

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
WORLD OF AWNINGS & CANOPIES,) OTA NO. 20127066
)
 APPELLANT.)
)
)

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, September 13, 2023

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings, taken at
12900 Park Plaza Dr., Cerritos, California, 91401,
commencing at 1:04 p.m. and concluding
at 2:18 p.m. on Wednesday, September 13, 2023,
reported by Ernalyn M. Alonzo, Hearing Reporter,
in and for the State of California.

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APPEARANCES:

Panel Lead: ALJ ANDREW WONG

Panel Members: ALJ JOSHUA ALDRICH
ALJ RICHARD TAY

For the Appellant: M. BITAR
S. BITAR

For the Respondent: STATE OF CALIFORNIA
DEPARTMENT OF TAX AND
FEE ADMINISTRATION

RAVINDER SHARMA
RANDY SUAZO
CHRISTOPHER BROOKS

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-2 were received at page 8.)
(Department's Exhibits A-H were received at page 8.)

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1 Cerritos, California; Wednesday, September 13, 2023

2 1:04 p.m.

3

4 JUDGE WONG: Let's go on the record.

5 This is the Appeal of World of Awnings & Canopies

6 before the Office of Tax Appeals, OTA Case No. 20127066.

7 Today is Wednesday, September 13th, 2023, and the time is

8 1:04 p.m. We're holding this hearing in person in

9 Cerritos, California.

10 I'm lead Administrative Law Judge Andrew Wong,

11 and with me today are Judges Josh Aldrich and Richard Tay.

12 The individuals representing Appellant World of

13 Awnings & Canopies, could you please identify yourselves.

14 MR. LALA: My name is Abdul Lala. I'm a CPA, and

15 I'm representing the World of Awnings.

16 JUDGE WONG: With you today are -- who is with

17 you today?

18 MR. BITAR: I'm Madji Bitar, and this is my wife.

19 MRS. BITAR: Sahar Bitar.

20 JUDGE WONG: Thank you.

21 Okay. Individuals representing the Respondent

22 tax agency, California Department of Tax and Fee

23 Administration or CDTFA, please identify yourselves.

24 MR. SHARMA: This is Ravinder Sharma. Hearing

25 Representative, CDTFA.

1 MR. SUAZO: Randy Suazo, Hearing Representative,
2 CDTFA.

3 MR. BROOKS: Christopher Brooks, counsel or
4 attorney for CDTFA.

5 JUDGE WONG: Thank you.

6 All right. Originally, Judge Teresa Stanley was
7 to be a member of this panel, but she is unavailable. So
8 Judge Tay is stubbing in for her. Does either party
9 object to this substitution?

10 Appellant?

11 MR. LALA: No.

12 JUDGE WONG: No objection. Thank you.

13 CDTFA?

14 MR. SHARMA: The Department has no objection
15 either. Thank you.

16 JUDGE WONG: Okay. Thank you.

17 So this is the panel that will be hearing and
18 deciding this case. We are considering two issues today.
19 Issue No. 1 is whether the amount of unreported taxable
20 fabrication labor should be further reduced. And Issue
21 No. 2 is whether Appellant qualifies for relief of
22 liability based on its claim of reliance on advice from
23 CDTFA.

24 Appellant, does that sound like an accurate
25 summary of the issues?

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MR. LALA: Yes.

JUDGE WONG: Thank you.

CDTFA?

MR. SHARMA: That's correct. Thank you.

JUDGE WONG: Thank you.

Let's talk about exhibits now.

Appellant, you've proposed two exhibits as evidence; is that correct?

MR. LALA: The one you mentioned, the one I faxed -- or I mean, I sent it to the OTA the other day?

JUDGE WONG: We compiled and circulated to the parties a hearing binder, and there were two exhibits from Appellant, from your client, there. The first is a request for reconsideration and the other one is a cost analysis.

MR. LALA: Yes. Okay. That's right.

JUDGE WONG: And you had no other exhibits?

MR. LALA: No.

JUDGE WONG: Okay. Thank you.

And then CDTFA has identified and submitted proposed Exhibits A through H as evidence.

And, CDTFA, you had no other documents you would like to submit?

MR. SHARMA: No other documents. Thank you.

JUDGE WONG: Okay. Appellant, did you have any

1 objections to CDTFA's exhibits?

2 MR. LALA: No.

3 JUDGE WONG: And, CDTFA, did you have any
4 objections to --

5 MR. SHARMA: We have no objection. Thank you.

6 JUDGE WONG: Okay. Very well. Appellant's
7 Exhibits 1 to 2 and CDTFA's Exhibits A through P will be
8 admitted into the record as evidence.

9 (Appellant's Exhibits 1-2 were received
10 in evidence by the Administrative Law Judge.)

11 (Department's Exhibits A-H were received in
12 evidence by the Administrative Law Judge.)

13 Oh, correction. CDTFA's exhibits are A through
14 H, not A through P. Thank you.

15 And, Appellant, you have no witnesses; is that
16 correct?

17 MR. LALA: That's correct.

18 JUDGE WONG: Okay. And CDTFA you have no
19 witnesses as well?

20 MR. SHARMA: That's correct. Thank you.

21 JUDGE WONG: Thank you.

22 All right. It was anticipated that the oral
23 hearing would take approximately 85 minutes.

24 Appellant, you've asked for 40 minutes total.

25 And, CDTFA, you've asked for 30 minutes total;

1 | that is right?

2 MR. SHARMA: That's correct. Thank you.

3 JUDGE WONG: And, Appellant, is that correct?

4 MR. LALA: That's correct.

5 JUDGE WONG: Okay. All right. Before we turn it
6 over to Appellant, are there any questions from either
7 party?

8 MR. LALA: I do not have any questions.

9 JUDGE WONG: Okay. CDTFA?

10 MR. SHARMA: Department has no questions either.

11 Thank you.

12 JUDGE WONG: Okay. Appellant, please proceed
13 with your presentation. You have 40 minutes.

14 MR. LALA: Thank you.

16 PRESENTATION

17 MR. LALA: First of all, thank you for having us
18 here and give us a chance to appear for this appeal
19 hearing. We appreciate that.

20 In my professional judgment, the issue on hand,
21 which we have, should have been resolved at the district
22 level, which is the office of CDTFA in Glendale who
23 initially conducted the audit and our subsequent meeting
24 with the supervisor there. And that did not work out.
25 And then we went with the appeal with Ms. Maffei, and we

1 were hoping that it got resolved over there. That did not
2 happen. We made a subsequent request to Ms. Maffei to
3 please reconsider her decision based on certain facts and
4 everything, and that did not happen. And now we are here.

