q. And is that represented on your paycheck in an

3 hourly format?

4 A. I don't know.

5 Q. On a per-hour basis, approximately what is your

6 compensation?

7 MR. DODD: Objection. Irrelevant.

8 BY MR. PLATTEN:

9 Q. You may answer.

10 MR. DODD: You can answer the question.

11 THE WITNESS: I think it's like \$106, something

12 like that.

13 BY MR. PLATTEN:

14 Q. How did you first learn that County labor

15 associations might be supporting an initiative that

16 would provide for binding arbitration of labor disputes

17 with the County?

18 A. I'm not sure how I first learned, whether it

19 was from media calls or through labor relations staff.

20 I don't know.

21 Q. When did you first learn about this?

22 A. The spring of this year.

23 Q. Month of March?

24 A. I'm sorry?

25 Q. The month of March?

6

1 A. I'm not certain which month. It was in the
 2 spring.
 3 Q. After learning this, did you do anything to try
 4 to defeat the qualification or passage of the
 5 initiative?
 6 MR. DODD: Objection. When you say "you," are
 7 you talking about him in his personal capacity?
 8 MR. PLATTEN: In any capacity.
 9 MR. DODD: Well, let's break it down. Let's
 10 talk about it. Why don't you ask him that question.
 11 BY MR. PLATTEN:
 12 Q. Why don't you answer my question first. After
 13 learning this, did you do anything to try to defeat the
 14 qualification or passage of the Binding Arbitration
 15 Initiative?
 16 MR. DODD: At what point?
 17 BY MR. PLATTEN:
 18 Q. At any point after you learned of this.
 19 A. I personally refused a signature gatherer in
 20 front of the Target Store in Morgan Hill. I said I
 21 would not sign the petition.
 22 Beyond that, I've taken no actions to defeat
 23 the measure.
 24 Q. How about to oppose its qualification?
 25 MR. DODD: Other than what he's already

7

1 testified to?
 2 MR. PLATTEN: Obviously.
 3 THE WITNESS: I have -- other than official
 4 actions in support of litigation efforts by the County,
 5 I've taken no other independent actions.
 6 BY MR. PLATTEN:
 7 Q. Which legal actions are you referring to?
 8 MR. DODD: If you recall.
 9 THE WITNESS: I don't know all of the cases and
 10 their titles.
 11 BY MR. PLATTEN:
 12 Q. Could you recall any of them?
 13 A. I recall one regarding -- I don't know the
 14 title of the case, but it's just an effort to not put
 15 the measure on the ballot.
 16 Q. Have you taken any other steps as County chief
 17 executive officer to try to assure the defeat of the
 18 Binding Interest Arbitration Initiative?
 19 MR. DODD: Objection. It's argumentative. And
 20 I think it contradicts and is inconsistent with his
 21 testimony. I don't think he said he's done anything to
 22 try to defeat the initiative in any capacity.
 23 BY MR. PLATTEN:
 24 Q. You can answer.
 25 A. Will you restate the question?

8

1 MR. PLATTEN: Sure. Madam Reporter, would you
 2 repeat the question?
 3 (The record was read by the Reporter.)
 4 MR. DODD: Same objection.
 5 BY MR. PLATTEN:
 6 Q. You may answer, Mr. Kutras.
 7 A. I have taken actions consistent with my role as
 8 a chief executive in furthering the employer/employee
 9 relations goals of the County as discussed with the
 10 Board of Supervisors in closed session on this matter.
 11 Q. And can you describe exactly what those actions
 12 are that you're referring to?
 13 MR. DODD: Objection. Calls for the disclosure
 14 of communications in closed session and other official
 15 communications, and they're privileged. And I instruct
 16 the witness not to answer.
 17 MR. PLATTEN: I wasn't asking about
 18 communications. I was asking about actions. He said he
 19 has taken actions.
 20 MR. DODD: Okay. Well, you weren't clear.
 21 THE WITNESS: I took actions to direct through
 22 subordinate staff proposals to be made, to bargaining
 23 units, to meet and confer on proposed charter measures.
 24 I think those are the primary actions.
 25 BY MR. PLATTEN:

9

1 Q. Which charter measures?
 2 A. Initiative measures by the County with regard
 3 to Charter Section 709 and with regard to Charter
 4 Section 715.
 5 Q. So those proposed measures on 709 and 715 were
 6 taken or put on the table with the County labor
 7 organizations as a direct consequence of the efforts of
 8 certain groups to qualify and to pass a Binding Interest
 9 Arbitration Initiative on the November ballot?
 10 A. No.
 11 MR. DODD: Objection. Argumentative.
 12 BY MR. PLATTEN:
 13 Q. Were they a consequence at all, direct or
 14 indirect, of the efforts to put a Binding Interest
 15 Arbitration Initiative on the November 2004 ballot?
 16 MR. DODD: Well, to the extent that you're
 17 asking him to reveal any policy decisions made by the
 18 Board of Supervisors, then it's -- those discussions and
 19 that information is privileged and I instruct him not to
 20 answer.
 21 MR. PLATTEN: I'm not asking about
 22 communications, Counsel.
 23 MR. DODD: No, no, but to the extent you're
 24 asking about consequences, I think you are. Because
 25 there is only one way you can learn about consequences,

10

1 and that is from communication. So I think you are.
 2 BY MR. PLATTEN:
 3 Q. My question is this, Mr. Kutras. You've
 4 indicated that you took actions consistent with your
 5 role as chief executive officer of the County in
 6 response to the efforts to qualify and pass a Binding
 7 Interest Arbitration Initiative on the 2004 ballot. I
 8 asked you which actions. You identified a direction to
 9 subordinate staff to make proposals on Charter Measures
 10 709 and 715 to various labor organizations. Am I
 11 correct so far?
 12 A. No.
 13 Q. What's incorrect about what I've said?
 14 A. You asked me if these actions were in response.
 15 I said I took actions consistent with my role following
 16 closed-session discussions and gave directions to
 17 subordinate staff to meet and confer on proposed Charter
 18 Measure 709 and 715.
 19 The discussions of those and the reasons and
 20 discussions of potential impact are tied to
 21 closed-session discussions, and I have been instructed
 22 not to testify to that.
 23 Q. Is it your testimony that directing your
 24 subordinate staff to propose Charter Measure 709 and 715
 25 had nothing to do with the efforts of certain labor

11

1 groups to obtain passage of the Binding Interest
 2 Arbitration Initiative on the November 2004 ballot?
 3 MR. DODD: Once again, to the extent that you
 4 are attempting to obtain information about the policy
 5 decisions made by the Board of Supervisors, whether or
 6 not they had anything to do with those, it would --
 7 insofar as your question is concerned, I'm not going to
 8 let him answer those questions. It's clear as a bell
 9 that you can't discover indirectly what you can't
 10 discover directly. And as far as I'm concerned, that's
 11 what you're after, and I'm not going to let him answer
 12 that question.
 13 BY MR. PLATTEN:
 14 Q. Can you answer the question, Mr. Kutras?
 15 A. Can I hear the question again, please?
 16 MR. PLATTEN: Madam Reporter.
 17 (The record was read by the Reporter.)
 18 THE WITNESS: No, that is not my testimony.
 19 BY MR. PLATTEN:
 20 Q. So I take it that directing your subordinate
 21 staff to make the proposals did have something to do
 22 with the efforts of certain groups to obtain passage of
 23 a Binding Interest Arbitration Initiative on the
 24 November 2004 ballot; is that correct?
 25 A. Yes.

12

1 Q. Can you explain what the connection is?
 2 A. The initiative effort by three bargaining
 3 units, RNPA, Government Attorneys and CPOA, were in my
 4 view a unilateral attempt to change the collective
 5 bargaining relationship in our county. I felt that this
 6 was a subject of negotiability, of meet and confer, that
 7 it would be tantamount to the County moving unilaterally
 8 without giving notice and meeting.
 9 I felt that it impacted the entire landscape of
 10 labor relations with all County bargaining units to the
 11 extent that decisions would be made under the proposed
 12 initiative by an outside arbitrator, not accountable to
 13 the electorate of this county.
 14 I felt that we needed to not only propose
 15 Charter Section 715, which I saw as a way to retain
 16 accountability with the electorate, but that to the
 17 extent that the proposed initiative, which is for 714,
 18 as I saw it, by an initiative signature gatherer also
 19 attempted to retain a definition of Charter Section 709.
 20 I felt that we needed to modify Section 709, which in my
 21 view has been a longstanding problematic provision of
 22 the Charter.
 23 Q. Did you take any other actions after learning
 24 of this initiative?
 25 MR. DODD: It's vague and ambiguous. But if

