

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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ADMINISTRATIVE LAW JUDGE ROBERT MASON, presiding

)	PREHEARING
)	CONFERENCE
Order Instituting Investigation and)	
Ordering Pacific Gas and Electric)	
Company to Appear and Show Cause Why)	
It Should not be Sanctioned for)	Investigation
Violations of Article 8 and Rule 1.1)	15-11-015
of the Rules of Practice and)	
Procedure and Public Utilities Code)	
Sections 1701.2 and 1701.3.)	

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SAN FRANCISCO, CALIFORNIA

MARCH 15, 2019 - 9:32 A.M.

* * * * *

ADMINISTRATIVE LAW JUDGE MASON: We are
on the record.

Good morning, ladies and gentlemen.
This is the prehearing conference in
Investigation 15-11-015 Order Instituting
Investigation and ordering Pacific Gas &
Electric Company to appear and show cause why
it should not be sanctioned for violations of
Article 8 and Rule 1.1 of the Rules of
Practice and Procedure and Public Utilities
Code Sections 1701.2 and 1701.3.

My name is Robert Mason. I am the
assigned administrative law judge in this
proceeding, and I will begin by taking
appearances from the parties starting from my
far left.

MR. COYLE: Sean Coyle on behalf of
Pacific Gas & Electric Company, your Honor.

MS. STROTTMAN: Britt Strottman on
behalf of the City of San Bruno. And Mr.
Rubens could not be here today, so he asked
me to appear on behalf of the City of San
Carlos.

ALJ MASON: Thank you.

MR. FOSS: Travis Foss for the Safety

1 and Enforcement Division. Greg Heiden is the
2 assigned attorney, but he asked me to be here
3 because he couldn't be here today.

4 MS. GOODSON: Hayley Goodson on behalf
5 of TURN.

6 MR. SHER: Nicholas Sher on behalf of
7 the Public Advocates Office.

8 ALJ MASON: Thank you.

9 Mr. Frank, I see you sitting at the
10 front table. Do you intend to participate in
11 today's prehearing conference?

12 MR. FRANK: Only if Mr. Coyle needs me.

13 ALJ MASON: Why don't you enter an
14 appearance. Then if you need to speak, we'll
15 have you speak, but just for recordkeeping,
16 why don't you make your appearance also.

17 MR. FRANK: Thank you. Yeah. My name
18 is Steve Frank. I'm in-house attorney at
19 PG&E. Just to clarify our roles, Mr. Coyle,
20 sitting to my right, is with the Coblentz
21 Firm, and he's been with us since the onset
22 of this investigation. So he'll be playing
23 the speaking role today for PG&E.

24 ALJ MASON: Thank you very much, Mr.
25 Frank, and for the clarification.

26 This is a prehearing conference
27 where we will identify the parties, confirm
28 the accuracy of the service list, discuss

1 categorization of the proceeding, identify
2 and discuss the issues, identify and discuss
3 the scheduling and any scheduling issues, and
4 then as a wrap-up, if there are any other
5 things that we -- I haven't identified as
6 being part of the schedule this morning, I'll
7 open it up to the parties to address before
8 we conclude this morning's prehearing
9 conference.

10 So the appearances have been entered
11 this morning for those appearing at the
12 prehearing conference. And I have a copy of
13 the service list. So I would suggest that
14 the parties make sure that they are on the
15 service list and that they are properly
16 identified. And if there are any issues with
17 that, please let the administrative law judge
18 division process department know so any
19 corrections to the service list can be made.

20 Since we are dealing with an Order
21 Instituting Investigation, this is an
22 adjudicatory proceeding. That's how this
23 proceeding is categorized. And as a result
24 of that, there are no ex-party communications
25 permitted during the course of this
26 proceeding.

27 Now I want to get into the issues.
28 I appreciate the parties submitting their

1 joint prehearing conference statement, and I
2 was intrigued by some of the statements in
3 here. When the issue of additional
4 communications came to light in September of
5 2017, it was my understanding that we were
6 dealing with just a subset of communications,
7 possibly 20 -- in the 20-to-22 range and that
8 the issue was going to be whether or not
9 these communications, if any of them,
10 constituted ex-party communications that were
11 in violation of our Rules of Practice and
12 Procedure.

