

BEFORE THE NEW MEXICO OFFICE
OF SUPERINTENDENT OF INSURANCE

IN THE MATTER OF

SENTRY INSURANCE COMPANY AND Docket No.
DAIRYLAND INSURANCE COMPANY, 2022-0045
Respondents.

VIDEOCONFERENCE HEARING

DATE: Thursday, October 20, 2022
TIME: 9:00 a.m.
BEFORE: Hearing Officer R. Alfred Walker
LOCATION: Remote Proceeding
 Santa Fe, NM 87501
REPORTED BY: Brett Torrence, Notary Public
JOB NO.: 5545187

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A P P E A R A N C E S

ON BEHALF OF THE NEW MEXICO OFFICE OF SUPERINTENDENT
OF INSURANCE:

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ON BEHALF OF RESPONDENTS SENTRY INSURANCE COMPANY AND
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Freya Joshi (by videoconference)
Aaron Miera (by videoconference)
Nash Deletria (by videoconference)
Timothy Kovac (by videoconference)
Louella Pacheco (by videoconference)
Mark Hayden (by videoconference)
Marella Quintana (by videoconference)
Phyllis Christy (by videoconference)
Kaleb Brooks (by videoconference)
Margaret Pena (by videoconference)

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I N D E X

WITNESS(ES):	DX	CX	RDX	RCX
MS. MACIAS				
By Mr. Thies	13			

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
OSI:		
Exhibit 1	Consumer Complaint for Case 176510 - 8/4/2021	17/19
Exhibit 1R	Redacted Consumer Complaint for Case 176510 - 8/4/2021	N/A
Exhibit 2	Consumer Complaint for Case 176610 - 8/27/2021	22/25
Exhibit 3	Letter from OSI to Sentry Insurance Company via Brent Moore - 3/10/2022	N/A
	(Exhibits attached.)	

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P R O C E E D I N G S

THE HEARING OFFICER: Good morning.
This is an administrative proceeding before the New Mexico Office of Superintendent of Insurance, in Docket Number 2022-0045, in the matter of Sentry Insurance Company and Dairyland Insurance Company.

Today is October 20, 2022 and the time is nine o'clock a.m., Mountain Daylight Time.

I am R. Alfred Walker, Associate Legal Counsel for the Office of Superintendent of Insurance, and I have been appointed by the Superintendent of Insurance as the Hearing Officer in this matter. This is the commencement of the evidentiary hearing in this matter.

May I have an appearance for OSI; and please spell your name for the record. And you're on mute, Mr. Thies. You're still on mute.

MR. THIES: I think they want you to -- when you log on. Anyway, Stephen Thies appearing on behalf of the Office of Superintendent of Insurance. First name is with a P-H; last name is spelled T-H-I-E-S.

THE HEARING OFFICER: Thank you. And may I have an appearance for respondents? And please also spelling your name for the record.

1 MR. MOORE: Good morning, Mr. Hearing
2 Officer. My name is Brent Moore with the law firm of
3 Montgomery & Andrews. First name is spelled
4 B-R-E-N-T; last name is M-O-O-R-E. And I'm appearing
5 here today on behalf of the respondents, which are
6 Sentry Insurance Company and Dairyland Insurance
7 Company.

8 With me today also is Kaleb Brooks;
9 he's also with Montgomery and Andrews, representing
10 the respondents. His first name is spelled K-A-L-E-B;
11 last name is spelled B-R-O-O-K-S.

12 THE HEARING OFFICER: Thank you. The
13 plan for today is to commence the evidentiary hearing
14 and then recess to a later date. I have asked the
15 parties to develop a timeline for that schedule. Have
16 the parties been able to do that?

17 MR. THIES: Yes, sir. We've had some
18 discussions. Without trying to represent Mr. Moore's
19 position, I believe we have an understanding when my
20 brief would be due, provided the Hearing Officer
21 accepts that date. And then, it would be two weeks
22 after that date, Dairyland and Sentry would be
23 required to submit their responsive brief.

24 I would have an opportunity two weeks
25 later to submit a reply brief to their brief. And

1 then, they would have the opportunity two weeks later
2 to submit a surreply brief.