13

1 you think you can answer it.
 2 BY MR. PLATTEN:
 3 Q. I'll rephrase the question.
 4 Did you take any other actions to obtain the
 5 defeat of the initiative after learning about it?
 6 MR. DODD: Well, objection. That's
 7 argumentative. I don't think he's yet testified that he
 8 took actions to defeat it.
 9 THE WITNESS: I think that I certainly have
 10 views as an individual about the proposed initiative. I
 11 was not reluctant to express those views as an
 12 individual, and people that I see in the community,
 13 people that I know.
 14 Again, I'm troubled by the reference that I'm
 15 taking actions to defeat. At the time at least that was
 16 developing, there was no measure on the ballot, there
 17 was no initiative and there was no, quote, vote before
 18 the voters.
 19 BY MR. PLATTEN:
 20 Q. Is it your testimony that the proposed changes
 21 by the County to provision 709 and proposed 715 of the
 22 Charter would not have been placed on the ballot by the
 23 Board of Supervisors if the Binding Interest Arbitration
 24 Initiative had not qualified for the ballot?
 25 A. No, that is not my testimony. I think -- let

14

1 me clarify. I think with regard to 715, that clearly
 2 relates to 714. But with 709, that's an independent
 3 issue.
 4 Q. Did you instruct your subordinates at the
 5 Office of Labor Relations to initiate a dialogue with
 6 various employee organizations with respect to their
 7 intentions to either support or oppose the Binding
 8 Interest Arbitration Initiative on the November 2004
 9 ballot?
 10 A. There were some bargaining units that were in
 11 active bargaining where that is the case, yes.
 12 Q. Which units were those?
 13 A. Deputy Sheriffs' Association, Registered
 14 Nurses, Correctional Officers. There were discussions
 15 with Government Attorneys, as well. But I don't know --
 16 those were the four where the discussions were
 17 happening.
 18 Q. Did you instruct the Office of Labor Relations
 19 to initiate dialogue with other employee organizations
 20 with respect to their intentions to either support or
 21 oppose the Binding Interest Arbitration Measure?
 22 A. Not in the direct manner and in the same manner
 23 as the others. There was meet and confer on proposed
 24 Charter measures, which I'm sure led to discussions of
 25 the pending initiative. But there wasn't direct

15

1 bargaining linkages, if you will.
 2 Q. Have you been having personal breakfast and/or
 3 lunch meetings with Kristy Sermersheim of Local 715 to
 4 discuss coordinating efforts with Local 715 to oppose
 5 the Binding Interest Arbitration Initiative?
 6 A. No.
 7 Q. Have you had any breakfast or lunch meetings
 8 with Ms. Sermersheim since April of 2004 to date?
 9 A. No.
 10 Q. I'd like you to take a look, Mr. Kutras, at
 11 what we've marked as Deposition Exhibit No. 5.
 12 I don't believe you have it yet, Mr. Dodd.
 13 MR. DODD: Oh, okay. You didn't ask, but we
 14 did bring a document in response.
 15 MR. PLATTEN: Good. I'll get back to that in a
 16 second.
 17 MR. DODD: Okay.
 18 BY MR. PLATTEN:
 19 Q. Deposition Exhibit No. 5 is a copy of a May 16,
 20 2004, article that appeared in the San Jose Mercury News
 21 entitled "Labor Tactics Questioned."
 22 Are you familiar with this article, Mr. Kutras?
 23 A. I have previously seen it. If you're going to
 24 ask me questions, I'd like to take a minute to read it.
 25 Q. Please do so.

16

1 A. Thank you. I've read it, thank you.
 2 Q. Having reviewed Deposition Exhibit No. 5, did
 3 you tell the Mercury News reporter, Putsata Reang,
 4 that's spelled P-U-T-S-A-T-A, Reang, R-E-A-N-G, quote,
 5 "We are reaching out and building a coalition to oppose
 6 their effort in November"?
 7 A. Yes.
 8 Q. When did you tell Ms. Reang that?
 9 A. I don't know the exact date. Presumably the
 10 week prior. The reporters don't work on weekends, so
 11 the week prior.
 12 Q. At the time that you made that statement, was
 13 it true that you were, quote, "reaching out and building
 14 a coalition to oppose their effort in November," close
 15 quote?
 16 MR. DODD: Objection. It's vague and
 17 ambiguous. We don't know who -- you haven't clarified
 18 who is --
 19 MR. PLATTEN: We're getting to that, Mr. Dodd.
 20 BY MR. PLATTEN:
 21 Q. Mr. Kutras?
 22 A. The context of my quote was that Putsata, who
 23 had talked extensively to Jim Shore, the president of
 24 the Government Attorneys' Association who had made the
 25 charge that we were doing something illegal, prompting

17

1 her to make the inquiries to me, she said what is the
 2 County doing in the face of what she said was a
 3 million-dollar war chest having been built by the three
 4 bargaining units. And I said we will be reaching out;
 5 we are going to build a coalition; we are going to
 6 oppose this effort.
 7 I also went on to say that the community needs
 8 to be fully informed, the community needs to be aware of
 9 this effort, and that we're going to make efforts to
 10 make the community aware of it.
 11 I had taken at the time of this article no
 12 steps, either individually or in my official capacity,
 13 to, quote, unquote, build a coalition.
 14 Q. My question was, was it true that you were,
 15 quote, "reaching out and building a coalition to oppose
 16 their effort in November," close quote?
 17 MR. DODD: I think he just answered that.
 18 BY MR. PLATTEN:
 19 Q. I'd like to refocus on the question. Is it
 20 true, or is it not true?
 21 A. To the extent I was having closed-session
 22 conversations with the Board and discussing howto or
 23 whether to take County positions on the measure with
 24 ballot measures, yes, that's true.
 25 Was I talking to anyone external to the County

18

1 of Santa Clara? No.

2 Q. Who were you referring to when you told

3 Ms. Reang, quote, "We are reaching out," close quote?

4 A. I was referring to my own individual efforts to

5 talk to members of the community, to talk to people in

6 my community, anyone I come in contact with in my

7 personal capacity as an individual that I thought these

8 measures were wrong.

9 Q. Were you also referring to negotiations with

10 County labor organizations?

11 A. Not directly, no.

12 Q. Indirectly?

13 A. No. My context here of this response to her

14 was what were we going to do if the measures moved

15 forward. And I indicated that we would try to reach out

16 and build a coalition to oppose the effort.

17 Q. At the time you made this statement, in your

18 mind, did you believe that that would include building a

19 coalition with County labor organizations to oppose the

20 Binding Initiative -- Binding Arbitration Initiative?

21 A. It could, yes.

22 Q. Who were you referring to when you told the

23 Mercury News and Ms. Reang, quote, "their effort in

24 November"? Is that GAA, RNPA and CPOA?

25 A. Correct.

19

1 Q. When you told the Mercury News, "their effort

2 in November," was that referring to the Binding Interest

3 Arbitration Initiative?

4 A. Yes.

5 Q. And by "reaching out," I take it that you meant

6 offering County labor organizations agreements in

7 support -- in exchange for their opposing the Binding

8 Interest Arbitration Initiative.

9 MR. DODD: Objection. Argumentative, and

10 mischaracterizes his testimony. He is not to testify.

11 BY MR. PLATTEN:

12 Q. You can answer the question, Mr. Kutras.

13 THE WITNESS: Mr. Dodd, can I answer?

14 MR. DODD: Yes, you can.

15 THE WITNESS: No.

16 BY MR. PLATTEN:

17 Q. Did you have in your mind at the time that you

18 would be making offers to County labor organizations for

19 new collective bargaining agreements in exchange for

20 agreements not to support a Binding Arbitration

21 Initiative?

22 MR. DODD: Are you talking about him

23 personally?

24 MR. PLATTEN: Yes.

25 MR. DODD: That he would make the offers?

20

1 BY MR. PLATTEN:

2 Q. I'm talking about in your mind at the time that

3 you made this statement to Ms. Reang, did you have in

4 your mind when you used the term "reaching out" having

5 the County make offers for collective bargaining

6 agreements to County labor organizations in exchange for

7 an agreement not to support the Binding Interest

8 Arbitration Initiative?

9 A. As an element of agreements that otherwise

10 would have been reached, to the extent this could be a

11 component, yes. As the sole criteria for agreement, no.

12 Q. Did you instruct any of your subordinates to

13 take any steps to negotiate collective bargaining

14 agreements including wage increases in exchange for not

15 supporting the Binding Interest Arbitration Initiative?

16 A. Direct exchange, no.

17 Q. How about indirect exchange?

18 A. As part of an overall package agreement, yes.

19 Q. Was your reference in your statement to

20 "November" a reference to the November election? I'm

21 referring now to Exhibit No. 5.

22 A. Is my reference to --

23 Q. "November" a reference to the November

24 election?

25 A. Yes.

21

1 MR. PLATTEN: You had some documents, Mr. Dodd?

2 MR. DODD: One, which we have marked as

3 SCC 00001.

4 MR. PLATTEN: And can you tell me what this

5 document is?

6 MR. DODD: Are you asking me or asking the

7 witness?

8 MR. PLATTEN: You're producing it.

9 MR. DODD: Well, I'm producing it, but why

10 don't you let the witness tell you. It's his document.

11 BY MR. PLATTEN:

12 Q. All right. Mr. Kutras, you have a document

13 marked SCC 00001, which we'll put in the record as

14 Deposition Exhibit No. 7, if you would.

15 (Plaintiff's Exhibit 7 was marked for

16 identification.)

