

NO. 137, ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

STATE OF MONTANA,)	
)	
Plaintiff,)	
vs.)	No. 220137 ORG
STATE OF WYOMING and STATE)	
OF NORTH DAKOTA,)	
)	
Defendants.)	

TRANSCRIPT OF TELEPHONIC PROCEEDINGS

Friday, October 11, 2013

Reported by: Kimberly A. Larsen, CSR No. 8993

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21 REPORTER'S TRANSCRIPT OF PROCEEDINGS,

22 taken telephonically on Friday, October 11, 2013, before

23 me, Kimberly A. Larsen, CSR No. 8993, beginning at the

24 hour of 10:02 a.m. in the city of San Diego, County of San

25 Diego, State of California.

1 San Diego, CA, Friday, October 11, 2013, 10:02 a.m.

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3 TRANSCRIPT OF TELEPHONIC PROCEEDINGS

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5 SPECIAL MASTER THOMPSON: So this is a hearing
6 and a status conference in Number 137 Original in the
7 Supreme Court of the United States, the State of Montana
8 versus the State of Wyoming.

9 And why don't we begin with appearances. So
10 State of Montana.

11 MR. DRAPER: Good morning, Your Honor. This is
12 John Draper. I have with me here in Santa Fe my
13 assistant, Donna Omerod, and also on the line is Jay
14 Weiner, Assistant Attorney General of the State of
15 Montana.

16 SPECIAL MASTER THOMPSON: Okay. Thank you, and
17 good morning.

18 So next. State of Wyoming.

19 MR. KASTE: Good morning, Your Honor. This is
20 James Kaste. I have Chris Brown and Andrew Kuhlman here
21 with me.

22 SPECIAL MASTER THOMPSON: Okay. Good morning,
23 Mr. Kaste.

24 And then finally, North Dakota.

25 MS. VERLEGER: Jen Verleger for North Dakota.

1 SPECIAL MASTER THOMPSON: Okay. Thank you.

2 So good morning everyone. Is there anyone else on the
3 line who has not been identified?

4 Okay. If not, then I want to cover three or four
5 different things this morning. The three things I want to
6 make sure that we cover is, first of all, Wyoming's motion
7 to impose time limits on the presentation of evidence at
8 trial. Second of all, is the continuing issue of
9 conflicts on various days over the availability of the
10 district courtroom in Billings. And then third of all, I
11 just want to talk briefly about opening statements.

12 So first of all, on Wyoming's motion to impose on
13 time limits. So I've read everything that has been sent
14 to me. I will also mention that over the course of the
15 summer I actually talked to several current district court
16 judges, who I know, about some of the various procedures
17 that they follow. Some of them do use time limits, and I
18 discussed that possibility with them. I was actually
19 intrigued by that possibility at the time when I talked to
20 them, and the ones who have used it I think have used it
21 to good effect.

22 I ultimately concluded, though, based on the
23 original estimates of time, that we wouldn't need to do
24 that in this particular proceeding. And because of some
25 of the factors that Montana has mentioned, including the

1 fact that a special master, what I'm doing, is preparing a
2 record ultimately that the Supreme Court will use to
3 resolve this matter, that it was not necessary to use time
4 limits here. I do not believe that it is impermissible to
5 use time limits, but if they're not necessary, my
6 preference would be not to use them. And neither party
7 had asked for them. That's obviously changed now.

8 As I said, I've gone over the various papers and
9 just sort of totaling up some numbers, the various
10 estimates of time that I've come up with range all the way
11 from -- at the low end, if I take Montana's estimate of a
12 total of 82 hours for the presentation its case in chief,
13 including cross-examination at about the same amount of
14 time as the direct testimony, so that's 82 hours, and then
15 I add the 36 hours that I get from just looking at the
16 Wyoming witnesses that are added onto the Montana list in
17 Wyoming's motion, I get a total of 118 hours. I'll be
18 honest, that doesn't concern me too much.