5 When the initial audit was done and when the
6 field auditor came to the premise of World of Awnings, he
7 was conducting the audit based on that World of Awnings is
8 involved in the business of selling pictures. In majority
9 of the cases in my experience, and what I know about the
10 sales tax, a lot of things always happens at the retail
11 level that you have retail sales or the seller is there
12 and the sales tax is supposed to be calculated. And
13 whether they collected the sales tax and failed to report
14 it or failed to send to CDTFA by underreporting the sales
15 and everything and the auditor applied various procedures
16 an everything to ascertain what the real sales is or
17 taxable materials and so on and so forth.

18 He came across on the very first day on a sample
19 of invoices where there's a word -- it is part of the
20 invoice, and I think there is a record of the invoices
21 which has been given to the CDTFA. It says on one line,
22 "Manufacturing and installation labor," and the amount is
23 listed on the invoice. But the sales tax is calculated by
24 World of Awnings or charged to the customer as well as on
25 to the material which was listed on top of the invoice.

1 So immediately his comment was that if there's a
2 manufacturing labor here, World of Awnings should also pay
3 the sales tax on manufacturing labor because your sales
4 tax is all based on the material.

5 The office told him right away that this is
6 basically a wording issue. This labor is strictly the
7 installation labor and nothing to do with the
8 manufacturing. And the auditor was simply -- was focused
9 on that one statement and wanted to calculate all the
10 numbers. And as most of the time, which is done by the
11 auditors in the retail sales, he contacted the vendors
12 from which World of Awnings buys the fabric or buy the
13 iron rod for the framing of the awnings, and wanted to see
14 what the correlation of the material cost versus the
15 revenue and so on and so forth and for the markup
16 calculation, just like the sale of pictures.

17 We mentioned to him that this is not a company
18 which sells pictures. World of Awnings is like a
19 construction contractor. They do not manufacture any
20 awnings or canopy to sell at the retail level to any
21 individual, neither do they manufacture anything. They
22 are strictly a contractor, and majority of the time for
23 commercial vendors who want canopies at their premises,
24 which is custom made. And I have detailed out, in my
25 response for the reconsideration, the process that it

1 takes probably up to six or seven or eight items pass by
2 before even they can put the canopy or the awning together
3 for the customer.

4 The place has been visited. It has been measured
5 for custom measuring because it's a primary thing which is
6 attached to the canopy. It's been designed. It's been
7 selected by the customers. They are revisited to make
8 sure the measurement and everything is correct. And then
9 it was given to cut the fabric, to sew the fabric where
10 you can insert the rods, and the rods have been welded to
11 the measurement size. And then they go and do the
12 installation. They do not sell any awning or canopy to
13 any shops, to any vendor, to sell it to the public. So
14 the sale of pictures is completely not applicable to the
15 World of Awnings.

16 So we want to make sure. This is basically the
17 process of the World of Awnings is. When he finishes work
18 and everything, we ask him, "Would you want to visit if
19 you think there's a fabrication done at the installation
20 place? Do you want to come? You want to visit with the
21 crew? You want to do and spend half an hour just to see
22 whether they do any fabrication?"

23 He says, "I don't have the time. I don't have to
24 go. So this is what it is. You have something, talk to
25 my supervisor."

1 When we had a meeting for about an hour with the
2 district supervisor at the Glendale office, we brought
3 this one to her attention. She said, "Okay. Send us, on
4 a sample basis, these invoices selected by the CDTFA, not
5 by World of Awnings."

6 They give us 25 or 30 invoices. Random they
7 select from the invoice register, and then she wanted the
8 whole detail as to cost of the material for that invoice,
9 cost of labor, who worked on it, what time has been spent,
10 how you calculated the cost, what was the markup. I want
11 to see it. We did. We submitted everything the result
12 was. Even though she calculated herself 52 or 53
13 percent -- the percentage, she says, "No. I still want to
14 go with what my field auditor has determined. You want to
15 do it. Do the appeal."

16 Then we went to Ms. Maffei. We did the same
17 presentation. But then we also added that wait a minute,
18 a few years ago the Special Task Force visited the World
19 of Awnings. They are the one who told us and approved,
20 and told us to amend the returns of past three years to
21 use a 55 percent instead of 45 percent, which was World of
22 Awnings was using previously for taxable material.
23 Ms. Maffei, in her initial presentation or decision, she
24 says, "We could not find any evidence. So I'm not going
25 to consider that."

1 And in her opinion or in her decision, she
2 mentioned, "You guys did not even put it down on the
3 penalties of perjury the statement that they had visited."

4 I said, "Ms. Maffei, you never asked us. You
5 never asked us to make a statement under penalties of
6 perjury. You asked us for all the evidence for three
7 years, whether we made the payment, did we amend the
8 returns."

9 And she said, "Okay. Send me all that."

10 For those records we spent over three weeks and
11 several hundred dollars to obtain the copies from the Bank
12 of America for all those statements in which the payments
13 were remedied to the CDTFA. We forward all the
14 information to Ms. Maffei. These are the amended returns.
15 These are the payments. These are the bank statements on
16 which to make payment. She looked at it and everything
17 but refused to acknowledge everything with the decision.
18 Well, there's nothing in writing. We let go.

19 Subsequently, she went in to dig up the detail,
20 whether the Special Task Force ever visited World of
21 Awnings or not. And I believe CDTFA found out the
22 evidence that they did visit the place. But the simple
23 thing is nothing has been given to us in writing. The
24 only proof we can give is that why would World of Awnings
25 suddenly woke up one day and said, okay, we're going to

1 amend three years return. We're going to make \$23,000 of
2 tax payment just because we want to.

3 They did come, and they did not just walk in and
4 told us, hey, instead of 45 -- no. They spent a few
5 hours. They reviewed the files. They reviewed some
6 paperwork. They visited the sewing room. They visited
7 where they do the metal fabrication to make the frame, and
8 they took some paperwork with them. And they said we are
9 going to get back to you and let you know what we think is
10 right. Okay. And they've been told that you guys are
11 using 45 percent. That's little you should use
12 55 percent.