17 BY MR. PLATTEN:

18 Q. Can you tell us, Mr. Kutras, what the document

19 that we've marked as Depo Exhibit No. 7 is?

20 A. Yes. I was asked to bring any notes I had with

21 regard to meeting with bargaining units with regard to

22 the Binding Interest Arbitration Initiative. This is

23 off of a little slip of paper that I took a note on

24 Saturday, March 27th, at 6:20 p.m.

25 I was called by County Communications the

22

1 emergency dispatch function for the County, who have
 2 instructions only to contact me on off hours for
 3 emergencies that require my attention. Apparently, the
 4 president of the CPOA, Everett Fitzgerald, had imposed
 5 upon the watch commander to call me and indicate that
 6 while it was not an emergency, it was a grave matter
 7 that required urgent attention.
 8 I was at a family gathering. I left that
 9 family gathering and returned the call to
 10 Mr. Fitzgerald. After hearing him and chastising him
 11 for utilizing the emergency communication contact
 12 network, it became clear to me he wanted a meeting with
 13 regard to the Binding Interest Arbitration Measure and
 14 with regard to the position that CPOA would be taking on
 15 it.
 16 He asked to meet that weekend. I told him I
 17 could meet with him at 7:30 Monday morning, whereupon a
 18 meeting did take place with Mr. Leung being present and
 19 myself and Mr. Fitzgerald and his vice president, Bill
 20 Calabrese, who was also present.
 21 At that meeting, Mr. Fitzgerald indicated that
 22 they were having internal discussions within their
 23 bargaining unit about whether or not to join the
 24 coalition, that if the County would give more money,
 25 they wouldn't be part of the coalition.

23

1 MR. DODD: When you say "coalition," you
 2 mean --
 3 THE WITNESS: With RNPA and with GAA, and I
 4 don't know at the time DSA was settled or not.
 5 I indicated to him that this was problematic,
 6 because we had put out significant sums of money to try
 7 and get agreement with the unit and that he -- I asked
 8 what his internal dissension was. He indicated that
 9 Richard Abbate, I think the spelling is A-B-B-A-T-E, was
 10 leading an effort to thwart the new leadership.
 11 I remember distinctly humorously commenting,
 12 "So Abbate is opposing the interest arbitration
 13 measure?" He said, "Yes." I said, "Great. I'm in the
 14 same position as Richard Abbate."
 15 We had that conversation. It was left open.
 16 The meeting adjourned. That's what this note reflects.
 17 The meeting was the following Monday, so the 29th of
 18 March.
 19 BY MR. PLATTEN:
 20 Q. Did you take any notes at the meeting on the
 21 29th?
 22 A. I did not.
 23 Q. Did you send any e-mails out following that
 24 meeting?
 25 A. I did not.

24

1 Q. Any other written communication regarding the
 2 content of the meeting --
 3 A. No.
 4 Q. Let me finish the question, please, Mr. Kutras.
 5 A. All right.
 6 Q. -- with Mr. Fitzgerald?
 7 A. No.
 8 Q. Are you sure that it took place on the 29th and
 9 not on April 6th?
 10 A. I'm absolutely positive.
 11 Q. That is the meeting with yourself,
 12 Mr. Calabrese, Mr. Leung and Mr. Fitzgerald?
 13 A. Yes.
 14 Q. At that meeting, did you state to
 15 Mr. Fitzgerald that you would, quote, "Use every penny
 16 you had to fight the Binding Interest Arbitration
 17 Initiative"?
 18 A. No.
 19 Q. Did you use words at all to that effect?
 20 A. I used words to indicate that I would oppose
 21 the initiative, yes.
 22 Q. Did you indicate to Mr. Fitzgerald that the
 23 County would be opposing the initiative on a policy
 24 basis?
 25 MR. DODD: What do you mean by "policy basis"?

25

1 MR. PLATTEN: Let me rephrase the question.
 2 BY MR. PLATTEN:
 3 Q. Did you indicate to Mr. Fitzgerald that the
 4 County would take appropriate actions to oppose the
 5 Binding Interest Arbitration Initiative?
 6 A. I just -- I think it was more general. I think
 7 I told him that, "You know we would oppose it. We don't
 8 agree with that method of resolving disputes as a public
 9 employer."
 10 Q. Did you state to Mr. Fitzgerald that you would
 11 be meeting, you or your subordinates would be meeting
 12 with other County labor organizations to try to gain
 13 their opposition to the initiative?
 14 A. No.
 15 Q. Did you ever make a demand to Correctional
 16 Officers or RNPA or GAA to bargain over the provisions
 17 of the Binding Interest Arbitration proposal?
 18 A. No.
 19 Q. Did you ever have a meeting to discuss with the
 20 representatives of those organizations any possible
 21 alternatives to the Binding Interest Arbitration
 22 proposal that they had qualified for the ballot?
 23 MR. DODD: Well, are you asking a meeting where
 24 all three of them were present?
 25 MR. PLATTEN: That's correct.

26

1 MR. DODD: Oh, okay. I mean there is an issue
 2 as to whether -- as to whether we can talk about what
 3 may have gone on in bargaining sessions with anybody
 4 other than RNPA, and I don't know.
 5 MR. PLATTEN: I represent GAA, and any concerns
 6 you have, I believe Mr. Clisham can speak for CPOA if
 7 necessary.
 8 MR. DODD: Yeah. Is that the case?
 9 MR. CLISHAM: Yes.
 10 BY MR. PLATTEN:
 11 Q. My question, Mr. Kutras, goes to did you have
 12 any meetings with the representatives of the RNPA, the
 13 GAA and the CPOA to discuss possible alternative
 14 language to the Binding Interest Arbitration Initiative
 15 that had qualified for the ballot?
 16 MR. DODD: You're talking about 714, now?
 17 MR. PLATTEN: Yes.
 18 MR. DODD: And a meeting where all three were
 19 present?
 20 MR. PLATTEN: That was my question.
 21 MR. DODD: Okay. I just want to make sure we
 22 understand the ground rules.
 23 THE WITNESS: And the three bargaining units
 24 have consented to discuss --
 25 MR. DODD: I think we just heard on the record

27

1 that they have.
 2 THE WITNESS: All right.
 3 I was present at a meeting arranged by
 4 Supervisor Gage.
 5 BY MR. PLATTEN:
 6 Q. June 4th, 2004?
 7 A. I'm trying -- I don't remember exactly when it
 8 was. I was going to say sometime June or July.
 9 The purpose of the meeting was for -- the
 10 bargaining units had approached Mr. Gage saying, "The
 11 County is not listening to us."
 12 Mr. Gage requested that I be present, along
 13 with -- I brought Deputy County Executive Leode
 14 Franklin, L-E-O-D-E, Franklin, and Human Resources
 15 Director Luke Leung to the meeting. RNPA, Rosemary Knox
 16 was present for RNPA, Jim Shore was present for GAA, and
 17 Everett Fitzgerald was present for CPOA. Just those
 18 three.
 19 They presented individually what would call a
 20 term sheet or condition of agreement sheet listing items
 21 that they required to reach agreement with the County.
 22 As part of that, each unit indicated they all
 23 had to agree or none could agree. That was the first
 24 piece.
 25 And the second piece was that if we -- we had

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1 to agree that 714, the proposed measure, would go on the
 2 ballot, but the units would meet with us if we wished to
 3 discuss modifications, but that binding interest
 4 arbitration would have to be on the ballot.
 5 My recollection was that it was advanced to us
 6 that this needed to get done before the signatures were
 7 turned in, that time was running out, and they sought an
 8 agreement with those package conditions.
 9 Q. Did you make any proposal to these bargaining
 10 units for alternative language to that contained in 714
 11 for binding interest arbitration? I'm speaking of that
 12 meeting at June 4th.
 13 A. At that meeting, no.
 14 Q. At any other meeting?
 15 A. Our alternative proposal was to not put the
 16 measure on. We did not, if you will, tweak the
 17 proposal.
 18 Q. Thank you. Did you talk to Craig Anderson from
 19 the Daily Journal about the Binding Interest Arbitration
 20 Initiative sometime in mid May 2004?
 21 A. Not that I recall. I know he called me. I
 22 don't know that I hooked up with him.
 23 Q. Let me show you what we've marked, Mr. Kutras,
 24 Deposition Exhibit 6 which is a May 19, 2004, article
 25 from the Daily Journal. Take a moment to read it, and

29

1 let me know when you're done.
 2 A. I've read the article.
 3 Q. Having read Deposition Exhibit No. 6, does this
 4 refresh your recollection as to whether you may have
 5 spoken to Mr. Anderson prior to the publication of this
 6 article?
 7 A. Is this 6?
 8 Q. Yes.
 9 A. I did not speak to him, no.
 10 Q. In the third column of the article,
 11 mid-paragraph reads:
 12 "County officials acknowledge they are
 13 engaging in a divide-and-conquer strategy,
 14 hoping to isolate the attorneys whom they
 15 accuse of trying to grab more money during
 16 tight budget times. But they deny doing
 17 anything illegal."
 18 Were you one of the County officials referred to in
 19 this article?
 20 A. No. I mean let me put it a different way. I
 21 did not talk to him. I don't know what his source is
 22 for this. I typically don't talk to the legal papers if
 23 I can avoid that.
 24 Q. In mid May of 2004, was the County engaged in a
 25 divide-and-conquer strategy hoping to isolate the