19 But then if I take Montana's high estimate and
20 take, again, Wyoming's estimate -- I'll come back in a
21 moment to get a better sense of how these estimates were
22 made -- then I end up with 155 hours, which even if we
23 went every day and did six hours on average every day, we
24 still would not finish by December the 3rd. So that
25 begins to worry me.

1 So one thing I would love to know at the very
2 outset is -- just so I totally understand the numbers --
3 So, Mr. Draper, in coming up with your original estimates,
4 which are attached to your opposition to Wyoming's
5 motion -- so my understanding there is that you
6 effectively just doubled the amount of time that you
7 expected for direct at the low end and the high end?

8 MR. DRAPER: Your Honor, this is John Draper.
9 Yes, we took our estimates for direct and doubled those to
10 cover cross-examination and redirect.

11 SPECIAL MASTER THOMPSON: And there's obviously a
12 fair amount of differences, you know, it's like a 50
13 percent difference, between the low number of hours that
14 you estimate, the 82, and the high at 119. So effectively
15 it's like about another 50 percent difference in the time
16 estimates. And I realize that estimating exactly how time
17 in a trial is going to go is difficult to do, but can you
18 give me a little bit of a sense of how you came up with
19 low-end and high-end estimates?

20 MR. DRAPER: Well, Your Honor, this is a
21 tentative list, as we indicated on the face of it, when we
22 gave it to counsel for Wyoming. So it's really very
23 tentative. It's our best estimate. It takes into account
24 that there may be no cross-examination in some instances,
25 or maybe more extensive cross-examination than the time

1 necessary to put on the direct.

2 One of the things we tried to do was to -- as far
3 as the witnesses that we knew that Wyoming intended to
4 call, we included an estimate. There again, it's very
5 difficult to estimate what an opposing party is going to
6 do with putting on a witness. So it was basically looking
7 at the issues, the expert reports, taking into account
8 that you had not had a chance to look over the exhibits in
9 any detail ahead of the hearing, and that there would need
10 to be some explanation on direct with respect to every
11 important part of the witness's testimony.

12 I'm not sure I can be more specific than that.
13 It is definitely an estimate, and we were trying to do it
14 so that we and Wyoming might be able to make at least some
15 educated guesses about when witnesses would be needed.

16 SPECIAL MASTER THOMPSON: Okay. And then, Mr.
17 Kaste, I'm curious on the additional witnesses that you
18 added to the list. So you come up with basically a total
19 of 36 hours on Wyoming's witnesses, and I know you're
20 trying to squeeze down the time. But I'm curious as to
21 what, if anything, you were estimating for
22 cross-examination; in other words, were you also just
23 doubling the amount of time that you were expecting to do
24 the direct testimony on each of these various witnesses?

25 And in addition to that I notice, going back to

1 your pretrial memorandum, that you had originally, if I
2 remember, estimated a much more significant amount of time
3 for Wyoming's case in chief.

4 MR. KASTE: What did we say in the pretrial memo?
5 I forget off the top of my head.

6 SPECIAL MASTER THOMPSON: I have it right here.
7 You said a total of ten to 12 trial days.

8 MR. KASTE: And that was true. But if you look
9 at the schedule that was promulgated by Montana, a good
10 bit of our witnesses, the ones that are sort of important
11 to our case, for example, the folks who work in Division
12 2, would have been called in Montana's case in chief, and
13 it significantly shortens the amount of time that we're on
14 in our case in chief.

15 And I got to tell you that how this arose is, you
16 know, I think we reasonably anticipated that the first
17 three weeks of this trial, and granted some of them are
18 short weeks, Montana would put on its case in chief, and
19 that the second two-week block, after the first week in
20 November, would likely be taken up by Wyoming's case in
21 chief, and I think that's a more than fair distribution of
22 time in this case. And then I get a schedule that says,
23 "No, you're not going to get to put on your case until
24 Thanksgiving or December." And I think that's wholly
25 disproportionate to, one, the issues in the case, and

1 excessive in terms of its estimation of how long these
2 things are going to take.