13 Our calculation, the company calculation was
14 around 52, 53 percent is the material cost, taxable, with
15 including the markup. I talked with them. We agreed to
16 do it 55 because of the materiality of the issue was very
17 small. It's not worth the time and the effort to go and
18 start a case against them. So we did that. We paid, and
19 that was the evidence. And as a CPA I believe it is the
20 auditor's judgment in the end that when you do not see any
21 evidence in black and white completely, it becomes the
22 auditor's responsibility to use alternative method or
23 alternative procedures to determine what is there.

24 So just to pinpoint one thing that nothing is in
25 writing, and people are going to throw the whole thing

1 out. That's not right because all the other evidence
2 indicate, no, you did the amendment. You did pay \$20,000
3 of taxes. We have do the evidence now that they visited
4 your place. For them to clean it out the whole thing, I
5 don't think so that's fair and right on the CDTFA part to
6 make that judgement. Excuse me.

7 So that's one aspect of it also. And I believe
8 that's very strong case because I think across the U.S. --
9 I'm talking about the tax agencies, including the Internal
10 Revenue Service, Franchise Tax Board, CDTFA, EDD. And
11 they do have this provision. If a taxpayer relies on the
12 advice of tax personnel, then they are off the hook for
13 any issue which is great in nature. World of Awnings has
14 been in business for a long time. CDTFA personnel and the
15 supervisor at Glendale district office want to look at
16 everything of those awning companies which sell awnings at
17 Costco, at Khol's, at Walmart, and they wanted to use the
18 same formula for World of Awnings.

19 And I told them. I said this is not right
20 because you are comparing apples and oranges here. These
21 guys mass produce canopies and sell. World of Awnings
22 doesn't do that. They're a custom manufacturer for
23 commercial basis. They go and install. This is what it
24 is. But I'm just afraid that that's not being -- you
25 know, Judge Wong, I think on the prehearing call, I was

1 talking to you on the appeals prehearing?

2 JUDGE WONG: Yes.

3 MR. LALA: Yes. And I remember -- and I think
4 you also recall that when you were asking me a question
5 the erroneous advice from Special Task Force of CDTFA -- I
6 don't know whether you recall that or not. And I
7 mentioned to you right away that, Mr. Wong, I would not
8 agree with that statement. It should not be erroneous
9 advice. It is an advice from CDTFA. And I believe -- you
10 were on the line at that time too?

11 And he agreed that yes, we were able to
12 subsequently get the payments record. The payments were
13 made, and we did find the evidence. They had visited the
14 place and so on and so forth.

15 So on these two issues this is where our case is
16 basically. Number one, we had provided written evidence,
17 cost analysis of the invoices selected by CDTFA, did the
18 material costing, labor costing, markup on that one on
19 which the World of Awnings charged the sales tax. It was
20 completely discarded. I don't know why they asked. Why
21 the supervisor asked us to do the analysis and go through
22 everything to dig up and then completely discard it. I
23 have no answer for that one.

24 Ms. Maffei asked us all the evidence of the
25 payments, cancel payment, bank statements, amendments, and

1 everything. And in the end, after reviewing all that, she
2 discarded the whole thing. And in our judgment that's not
3 fair to the World of Awnings because we proved otherwise,
4 and we prove expert advice of the Special Task Force that
5 we've been using the 55 percent ratio and not the 85 or
6 89 percent, which the CDTFA saying that should be your
7 material cost. Because World of Awnings, as I mentioned
8 before, is not in the business of selling pictures.

9 They do not mass produce any awnings or canopies.
10 They do mostly awnings. I think 90 percent -- is 95
11 percent are awnings.

12 Am I correct?

13 MR. BITAR: Yes.

14 MR. LALA: Canopies hardly any. And these are
15 commercial level. Businesses call them up. It made. It
16 produced specifically for that particular location, for a
17 particular business, and that's what they do. And
18 material realistically there's a very, very heavy labor.

19 And we all know today -- I think in one of my
20 notes I also mention a plumber comes to our home. He
21 charge \$65 just to come, and he might have to change \$1.20
22 nipple on a pipe, which he will do. He will cut the pipe
23 to the size and everything. And, suddenly, he gives you a
24 bill of \$210. And I say wait a minute, \$1.20 for the
25 nipple and \$200 for the labor? But that's what it is.

1 That's how the labor cost is today.

2 And we provided the detail labor cost, for
3 installers, the one who goes into the field and the one
4 who install things and those two person who come and sew
5 the awning. Sewing the awning is not that difficult.
6 It's the cutting of the fabric and sew it on the corners
7 where you can insert the pipes. That's it. But installer
8 has to go in to measure, to make sure that everything has
9 been lined up properly and installed. So that's basically
10 where we are.

11 And I believe with the evidence what we have
12 given the -- and if you -- and if CDTFA does not want to
13 consider the cost analysis, which has just been given --
14 which is basically the same, by the way, which we have
15 given to the Special Task Force people. They want to
16 discard that one, but you cannot deny World of Awnings
17 about the visitation by the Special Task Force approving
18 and telling them to use 55 percent material cost for
19 taxable sales to charge the sales tax. World of Awnings
20 didn't charge any sales tax beyond and above that and send
21 whatever they have collected to CDTFA.

22 They did not charge excess money to the customers
23 and short-change the CDTFA, with that fiduciary
24 responsibility, not sending the money. If that will be
25 the case, I say, you know, the first time, no. Whatever

1 you collected you must send to CDTFA, but that's not the
2 case. Whatever they charge the customers, whatever they
3 have collected, they have send the money to CDTFA. So now
4 CDTFA comes in, no, you should have collected on
5 85 percent on that one. I don't have to say anything else
6 about that.

7 So I really appreciate listening to us. If you
8 guys have any questions, please feel free. Thank you for
9 listening.

10 JUDGE WONG: Thank you, Mr. Lala.

11 MR. LALA: I just want to add some additional
12 thing which Mr. Majdi just brought to my attention.

13 This one other thing is that when we go and
14 measure the place where they have to make the awning, it
15 comes into the designing Department. There's an
16 individual who will create on a CAD program a design for
17 the awning; so that way how it looks, how it is, what kind
18 of material will be needed, how big is the awning and
19 everything. This design that has been sent to the
20 customer for his approval. When they look at it, how the
21 layout will be, what are the color choices are available
22 to them, what the material choice available. Once they
23 select, they finalize the design, and then it's approved.
24 And then it goes into the process of making that awning.