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1 attorneys?
 2 A. No.
 3 Q. Have they ever engaged in such a strategy?
 4 A. No.
 5 Q. At your meeting that you've described with
 6 Mr. Fitzgerald and Mr. Calabrese and Mr. Leung, did you
 7 suggest to Mr. Fitzgerald that if CPOA wanted to come to
 8 agreement with the County on wages, hours and working
 9 conditions that the CPOA would have to drop out of any
 10 coalition with RNPA and GAA and stop pursuing a Charter
 11 amendment to establish binding arbitration?
 12 MR. DODD: Can you repeat the question?
 13 BY MR. PLATTEN:
 14 Q. At the meeting that you've described between
 15 yourself, Mr. Fitzgerald, Mr. Calabrese and Mr. Leung,
 16 did you suggest to Mr. Fitzgerald that if the CPOA
 17 wanted to come to an agreement with the County on wages,
 18 hours and working conditions, the CPOA would have to
 19 drop out of the coalition with RNPA and GAA and stop
 20 pursuing a Charter amendment to establish binding
 21 interest arbitration?
 22 A. No.
 23 Q. Did you suggest to Mr. Fitzgerald that you
 24 would use every penny that you had to fight binding
 25 interest arbitration?

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1 MR. DODD: Objection. Asked and answered.
 2 THE WITNESS: No, I did not.
 3 BY MR. PLATTEN:
 4 Q. Was that statement, however, a true reflection
 5 of your state of mind at the time?
 6 MR. DODD: His personal state of mind?
 7 MR. PLATTEN: That's correct.
 8 THE WITNESS: No.
 9 BY MR. PLATTEN:
 10 Q. What else have you done to oppose passage of
 11 the Binding Interest Arbitration Initiative?
 12 MR. DODD: Objection. It's argumentative,
 13 because it assumes that he has taken steps to oppose it.
 14 BY MR. PLATTEN:
 15 Q. Have you talked to County labor representatives
 16 seeking to acquire their opposition or obtain their
 17 opposition to the Binding Interest Arbitration
 18 Initiative?
 19 MR. DODD: Can you restate it --
 20 MR. PLATTEN: I'll rephrase.
 21 BY MR. PLATTEN:
 22 Q. Have you talked to representatives of County
 23 labor organizations seeking to attain or obtain their
 24 opposition to the Binding Interest Arbitration
 25 Initiative?

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1 MR. DODD: Has he talked with --
 2 MR. PLATTEN: That was my question.
 3 MR. DODD: Okay. Well, again, sometimes you
 4 say "you," and I'm not sure whether you're talking about
 5 him personally as opposed to the County as an
 6 organization.
 7 But if you're going to ask him about
 8 conversations that he's had with organizations other
 9 than RNPA, CPOA, and GAA and perhaps DSA, then you may
 10 be asking him about information that is privileged, and
 11 I will instruct him not to answer.
 12 BY MR. PLATTEN:
 13 Q. Let me rephrase the question.
 14 Have you talked to any representatives of
 15 County labor organizations for the purpose of obtaining
 16 their opposition to the Binding Interest Arbitration
 17 Initiative?
 18 MR. DODD: Well, once again, it's essentially
 19 the same question.
 20 MR. PLATTEN: That's correct. And I haven't
 21 heard an instruction not to answer.
 22 MR. DODD: I think I did instruct him not to
 23 answer.
 24 BY MR. PLATTEN:
 25 Q. Are you going to answer the question,

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1 Mr. Kutras?
 2 A. I have been instructed by my counsel not to, so
 3 no, I will not.
 4 MR. DODD: If you want to break it down and ask
 5 it union by union, we may be able to answer with some,
 6 perhaps, and others, perhaps not.
 7 BY MR. PLATTEN:
 8 Q. Have you talked to representatives of SEIU 715
 9 for the purpose of obtaining their opposition or
 10 coordinating their efforts to oppose passage of the
 11 Binding Interest Arbitration Initiative?
 12 A. No.
 13 Q. Have you talked to representatives of any other
 14 County labor organizations for the purpose of obtaining
 15 their opposition or coordinating their efforts to oppose
 16 passage of the Binding Interest Arbitration Initiative?
 17 A. No.
 18 Q. Have you instructed subordinates to engage in
 19 any such conversations or dialogue with representatives
 20 of County labor organizations in order to obtain their
 21 opposition or coordinate their opposition to the Binding
 22 Interest Arbitration Initiative?
 23 A. No. The only clarification I would offer other
 24 than what I previously testified to, directing staff to
 25 meet and confer on proposed Charter measures, and to the

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1 extent that a bargaining unit in those meet-and-confer
 2 sessions would say, "Why are you proposing Section 715,"
 3 there would invariably be discussion of the proposed
 4 714.
 5 Q. Have you spoken with any elected officials in
 6 order to obtain their opposition or coordinate their
 7 opposition to the passage of the Binding Interest
 8 Arbitration Initiative?
 9 MR. DODD: To the extent that you're asking
 10 about the Board of Supervisors, I'm not going to let him
 11 answer the question because it may involve
 12 closed-session discussions and any number of things.
 13 So -- and their policy decisions. So I'm not going to
 14 let you ask him about the Board of Supervisors.
 15 You want to ask him about other elected
 16 officials?
 17 MR. PLATTEN: Well, I said any elected
 18 officials. So to the extent --
 19 MR. DODD: To the extent you're asking him
 20 about the Board of Supervisors, it will inevitably
 21 disclose privileged conversations, and I can't let him
 22 answer it to that extent.
 23 MR. PLATTEN: It is your representation,
 24 Mr. Dodd, that you're instructing your client not to
 25 answer my question with respect to the Board of

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1 Supervisors?
 2 MR. DODD: That's my statement.
 3 (Discussion between Mr. Clisham and
 4 Mr. Platten.)
 5 MR. PLATTEN: Go ahead and ask him, David.
 6 MR. CLISHAM: Did you have any conversations
 7 with members of the Board of Supervisors outside of
 8 executive session in regard the binding interest
 9 arbitration?
 10 MR. DODD: I'm still not going to let him
 11 answer that question, because it may -- it may undertake
 12 to get at what is in the heads of the Boards of
 13 Supervisors, and you're not entitled to that
 14 information. So I'm going to give him the same
 15 instruction.
 16 BY MR. PLATTEN:
 17 Q. Have you talked to any other elected officials
 18 in order to obtain their opposition or coordinate their
 19 opposition to the passage of the Binding Interest
 20 Arbitration Initiative?
 21 A. In direct answer to your question, no.
 22 Q. Is there any other kind of answer? Indirect?
 23 A. Just leave -- it's no.
 24 Q. Have you taken steps to have anyone else speak
 25 to other elected officials?

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1 A. No.
 2 Q. Have you given instructions to any subordinates
 3 to speak to members of the staffs of any elected
 4 officials in order to obtain their opposition or
 5 coordinate their opposition to passage of the Binding
 6 Interest Arbitration Initiative?
 7 MR. DODD: Other than the Board of Supervisors?
 8 MR. PLATTEN: I'm assuming you're going to
 9 instruct him not to answer.
 10 MR. DODD: Right. That's why I'm asking you to
 11 clarify.
 12 MR. PLATTEN: I need to state the record. So
 13 you will instruct him not to answer that question with
 14 respect to staff members of the Board of Supervisor,
 15 correct?
 16 MR. DODD: Yes.
 17 BY MR. PLATTEN:
 18 Q. With respect to any other elected officials
 19 other than the Board of Supervisors?
 20 A. No.
 21 Q. Have you spoken with any community
 22 organizations or community leaders in order to obtain
 23 their opposition or coordinate their opposition to
 24 passage of the Binding Interest Arbitration Initiative?
 25 A. In my private capacity as a citizen, I have

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1 talked to community leaders with regard to this measure
 2 to include members of the press, members of community
 3 organizations and others, yes.
 4 Q. Which community organizations?
 5 A. They are many and varied.
 6 Q. Can you list them for me, please?
 7 A. No. I don't have a complete list.
 8 Q. Can you give me a partial list?
 9 A. I'd like to confer with my counsel.
 10 Q. Certainly.
 11 (Discussion had off the record.)
 12 MR. DODD: To the extent that you're asking him
 13 about his -- in his personal capacity, it's not relevant
 14 and it probably invades his privacy. And so I'm going
 15 to instruct him not to answer.
 16 BY MR. PLATTEN:
 17 Q. When you had these conversations with these
 18 community representatives, were the conversations in
 19 person or on the telephone?
 20 A. Most in person. Some on the phone.
 21 Q. And using a County phone from your office?
 22 A. No.
 23 Q. Did any of the conversations occur using County
 24 phones?
 25 A. No.