3 Cross-examination of Montana's witnesses will not
4 be double their direct time. I mean, if you have a guy on
5 direct examination for an hour, it would be remarkable for
6 Wyoming to spend another hour cross-examining the
7 individual. I think the times that are estimated are
8 wildly excessive. And I think the idea that "Well, we've
9 got 1,000 exhibits listed. That's probably going to take
10 a lot of time," well, that's just nuts.

11 I'll tell you what happened. The summary
12 judgment proceedings were so close in time to the exhibit
13 list designations, that both parties, with their hair on
14 fire, put everything in out of an abundance of caution.
15 And I can't imagine that we're going to put a quarter of
16 the exhibits that are on our list into evidence. That's
17 just not a fair approximation of the size of this case.

18 And I think that 54, and even 60 hours, such that
19 we plan to complete this case on November 21st, is more
20 than adequate time for us to discuss the factual issues
21 that need to be addressed at trial. And those factual
22 issues have been narrowed down fairly significantly.

23 This proceeding simply cannot be, you know, let's
24 just do a free for all and put in whatever we want, and
25 your job as the special master to just to sit there and

1 take good notes. I don't believe for a minute that that's
2 what you're here for, and I think we need to exercise some
3 good judgment based on the magnitude of what's really
4 going on here. You know, honestly, we all know that it's
5 just not that much water at the end of the day.

6 Our presentation should be reasonably
7 proportionate to the amount at issue. It's stunning to me
8 that we would take six weeks to try this case, and that's
9 the schedule I got. And I've got to get people on
10 airplanes and in hotels, and I'm reasonably believing they
11 can do that during the second two-week block of this
12 trial, and that doesn't appear to jive at all with what
13 Montana believes is going to happen.

14 And I do appreciate you listening to us this
15 early. I know we have a pretrial conference just a couple
16 days away. But, like I said, we're making airplane
17 reservations, hotel reservations, trying to get people to
18 get in a car in the middle of winter and get to Billings,
19 and they're all wound pretty tight about "When do I have
20 to be there?"

21 SPECIAL MASTER THOMPSON: Mr. Draper.

22 MR. DRAPER: Your Honor, as you can imagine, I
23 don't really agree with anything that Mr. Kaste just said.
24 He has just, through his voice, demanded that a trial
25 between sovereigns be limited without any basis for this

1 demand. And it seems to me that this is not like one of
2 his garden-variety district court cases. The Supreme
3 Court of the United States has taken a very different view
4 of these, and to arbitrarily limit the presentation of a
5 state case in the original jurisdiction is a very doubtful
6 matter.

7 And we are, of course, planning to do this very
8 expeditiously and efficiently and without waste of time.
9 But for the opposing state who has continually tried to
10 eliminate the need for trial or limit it through various
11 motions, most recently the motions in limine on various
12 substantive subjects, now is coming in and saying, "Well,
13 for no reason you've just got to impose a limit on the
14 Montana case." And it's highly irregular. It's
15 inconsistent with the approach they've been taking up to
16 now of adamantly opposing pretrial testimony. They didn't
17 want objections to exhibits ruled on before trial. They
18 have limited the access of special master to the exhibits.
19 And now they're saying the time that we need to take in
20 front of you to present this evidence is -- there's a
21 certain amount of time that it's naturally going to take.
22 And to come in at this late date, long after the pretrial
23 orders and pretrial memoranda have addressed these types
24 of issues, and say that all of a sudden we've now got to
25 change our schedule -- first of all, limit all the

1 testimony, change the schedule for witness appearances,
2 which in many cases have to accommodate their schedules,
3 it's just -- it's far too late to be trying to place an
4 arbitrary limit on a state.

5 And my suggestion would be that you simply, as we
6 go along, keep discussing our progress and how we're doing
7 with respect to the estimated schedules and make such
8 accommodations and rulings as appear to you to be
9 necessary.