13 But in looking at the joint
14 prehearing conference statement, one of the
15 things that struck me is that Cal Advocates
16 and SED have engaged in extensive discovery
17 from PG&E concerning and related to the
18 emails disclosed in September of 2017. I'm
19 curious about what is the discovery that's
20 going on and is the -- do we have any
21 discovery disputes? Or is discovery close to
22 being completed?

23 I'll hear from Mr. Sher first.

24 MR. SHER: Good morning, your Honor.
25 The discovery as of now is completed. The
26 discovery was based on the release of those
27 20, 21 e-mails you just mentioned. And we,
28 PG&E and the other parties, have met, and

1 based on that and those emails, we had other
2 questions for PG&E. They did quite a large
3 data research and produced, I think, about
4 3,000 additional -- 3,000 pages or 3,000
5 emails -- I'm forgetting which -- which we
6 have gone through and we are in the process,
7 as stated in the prehearing conference, of
8 trying to settle the issue.

9 ALJ MASON: What triggered that
10 discovery request?

11 MR. SHER: It was the additional emails
12 provided by PG&E to the Commission with
13 regards to the Political Fair Practices
14 Commission.

15 ALJ MASON: No. I understand that. I
16 guess I'm not being clear with the question.
17 So the emails were disclosed, and we all saw
18 the emails. And as a result of that, when I
19 wrote the decision, it was -- we were going
20 to -- after I heard from the parties, we
21 decided, okay, we're going to approve the
22 settlement with modifications, and then we'll
23 have a subsequent phase to deal with these
24 newly discovery emails.

25 I guess the emails themselves -- or
26 the communications themselves gave cause for
27 Public Advocates, SED and TURN to want to
28 conduct some additional discovery to PG&E.

1 MR. SHER: That is correct, your Honor.

2 ALJ MASON: All right. Let me hear
3 from you, Mr. Coyle. There was either 3,000
4 pages or 3,000 additional emails were
5 produced. Do you know which it is?

6 MR. COYLE: Emails, your Honor. That's
7 not an exact number, but that's an
8 approximation.

9 ALJ MASON: We'll just deal with that
10 as the ballpark.

11 Talk to me about the parties'
12 progress towards at least trying to get to
13 some kind of a stipulated factual record.
14 Let me hear from you, Mr. Coyle. Are we
15 looking at putting all 3,000 e-mails as part
16 of the stipulated factual record? Are we
17 talking about some kind of a subset? I'm
18 trying to get a sense -- in the event that
19 there's going to be briefing or if there's
20 going to be an evidentiary hearing, I'm
21 trying to get a sense of the universe of
22 documents I'm going to be asked to look at
23 and weigh to make an ultimate determination.

24 MR. COYLE: So we haven't agreed
25 precisely on the record, but we did meet on
26 Monday with all parties, with the exception
27 of Shell who hasn't been participating on the
28 merits. And we have agreed to -- compared to

1 that 3,000 number, what I would consider a
2 small subset of the 3,000, I don't have an
3 exact number for you -- but I think we were
4 all talking about something on the order of
5 about a hundred. And the idea is that subset
6 of -- and I'll call it, just for purposes of
7 discussion, something like a hundred emails
8 is what the parties are discussing as a
9 potential proposed joint evidentiary record
10 for resolution of the case. And what we
11 envision doing between now and hopefully the
12 submission of a proposed record -- and I
13 think we're -- without speaking for everyone,
14 I think we're all optimistic that we can do
15 that. We went through that exercise together
16 as a group in Phase 1 and had success with
17 that. So I think we can do that again here.

18 What we would do is we would decide
19 and discuss among one another which ones were
20 appropriate for inclusion and recommendation
21 to the Commission, which ones were not and
22 then come up with a final set and add
23 stipulations to those to resolve what would
24 otherwise be potentially disputable facts so
25 that we have one proposed joint evidentiary
26 record that we would submit to the Commission
27 as the proposed record of the case that
28 resolves all issues of material fact.

1 I'll just add one nuance to that.
2 In addition to emails, there may be some
3 related materials that would be part of the
4 record. That would be contracting materials.
5 I don't know if the other parties are
6 interested in any of PG&E's written discovery
7 responses being part of the record, but
8 that's the kind of material that we're
9 talking about as part of a joint evidentiary
10 record.

11 ALJ MASON: Counsel for Cities of San
12 Bruno and San Carlos, Ms. Strottman. Do you
13 agree with what Mr. Coyle said? Or do you
14 have anything you'd like to add?