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1 Q. Did any of the conversations occur on County
 2 property?
 3 A. No.
 4 Q. Did any conversations occur on County time?
 5 A. I'm -- during my normal business hours, no.
 6 But I'm -- I don't know that I have your --
 7 Q. Have you spoken to County staff members in
 8 order to obtain their opposition or coordinate their
 9 opposition to passage of the Binding Interest
 10 Arbitration Initiative?
 11 A. No.
 12 Q. You have not spoken to Mr. Leung about that
 13 issue?
 14 A. You asked me if I've done it to coordinate
 15 opposition or gain their opposition. You didn't ask me
 16 if I've talked to them about the initiative.
 17 Q. That wasn't my question.
 18 A. Yes, it was.
 19 Q. My question was have you spoken with Mr. Leung
 20 about obtaining his opposition or coordinating
 21 opposition.
 22 A. Mr. Leung, I don't know what his personal
 23 position is on the measure. I'm trying to answer the
 24 questions you're posing.
 25 Q. Here's my question, Mr. Kutras. Have you

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1 talked to Mr. Leung for the purpose of coordinating
 2 opposition of passage of the Binding Interest
 3 Arbitration Initiative?
 4 A. No.
 5 Q. Have you spoken to Mr. Leung for the purpose of
 6 attempting to negotiate agreements with County labor
 7 organizations to oppose or to drop their support for
 8 binding interest arbitration?
 9 MR. DODD: Well, I'm going to object that the
 10 question is compound, and you should ask it as two
 11 separate questions.
 12 BY MR. PLATTEN:
 13 Q. You can answer the question, Mr. Kutras.
 14 MR. DODD: Well, the question is compound, and
 15 therefore I think vague and ambiguous and misleading,
 16 because you say on the one hand oppose or withdraw their
 17 support. Those are two different things.
 18 MR. PLATTEN: That's fine. That's an objection
 19 to form.
 20 BY MR. PLATTEN:
 21 Q. You can still answer the question, Mr. Kutras.
 22 MR. DODD: You can answer the question, but be
 23 mindful of the misleading nature of the question.
 24 THE WITNESS: I have given direction and
 25 discussed direction with Mr. Leung pursuant to our

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1 closed-session direction from the Board, yes.
 2 BY MR. PLATTEN:
 3 Q. And on how many occasions have you given
 4 direction to Mr. Leung since April of 2004?
 5 MR. DODD: On anything?
 6 BY MR. PLATTEN:
 7 Q. On this issue.
 8 MR. DODD: On this issue.
 9 THE WITNESS: Numerous.
 10 BY MR. PLATTEN:
 11 Q. How about instructions to anyone other than
 12 Mr. Leung?
 13 A. Yes.
 14 Q. Whom?
 15 A. Leode Franklin.
 16 Q. And what have you asked or instructed
 17 Ms. Franklin to do?
 18 A. To -- she is Mr. Leung's boss, and to make sure
 19 we are following the directions we have been given
 20 regarding the negotiations of negotiable matters.
 21 Q. And this would include either obtaining
 22 opposition or obtaining agreement with labor
 23 organizations to withdraw support to the Binding
 24 Interest Arbitration Initiative?
 25 MR. DODD: Objection. It's argumentative.

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1 It's compound, and it's misleading by tying together
 2 "opposition" with "withdrawal of support."
 3 BY MR. PLATTEN:
 4 Q. You can answer the question, Mr. Kutras.
 5 A. The first part of your question with regard to
 6 opposition, no. The second part of your question with
 7 regard to withdrawing support or not moving forward,
 8 yes.
 9 Q. Is it your testimony today under oath that you
 10 never gave any instruction to a subordinate, Mr. Leung,
 11 Ms. Franklin or anyone else, to obtain, either through
 12 negotiations or otherwise, agreements from County labor
 13 organizations to oppose passage of the Binding Interest
 14 Arbitration Initiative?
 15 A. No -- yes, that is my testimony. We gave
 16 directions on meet and confer with regard to 709 and
 17 proposed 715 measures. The fact that there was no
 18 opportunity before signature gathering to negotiate on
 19 714, we were presented with a fait accompli, inevitable
 20 brings a viewpoint that we don't concur on 714.
 21 That is -- I'm very cognizant that once a
 22 measure is on the ballot and qualified as an initiative,
 23 that no public resources, staff or funds can be used to
 24 take a position on the measure, other than to educate,
 25 quote, unquote, the public.

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1 Now, to the extent you attempt to infer or
 2 imply in these questions that my efforts have been to
 3 oppose a measure, I have done nothing to impair, impact
 4 or bar any employee from political action. I have
 5 directed staff to negotiate on matters we consider
 6 negotiable matters, that we consider changing the
 7 employer/employee relationships that have existed in
 8 this County since the passage of Meyers-Milias-Brown in
 9 1969. And to that extent, yes, I do not concur with
 10 714.

11 Having said that, these questions attempt to
 12 mischaracterize my actions. I have given direction to
 13 staff in an appropriate manner, in appropriate settings
 14 to meet and confer on issues that reflect the position
 15 of the County of Santa Clara.

16 Q. Your answer, Mr. Kutras, was interesting,
 17 because it differentiated between the point in time at
 18 which an initiative qualifies for the ballot.

19 Did you take any steps to coordinate or
 20 instruct your staff to coordinate with County labor
 21 organizations opposition to binding interest arbitration
 22 prior to the time that 714 qualified for the ballot?

23 A. To the extent we approached the bargaining with
 24 the three organizations to attempt to reach a package
 25 agreement that would have resulted in no measure, we did

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1 that.

2 But did we take efforts to oppose? No.

3 Q. How about with respect to Local 715, did you
 4 have any conversations with representatives of Local 715
 5 prior to qualification of 714 in an effort to obtain
 6 715's agreement to oppose binding interest arbitration
 7 if it qualified for the ballot?

8 MR. DODD: Well, to the extent you're asking
 9 about bargaining sessions with 715, then I don't think
 10 that you can go there.

11 MR. PLATTEN: I wasn't asking about bargaining
 12 sessions. I said "conversations with."

13 MR. DODD: Well, if you can draw a distinction
 14 in your mind between conversations that you might have
 15 had with somebody at 715 that wasn't a bargaining
 16 session, then you can answer that question.

17 THE WITNESS: I may have had conversations in
 18 what I considered an informational context saying, "Have
 19 you heard that there is an effort to put a measure on."
 20 BY MR. PLATTEN:

21 Q. Who was that conversation with?

22 A. It was either, and I'm not certain, it was
 23 either with Gabrielle --

24 MR. LEUNG: Hernandez.

25 THE WITNESS: -- Hernandez or Kristy

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1 Sermersheim. I'm not certain.

2 BY MR. PLATTEN:

3 Q. These are both representatives of Local 715?

4 A. Yes.

5 Q. When did these conversations take place?

6 MR. DODD: Well, your question assumes there
 7 was more than one conversation, and I'm not sure that
 8 that was his testimony.

9 BY MR. PLATTEN:

10 Q. Well, was there more than one conversation?

11 A. No.

12 Q. When did the single conversation take place?

13 A. Sometime in the spring.

14 Q. And can you relate what the substance of the
 15 conversation was?

16 A. It was "Have you heard," and that I thought,
 17 again, that the provision would be problematic.

18 Q. Have you made any promises or representations
 19 to any labor organization that if the Binding Interest
 20 Arbitration Initiative is opposed on the November
 21 ballot, that there will be considerations for that labor
 22 organization --

23 A. No.

24 Q. -- respectively?

25 A. No.

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1 Q. No such agreements have been offered or
 2 representations made by you?

3 A. None.

4 Q. Have you worked on or participated in drafting
 5 written arguments against the Binding Interest
 6 Arbitration Initiative?

7 MR. DODD: You mean arguments that counsel has
 8 filed?

9 MR. PLATTEN: Any arguments. Any arguments.

10 MR. DODD: You mean including those that may
 11 have been filed with the Court or --

12 MR. PLATTEN: Any arguments.

13 THE WITNESS: Yes.

14 BY MR. PLATTEN:

15 Q. And can you tell me when?

16 A. With counsel from the beginning to current. I
 17 mean I don't -- I can't be more specific. It's been an
 18 ongoing --

19 MR. DODD: I want to be clear that you're --
 20 what kind of arguments you're talking about. Because
 21 there are arguments that -- term of art, "ballot
 22 arguments" and then there are arguments that get
 23 presented in a Memorandum of Points and Authorities that
 24 get filed with the Court.

25 And clearly Mr. Kutras may have had

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1 attorney-client privileged communications with me and
 2 others about arguments that get filed with the Court.
 3 But if you're trying to shoehorn "ballot argument" into
 4 that question, I want to know what you're talking about.
 5 BY MR. PLATTEN:
 6 Q. Why don't you identify for me, Mr. Kutras,
 7 which arguments you have either worked on or
 8 participated in drafting against the binding interest
 9 arbitration.
 10 A. That I have worked on or --
 11 Q. Participated in drafting.
 12 MR. DODD: Well, I don't want you asking any
 13 attorney-client privileged communications.
 14 MR. PLATTEN: I'm not asking for what he's
 15 discussed with any lawyer. I'm just asking to identify
 16 what his answer was.
 17 MR. DODD: If you recall.
 18 THE WITNESS: Well, I've worked with legal
 19 counsel on cases in court, cases at the PERB and through
 20 subordinate staff on those cases. I have also seen
 21 ballot arguments and drafts, as well.
 22 BY MR. PLATTEN:
 23 Q. Did you edit, annotate or propose changes to
 24 any ballot arguments?
 25 A. I proposed changes, yeah.