25 Thank you.

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13 The material part of it is we don't manufacturer
14 materials. Materials, you know -- you know, we don't make
15 the steel. We don't make the fabric. You know, we just
16 put it together, and that's what it is. It's not really
17 we don't make -- we don't make them like, you know, car
18 companies make cars.

23 MR. BITAR: Yes, I'll swear in.

24

25

1 will also have an opportunity to cross-examine you. Is
2 that all right?

3 MR. BITAR: That's fine.

4 JUDGE WONG: Okay. Please raise your right hand.

5

6 M. BITAR,

7 produced as a witness, and having been first duly sworn by
8 the Administrative Law Judge, was examined and testified
9 as follows:

10

11 JUDGE WONG: Thank you. Okay. If you want to
12 add or supplement what you had just talked about regarding
13 the process that you have for making awnings, you can go
14 into more detail if you want, or if you have anything to
15 add.

16 MR. BITAR: There's a lot of expenses that goes
17 into, you know, advertising, all kind of things. I mean,
18 yes, I've been doing this for the last 40 years. So I've
19 been -- and I've been very good, you know, taxpayer. I
20 never have any problems with they told -- what they came
21 and tell me what to do. I did exactly. I followed the
22 directions of the sales tax people. And I just very busy
23 going and trying to, you know, satisfy my customers.

24 But besides that, I mean, it is really -- it's
25 really amazing. But, you know what I mean, they put us

1 through. I'm, you know, I'm too busy. I have to be
2 going. Right now I have a company to run, and I've been
3 running around doing other things than, you know, taking
4 care of my employees, my company.

5 Thank you.

6 JUDGE WONG: Thank you, Mr. Bitar. And I just
7 wanted to verify that you had made some factual statements
8 prior to me swearing you in. Do you swear and affirm that
9 those factual statements you had made are also true and
10 accurate to the best of your knowledge?

11 MR. BITAR: I do.

12 JUDGE WONG: Okay. Thank you.

13 I want two make clarifications very quick.

14 Mr. Lala?

15 MR. LALA: Yes.

16 JUDGE WONG: You had referenced a conversation
17 that actually all parties were participating in. It was a
18 prehearing conference. And when you referenced erroneous
19 advice, that was in the context of us trying figure out or
20 establish what the issue statement would be; is that
21 correct?

22 MR. LALA: That's correct.

23 JUDGE WONG: Okay. Got it. Second of all, I the
24 appeals conference auditor, I believe her name is Maffei,
25 M-a-f-f-e-i.

1 MR. LALA: Ms. Maffei?

2 JUDGE WONG: Yes.

3 MR. LALA: M-a-f-f-e-i?

4 JUDGE WONG: M-a-f-f-e-i.

5 MR. LALA: Yeah, Ms. Maffei.

6 JUDGE WONG: Just for the benefit of Ms. Alonzo.

7 CDTFA, would you like to cross-examine the
8 witness, Mr. Bitar?

9 MR. SHARMA: Department has no question. Thank,
10 you Judge Wong.

11 JUDGE WONG: Okay. Thank you. Okay.

12 So you have about 15 minutes left for your
13 closing and rebuttal. So we'll just save that time for
14 after their presentation.

15 MR. LALA: If I -- yeah. If I decide to do
16 something. Okay. That's fine. Thank you.

17 JUDGE WONG: Okay. And now I will turn it over
18 to my co-panelists to see if they have any questions for
19 Appellant, starting with Judge Tay.

20 JUDGE TAY: Not at this time. Thank you.

21 JUDGE WONG: Judge Aldrich?

22 JUDGE ALDRICH: This is Judge Aldrich. Good
23 afternoon, Mr. Lala. I do have a couple of questions. So
24 in reference to the SCOP or the Statewide Compliance and
25 Outreach Program visit, how is the information

1 communicated with the respect to the 55 percent?

2 MR. LALA: How the information communicated to --

3 JUDGE ALDRICH: From SCOP to --

4 MR. LALA: For the World -- to the World of
5 Awnings from the Special Task Force?

6 JUDGE ALDRICH: Right.

7 MR. LALA: I believe, if my re collection is
8 true, and I will confer with them, they made the
9 subsequent visit because one -- on the first visit when
10 they took some paperwork, some invoices, and other
11 information and everything, and they did come back to the
12 office of World of Awnings. And at that time -- this is
13 what has been told -- and ask if you have any issues and
14 anything, then we can discuss. We just look at it, and we
15 simply made the phone call and let them know, fine. On
16 your recommendation we will use the 55 percent, and we do
17 the three years amendment as requested, and we are going
18 to file the returns.

19 JUDGE ALDRICH: Okay. And so that communication,
20 it sounds like it was verbal?

21 MR. LALA: It was verbal.

22 JUDGE ALDRICH: Okay. And not written?

23 MR. LALA: Not written. Nothing was given to us
24 written. And I believe subsequently, with CDTFA also
25 finding in their records that Task Force did visit the

1 place and everything, they didn't find any written
2 communication between them, CDTFA, and the World of
3 Awnings.

4 So I believe I don't know what was the reason
5 that was not given before, or why they did not give a
6 written. But they did accept the return because it was
7 sent to a special office in Van Nuys district office. It
8 was not filed generally. It was dropped off in an
9 envelope with the payment arrangement, and the payment
10 went in through ACH payments on a monthly basis.

11 JUDGE ALDRICH: Okay. Thank you.

12 MR. LALA: Thank you.

13 JUDGE WONG: I just had a question for Mr. Bitar.
14 Were you there when the SCOP and Special Task
15 Force came to your place of business? Were you there in
16 person?

17 MR. BITAR: I'm usually out on the road. I
18 really don't --

19 JUDGE WONG: Okay. So you have no firsthand
20 knowledge.

21 MR. BITAR: No, I think it was -- it was, you
22 know, everything was done through the CPA.

23 MR. LALA: I think whether he was there or not, I
24 don't know. So but I know -- it's been, I think, 10,
25 12 years.

1 JUDGE WONG: Okay.

2 MR. LALA: Can I mention something? I do
3 remember having a communication with them. Not in the
4 premises of World of Awnings but on the phone with their
5 office in the Van Nuys. At that time I believe they were
6 on Sherman Way. So I do believe I did have the verbal
7 conversation with them giving our agreement that we are
8 going to amend the return with the 55 percent and so on
9 and so forth, and we will drop off all the detail and
10 returns to their office. So I do recall that there is a
11 verbal communication between me and one of the staff, the
12 one who visited the office.