15 MS. STROTTMAN: No, I agree with what
16 Mr. Coyle said.

17 ALJ MASON: Mr. Foss.

18 MR. FOSS: Nothing further to add.

19 ALJ MASON: Ms. Goodson.

20 MS. GOODSON: Nothing further to add.

21 ALJ MASON: And Mr. Sher.

22 MR. SHER: Nothing further, your Honor.

23 ALJ MASON: Thank you. So we're in
24 agreement there. So I will move onto the
25 issue of scheduling. The scenario that you
26 proposed under A, that by May the 15th
27 parties -- if an agreement is reached on the
28 evidentiary record by May the 15th, 2019,

1 parties to submit a proposed joint
2 evidentiary record. Then June 14th, 2019,
3 parties to submit opening briefs. Then July
4 19, 2019, parties to submit replies to
5 opening briefs.

6 On the surface of things, that
7 schedule seems fine to me. I'll confer with
8 the assigned Commissioner of the proceeding
9 to see if there are any issues with that.
10 I'll certainly let the parties know if this
11 schedule is going to be confirmed or
12 modified.

13 Then we have Scenario B in the event
14 that the parties do not reach an agreement on
15 an evidentiary record. If the parties fail,
16 then the parties would alert the Commission
17 by filing a motion no later than April 26,
18 2019 requesting dates for testimony and
19 evidentiary hearings. But if the parties
20 have not filed a motion requesting dates for
21 evidentiary hearing by April 26, that's going
22 to mean the parties have successfully reached
23 an agreement.

24 I would tweak that April 26, 2019
25 deadline to be -- that's going to be your
26 status report deadline to me. You're either
27 going to let me know you have reached an
28 agreement or that you haven't. That way I'm

1 not wondering whether or not an email got
2 misdirected and I'm operating on one plane
3 and you're operating on other plane.

4 So April 26, 2019, that will be for
5 the parties to file a joint status report
6 either advising me that you've been able to
7 reach an agreement or that you haven't been
8 able to reach an agreement. And we're going
9 to be moving forward with the evidentiary
10 record schedule assuming that the
11 Commissioner is in agreement that that is the
12 one that has been adopted. So that would be
13 the only tweak I would make in terms of the
14 scheduling.

15 Does anyone want to be heard on that
16 tweak?

17 MR. FOSS: I'll just make a comment,
18 your Honor. Does it have to be a motion or,
19 like, does it have to be official -- does it
20 have to be an officially filed document, or
21 can it just be an email?

22 ALJ MASON: It could be just a joint
23 status report like you've done before. It
24 can just be a one-page document. I do want
25 something in the file to reflect it because
26 the proceeding has been around for a while
27 now, just because of the advent of new
28 information being discovered and my wanting

1 to give the parties sufficient time to reach
2 what I thought was going to be an agreement
3 to dealing with the small universe of
4 documents, but that expectation didn't come
5 to fruition. And we're dealing with a much
6 larger universe of documents that I
7 anticipated before coming into the hearing
8 today. So I will want something formal -- it
9 just has to be a page or two -- just letting
10 me know what the status is.

11 MR. FOSS: Thank you.

12 ALJ MASON: Ms. Goodson, you wanted to
13 speak.

14 MS. GOODSON: Yes. Thank you, your
15 Honor. The parties were anticipating that on
16 April 26 when we would notify the Commission
17 if we had not been successful in coming to an
18 agreement on the evidentiary record that we
19 would at that time request dates for
20 testimony in hearings and we would propose
21 dates for your Honor's consideration.

22 We understand that the hearing room
23 availability is not something that we can
24 anticipate in advance. So my question for
25 you, if -- given your preference for a status
26 report that gives you the thumbs up or thumbs
27 down, is in that report would you like us to
28 propose dates for testimony in hearings and

1 then briefing certain number of weeks
2 following hearings in the event wherein what
3 we call Scenario B? Or would you like to try
4 to develop a Scenario B schedule now that has
5 testimony, hearings and briefing so that the
6 status report is more just a toggle?

7 ALJ MASON: No. I would prefer the
8 former. If you're going to submit a status
9 report on April 26 and you have not reached a
10 settlement, then I would like some proposed
11 hearing dates and a briefing schedule,
12 because then, at that point, I'm going to
13 have to look at my schedule. I'll have to
14 talk to the court reporters. I'll have to
15 see what we have in terms of availability.
16 And what you may be proposing as a schedule
17 may not work. But give me dates anyway. And
18 then I'll meet with our court reporters, and
19 then we'll see what we can do.