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1 Q. Did you edit, comment on or propose any changes
 2 to legal briefs or arguments that have been filed in the
 3 various court cases that have arisen over binding
 4 interest arbitration?
 5 A. Not actual briefs, no.
 6 Q. Was this commenting, editing done at your work
 7 site?
 8 A. I just said I didn't comment or edit on the
 9 legal briefs.
 10 Q. I understand. Any of the commenting or editing
 11 that you identified, was that done at your work site?
 12 A. I don't understand the question. I just said I
 13 didn't comment on the --
 14 Q. You identified in the proposed ballot arguments
 15 that you had commented, edited or annotated those.
 16 MR. DODD: Why don't we break it down.
 17 MR. PLATTEN: Let me finish my question,
 18 Mr. Dodd.
 19 MR. DODD: All right.
 20 BY MR. PLATTEN:
 21 Q. You indicated that you had commented, edited or
 22 annotated the ballot arguments. My question to you is
 23 did you do that at your work site?
 24 MR. DODD: Well, it's -- because you've asked
 25 about ballot arguments, plural, it is potentially

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1 misleading and it's effectively a compound question.
 2 So if you want to break it down and ask about
 3 specific ones, then we can probably answer the question.
 4 MR. PLATTEN: The root question was against the
 5 Binding Interest Arbitration Initiative. That was the
 6 root question which led to this.
 7 MR. DODD: I know, but the root question was
 8 asked about 10 minutes ago. Why don't you start over
 9 and ask the right question.
 10 MR. PLATTEN: Why don't we take a break.
 11 (Break taken from 12:06 to 12:14 p.m.)
 12 BY MR. PLATTEN:
 13 Q. Mr. Kutras, you've told me that you worked on
 14 drafting arguments against the Binding Interest
 15 Arbitration Initiative. Let's focus just on drafting
 16 ballot arguments.
 17 Did you draft, edit, comment upon or
 18 participate on the drafting of ballot arguments against
 19 a Binding Interest Arbitration Initiative known as, I
 20 believe, Measure C?
 21 MR. DODD: Objection. The question is
 22 compound.
 23 BY MR. PLATTEN:
 24 Q. You may answer the question, Mr. Kutras.
 25 MR. DODD: It includes any number of kinds of

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1 activities.
 2 BY MR. PLATTEN:
 3 Q. Mr. Kutras?
 4 A. With regard to 714, argument against, yes.
 5 Q. And when was that?
 6 A. In August.
 7 Q. Was this done in your office or on County
 8 property?
 9 A. Sometimes.
 10 Q. And did you use or did you work with County
 11 staff or other County resources when you did this?
 12 A. I worked with County Counsel.
 13 Q. Anyone else?
 14 A. Yes. I had tasked my Deputy County Executive,
 15 Leode Franklin, to coordinate with County Counsel, yes.
 16 Q. Have you worked on drafting any other argument,
 17 not ballot arguments, but any other arguments against
 18 714, Measure C?
 19 A. I wrote an op-ed piece for the Mercury News.
 20 Q. Was that done on County time?
 21 A. No. I did that at home.
 22 Q. Any other written arguments? Have you drafted
 23 or participated in the drafting of any other written
 24 arguments opposing 714, Measure C?
 25 A. Other than working with legal counsel in the

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1 context of the pending cases, no.

2 Q. Do you plan on working on drafting any other

3 arguments opposing the Binding Arbitration Initiative,

4 714?

5 MR. DODD: Are you asking him to speculate

6 about what the future may bring?

7 MR. PLATTEN: No. The question is "Do you

8 plan."

9 MR. DODD: Do you have any current plans?

10 THE WITNESS: I don't have any plan I'm

11 following, no.

12 BY MR. PLATTEN:

13 Q. What else are you planning to do, if anything,

14 to oppose the Binding Interest Arbitration Initiative?

15 MR. DODD: Are you asking him -- if you're

16 asking in his personal capacity, then you're invading

17 his privacy, and I instruct him not to answer. And if

18 you're asking him in his capacity as the County

19 executive, you should make that clear.

20 BY MR. PLATTEN:

21 Q. You may answer the question, Mr. Kutras.

22 MR. DODD: I instruct him not to answer if

23 you're asking him the question about his personal

24 beliefs. So that's why I think you ought to get it

25 straight.

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1 BY MR. PLATTEN:

2 Q. You've been instructed by your counsel,

3 Mr. Kutras. You can answer the question.

4 A. I'm not answering anything with regard to my

5 private activity.

6 With regard to my official capacity as a County

7 executive, to the extent that I can envision or

8 speculate the future between now and election day, I

9 would expect that the Mercury News editorial board would

10 call the organizations that are proponents of the

11 measure, ask to interview them. They would call me or

12 others from the County and ask to interview us. They

13 would then form an editorial opinion. I would expect

14 that I would express to them the County's view as framed

15 by the ballot argument from the Board on the Measure.

16 I would expect that there may be press stories.

17 I would expect that there may be -- inquiries made to me

18 by the media that I would have to respond to.

19 Q. Do you know of anyone who is working on any

20 campaign against passage of the Binding Interest

21 Arbitration Initiative on the November 2004 ballot?

22 A. No.

23 Q. Did the County of Santa Clara offer any raises

24 or other inducements to any County labor organizations

25 to not support the Binding Interest Arbitration

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1 Initiative?

2 A. No.

3 Q. Did you ever suggest to Sheriff's Lt. Jose

4 Salcido that if the Deputy Sheriffs' Association wanted

5 benchmarking for its members, the DSA could not support

6 a Binding Interest Arbitration Initiative?

7 A. No.

8 Q. Did you ever so instruct any staff member --

9 A. No.

10 Q. -- to suggest that?

11 A. No.

12 Q. Are you aware of any staff member who suggested

13 that to Mr. Salcido?

14 A. No.

15 Q. Did you ever have a conversation at all with

16 Mr. Salcido about the Binding Interest Arbitration

17 Initiative?

18 A. Yes.

19 Q. When was that?

20 A. I'm not sure of a specific date. Again, in the

21 spring.

22 Q. Was there one or more than one conversation

23 with Mr. Salcido?

24 A. More than one.

25 Q. When was the first one?

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1 A. March or April is my guess. I'm not certain.

2 Q. How many conversations have you had with

3 Mr. Salcido about the Binding Interest Arbitration

4 Initiative?

5 A. I think two.

6 Q. When was the second one?

7 A. Following the Putsata Reang news story that was

8 one of the exhibits.

9 Q. Exhibit No. 4, or pardon me, No. 5, the May

10 16th, 2004 article?

11 A. Yes.

12 Q. So it was after that article came out?

13 A. Yes.

14 Q. Let's go to the first conversation with

15 Mr. Salcido. Was that face to face or over the

16 telephone?

17 A. Face to face.

18 Q. Where?

19 A. Say again?

20 Q. Where?

21 A. At a restaurant.

22 Q. Who was present besides yourself and

23 Mr. Salcido?

24 A. Mr. Leung and Ron Yank, his attorney.

25 Q. Which restaurant?

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1 A. Denny's.
 2 Q. On North First?
 3 A. Yes, but there was two on North First.
 4 Q. That's correct. Which one was it?
 5 A. It was the one -- I don't know how you refer to
 6 it. It's the one by the hotel, adjacent, hooked to the
 7 motel building.
 8 Q. Just north of the 880 overpass?
 9 A. Yeah.
 10 Q. And what was discussed at that meeting?
 11 A. Status of their negotiation.
 12 Q. And what did you say to Mr. Salcido and
 13 Mr. Yank regarding the Binding Interest Arbitration
 14 Initiative?
 15 A. We discussed primarily the impediments to their
 16 negotiations, what the issues were. I asked them if
 17 they were a party to the initiative.
 18 Q. And what did the tell you?
 19 A. They said they weren't.
 20 Q. Anything else discussed with regards to binding
 21 interest arbitration?
 22 A. Not that I recall.
 23 Q. Was it an impediment to the negotiation?
 24 MR. DODD: Was what an impediment?
 25 BY MR. PLATTEN:

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1 Q. Binding interest arbitration.
 2 A. No.
 3 Q. Did Mr. Leung say anything with respect to the
 4 Binding Interest Arbitration Proposal at that meeting?
 5 A. No.
 6 Q. And that was all that was discussed was a
 7 single question by you as to whether or not they were
 8 supporting it? Is that correct?
 9 A. No. We discussed many items.
 10 Q. No. I'm speaking in terms of binding interest
 11 arbitration.
 12 A. Right.
 13 Q. So it only came up by virtue of one question by
 14 you to them, correct?
 15 A. Yes. And then I expressed my concern to them
 16 about the measure.
 17 Q. What did you say?
 18 A. I said I'm concerned about the measure.
 19 Q. Did you explain your concern?
 20 A. I think it was understood.
 21 Q. Anything else that you said?
 22 A. No. With regard to the Binding Interest
 23 Arbitration Measure, no.
 24 Q. Tell us about the meeting on May 16th.
 25 A. It was a telephone call.