3 The date that we had discussed for my
4 brief, the first brief being due, would be December
5 2nd.

6 THE HEARING OFFICER: Okay. And are
7 those briefs going to be submitted on stipulated facts
8 or are we going to have an evidentiary hearing for
9 those facts?

10 MR. THIES: That is one issue that's
11 still up in the air. Today, I will be introducing
12 some documents. There are 138 files that were turned
13 over in response to a data call. How many and to what
14 extent I would be submitting those documents, those
15 files, into the record is yet to get resolved. We may
16 need -- unless we can reach an agreement on that --
17 Mr. Moore and myself may need to have a hearing on
18 that particular issue.

19 THE HEARING OFFICER: Okay; thank you.
20 Mr. Moore, what is your understanding of what the
21 parties would like to do?

22 MR. MOORE: Yes, Mr. Hearing Officer.
23 Mr. Thies is correct. We are working towards trying
24 to simplify the matters -- simplify the issues in this
25 matter to try to bring it to a resolution as quickly

1 as possible. We have talked about stipulating to
2 facts and doing briefing on proposed conclusions of
3 law. I think there is a good possibility that we can
4 stipulate to facts that will tee up the underlying
5 legal question in this matter and that the briefing
6 would follow much in the way that Mr. Thies described.

7 We need to work on specific dates. And
8 one of the difficulties there is, when his first
9 submission would be due. And the holidays complicate
10 matters, so there might be a little bit of variability
11 to the every two weeks on the submission.

12 And then, as usual, we get into the
13 legislative session and sometimes that causes issues.
14 So we plan to work through those dates. We have a
15 date set up for settlement discussions where we're
16 hopeful that we can address those matters and,
17 potentially, reach some type of settlement in this
18 matter.

19 So we are trying to resolve this, short
20 of conducting a full-blown evidentiary hearing. And
21 we appreciate your patience in allowing us to work
22 through that process.

23 THE HEARING OFFICER: Well, certainly.
24 Okay. So I'm just -- so it sounds like -- well,
25 here's what I'm going to do. We've already talked

1 about commencing the hearing this morning, and we will
2 do that. I think what we will do after we have
3 commenced the hearing, and at a point when we decide
4 it's time to take a recess, we will discuss at that
5 time a recommencement of the hearing. And what I'm
6 thinking we'll do, what I would like to do, is set
7 that date by -- well, before the end of November so
8 that we can make sure that we're getting the facts in
9 the record that need to be there. If you can
10 stipulate to the facts then we may not need to have a
11 recommenced hearing. If you can't stipulate or if
12 there are still some facts that you can't stipulate
13 to, then it might be useful to have that hearing,
14 certainly, I think, before the briefing schedule
15 begins.

16 So we'll talk more about that in a bit.
17 And before we commence the hearing, are there any
18 other matters that we need to address before the
19 hearing commences? Mr. Thies?

20 MR. THIES: No, sir.

21 THE HEARING OFFICER: Mr. Moore?

22 MR. MOORE: Mr. Hearing Officer, I
23 would just express a preference today -- and I've
24 expressed this to Mr. Thies -- as it relates to
25 starting the hearing and introducing testimony and

1 exhibits, the respondents' preference is that we do
2 the minimum necessary and leave us the flexibility to
3 try to address those matters in our settlement
4 discussions and in our discussions on the stipulated
5 facts. I've made that clear to Mr. Thies; I wanted to
6 restate it for the beginning of the hearing. The
7 minimum is our preference today.

8 THE REPORTER: Okay. And I don't see a
9 problem with doing the minimum. What, in your
10 estimation, is the minimum that would be the
11 commencement of the hearing?

12 MR. MOORE: Mr. Hearing Officer, if we
13 were left to try to tell the Department how to put on
14 their case it would simply be the introduction of the
15 two complaints and verification that those were
16 received by the Department and then we could stay the
17 hearing.