20 MS. GOODSON: Thank you, your Honor.

21 ALJ MASON: Sure. All right. I've
22 gone over the points that I wanted to raise
23 with the parties this morning.

24 Are there any other issues any of
25 the parties wish to bring to my attention at
26 this point?

27 Mr. Sher?

28 MR. SHER: No, your Honor.

1 ALJ MASON: Ms. Goodson?

2 MS. GOODSON: No, your Honor.

3 ALJ MASON: Mr. Foss?

4 MR. FOSS: That's it, your Honor.

5 ALJ MASON: Ms. Strottman?

6 MS. STROTTMAN: No. Thank you.

7 ALJ MASON: Mr. Coyle?

8 MR. COYLE: No, your Honor.

9 ALJ MASON: In that case, thank you
10 very much.

11 Ladies and gentlemen, this
12 prehearing conference is concluded.

13 (Whereupon, at the hour of 9:48
14 a.m., the Commission then adjourned.)

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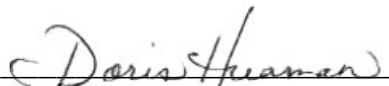
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, DORIS HUAMAN, CERTIFIED SHORTHAND REPORTER
NO. 10538, IN AND FOR THE STATE OF CALIFORNIA, DO
HEREBY CERTIFY THAT THE PAGES OF THIS TRANSCRIPT
PREPARED BY ME COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
THIS MATTER ON MARCH 15, 2019.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE
EVENTS OF THE MATTER OR THE OUTCOME OF THE PROCEEDING.

EXECUTED THIS MARCH 18, 2019.


DORIS HUAMAN
CSR NO. 10538

1	addition 35:2	attorney 29:2,18	communications 30:24 31:4,6,9,10 32:26
1 34:16	additional 31:3 32:4, 11,28 33:4	availability 38:23 39:15	Company 28:10,21
1.1 28:12	address 30:7	B	compared 33:28
14th 36:2	adjourned 40:13		completed 31:22,25
15 28:2	adjudicatory 30:22	ballpark 33:10	conclude 30:8
15-11-015 28:8	administrative 28:4, 16 30:17	based 31:26 32:1	concluded 40:12
15th 35:26,28	adopted 37:12	begin 28:17	conduct 32:28
1701.2 28:14	advance 38:24	behalf 28:20,23,25 29:4,6	confer 36:7
1701.3 28:14	advent 37:27	briefing 33:19 39:1,5, 11	conference 28:7 29:11,26 30:9,12 31:1, 14 32:7 40:12
19 36:4	advising 37:6	briefs 36:3,5	confirm 29:27
2	Advocates 29:7 31:15 32:27	bring 39:25	confirmed 36:11
20 31:7,27	agree 35:13,15	Britt 28:22	consideration 38:21
20-to-22 31:7	agreed 33:24,28	Bruno 28:23 35:12	constituted 31:10
2017 31:5,18	agreement 35:24,27 36:14,23,28 37:7,8,11 38:2,18	C	contracting 35:4
2019 28:2 35:28 36:2,4, 18,24 37:4	alert 36:16	Cal 31:15	copy 30:12
21 31:27	ALJ 28:27 29:8,13,24 32:9,15 33:2,9 35:11, 17,19,21,23 37:22 38:12 39:7,21 40:1,3,5, 7,9	CALIFORNIA 28:1	correct 33:1
26 36:17,21,24 37:4 38:16 39:9	anticipate 38:24	call 34:6 39:3	corrections 30:19
3	anticipated 38:7	Carlos 28:26 35:12	Counsel 35:11
3,000 32:4 33:3,4,15 34:1,2	anticipating 38:15	case 34:10,27 40:9	court 39:14,18
8	appearance 29:14,16	categorization 30:1	Coyle 28:20 29:12,19 33:3,6,14,24 35:13,16 40:7,8
8 28:12	appearances 28:18 30:10	categorized 30:23	curious 31:19
9	appearing 30:11	Cities 35:11	D
9:32 28:2	approve 32:21	City 28:23,25	data 32:3
9:48 40:13	approximation 33:8	clarification 29:25	dates 36:18,20 38:19, 21,28 39:11,17
A	April 36:17,21,24 37:4 38:16 39:9	clarify 29:19	deadline 36:25,26
a.m. 28:2 40:13	Article 28:12	clear 32:16	deal 32:23 33:9
accuracy 29:28	assigned 28:16 29:2 36:8	close 31:21	dealing 30:20 31:6 38:3,5
add 34:22 35:1,14,18, 20	assuming 37:10	Coblentz 29:20	decide 34:18
	attention 39:25	Code 28:14	decided 32:21
		comment 37:17	decision 32:19
		Commission 32:12,14 34:21,26 36:16 38:16 40:13	department 30:18
		Commissioner 36:8 37:11	