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1 Q. And you were in your office?
 2 A. Yes. Either in my office or on my County cell
 3 phone.
 4 Q. Speaking to Mr. Salcido?
 5 A. Yes.
 6 Q. And tell us what -- you were the only parties
 7 to the conversation?
 8 A. Yes.
 9 Q. And what was discussed?
 10 A. He was concerned with the characterization of
 11 DSA in the news story.
 12 Q. Why was that?
 13 A. I don't know why he was -- he said he was
 14 concerned about it. I told him that he ought to talk to
 15 Putsata himself.
 16 Q. Did you ask him what his concern was?
 17 A. The concern he expressed was how DSA was
 18 characterized, that they had done something wrong, I
 19 think.
 20 Q. What did you understand his concern to be?
 21 A. That he didn't like how they were portrayed in
 22 the article.
 23 Q. Anything besides that, anything else
 24 descriptive?
 25 A. He said that it wasn't -- from his vantage

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1 point wasn't factual how she portrayed it. I told him
 2 to talk to her, express his views.
 3 Q. Did he tell you what he believed wasn't
 4 factual?
 5 A. I think that the -- my recollection is that he
 6 did not see a quid pro quo, "Sign this, and you get
 7 money." That's not how he said it evolved in their
 8 bargaining.
 9 Q. Did anybody ever tell you that Mr. Phillips had
 10 presented the offer to DSA for a successor agreement
 11 which included benchmarking on or about March 25th or
 12 April 1st, 2004, and then explained that that offer
 13 would not be on the table unless DSA agreed to not
 14 support binding interest arbitration? Did anybody ever
 15 tell you that?
 16 A. No.
 17 Q. Did you ever instruct anyone to speak to any
 18 representative of DSA for the purpose of explaining that
 19 they would not be able to obtain benchmarking in the
 20 Collective Bargaining Agreement unless they failed to
 21 support or withdrew support for Binding Interest
 22 Arbitration Initiative?
 23 A. I don't recall that specifically. It may have
 24 been in the context -- I will offer for clarification it
 25 may have been in the context of how we discussed RNPA,

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1 CPOA and Government Attorneys.
 2 Q. Has benchmarking been a demand of the DSA for
 3 many years --
 4 A. Yes.
 5 Q. -- in collective bargaining?
 6 A. Yes.
 7 Q. And benchmarking means what in that term of art
 8 in the County negotiations with the DSA?
 9 A. A methodology of calculating future pay raises,
 10 tying it to market surveys of surrounding jurisdictions.
 11 We had benchmarking with the deputy sheriffs in
 12 the '80s. We took them out. Our pay has fallen. They
 13 became concerned and wanted to reinstitute some
 14 benchmarking.
 15 We went through a long period of not hiring any
 16 deputies, so we weren't competing in the market.
 17 Q. So the current Collective Bargaining Agreement
 18 or Memorandum of Understanding is the first agreement to
 19 include benchmarking since the 1980s?
 20 A. I think that's correct. I'd have to look it
 21 over to review it, but I think that's correct.
 22 Q. And this would include benchmarkings against
 23 agencies such as San Jose, Gilroy and Palo Alto where
 24 the police employees have access to binding interest
 25 arbitration?

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1 A. It includes every police jurisdiction in the
 2 county, regardless of whether they have that or not.
 3 Q. But the answer to my particular question would
 4 be yes, it includes --
 5 A. I'm not -- it includes all. I would have to
 6 say no, it doesn't limit to those only.
 7 Q. I understand that. But that's not my question.
 8 A. Then I need to hear it again.
 9 Q. It includes San Jose, Gilroy and Palo Alto
 10 where police employees have access to binding interest
 11 arbitration?
 12 A. Among other jurisdictions, yes.
 13 Q. And the MOU, current MOU contains a series of
 14 wage increases for DSA members that could total as much
 15 as 22 percent over the term of the agreement?
 16 A. Whatever it says. I don't have a calculation.
 17 Q. Those wage increases, if or whatever they are,
 18 would be paid out of County funds, correct?
 19 A. Yes.
 20 Q. And the DSA also entered into a Side Letter
 21 Agreement with the County regarding binding arbitration;
 22 is that correct?
 23 A. Yes.
 24 Q. And have you take a look, if you would,
 25 Mr. Kutras, at Depo Exhibit No. 4, a one-page document.

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1 Is that the Side Letter Agreement that the DSA entered
 2 into with the County over binding interest arbitration?
 3 A. Yes.
 4 Q. Did the DSA have to agree to this Side Letter
 5 in order for the County to -- in order to agree -- to
 6 reach agreement with the County over the MOU?
 7 A. This is part of the package agreement, yes.
 8 Q. Who did you discuss this Side Letter Agreement
 9 with on or around April 12th, 2004, the signature date
 10 that appears on the Deposition Exhibit 4?
 11 A. The Board of Supervisors, my subordinates.
 12 Q. Did you discuss it with Mr. Leung?
 13 A. Yes.
 14 Q. When did that discussion take place?
 15 A. I don't recall.
 16 Q. Do you recall who was present when you
 17 discussed it with Mr. Leung?
 18 A. No.
 19 Q. Do you recall what the substance of the
 20 discussion was?
 21 A. No.
 22 Q. Similar questions with regard to Ms. Franklin.
 23 Did you discuss it with Ms. Franklin?
 24 A. She may have been in conversations, as well.
 25 Q. Do you recall the substance of the

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1 conversations?
 2 A. No, not anything additional what I
 3 previously testified this morning.
 4 Q. Same question with regard to Mr. Phillips.
 5 A. Unlikely Ken Phillips was present.
 6 Q. Did you discuss this Side Letter with
 7 Mr. Phillips at any point in time?
 8 MR. DODD: You mean before it was signed?
 9 BY MR. PLATTEN:
 10 Q. Any time.
 11 A. Subsequent to its signing and in response to
 12 preparing litigation responses, yes. But prior to, I
 13 don't recall that I did.
 14 Q. Did you discuss the Side Letter with Brian
 15 McKenna at any point in time?
 16 A. My discussions with Brian McKenna, no, the
 17 Side Letter.
 18 Earlier in the negotiation progress, I had
 19 talked with Mr. Leung and Mr. McKenna with regard to DSA
 20 negotiations and had asked Mr. McKenna to research
 21 benchmarking, prior contracts where we had done it, I
 22 know we had done it with the probation officers, tying
 23 them to other jurisdictions, and to look at old deputy
 24 sheriff contracts, as well.
 25 But that was not in the context of the Side

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1 potentially come out of closed session and/or -- I mean
 2 part of the problem, I think --
 3 MR. PLATTEN: If you want to instruct him not
 4 to answer, Mr. Dodd, do that. But the question is very
 5 simple.
 6 MR. DODD: It's not so simple.
 7 BY MR. PLATTEN:
 8 Q. Did you ever ask or instruct any County labor
 9 relations employees to speak with County labor
 10 organization representatives about not supporting the
 11 Binding Interest Arbitration Initiative on the November
 12 2004 ballot? Simple question. We've talked about
 13 RNPA --
 14 A. I did instruct -- I did instruct staff that
 15 they should inform organizations that the County Board
 16 was going to oppose 714.
 17 Q. Fine.
 18 A. I did do that. In addition to the negotiations
 19 with DSA, RNPA, CPOA and GAA, those conversations, and
 20 in the context of meet and confer on 709 and 715, yes,
 21 that conversation came up about "Are you going to
 22 support it, are you not, where are you on 709, where are
 23 you on 715." That's part of the meet and confer
 24 process.
 25 Q. Did you tell or instruct County labor relations

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1 employees to seek agreements from County labor
 2 organizations that would prohibit labor organizations
 3 from supporting a Binding Interest Arbitration
 4 Initiative?
 5 A. Other than the four units we've discussed, no,
 6 I don't think anybody else had active bargaining going
 7 on.
 8 Q. Okay. Did you tell or instruct County labor
 9 relations employees to seek commitments from County
 10 labor organizations opposing the passage of a Binding
 11 Interest Arbitration Initiative on the November 2004
 12 ballot?
 13 MR. DODD: Chris, you may have lost a word out
 14 of the question, I'm sorry, because I think as phrased,
 15 it's vague and ambiguous. I'm not --
 16 MR. PLATTEN: Can you read it back, Madam
 17 Reporter?
 18 (The record was read by the Reporter.)
 19 MR. DODD: The use of the word "opposing," it's
 20 not clear whether you are assuming that those labor
 21 organizations already opposed it and he knew, or if you
 22 were asking for a commitment to get them to oppose.
 23 That's why there is an ambiguity in the question.
 24 BY MR. PLATTEN:
 25 Q. Okay. Can you answer the question, Mr. Kutras?