10 SPECIAL MASTER THOMPSON: Mr. Kaste.

11 MR. KASTE: Before we go on, I do want to make
12 one very particular problem known to you and have it on
13 your radar, and this is a matter of very significant
14 concern to the State of Wyoming. Our groundwater modeling
15 expert, Dr. Schroeder, has had in place forever a trip
16 back to South Africa where he's from, and the very last
17 day that he can possibly testify in these proceedings is
18 November 13. And you'll see on the schedule -- the
19 tentative schedule that Montana provided, they have their
20 ground water hydrology expert -- or modeling expert
21 designated on their tentative schedule as the very last
22 witness. And that -- we need to ensure that Mr. Larson
23 testifies well in advance of the 11th or 12th -- I guess
24 the 12th -- the 11th is a holiday -- of November, and that
25 Dr. Schroeder be allowed to testify on the 12th of

1 November to accommodate his trip back home to South
2 Africa. Obviously Dr. Schroeder cannot testify until
3 after Mr. Larson testifies, and that particular
4 accommodation just must be made. We cannot get him out of
5 his trip to South Africa to see his mother. That's been
6 in the works for him for quite sometime.

7 And I guess I, in the main, disagree completely
8 that this is wholly unlike any district court case simply
9 because of the venue. I think the good sense and the good
10 rules that the district courts apply have their place
11 here, and I frankly think that a clock focuses the mind
12 and would be beneficial to all involved.

13 SPECIAL MASTER THOMPSON: Okay. Mr. Draper.

14 MR. DRAPER: Your Honor, I want to say that we'd
15 be glad to work with Wyoming. As I understand what
16 Mr. Kaste just said, the 13th of November is the last day
17 that Mr. Schroeder can conveniently testify. So we're
18 happy to work with that. And it was that kind of thing
19 that we were hoping would be worked out based on the
20 schedule that we provided, and we're certainly happy to do
21 that. But, again, I don't think we should be put on any
22 artificial deadline that has chosen by defendants'
23 counsel.

24 SPECIAL MASTER THOMPSON: Okay. So just really
25 quickly a number of different points. The first one is

1 that -- Mr. Kaste, just to make it clear, my own view is
2 that I do have a responsibility to try to make this
3 proceeding move expeditiously, and it's not simply to
4 permit any evidence to come in. At the same time, because
5 of the nature of the proceedings, where I think there are
6 any type of close issues, I will tend to defer towards
7 putting the evidence in, simply because of the fact that
8 the Supreme Court, again, will ultimately hear this. And
9 the last thing any of us will want to see is for this to
10 be remanded for further proceedings on this part of the
11 case. So I don't in any way want to be interpreted as
12 saying anything comes in.

13 The second thing is is that when I look at the
14 original dates that Montana has on its list, again the
15 lower estimates look pretty good to me because there you
16 come pretty close, even under Montana's estimate, to
17 finishing up during that -- during that third week of the
18 proceedings. And particularly if cross-examination is not
19 the exact same length as direct -- and I agree with you,
20 Mr. Kaste, that would be somewhat surprising to me, too --
21 then we actually would come in well within the estimates.
22 As I say, the problem is if those high estimates are
23 there.

24 What I -- I want to take a look at all these
25 numbers and -- so I'm not actually going to decide today

1 to set a time limit or a particular time limit, but I want
2 to discuss it more with you all on Tuesday. I'll tell you
3 right now, though, that I will -- you will not have a
4 happy special master if it goes that higher length of
5 time. So even if I end up not setting a time limit, my
6 hope is that Montana can work to keep us on that lower end
7 of the estimate rather than at the higher end.

8 And, Mr. Kaste, in working with Mr. Draper, I'm
9 hoping that Mr. Draper will be accommodating in that
10 respect so that you can give your witnesses a little bit
11 more in the way of a sense of when they are likely to be
12 testifying, other than basically an eight-day swing. So
13 hopefully, you know, that will give you a sense of where I
14 would like to see this come out. And at the end of the
15 day on Tuesday, depending on how the in limine motions go
16 and how the rest of our discussions in the pretrial
17 conference goes, I am reserving the right to establish a
18 total time limit on the trial.

19 Although, Mr. Draper, just so that you have a
20 little bit more comfort, it will not be the -- it would be
21 a higher time limit than what Wyoming has proposed in this
22 particular case.