determination 33:23		he'll 29:22	
develop 39:4	F	hear 31:23 33:2,14	K
disclosed 31:18 32:17	fact 34:28	heard 32:20 37:15	kind 33:13,17 35:8
discovered 37:28	facts 34:24	hearing 33:20 36:21 38:7,22 39:11	L
discovery 31:16,19,21, 25,26 32:10,24,28 35:6	factual 33:13,16	hearings 36:19 38:20, 28 39:2,5	ladies 28:6 40:11
discuss 29:28 30:2 34:19	fail 36:15	Heiden 29:1	large 32:2
discussing 34:8	Fair 32:13	Honor 28:21 31:24 33:1,6 35:22 37:18 38:15 39:20,28 40:2,4,8	larger 38:6
discussion 34:7	file 37:5,25	Honor's 38:21	law 28:4,16 30:17
disputable 34:24	filed 36:20 37:20	hour 40:13	left 28:19
disputes 31:21	filing 36:17	hundred 34:5,7	letting 38:9
division 29:1 30:18	final 34:22	I	light 31:4
document 37:20,24	fine 36:7		list 29:28 30:13,15,19
documents 33:22 38:4,6	Firm 29:21		M
E	forgetting 32:5	idea 34:5	made 30:19
	formal 38:8	identified 30:5,16	make 29:16 30:14 33:23 37:13,17
	forward 37:9	identify 29:27 30:1,2	MARCH 28:2
e-mails 31:27 33:15	Foss 28:28 35:17,18 37:17 38:11 40:3,4	in-house 29:18	Mason 28:4,15,27 29:8, 13,24 32:9,15 33:2,9 35:11,17,19,21,23 37:22 38:12 39:7,21 40:1,3,5,7,9
Electric 28:10,21	FRANCISCO 28:1	inclusion 34:20	material 34:28 35:8
email 37:1,21	Frank 29:9,12,17,18,25	information 37:28	materials 35:3,4
emails 31:18 32:1,5,11, 17,18,24,25 33:4,6 34:7 35:2	front 29:10	Instituting 28:8 30:21	meet 33:25 39:18
Enforcement 29:1	fruition 38:5	intend 29:10	mentioned 31:27
engaged 31:16	G	interested 35:6	merits 33:28
enter 29:13	Gas 28:9,21	intrigued 31:2	met 31:28
entered 30:10	gave 32:26	investigation 28:8,9 29:22 30:21	misdirected 37:2
envision 34:11	gentlemen 28:6 40:11	issue 31:3,8 32:8 35:25	modifications 32:22
event 33:18 36:13 39:2	give 38:1 39:17	issues 30:2,3,16,27 34:28 36:9 39:24	modified 36:12
evidentiary 33:20 34:9,25 35:9,28 36:2, 15,19,21 37:9 38:18	Good 28:6 31:24	J	Monday 33:26
ex-party 30:24 31:10	Goodson 29:4 35:19, 20 38:12,14 39:20 40:1, 2	joint 31:1,13 34:9,25 35:9 36:1 37:5,22	morning 28:6 30:6,11 31:24 39:23
exact 33:7 34:3	Greg 29:1	judge 28:4,16 30:17	morning's 30:8
exception 33:26	group 34:16	July 36:3	motion 36:17,20 37:18
exercise 34:15	guess 32:16,25	June 36:2	
expectation 38:4	H		
extensive 31:16	Hayley 29:4		