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1 MR. DODD: It's a question that may not be
 2 understandable. But if you think you understand it and
 3 you can testify without revealing negotiation strategy
 4 for other unions, then you can answer. But otherwise, I
 5 don't think you should answer.
 6 BY MR. PLATTEN:
 7 Q. Mr. Kutras?
 8 A. In the context of the meet and confer on 709
 9 and 715, there was a free exchange of proposals and
 10 positions between the County and the labor
 11 organizations. To the extent in those discussions we
 12 sought to find out whether someone would concur with
 13 715, the proposed Charter Section of 715, that would
 14 seem to indicate to us what their position would be on
 15 Charter Section 714.
 16 In addition, at public hearings of the Board,
 17 organizations appeared and testified.
 18 So did we -- the conversations with the
 19 bargaining units under the meet and confer over 709 and
 20 715 were very different from the conversations that
 21 we've talked about and I've testified to with regard to
 22 the four organizations.
 23 So I'm trying to be responsive to the extent I
 24 understand the question.
 25 Q. My question goes to a simple proposition: Did

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1 you instruct County representatives to try to obtain
 2 commitments of County labor organizations opposing
 3 passage of binding interest arbitration?
 4 A. To commitments, no. To position, yes.
 5 Q. What's the difference in your mind between a
 6 "commitment" and a "position"?
 7 A. "Position" is the organization is expressing to
 8 us through the meet and confer process their view of our
 9 proposed 715 measure, and inherent will be a discussion
 10 of their view of the proposed initiative of the 714.
 11 A "commitment" means that we're seeking to
 12 extract from them funds, political action, et cetera,
 13 quid pro quos. And no, I did not instruct staff to do
 14 that.
 15 Q. Do you know if any such efforts have been
 16 conducted by County representatives with County labor
 17 organizations?
 18 A. Not that I know of.
 19 Q. Did you speak to Kristy Sermersheim about
 20 opposing Binding Interest Arbitration Initiative?
 21 MR. DODD: About who opposing?
 22 MR. PLATTEN: About her opposing.
 23 THE WITNESS: Other than the conversation, the
 24 conversation I spoke to with regard to Gabrielle
 25 Hernandez or Ms. Sermersheim, no.

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1 BY MR. PLATTEN:
 2 Q. Have you worked to secure the passage of
 3 Measure A?
 4 MR. DODD: Measure A is?
 5 MR. PLATTEN: 709.
 6 THE WITNESS: 709. I can't answer. I don't
 7 understand the question.
 8 BY MR. PLATTEN:
 9 Q. Have you done anything to try to obtain the
 10 passage of Measure A?
 11 A. Other than my closed-session discussions with
 12 the Board and my public recommendation that the measure
 13 be placed on the ballot, no.
 14 Q. Have you worked to secure the passage of
 15 Measure B?
 16 A. Same answer.
 17 Q. Same answer --
 18 A. -- as I just gave with regard to Measure A,
 19 which is other than my discussions with the Board and my
 20 public recommendation that the measure be placed on the
 21 ballot, no.
 22 Q. Looking at Depo Exhibit No. 5, Mr. Kutras,
 23 which is the May 16th article from the San Jose Mercury
 24 News, the next to the last paragraph states:
 25 "County officials - who are facing a

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1 \$238 million shortfall next fiscal year -
 2 have vowed to fight the initiative in any
 3 manner they can."
 4 Are you one of the County officials referred to
 5 here?
 6 A. I don't know who Putsata was referring to here.
 7 Q. Do you adopt the statement as correct that
 8 you'll fight the initiative in any manner you can?
 9 MR. DODD: Are you asking him if he's adopting
 10 something she wrote?
 11 BY MR. PLATTEN:
 12 Q. I'm asking if that's your position.
 13 MR. DODD: His personal position?
 14 MR. PLATTEN: His position as County executive.
 15 THE WITNESS: My position as the County
 16 executive is that the Board of Supervisors has gone on
 17 record opposing this initiative. As their staff, I will
 18 explain why they opposed initiative. So -- and
 19 consistent with guidance from Counsel about what
 20 activities I can and can't engage in.
 21 BY MR. PLATTEN:
 22 Q. With respect to the agreement that was reached
 23 in the Memorandum of Understanding with the Deputy
 24 Sheriffs' Association in late March, early April of
 25 2004, it was the County's proposal, was it not, to

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1 provide benchmarking that was ultimately adopted in the
 2 MOU?
 3 A. I believe -- I mean I don't know the details of
 4 who proposed what and who pushed it across the table.
 5 Q. Well, just so we're clear, if you take a look
 6 at Depo Exhibit No. 3, which is a copy of the MOU, on
 7 page 5 and 6, section 5 of that contract.
 8 A. Page.
 9 Q. 5 and 6. Section 5 sets forth the agreement on
 10 benchmarking.
 11 A. Okay.
 12 Q. Do you know if the language that's contained
 13 here in the MOU was proposed by the County or by DSA?
 14 A. I do not.
 15 Q. Do you know whether that language was agreed
 16 upon only if DSA also agreed to enter into the Side
 17 Letter Agreement, Depo Exhibit No. 4?
 18 MR. DODD: Objection. I think that's been
 19 asked and answered.
 20 THE WITNESS: It's part of a package agreement.
 21 MR. PLATTEN: Why don't we take a minute here.
 22 I'll review my notes.
 23 (Break taken from 12:45 to 12:49 p.m.)
 24 BY MR. PLATTEN:
 25 Q. Did you give any instructions to County labor

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1 relations employees with regard to negotiations with the
 2 CPOA over a Binding Interest Arbitration Initiative?
 3 A. Again, yes, consistent with closed-session
 4 direction from the Board.
 5 Q. What were those instructions?
 6 A. I can't testify to the closed-session
 7 direction.
 8 Q. Based on instruction from counsel?
 9 MR. DODD: Yes.
 10 THE WITNESS: Yes.
 11 MR. PLATTEN: Let's mark this, Karen, as next
 12 in order.
 13 (Plaintiffs' Exhibit 8 was marked for
 14 identification.)
 15 BY MR. PLATTEN:
 16 Q. Mr. Kutras, I'm showing you a document we've
 17 marked as Depo Exhibit No. 8 and ask if you can review
 18 this. And once you've reviewed it, let me know.
 19 A. I've generally reviewed it, yes.
 20 Q. Do you recognize the document?
 21 A. No.
 22 Q. You have not seen it before?
 23 A. I have not.
 24 Q. Let me have you take a look at another document
 25 which we'll mark as No. 9.

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1 (Plaintiffs' Exhibit 9 was marked for
 2 identification.)
 3 BY MR. PLATTEN:
 4 Q. Show you a document we have marked as Depo
 5 Exhibit No. 9. You'll note the title is the same as
 6 Depo Exhibit 8; however, on the bottom right-hand corner
 7 it reads "Revised 4-12-04." I ask you to review the
 8 document and let me know when you're finished.
 9 A. Okay. I've generally read it.
 10 Q. Are you familiar with the document we've marked
 11 as Depo Exhibit No. 9?
 12 A. I have seen it this morning, yes.
 13 Q. Meaning right now or earlier today?
 14 A. Meaning right now. I'm sorry. I guess we're
 15 in the afternoon.
 16 Q. So you have not -- you have not seen document
 17 No. 9 prior to today?
 18 A. No, I don't believe so.
 19 Q. Nor Depo Exhibit No. 8 prior to today?
 20 A. That's correct.
 21 MR. PLATTEN: We are going to adjourn the
 22 deposition, subject to continuing after a motion to
 23 compel is brought with respect to the request for
 24 production and with respect to the instructions not to
 25 respond to questions upon advice of counsel, and any and

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1 all other matters which would be appropriate to a motion
 2 to compel, as well as Mr. Clisham's turn up to bat.
 3 So a break, and Mr. Leung is to start in five
 4 minutes.
 5 (Discussion had off the record.)
 6 MR. PLATTEN: The parties have stipulated to
 7 reconvene at 1:30 for the commencement of Mr. Leung's
 8 deposition, and then we will get to Mr. Chiaramonte as
 9 soon as we can following that. Okay. Thank you.
 10 (Whereupon, the deposition of PETER
 11 KUTRAS, JR. was adjourned at 12:54 p.m.)
 12
 13
 14
 15 PETER KUTRAS, JR.
 16
 17 Date:
 18
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 22 --o0o--
 23
 24
 25

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1 CERTIFICATE
 2
 3
 4 I, KAREN L. BUCHANAN, CSR #10772, do hereby
 5 certify:
 6 That prior to being examined, the witness named
 7 in the foregoing deposition was by me duly sworn to
 8 testify to the truth, the whole truth, and nothing but
 9 the truth;
 10 That said deposition was taken down by me in
 11 shorthand at the time and place therein named, and
 12 thereafter reduced to typewriting under my direction.
 13 I further certify that I am not interested in
 14 the outcome of the action.
 15 Witness my hand this 27th day of August, 2004.
 16
 17
 18
 19
 20 _____
 21 KAREN L. BUCHANAN
 22 CSR No. 10772
 23
 24
 25

76

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 16
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 21 KAREN L. BUCHANAN
 22 CSR No. 10772
 23
 24
 25