23 So I know that doesn't resolve Wyoming's motion,
24 but, as I said, I want to take a look at these papers.
25 And, furthermore, I haven't read the various in limine

1 motions yet, so I want to take a look at all of it before
2 ruling on this particular motion. But, again, my
3 expectation will be that the parties will try to be as
4 expeditious on this. We will end up at the low end of
5 Montana's time estimate, even without a time limit, but I
6 reserve the right to set a time limit at the end of
7 Tuesday, if I think one is necessary, after I've gone over
8 all the record here and we have dealt with the in limine
9 motions.

10 A second thing that hopefully will help on this,
11 as I suggested earlier, what I would like as part of the
12 trial, once the trial gets going, is for the parties to
13 have identified what the exhibits are likely to be that
14 they will be using for each of the various witnesses so
15 that we can clear up any likely objections before we
16 actually have the witnesses on the stand for each of the
17 various dates. That will also permit me to read those
18 exhibits the night before so that I'll have some
19 familiarity with them and you won't have to wait for me to
20 be thumbing through them on the stand. So that will help
21 a little bit.

22 Now, this raises a couple of other points,
23 though. The first is that we face, unfortunately, this
24 continuing problem with the courtrooms not always being
25 available when we want it to be. As I mentioned, we were

1 able to escape the problem of a conflict for that entire
2 week of October 21st, but it looked like one of the judges
3 would be doing a hearing on one of those days, and now it
4 looks like he might be doing a hearing on two of the days.

5 And particularly given the schedule, the need to
6 bring witnesses in, what I'm going to propose to Ms.
7 Carter is that we go ahead and reserve a hotel room for
8 those two days. We might not need them, and there might
9 be a cost incurred, but the cost won't be large, and I
10 think it will be less costly than the cost of a delay in
11 this particular proceeding.

12 What I propose -- and, again, we can talk more
13 about this at the pretrial conference -- is that if, you
14 know, we're going to lose, like, an afternoon, then I
15 think we lose that afternoon. If, on the other hand, we
16 lose an entire day or more, that's where I'm going to be
17 looking to move it to a courtroom so that we can keep this
18 proceeding moving and don't have any delays.

19 Now, on the possibility of moving into a hotel
20 room -- and, again, my hope is that none of this comes to
21 pass, but if it does, it does -- one possibility is moving
22 out to the Montana Hotel & Convention Center, if I
23 remember, or is it the Billings Hotel & Convention Center?
24 But anyway, if we were moving for an entire week that
25 sounded very attractive, and it might be the only room

1 that's available to reserve at this point for those two
2 days, in which case that would -- that sounds fine to me.
3 But I'm really tempted, if it's like just a day or two
4 days, to see whether or not one of the downtown hotels can
5 take us, including the Best Western ClockTower. The room
6 there is about -- I think about or a little over 1,000
7 square feet, and so --

8 And I know you're a little bit worried about
9 whether or not that would be big enough, Mr. Draper. And
10 I realize there's no easy spot that you can rent for -- a
11 room for counsel, but my thought is it would just be a lot
12 easier if we're downtown to stay downtown rather than
13 going out to a hotel that we would all have to transport
14 ourselves to.

15 I guess on that I'm looking for thoughts.

16 MR. DRAPER: Your Honor, this is John Draper. If
17 it's on the order of a thousand square feet, that's 30 or
18 40 feet on the side, if it was square, which seems pretty
19 darn small for accommodating you and the parties and
20 witnesses and that kind of thing; equipment, briefcases,
21 et cetera, boxes, exhibits. So I saw that as being
22 smaller than what's really going to be comfortable to use,
23 but, of course, we can squeeze into whatever you want us
24 to. But it just didn't seem to be conducive to the kind
25 of proceeding that could go quickly and not be delayed

1 while people sort through things or step over things and
2 so on. So that's why I was looking at that larger space
3 as being more suited to our needs.