13 JUDGE WONG: Mr. Lala, since you are also making
14 factual assertions, did you want to be sworn in?

15 MR. LALA: No. I can, if you want me to. Yes.

16 JUDGE WONG: I mean, it's up to you whether you
17 want this to be -- what you're saying to be considered as
18 factual statements.

19 MR. LALA: Yes, definitely.

20 JUDGE WONG: Okay. If you could please -- again,
21 you'll also be subject to cross-examination from CDTFA --

22 MR. LALA: Yes.

23 JUDGE WONG: That you're fully aware. Okay.

24

25 A. LALA,

1 produced as a witness, and having been first duly sworn by
2 the Administrative Law Judge, was examined and testified
3 as follows:

4 JUDGE WONG: Thank you. And the statements that
5 you had just made immediately prior to being sworn in, do
6 you assert the truthfulness of those statements?

7 MR. LALA: Yes.

8 JUDGE WONG: Okay. Thank you. Did you have
9 anything else to add?

10 MR. LALA: No. Not really, you know.

11 JUDGE WONG: Okay. CDTFA would you like to
12 cross-examine Mr. Lala?

13 MR. SHARMA: The Department has no questions.
14 Thank you, Judge.

15 JUDGE WONG: Okay. Thank you.

16 Judge Aldrich, did you have any other questions?

17 JUDGE ALDRICH: No further questions. Thank you.

18 JUDGE WONG: And just to check, Judge Tay, do you
19 have any questions?

20 JUDGE TAY: No questions. Thank you.

21 JUDGE WONG: Okay. Thank you.

22 MR. LALA: Thank you.

23 JUDGE WONG: All right. So we will now turn it
24 over to CDTFA for their presentation.

25 You have 30 minutes. Thank you.

1 MR. SHARMA: Thank you, Judge Wong.

2

3 PRESENTATION

4 MR. SHARMA: Appellant, a corporation, is a
5 construction contractor engaged in the business of
6 furnishing and installing custom fabricated awnings and
7 canopies in Sun Valley, California, since January 1988.
8 The Department performed an audit examination for the
9 period of October 1, 2013, through September 30, 2016.
10 Appellant reported total sales of \$2.8 million, claimed
11 deductions of \$1.4 million, and reported taxable sales of
12 \$1.4 million for the audit period. Claimed deductions
13 represented \$21,000 for resales, \$1.2 million for
14 nontaxable labor, \$54,000 for sales tax and \$127,000 for
15 food; Exhibit D, page 19 and 20.

16 Books and records available, general ledgers for
17 first quarter 2016 through third quarter 2016, 50 sales
18 invoices for third quarter 2016, federal income tax return
19 for 2013 to 2015, and bank statements for January 2014 to
20 September 2016. For reporting purposes, Appellant uses
21 sales summary reports to prepare and file quarterly sales
22 and use tax returns. Despite several requests, Appellant
23 did not provide sales summary reports for the audit
24 period. So the Department could not verify the accuracy
25 of reported amounts.

1 Appellant provided very limited books and
2 records. Due to lack of complete books and records, the
3 Department used general ledgers for first quarter 2016 to
4 third quarter 2016 and calculated audited fixture sales of
5 \$717,000; Exhibit D, pages 27 to 29. The Department
6 compared audited fixture sales with the reported fixture
7 sales and determined an overall error rate of 66 percent;
8 Exhibit D, page 26. The Department applied the error rate
9 to the reported taxable sales of little more than
10 \$1.4 million to determine unreported taxable fixture sales
11 of \$924,000 for the audit period; Exhibit D, page 24.
12 During the appeals process, Appellant conceded to this
13 amount; Exhibit D, page 521.

14 During the audit process, the Department noted
15 that Appellant's contracts were time and material to
16 furnish and install custom fabricated awnings and
17 canopies. Examination of available sales invoices
18 revealed one lump-sum charge for parts and material, and
19 one lump-sum charge for manufacturing and installation
20 labor. However, Appellant charged and collected sales tax
21 on selling price of the parts and materials only.
22 Appellant claimed entire charge for fabrication labor and
23 installation labor as exempt nontaxable labor.

24 The Department's examination of Appellant's
25 records reveal that Appellant custom designed and

1 fabricated awnings and canopies that included taxable
2 fabrication labor under Regulation 1521. The Department
3 requested job costing sheets for time and material
4 contracts so that it could determine the actual amount of
5 taxable fabrication labor and actual amount of exempt
6 installation labor. Despite various requests, Appellant
7 failed to provide any job sheets -- job costing sheets for
8 the audit period. Instead, Appellant provided 50 sales
9 invoices for June 2016 to October 2016.

10 Since the Appellant failed to provide any
11 detailed segregation of installation labor and fabrication
12 labor, the Department estimated that 30 percent of the
13 total labor charges for fabricated awnings and canopies to
14 be taxable fabrication labor. The Department examined 50
15 sales invoices and used an estimated taxable labor of
16 30 percent to determine an error rate of 13 percent;
17 Exhibit D pages, 9 to 11. The Department used general
18 ledger data for first quarter 2016 through third quarter
19 2016 and determined audited nontaxable labor of
20 \$1.8 million for the audit period.

21 Then the Department applied the error rate of
22 13 percent to the audited nontaxable labor of \$1.8 million
23 to determine unreported taxable fabrication labor of
24 \$233,000 for the audit period; exhibit G, page 8. When
25 the Department is not satisfied with the amount of tax

1 reported by the taxpayer, the Department may determine the
2 amount required to be paid based on any information which
3 is in its possession or may come into its possession.

4 In the case of an appeal, the Department has a
5 minimum initial burden of showing that its determination
6 was reasonable and rational. Once the Department has met
7 its initial burden, the burden of proof shifts to the
8 taxpayer to establish that a result different from the
9 Department's determination is warranted. Unsupported
10 assertions are not sufficient to satisfy a taxpayer's
11 burden of proof. The Department used Appellant's general
12 ledgers, sales invoices, and other available information
13 to determine the audit liability. Doing so produced a
14 reasonable and rational determination.

15 Appellant contends that its eligible for relief
16 of taxes and interest under Revenue & Taxation Code 6596.
17 Revenue & Taxation Code 6596 relief is based on the
18 reasonable reliance on a written advice from the
19 Department. Appellant failed to provide any documentary
20 evidence to show that the Department provided a written
21 advice as required by the Revenue & Taxation Code 6596.
22 In fact, during the appeals process, Appellant conceded
23 that it did not have any written advice from the
24 Department; Exhibit D, page 523.