18 THE HEARING OFFICER: And I actually
19 think that would probably be sufficient to commence
20 the hearing. And again, you know, what we're going to
21 do is recess. And if the parties can agree to what
22 the facts are and if there's any other evidence I need
23 to look at, if that can all be stipulated to cause,
24 great. If not, we'll just have a hearing and address
25 those issues at the recommenced hearing.

1 So I guess if that's what we're going
2 to do -- I was going to ask the parties if they wanted
3 to make some sort of opening statement. But if that's
4 all we're going to do, I don't think opening
5 statements are necessary. I think that those types of
6 explanations, I do better at writing those
7 explanations and I probably also do better at reading
8 them than listening to them.

9 So we'll just go right ahead. And Mr.
10 Thies, you may call your first witness.

11 MR. THIES: Thank you, sir. The Office
12 of Superintendent of Insurance would call Ms. Elouisa
13 Macias. I probably butchered her name, but she can
14 clarify for us.

15 THE HEARING OFFICER: All right. Ms.
16 Macias, will you please state your name and spell it
17 for the record.

18 MS. MACIAS: Yes; my name is Elouisa
19 Macias and first name is E-L-O-U-I-S-A. Last name
20 Macias, M-A-C-I-A-S.

21 THE HEARING OFFICER: Thank you. And
22 would you please raise your right hand. Do you swear
23 or affirm that the testimony you are about to give is
24 the truth, the whole truth, and nothing but the truth
25 under penalty of perjury?

1 THE WITNESS: Yes, I do.

2 THE HEARING OFFICER: Okay. Thank you.
3 Mr. Thies?

4 MR. THIES: Thank you.

5 DIRECT EXAMINATION

6 BY MR. THIES:

7 Q Ms. Macias, can you please state your
8 current occupation and business address?

9 A I work for the Office of Superintendent of
10 Insurance and the address is 1120 Paseo De Peralta,
11 Santa Fe, New Mexico 87501.

12 Q How long have you worked for the Office of
13 Superintendent of Insurance?

14 A I will -- it'll be four years now in
15 January.

16 Q What is your current position with that
17 office?

18 A I'm a compliance officer supervisor in the
19 Consumer Assistance Bureau.

20 Q Can you briefly describe your duties as the
21 compliance officer supervisor?

22 A I receive the new cases and I vet them out
23 to compliance officers. And then, they do the
24 investigation as I supervise all of the incoming
25 documents and what goes out and what is happening in

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1 that case.

2 Q As part of your supervisory
3 responsibilities, are you generally familiar with all
4 compliance that would come into the Consumer
5 Assistance Bureau?

6 A Yes.

7 Q Are you familiar with a complaint submitted
8 to the Consumer Assistance Bureau by an individual by
9 the name of Mr. Samuel Montoya?

10 A Yes.

11 Q And how was Mr. Montoya's complaint received
12 by the Consumer Assistance Bureau?

13 A It was received by our management system,
14 our SPS system, that we use to get complaints from
15 online.

16 Q Can you just generally describe that system,
17 the process?

18 A What the consumer would do would go on to
19 our website and file a complaint by filling out a
20 complaint form with all of the information and a
21 summary of that complaint. When they hit submit, they
22 get a tracking number which automatically comes
23 directly to me and that's where I review and vet them
24 out.

25 Q Do you know when Mr. Montoya submitted his

1 complaint?

2 A It was about a year ago. I believe it was
3 August of 2021.

4 Q After receiving Mr. Montoya's complaint, did
5 the Consumer Assistance Bureau conduct an
6 investigation of his complaint?

7 A Yes.

8 Q And who within the Consumer Assistance
9 Bureau conducted that investigation?

10 A Compliance Officer Marella Quintana.

11 Q In your capacity as compliance officer
12 supervisor, are you familiar with the investigation?

13 A Yes, I am.

14 Q In conjunction with that investigation, did
15 the Consumer Assistance Bureau contact Dairyland?

16 A Yes.

17 Q Maybe I should backup. Do you know who Mr.
18 Montoya, what insurer Mr. Montoya was complaining
19 about, the name of the insurance?

20 A Dairyland.

21 Q And after Ms. Quintana contacted the
22 Dairyland Insurance Company, did she request documents
23 from Dairyland?

24 A Yes, she did.

25 Q And was Dairyland responsive to that

1 request?