4 SPECIAL MASTER THOMPSON: Okay. Mr. Kaste.

5 MR. KASTE: Well, since I'm staying at the Best
6 Western, it's convenient for me.

7 SPECIAL MASTER THOMPSON: Do you know what the
8 size of that room is? I know the square footage, but I
9 just don't know whether it's square or -- you know 20 by
10 50 sounds better to me than --

11 MR. KASTE: No, I am not familiar with the
12 dimensions of the room. But if we're moving in there for
13 one day, I don't care how big the room is. It's going to
14 be sort of a logistic pain in the butt.

15 SPECIAL MASTER THOMPSON: Yeah.

16 MR. KASTE: And if we're in close quarters for
17 one day, it doesn't bother me a bit. I mean, it's a lot
18 like doing depositions in a little tiny hotel room. We've
19 all done it. It hasn't been fun, but it was necessary.
20 And if it's more convenient to be downtown and we have to
21 snuggle, that's fine.

22 SPECIAL MASTER THOMPSON: Yeah. And let me just
23 ask, so what type of equipment will we need in a
24 conference room? I assume what we will need is some type
25 of a projector and screen so that you can project

1 exhibits.

2 MR. KASTE: Well, Your Honor, this is Mr. Kaste,
3 and I was talking with Andrew about that this morning and
4 the possibility of doing this in a hotel room, and we're
5 going to try and bring a projector. The screen, I don't
6 know that we have one on hand, but we can either use the
7 wall or we can assess whether they have one at the hotel.
8 Other than that, the only equipment I think people will
9 need is their computer to plug into that, and we'd be
10 happy to share that if it turns out that it was during
11 Montana's portion of the case and wanted to plug in to put
12 their exhibits up.

13 I can tell you that we have planned to utilize
14 the courtroom technology, and so we haven't made blowups
15 of our exhibits for demonstrative purposes because they
16 have such great screens in the courtroom. It just doesn't
17 make any sense to spend the money you used to spend on
18 blowups. But if we don't have that available, I think we
19 can muddle through without too much trouble.

20 SPECIAL MASTER THOMPSON: Okay. And either
21 Mr. Kaste or Mr. Draper, anything other than basically the
22 video equipment in terms of the ability to actually be
23 able to project onto a screen?

24 MR. DRAPER: Your Honor, this is John Draper. I
25 think, as I understand, you'll have a computer with all

1 the exhibits -- or an iPad with all the exhibits available
2 to you on that scale.

3 SPECIAL MASTER THOMPSON: That's correct. I
4 will. And I plan to use that; although, I'll probably be
5 using my iPad for this purpose, but I plan to test out
6 both this weekend.

7 Okay. I'm going to have Ms. Carter check the
8 Best Western and see whether or not, Number 1, it's
9 available, and if it's available, what the exact size of
10 the room is. I'll be honest, I've been thinking more in
11 the range of a rectangle than in terms of a square. And
12 whatever it is, we will reserve the room for those two
13 days because I'm just worried this is coming upon us
14 quickly, and I want to make sure that we don't have a gap
15 in the proceedings while witnesses have to cool their
16 heels and all of you have to figure how to work from afar.
17 So I will go ahead and do that so that hopefully we don't
18 lose any time on the trial.

19 And then the other question I had was, I did not
20 know whether or not either of you planned to make any type
21 of an opening statement.

22 MR. DRAPER: Your Honor, this is John Draper. We
23 do plan to have an opening statement, I think less than
24 half an hour. And I'll be sharing that with Attorney
25 General Fox.

1 MR. KASTE: This is Mr. Kaste. I had asked for
2 on our pretrial memo and plan to give a brief opening
3 statement in the nature of a half an hour or less as well.

4 SPECIAL MASTER THOMPSON: I'm sorry. I'm
5 actually looking at Page 10 where, indeed, Mr. Kaste you
6 are absolutely right. You did actually already say that
7 you planned to make an opening statement. Probably
8 Mr. Draper did too. I just didn't look back at that.

9 Okay. If they were longer I was going to, you
10 know, suggest we try to do those the afternoon of the day
11 of the final pretrial conference. But if they're just
12 half and hour, we can just put them at the very beginning
13 of that first day of trial, because I assume it would make
14 more sense there and -- so we'll just go ahead and do that
15 in the normal course.