25 Appellant contends that the taxable fabrication

1 labor charges are excessive. In response, the Department
2 submits that despite various requests, Appellant failed to
3 provide any job worksheets to show the actual time spent
4 for the fabrication of awnings and canopies. As of now,
5 Appellant has not provided any documentary evidence to
6 show that the fabrication labor should be less than
7 30 percent. In the absence of complete sales records, the
8 Department used best possible available information to
9 determine unreported taxable fabrication labor of
10 \$233,000.

11 Therefore, based on the evidence presented, the
12 Department has fully explained the basis for the
13 deficiency and established that the determination was
14 reasonable based on the available books and records, and
15 the Department has used approved audit methods to
16 determine the deficiency. Since the Appellant did not
17 provide any acceptable and satisfactory documents to
18 refute the audit findings, the Department requests that
19 Appellant's appeal be denied.

20 This concludes my presentation, and I'm available
21 to answer any question you may have. Thank you.

22 JUDGE WONG: Thank you, Mr. Sharma.

23 I will now turn to my co-panelist for questions.

24 Judge Tay?

25 JUDGE TAY: Question for the Department. What's

1 your response to Appellant's description of his business
2 process, and does it change your analysis of this
3 fabrication charge?

4 MR. SHARMA: No. I think Department's
5 understanding is the same because Appellant has a contract
6 to custom design and fabricate awnings. And for doing
7 that, any charges -- any service charges are in labor up
8 to the point of manufacturing or fabrication of awning is
9 taxable. And as of now, Appellant has not provided any
10 information to the Department to show how much was the
11 actual time spent from the first date of the audit, when
12 they received the audit, to the time of manufacturing or
13 fabricating these awnings.

14 Under the sales and use tax law, actual
15 installation labor is exempt. But any labor to fabricate
16 the custom design awning is taxable, as I stated in
17 presentation, under Regulation 1521.

18 Thank you.

19 JUDGE TAY: So maybe you can educate me on this.
20 For solar installers, okay, are the installation charges,
21 which includes customization of any hardware that would be
22 installed on a roof, is that taxable or not or exempt?

23 MR. SHARMA: So your question is actual
24 installation or basically manufacturing of panels?

25 JUDGE TAY: Not manufacturing of panels. Solar

1 installer.

2 MR. SHARMA: Okay.

3 JUDGE TAY: Now, a solar installer, because every
4 roof is different, they need to customize some of the
5 hardware to install the solar panel safely, you know, to
6 code and things like that. And so would those labor
7 charges for installation, which includes customization of,
8 you know, support structures and hardware, is that exempt,
9 or is that taxable?

10 MR. SHARMA: I'm sorry. If it is a customization
11 of the solar panel, it would be considered part of the
12 manufacturing process up to the stage when the solar
13 panels are ready to install. It all depends on each and
14 every actual job because to -- there's a one general
15 definition whether it will be exempt or not. I don't want
16 to state that, but it all depends on the actual job, how
17 it's being done.

18 That's the reason in this case the Department has
19 made several request from the Appellant to give us the
20 actual job costing sheets so the Department can determine
21 for each and every job how much was the fabrication labor,
22 how much was the installation labor. And Department don't
23 have that information. So the Department had to estimate
24 30 percent.

25 JUDGE TAY: Okay. Let me just make sure I

1 understand. So the distinguishing fact that you're making
2 is that an installer will go to the site, look at the
3 house that -- or the site where the awning is to be
4 installed, and they go back and then they customize the
5 awning. And then they bring it to the site, and then
6 finish the installation. But because they go back to
7 their site, make some customizations and then bring that
8 customized awning to the site, that makes it taxable?

9 MR. SHARMA: That's correct. Because customize
10 the awnings -- because the awning is not complete.

11 JUDGE TAY: I understand. I'm sorry to cut you
12 off.

13 MR. SHARMA: I'm sorry.

14 JUDGE TAY: So then that means if they brought an
15 awning out of box site and brought it to the site,
16 customized it there and then installed it, then it would
17 be exempt?

18 MR. SHARMA: I think based on the example you're
19 saying that may be exempt depending on the circumstances
20 because these awnings are already manufactured, and it's
21 ready to be installed. And if they are customizing the
22 structure only, then that part may be exempt installation
23 labor.

24 JUDGE TAY: Okay. And can you clarify what you
25 mean by customizing the structure only.

1 MR. SHARMA: For example, if you take the awnings
2 and awnings need to be installed on a window or so, so
3 they need modify something, make a hole around the
4 structure of the building or something, that will be
5 considered customizing the structure. But, again, I'm
6 just giving a general definition. I don't know the
7 exact -- what your question is. But I'm just trying to
8 explain customizing the awnings and customizing the
9 structure to make it fit. If the awning is already
10 manufactured or customized, then that part is up to the
11 fabrication labor. And once it's ready to be installed,
12 anything to be done in the installation to the real
13 estate, that would be considered installation labor.

14 I hope I clarified.

15 JUDGE TAY: Yes. Thank you. Thank you for that
16 explaining. Second question is did you, in your records,
17 find any written notes from the visit of the special
18 investigator where the purported verbal advice was given?

19 MR. SHARMA: Yes. We do have that records, and
20 that is attached as Exhibit H, page 1164. The Department
21 prepared that. It basically states when the Department
22 visited, and it does not state anywhere in the records or
23 anywhere in the Department records that we advised
24 Appellant to use a certain percentage. We advised the
25 taxpayer that there are some information that your sales

1 maybe low, and you may be over claiming the exemption.
2 And we provided them amended copies of blank returns, and
3 they decided voluntarily to file for certain period and
4 not file for the other period.

5 JUDGE WONG: Okay. Thank you for pointing me to
6 that. I appreciate it. I have no further questions.

7 MR. SHARMA: Thank you.

8 JUDGE WONG: Judge Aldrich?

9 JUDGE ALDRICH: I don't have any questions.
10 Thank you.

11 JUDGE WONG: Thank you.

12 Let's see if I have any questions.

13 Oh, Mr. Sharma, you had referenced 50 sales
14 invoices that were provided to the Department. How were
15 those 50 chosen? Was it agreed upon by both parties, or
16 did the auditor request specific invoices?