2 A Yes.

3 Q Do you know if Ms. Quintana requested
4 additional documentation from Dairyland after her
5 initial request?

6 MR. MOORE: Mr. Hearing Officer,
7 actually, I would have to object at this point because
8 Ms. Macias is testifying as to what Ms. Quintana did
9 and what her interactions were with the company. It's
10 hearsay at this point. Ms. Quintana is listed as a
11 witness; she can be called to testify to those
12 matters.

13 THE HEARING OFFICER: I'm sorry. Mr.
14 Thies, do you have a response?

15 MR. THIES: Ms. Macias testified she is
16 the supervisor of the Consumer Assistance Bureau. And
17 in that capacity, she reviews and supervises
18 investigations so she develops some understanding and
19 familiarity with what was going on with the
20 investigation of Dairyland. So she has, I believe, I
21 suggest a foundation to testify as to what transpired
22 in this investigation.

23 THE HEARING OFFICER: So I'll overrule
24 the objection. I'll allow the testimony, with the
25 understanding that we expect Ms. Quintana to also

1 testify. I think I can permit hearsay; I can't rely
2 solely on the hearsay and I'm not going to rely on it
3 without hearing from Ms. Quintana. So you may
4 proceed, Mr. Thies.

5 MR. THIES: Thank you, sir.

6 BY MR. THIES:

7 Q Ms. Macias, directing your attention to the
8 exhibit marked OSI 1, do you recognize those
9 documents?

10 (Exhibit OSI 1 was marked for
11 identification.)

12 A Yes, I do.

13 Q And could you briefly describe those
14 documents for us?

15 A That's the initial complaint form that was
16 filed with our office online.

17 Q And after the initial complaint, are there
18 some additional documents attached to or included with
19 OSI 1?

20 A Yes, which is a copy of the language of the
21 policy.

22 Q And after the policy, are there any
23 additional documents included with that exhibit?

24 A A response letter from Dairyland.

25 Q And based on your supervision of this

1 investigation, are these the documents that Ms.
2 Quintana compiled as part of her investigation?

3 A Yes, sir, it is.

4 MR. THIES: Mr. Hearing Officer, I
5 would now move to offer Exhibit OSI 1 into evidence or
6 into the record.

7 THE HEARING OFFICER: Mr. Moore?

8 MR. MOORE: Yes. Mr. Hearing Officer,
9 we would have several objections to the admission of
10 OSI 1 into the record. Because there are multiple
11 documents, I will try to work my way through them one
12 by one.

13 First, we have no objection to the
14 consumer complaint coming in as the document that was
15 received. But we would have objections to it to the
16 extent that it is offered for the truth of the matter
17 asserted or any of the statements contained within the
18 complaint. Mr. Montoya is listed as a witness; Mr.
19 Montoya can come forward and testify to those facts.

20 As it relates to the personal auto
21 policy that is contained within OSI 1, our objection
22 to that would be lack of foundation for this witness
23 to verify the authenticity of this document. And to
24 the extent that the document is an incomplete record
25 of the auto policy that was approved by the Office of

1 Superintendent, we would request the opportunity to
2 supplement that document to show all of the other
3 parts of the document that were approved by the Office
4 of Superintendent of Insurance.

5 We have no objection to the declaration
6 page contained within OSI 1. We have no objection to
7 the letters provided to Ms. Quintana from Dairyland.
8 And those would be our objections to OSI 1.

9 THE HEARING OFFICER: Okay. So I will
10 permit the introduction of the complaint for the
11 purpose of it being the complaint received by OSI.
12 And understanding the objection on the hearsay within
13 the complaint, we'll wait to hear from the witness on
14 that.

15 And as far as the policy goes, I'm
16 going to admit the policy and certainly permit the
17 respondents to supplement that policy, you know, if
18 proper foundation. Again, subject to the testimony
19 from Ms. Quintana, because I do want to hear that this
20 is the policy that she received or at least a portion
21 of the policy that she received from Dairyland.