16 Okay. So the only other thing I will say is
17 that -- and this is just so that both sides know now --
18 that I probably will be asking questions of some of your
19 witnesses. We can talk more about the process for that on
20 Tuesday. You will be free to object to any question I
21 ask, and then I'll evaluate whether or not that objection
22 is a legitimate one. And if so, I will withdraw my
23 question. So you can treat me just like counsel from that
24 perspective.

25 MR. KASTE: I'm a little nervous about that, Your

1 Honor.

2 SPECIAL MASTER THOMPSON: I just wanted to warn
3 you now that I'll do that. We can talk more about that on
4 Tuesday.

5 MR. KASTE: We've already told all of our
6 witnesses that you can ask, and probably will at various
7 times, any questions that you're interested in, and so
8 they're all ready and able.

9 SPECIAL MASTER THOMPSON: Okay. I promise it
10 won't add another 40 hours to the trial proceeding.

11 MR. DRAPER: Your Honor, this is John Draper. I
12 might add that questions by the special master in these
13 proceedings is quite normal and we're expecting it as
14 well.

15 SPECIAL MASTER THOMPSON: Okay. Great.

16 So, again, I am not ruling on Wyoming's motion
17 this morning, but if I do not set time limits, I just want
18 to make sure Montana understands that my expectation will
19 be that the length of their case in chief, including
20 cross-examination, should be towards the lower end of that
21 82- to 119-hour spectrum, and I reserve the right to set a
22 time limit at the end of the final pretrial conference, if
23 it seems necessary. But, as I say, at this point 'til
24 I've looked at everything, I'm not going to do that.

25 MR. KASTE: This is James Kaste. I just had one

1 more question about a different matter. You submitted
2 your order, I want to say, three or four weeks ago with
3 regard to your interim fees. I have not had it come
4 across my desk, an order from your Supreme Court motion.
5 Am I missing something?

6 SPECIAL MASTER THOMPSON: Probably not. What the
7 Court will do is they will take that up at one of their
8 first conferences and then issue an order at that point in
9 time. And given that they just had their very first day
10 this last -- two Mondays ago and given that the
11 conference -- I doubt whether they even looked at it in
12 the conferences before that first Monday in October. It
13 does not surprise me they haven't gotten to that yet. I
14 would expect it to be probably later this month.

15 MR. KASTE: Okay. Well, I just wanted to make
16 sure that it had not escaped my attention and that you
17 weren't sitting there harboring a grudge because Wyoming's
18 a deadbeat and won't pay your bill.

19 SPECIAL MASTER THOMPSON: No, you don't have to
20 worry about that.

21 MR. KASTE: Good.

22 SPECIAL MASTER THOMPSON: I will see you all on
23 Tuesday morning. I gather it's going to snow on Monday.

24 MR. DRAPER: Oh, really?

25 SPECIAL MASTER THOMPSON: Yes. So hopefully

1 we'll all be able to get in.

2 MR. KASTE: Well, we're leaving tomorrow so --

3 SPECIAL MASTER THOMPSON: Okay.

4 MR. KASTE: Thank you very much for your time
5 this afternoon, Your Honor.

6 SPECIAL MASTER THOMPSON: Okay. Thanks a lot,
7 everyone. Have a great weekend, and I will see you on
8 Tuesday morning.

9 (At 10:42 a.m., the proceedings were concluded.)

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1 STATE OF CALIFORNIA)
)
2 COUNTY OF SAN DIEGO)

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4 I, Kimberly A. Larsen, a Certified Shorthand
5 Reporter for the State of California, do hereby certify
6 that the foregoing telephonic proceedings were taken
7 before me at the time and place herein set forth; that the
8 telephonic proceedings were reported stenographically by
9 me and later transcribed by computer-aided transcription
10 under my direction; that the foregoing is a true record of
11 the telephonic proceedings taken at that time.

12 I further certify that I am a disinterested
13 person and that I am in no way interested in the outcome
14 of said action.

15 IN WITNESS WHEREOF, I have subscribed my name
16 this 23rd day of October, 2013.

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Kimberly A. Larsen, CSR No. 8993

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