17 MR. SHARMA: The Department requested job costing
18 sheets, but the Appellant decided to provide only 50 sales
19 invoices. It is Mr. Lala's decision. So whatever they
20 gave to the Department, we used those 15 invoices.

21 JUDGE WONG: So CDTFA, you're asserting that
22 CDTFA did not have any input as to which sales invoices
23 were provided?

24 MR. SHARMA: Based on the information available
25 to the Department, no. Because we requested all the job

1 cost worksheet so that we can determine that, but
2 Appellant made the decision to give us only 50 invoices
3 for a certain period. Thank you.

4 JUDGE WONG: Okay. Thank you.

5 That's all the questions I have for CDTFA.

6 Now, we will turn it back to Appellant for your
7 rebuttal and closing. You have 15 minutes. Please
8 proceed.

9

10 CLOSING STATEMENT

11 MR. LALA: Number one thing, I'm glad that CDTFA
12 acknowledged the visit by the Special Task Force. But
13 they also make it kind of a conditional outcome in the
14 sense that they say no written advice has been given; they
15 did not find the record. And they also agree that we have
16 filed the amended return and made the payments. But I
17 want to make one correction there. It was not the World
18 of Awnings decide that we are going to do three years of
19 amendment. It was the CDTFA decided that we should go
20 three years. It's the standard procedure of CDTFA when
21 they do the audit, they go for three years.

22 When they want you to do something, they usually
23 go back to these years and want you to do it. They are
24 the ones who told us to do three years. It was not left
25 to World of Awnings that these are the blank amended

1 returns. Fill it out and give it to us, and we will be
2 very happy to accept it as you decide to do. No. They
3 accepted it. They agreed on the 55 percent. That's the
4 reason. Otherwise, they should have come back and told
5 us, hey, you guys, not acceptable. Do two more years or
6 do this or do that.

7 No. They accepted. They agreed. Everything is
8 filed. They received the payments. That was a done deal.
9 So I would not agree with that, that they just come in
10 already decided whatever you decide we'll do. No. They
11 told us exactly what to be done, and that's what the World
12 of Awnings has followed this.

13 The second thing is Mr. Sharma talking about the
14 50 invoices. It was not selected by me. I had a meeting
15 with the district supervisor of the Glendale office. She
16 selected the invoices from a quarterly report. She gave
17 it to us that I want these 50 invoices or 45 invoices, and
18 I want every breakdown for the labor, fabrication, meaning
19 sewing labor, metal fabrication labor, overhead, the
20 markup and submit the report to us. And I do have a copy
21 of that thing which was given.

22 She took this one from me but decided --
23 completely discarded and went through the same thing,
24 CDTFA, whatever the auditor report has been written,
25 exactly they went the same way. And one last thing is,

1 which he -- which Mr. Majdi told me in my ears, installer
2 does not go to customize the awning. Installer goes in
3 when the office of the designer will give it to him. This
4 is what it is. The awnings are loaded in the truck. You
5 go install.

6 They do not go to the job site. They do not come
7 back and customize the awning. They have nothing do with
8 it. Awning is already done, designed, approved. They go
9 in and, yes, if the hole is too small, rod is too little,
10 they might dig up extra hole in the wall to install the
11 screws and everything. I believe Judge Tay asked the very
12 specific question regarding the solar panel, and that's
13 exactly what they do. Other than that, they do not do
14 anything with the awning fabrication.

15 MR. BITAR: May I say something too? Yes, the
16 awning comes in sections. So it doesn't come all in one
17 piece. You cannot carry them, you know what I mean, on
18 the truck or whatever, on a trailer. It comes in
19 sections. And yes, we do take time at the job site to put
20 the awning together. Sometimes we have to use, you know,
21 forklift or scissor lift, or boom lift, or whatever.

22 So there's a lot of -- I think the -- I'm sorry.
23 They don't know anything about awnings. They don't know.
24 Zero. Your questions were very good about, you know,
25 about customizing that. We do customize brackets to

1 install. We do that. We do so many things. And as you,
2 you know, Judge Tay said, you know, for -- for installer,
3 you know, if you customize, you know, the actual brackets
4 to do put the thing, he couldn't answer, unfortunately,
5 because he doesn't know nothing about awnings, and he's
6 trying to tax awnings.

7 In any case, that's -- that one, thing really,
8 that I think there's a problem. Yes, we work very hard.
9 My wife and one we create the company. I have five
10 daughters. The first one is a pharmacist, second one is a
11 doctor, the third one is civil engineer and structure.
12 She's helping us with structure right now, and the fourth
13 one, mechanical engineer, the fifth one in high school,
14 you know, ninth grade, Burbank High.

15 So I'm very proud of what -- I came here as a
16 student. I worked my tail. I created a good company. I
17 work very hard. I pay my taxes. I do everything by the
18 book.

19 Thank you, Judge.

20 JUDGE WONG: Thank you.

21 MR. LALA: Thank you.

22 JUDGE WONG: Anything else?

23 MR. LALA: That's it.

24 JUDGE WONG: Okay.

25 MR. LALA: And do you want a copy?

1 JUDGE WONG: Yes, we would. Was that included in
2 any of the exhibits that --

3 MR. LALA: I did not send this one because I
4 thought it's probably part of the audit report. But since
5 he raised the issue that we never submitted any cost
6 analysis and this is sent by the CDTFA --

7 JUDGE WONG: Oh, okay. So CDTFA prepared that
8 spreadsheet? Is that what --

9 MR. LALA: That he said this is -- the title here
10 it says, "This is prepared by the petitioner. Breakdown
11 of job cost per worksheet provided by the representative."

12 But these invoices were selected by CDTFA on
13 which we provided the detail.

14 JUDGE WONG: Mr. Sharma, do you recognize that
15 sheet? Is that included in the audit working papers?

16 MR. SHARMA: May I have a look?

17 JUDGE WONG: Yes, absolutely, take a look. And
18 if it's not in there then, sure, we will take a copy of
19 that.

20 MR. SHARMA: I think it was included, but let me
21 have a moment and make sure that it is correct. I think
22 these are the same invoices, but let me look at it. Give
23 me one moment, please.

24 JUDGE WONG: Okay. Let's go off the record for a
25 second.

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(There is a pause in the proceedings.)

JUDGE WONG: Let's go back on the record.
Okay. Go ahead.

MR. SHARMA: It's taking a long time because I think my understanding is it's part of the Report of Discussions, but I want to make sure that it is included in the book.