22 So I'm essentially overruling the
23 objections; permitting the OSI 1 to be admitted. But
24 understanding, certainly, Mr. Moore, your positions
25 and your concerns about these documents.

1 So Mr. Thies, what I would like you to
2 do is make sure that the court reporter receives a
3 copy of OSI 1 so the court reporter can attach it to
4 the transcript so it's in the record that way.

5 MR. THIES: Yes, sir.

6 THE HEARING OFFICER: Okay. You may
7 continue, Mr. Thies.

8 MR. THIES: Thank you, sir.

9 BY MR. THIES:

10 Q Ms. Macias, are you familiar with the
11 complaint submitted to the Consumer Assistance Bureau
12 by an individual by the name of Mr. Frank Coppler?

13 A Yes.

14 Q And do you know how that complaint was
15 received by the Consumer Assistance Bureau?

16 A It was received online through our SPS
17 system.

18 Q And that system is the same system you
19 described earlier?

20 A Yes, it is.

21 Q And do you know approximately when Mr.
22 Coppler submitted his complaint?

23 A It was around the same time a little after
24 Mr. Samuel, so it's August 2021.

25 Q And did the Consumer Assistance Bureau

1 conduct an investigation of Mr. Coppler's complaint?

2 A Yes.

3 Q Who within the Consumer Assistance Bureau
4 conducted that investigation?

5 A Compliance Officer Marella Quintana.

6 Q And again, in your capacity as compliance
7 officer supervisor, are you familiar or did you become
8 familiar with her investigation and the information
9 she compiled as part of that investigation?

10 A Yes, I am.

11 Q And do you know whether Ms. Quintana
12 requested any documents from Dairyland?

13 A Yes, she did.

14 MR. MOORE: Mr. Hearing Officer, we
15 would object again; same grounds. Ms. Quintana is
16 listed as a witness; she can testify as to what she
17 did to conduct her investigation. The testimony
18 that's being offered is hearsay.

19 THE HEARING OFFICER: And I'll make the
20 same ruling. I'll overrule it, but I'm certainly
21 going to want to hear from Ms. Quintana about her
22 investigation. You may continue, Mr. Thies.

23 MR. THIES: Thank you, sir.

24 BY MR. THIES:

25 Q And in response to Ms. Quintana's request,

1 did Dairyland provide any documentation?

2 A Yes.

3 Q Directing your attention to what's been
4 marked as OSI 2, do you recognize those documents?

5 (Exhibit OSI 2 was marked for
6 identification.)

7 A Yes; it's the complaint form received on
8 SPS.

9 Q And after that complaint form, there appears
10 to be a letter, it's marked as Bates 0028, dated
11 September 24, '21. Do you recognize that letter?

12 A Yes; a letter from Dairyland in regards to
13 the accident.

14 Q A couple pages later, on Bates 0030, there's
15 another letter. Do you recognize that letter?

16 A Bates 00? I'm sorry, which one?

17 Q 3-0.

18 A 3-0; sorry. Yes.

19 Q And what is that document?

20 A Just stating the driver of the vehicle and
21 that they're not listed on the policy.

22 Q Okay. And directing your attention to three
23 pages later, on Bates 0033, do you recognize that
24 letter?

25 A Yes; this is a letter stating the

1 misrepresentation.

2 Q And directing your attention to three pages
3 later, Bates 0036, do you recognize that letter?

4 A Yes; that is the response letter in return
5 of the complaint.

6 Q Now, directing your attention to Bates 0039;
7 do you recognize that document?

8 A That's the policy language from Dairyland
9 insurance policy.

10 Q All these documents, are these the documents
11 that Ms. Quintana compiled as a part of her
12 investigation?

13 A Yes, it is.

14 MR. THIES: Mr. Hearing Officer, I
15 would now offer Exhibit OSI 2 into the record.

16 THE HEARING OFFICER: Mr. Moore?

17 MR. MOORE: Yes, Mr. Hearing Officer.
18 Once again, we would restate similar objections. The
19 first being, as it relates to the consumer complaint,
20 we have no objection to the complaint coming into
21 evidence as the complaint that was received by the
22 OSI. But to the extent the complaint would be used or
23 potentially used for the truth of the matter asserted,
24 we would object to that as hearsay. The complainant
25 is listed as a witness and can come provide that

1 testimony if needed.