move 35:24	PG&E 29:19,23 31:17, 28 32:2,12,28	<hr/> Q <hr/>	Rules 28:12 31:11
moving 37:9	PG&E's 35:6		<hr/> S <hr/>
<hr/> N <hr/>	phase 32:23 34:16	question 32:16 38:24	
	plane 37:2,3	questions 32:2	Safety 28:28
newly 32:24	playing 29:22	<hr/> R <hr/>	San 28:1,23,25 35:11, 12
Nicholas 29:6	point 39:12,26	raise 39:22	sanctioned 28:11
notify 38:16	points 39:22	range 31:7	scenario 35:25 36:13 39:3,4
nuance 35:1	Political 32:13	reach 36:14 37:7,8 38:1	schedule 30:6 36:7,11 37:10 39:4,11,13,16
number 33:7 34:1,3 39:1	possibly 31:7	reached 35:27 36:22, 27 39:9	scheduling 30:3 35:25 37:14
<hr/> O <hr/>	potential 34:9	recommendation 34:20	Sean 28:20
Office 29:7	potentially 34:24	record 28:5 33:13,16, 25 34:9,12,26,27 35:4, 7,10,28 36:2,15 37:10 38:18	Sections 28:14
official 37:19	Practice 28:13 31:11	recordkeeping 29:15	SED 31:16 32:27
officially 37:20	Practices 32:13	reflect 37:25	sense 33:18,21
one-page 37:24	precisely 33:25	related 31:17 35:3	September 31:4,18
onset 29:21	prefer 39:7	release 31:26	service 29:28 30:13,15, 19
open 30:7	preference 38:25	replies 36:4	set 34:22
opening 36:3,5	prehearing 28:7 29:11, 26 30:8,12 31:1,14 32:7 40:12	report 36:26 37:5,23 38:26,27 39:6,9	settle 32:8
operating 37:2,3	Procedure 28:13 31:12	reporters 39:14,18	settlement 32:22 39:10
optimistic 34:14	proceeding 28:17 30:1,22,23,26 36:8 37:26	request 32:10 38:19	Shell 33:27
order 28:8 30:20 34:4	process 30:18 32:6	requesting 36:18,20	Sher 29:6 31:23,24 32:11 33:1 35:21,22 39:27,28
ordering 28:9	produced 32:3 33:5	research 32:3	show 28:10
<hr/> P <hr/>	progress 33:12	resolution 34:10	sitting 29:9,20
Pacific 28:9,21	properly 30:15	resolve 34:23	small 34:2 38:3
pages 32:4 33:4	propose 38:20,28	resolves 34:28	speak 29:14,15 38:13
part 30:6 33:15 35:3,7,9	proposed 34:9,12,25, 27 35:26 36:1 39:10	responses 35:7	speaking 29:23 34:13
participate 29:10	proposing 39:16	result 30:23 32:18	starting 28:18
participating 33:27	provided 32:12	Robert 28:15	stated 32:7
parties 28:18 29:27 30:7,14,28 31:28 32:20 33:26 34:8 35:5,27 36:1,3,4,10,14,15,16, 19,22 37:5 38:1,15 39:23,25	Public 28:13 29:7 32:27	role 29:23	statement 31:1,14
parties' 33:11	purposes 34:6	roles 29:19	statements 31:2
permitted 30:25	putting 33:15	room 38:22	status 36:26 37:5,23 38:10,25 39:6,8
		Rubens 28:24	Steve 29:18
		Rule 28:12	

stipulated 33:13,16 **tweak** 36:24 37:13,16

stipulations 34:23

U

Strottman 28:22 35:12,
15 40:5,6

ultimate 33:23

struck 31:15

understand 32:15
38:22

submission 34:12

understanding 31:5

submit 34:26 36:1,3,4
39:8

universe 33:21 38:3,6

submitting 30:28

Utilities 28:13

subsequent 32:23

V

subset 31:6 33:17 34:2,
5

violation 31:11

success 34:16

violations 28:11

successful 38:17

successfully 36:22

W

sufficient 38:1

wanted 38:12 39:22

suggest 30:13

wanting 37:28

surface 36:6

weeks 39:1

T

weigh 33:23

table 29:10

wondering 37:1

taking 28:17

work 39:17

talk 33:11 39:14

wrap-up 30:4

talking 33:17 34:4 35:9

written 35:6

terms 37:13 39:15

wrote 32:19

testimony 36:18 38:20,
28 39:5

things 30:5 31:15 36:6

thought 38:2

thumbs 38:26

time 38:1,19

today 28:24 29:3,23
38:8

today's 29:11

toggle 39:6

Travis 28:28

triggered 32:9

TURN 29:5 32:27