JUDGE WONG: Okay. Well, we could just make copies and take it now and then, yeah, we can just go from there. We'll just take it and make copies and return that to you. And CDTFA will have a copy, OTA will have a copy, and then we'll just go from there. If it's there, great. If it's not, we just have an extra copy.

MR. SHARMA: Sure. That's fine. Thank you.

JUDGE WONG: Thank you.

Mr. Lala, is it okay if we make a copy of it?

MR. LALA: That's fine. I think it's in one of the decision or the letter from the district manager. She acknowledges this that taxpayer submitted the detail and everything, which shows 43, 44 percent as material cost and fabrication and everything. And she just left it at that one and then, basically, went with the field auditor's report.

JUDGE WONG: Okay. We'll make a copy, and then we'll return that back to you.

1 All right. For final questions --

2 MR. SUAZO: Excuse me. It's Exhibit G, page 9,

3 10, and 11, it looks like.

4 JUDGE WONG: Okay. It's Exhibit G, page 9, 10

5 and 11.

6 MR. SUAZO: That's what it looks like.

7 JUDGE WONG: Okay.

8 MR. SUAZO: It would best, I guess, to get the

9 copy, but it looks like it's already included in there.

10 JUDGE WONG: Okay. So it looks like it's already

11 included.

12 MR. SHARMA: Yeah. I think that it was part of

13 the Report of Discussion at the district office level.

14 And they had considered this thing, looked at all the

15 information, and it was included in the Report of

16 Discussion.

17 JUDGE WONG: Okay.

18 MR. SHARMA: Thank you.

19 JUDGE WONG: Thank you. Just in case, we'll make

20 copies of it to include.

21 Okay. Final questions for the parties. I will

22 now turn to Judge Tay.

23 JUDGE TAY: I have no questions. Thank you.

24 JUDGE WONG: Thank you.

25 Judge Aldrich?

1 JUDGE ALDRICH: No questions. Thanks.

2 JUDGE WONG: All right. Thank you.

3 All right. So that will conclude the hearing.

4 The record is closed, and the case will be submitted
5 today. The judges will meet and decide the case based on
6 the exhibits presented and admitted as evidence, as well
7 as witness testimony. We will send both parties our
8 written decision no later than 100 days from today.

9 This oral hearing is now adjourned.

10 I think we are done for the day.

11 MR. BROOKS: Judge Wong?

12 JUDGE WONG: Oh, just a second.

13 MR. BROOKS: To the extent that the new exhibit
14 is different than the one that's already in the record,
15 what's your suggestion regarding the Department's ability
16 to respond to any difference?

17 JUDGE WONG: I see. Okay. We will -- we will
18 hold the record open then. I believe -- actually, we'll
19 get the copies then we'll take a quick 5 to 10-minute
20 break. We'll give CDTFA a chance to examine that. We'll
21 go back on the record. And then if there's no
22 differences, that's fine. If there are differences, we'll
23 deal with that. And then if there's no differences, we'll
24 close the record. How about that?

25 MR. BROOKS. Yes, Judge Wong. That makes sense.

1 JUDGE WONG: Okay. Well, let's take a
2 five-minute break so CDTFA can have a chance to look at
3 these documents.

4 MR. SHARMA: Judge Wong, may I add something with
5 your permission?

6 JUDGE WONG: Sure.

7 MR. SHARMA: I think Judge Tay asked a question
8 regarding the solar panels. So there's a distinction
9 under the regulations. Solar panels are generally
10 considered materials, whereas, awning is a fixture.
11 That's the reason when I said we have to examine each and
12 every case to determine what is a fabrication and
13 manufacturing labor, and what is installation labor. I
14 just wanted to clarify that.

15 JUDGE WONG: Okay. Thank you.

16 So do we need a five-minute break for you to take
17 a look at the document?

18 MR. SHARMA: Yes, please. Thank you.

19 JUDGE WONG: Okay. Let's take a five-minute
20 break and go off the record, and we will be back at 2:15.
21 Thank you.

22 (There is a pause in the proceedings.)

23 JUDGE WONG: Let's go back on the record.

24 Judge Tay, I think, found the sheet. I think
25 it's page 537 of the exhibit binder, the PDF exhibit

1 binder that we circulated. So I think we already have
2 this document in the record.

3 Mr. Sharma, you were saying something?

4 MR. SHARMA: Yeah, I think so. Because I think
5 what I was trying to reconcile is Schedule G, page 9, 10,
6 11, and these, all the numbers there but in a different
7 order. But I think page 5 -- 537 is all of them.

8 JUDGE WONG: Okay. Yeah. So I think we have
9 concluded that this -- it is in the record.

10 MR. LALA: Thank you. That's fine.

11 MR. BROOKS: What is the page number again?

12 JUDGE WONG: It's page 537 of the PDF. It is
13 Bate stamp 531 within CDTFA's exhibits. I will just let
14 you confirm that.

15 MR. SHARMA: I think. Let me just make sure.

16 JUDGE WONG: Have you been able to locate it, 537
17 of the PDF? 537 of the pdf, 537 out of 677 pdf pages?

18 MR. SHARMA: That is correct.

19 JUDGE WONG: Okay. We're good. Okay.

20 MR. SHARMA: Yeah. Thank you.

21 JUDGE WONG: Thank you.

22 All right. This concludes the hearing. The
23 record is closed, and the case is submitted today. The
24 judges will meet and decide the case based on the exhibits
25 presented and confirmed to be in the record and admitted

1 as evidence, as well as witness testimony. We will send
2 both parties our written decision no later than 100 days
3 from today.

4 The oral hearing is now adjourned, and all the
5 hearings are adjourned for the day. I'll see you tomorrow
6 at 9:30, not you specifically, but we'll have hearings.
7 Or is it in the afternoon session? Afternoon session,
8 1:00 p.m. thank you.

9 Off the record, please.

10 (Proceedings adjourned at 2:18 p.m.)
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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for
the State of California, do hereby certify:

That the foregoing transcript of proceedings was
taken before me at the time and place set forth, that the
testimony and proceedings were reported stenographically
by me and later transcribed by computer-aided
transcription under my direction and supervision, that the
foregoing is a true record of the testimony and
proceedings taken at that time.

I further certify that I am in no way interested
in the outcome of said action.

I have hereunto subscribed my name this 10th day
of October, 2023.

ERNALYN M. ALONZO
HEARING REPORTER