2 As it relates to the -- actually, one
3 more basis for the complaint just so that we're clear.
4 The complaint also contains legal opinions by the
5 complainant and he is not being offered as an expert,
6 as far as we know at this point, and we would object
7 to that as inappropriate expert testimony.

8 As it relates to these documents being
9 offered into evidence by Ms. Macias, we object that
10 she doesn't have the foundation to offer these into
11 evidence. This was the investigation conducted by Ms.
12 Quintana. Ms. Quintana is listed as a witness; she
13 can provide that foundation.

14 As it relates to the policy, once
15 again, we would renew our objection that the document
16 appears to be incomplete and does not contain all of
17 the associate documentation related to the policy that
18 was approved by the OSI and we would request the
19 opportunity to supply the full document to the hearing
20 officer for consideration.

21 I believe that states our objections.

22 THE HEARING OFFICER: Okay. And I'll
23 make the same rulings with the same caveats and add
24 that, as far as any legal conclusions in the
25 complaint, I'm not interested in other people's legal

1 conclusions. It's my job to come to the legal
2 conclusions. So I'm not going to pay any attention to
3 that.

4 And, I guess, for both OSI 1 and OSI 2,
5 I certainly consider this to be the investigation file
6 of OSI or those documents to be investigation files of
7 OSI, understanding the policy may not be complete.
8 The statements in the complaint need more from the
9 witnesses and that's what I'll certainly be expecting
10 as we go forth.

11 I will, however, admit them into the
12 record. And so, the same thing, Mr. Thies, make sure
13 the court reporter gets a copy of it and that both
14 documents are appropriately marked so that we can
15 follow which is which.

16 So Mr. Thies, anything more?

17 MR. THIES: Just a few additional
18 questions and one additional document.

19 THE HEARING OFFICER: Okay. What's the
20 additional document?

21 MR. THIES: It's a copy of the data
22 call that was issued by the Office of Superintendent
23 of Insurance to Dairyland Sentry.

24 THE HEARING OFFICER: So at the
25 beginning of the hearing, we talked about,

1 essentially, introducing the complaints and then
2 taking a recess. And while I understand both you and
3 Ms. Macias may not want to break up your testimony
4 over two days, I do feel like we've done enough to
5 commence the hearing and we can, as inconvenient as it
6 is, I think now is a good time to take a recess.

7 So let's talk about setting up a
8 recommence or a time to recommence the hearing. And
9 the parties are talking about a briefing schedule
10 beginning in early December. And everybody
11 understands the issue of the holidays coming up. And
12 holidays include Thanksgiving, which is near the end
13 of November.

14 MR. MOORE: Mr. Hearing Officer?

15 THE HEARING OFFICER: Yes, Mr. Moore?

16 MR. MOORE: May I make a suggestion?

17 THE HEARING OFFICER: Certainly.

18 MR. MOORE: And I can't say that I've
19 completely coordinated everything with staff counsel,
20 so take this for what it's worth. But we have
21 settlement negotiations set up for November the 4th.
22 At that point, we will attempt to do our best to try
23 to resolve issues.

24 After that meeting, I think both the
25 OSI and the respondents will have a better sense of

1 what is possible and what is not possible.

2 If it is agreeable to the Hearing
3 Officer, if we could come back to you sometime that
4 following week, either with our joint stipulation to
5 the findings of facts and a proposed briefing
6 schedule, or a request for a full-blown evidentiary
7 hearing to commence. I think that would be the
8 appropriate time.

9 I believe that after sitting down with
10 the OSI on the 4th, we'll have a better sense of what
11 is possible in this proceeding and we'd either come
12 back to you with our joint stipulation of fact and
13 proposed briefing schedule or a request to just go to
14 hearing. I have not coordinated with Mr. Thies on
15 that, but looking at the timing and looking where we
16 are, that seems to be the most logical approach.

17 THE HEARING OFFICER: Okay. Thank you.
18 Mr. Thies, what do you think?

19 MR. THIES: I have no objection to Mr.
20 Moore's proposal. I would like though to set a
21 concrete date that we reconvene after OSI and
22 Dairyland Sentry have had the opportunity to meet on
23 the 4th so we can continue to move forward. I still
24 would like to reserve that December 2 date for if we
25 do proceed down that path where we submit stipulated

1 facts and submit the written arguments I can put that
2 date in my mind and plan accordingly. And then that
3 keeps this matter moving forward and puts a little
4 more pressure on us.

5 But if we could set a date for that
6 following week in November, that first full week. And
7 once we reconvene and report to the Hearing Officer
8 any progress we've made towards settlement and how we
9 would like to proceed I would greatly appreciate that.

10 THE HEARING OFFICER: Certainly. Yeah.
11 And that was my thinking, that we would set a status
12 conference for November 10th, if that works with your
13 schedules? November 10 at nine a.m.

14 MR. MOORE: That's agreeable to
15 respondents, Mr. Hearing Officer.

16 MR. THIES: Likewise, that date is
17 acceptable to me.

18 THE HEARING OFFICER: Okay. So we will
19 do that and schedule a status conference for November
20 10th at nine o'clock.

21 Are there any other matters that we
22 should address as we go forward, Mr. Thies?

23 MR. THIES: I am unaware of any, sir.

24 THE HEARING OFFICER: Okay. Mr. Moore?

25 MR. MOORE: Not that I'm aware of.

1 Thank you for your indulgence in allowing us the time
2 to try to work through this.

3 THE HEARING OFFICER: Oh, certainly.
4 You guys spend more time on this; I spend less time on
5 it. That's the way I look at it. And let me check
6 with the court reporter before we end if there are any
7 issues with names or words that he needs to clarify.

8 THE REPORTER: Two spellings that I
9 just need to confirm are Samuel Montoya and Frank
10 Coppler. Those are the two names not present that
11 were mentioned, so if someone could give me those
12 confirmed spellings?

13 MR. THIES: Yes. Samuel is
14 S-A-M-U-E-L, Montoya, M-O-N-T-O-Y-A. Coppler, first
15 name is Frank, F-R-A-N-K. Last name is C-O-P-P-L-E-R.

16 THE REPORTER: Okay. Thank you very
17 much. And then, should I go ahead and provide you
18 with my e-mail now to have the exhibits sent over?

19 MR. THIES: If you could send it to Ms.
20 Joshi; she would be the one submitting the documents
21 to you.

22 THE REPORTER: Okay; understood.

23 THE HEARING OFFICER: Okay. So if
24 there's nothing else, I'd like to thank everyone for
25 your participation and attention to the commencement

1 of this hearing. We will take a recess and have a
2 status conference to discuss a possible recommencement
3 of the hearing.

4 That status conference will be November
5 10th at nine o'clock a.m., Mountain Time. Which, I
6 think by that time will be Standard Time. And, let's
7 see? So we're recessing this hearing at 9:40 a.m.
8 And I want to say thank you, again, to everyone.

9 MR. THIES: Thank you, sir.

10 THE HEARING OFFICER: We're in recess.

11 MR. MOORE: Thank you.

12 (Whereupon, at 9:40 a.m., the
13 proceeding was concluded.)
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CERTIFICATE OF DEPOSITION OFFICER

I, BRETT TORRENCE, the officer before whom
the foregoing proceedings were taken, do hereby
certify that any witness(es) in the foregoing
proceedings, prior to testifying, were duly sworn;
that the proceedings were recorded by me and
thereafter reduced to typewriting by a qualified
transcriptionist; that said digital audio recording of
said proceedings are a true and accurate record to the
best of my knowledge, skills, and ability; that I am
neither counsel for, related to, nor employed by any
of the parties to the action in which this was taken;
and, further, that I am not a relative or employee of
any counsel or attorney employed by the parties
hereto, nor financially or otherwise interested in the
outcome of this action.



BRETT TORRENCE
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, DIANE OTTO, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



DIANE OTTO, CER, CET 1353

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