

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT EAST R

HON. ROBERT A. DUKES, JUDGE

4
5 J.C. UNI-TEC, INC., A CALIFORNIA)
6 CORPORATION,)

7 PLAINTIFF,)

8 VS.)

NO. KC 049028

9 ALUGUPALLI SATYANARAYAN NAIDU, AN)
10 INDIVIDUAL ALSO KNOWN AS A.S. NARAIN)
11 NAIDU, AND DOES 1 THROUGH 100,)
12 INCLUSIVE,)

DEFENDANTS.)

13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 JANUARY 31, 2008

15 APPEARANCES:

16 FOR THE PLAINTIFF:

MADISON HARBOR, ALC
BY: MICHAEL C. ROBINSON
17 17702 MITCHELL NORTH
18 IRVINE, CALIFORNIA 92614

19 FOR THE DEFENDANT:

GRODSKY & OLECKI LLP
BY: MICHAEL J. OLECKI
20 2001 WILSHIRE BOULEVARD
21 SUITE 210
SANTA MONICA, CALIFORNIA 90403

- AND -

22 MUSICK, PEELER & GARRETT LLP
23 BY: PETER J. DIEDRICH
24 ONE WILSHIRE BOULEVARD
SUITE 2000
LOS ANGELES, CALIFORNIA 90017

25 ALSO PRESENT:

26 TOM HASEGAWA
ROBERT HASEGAWA

27
28 DEBRA J. PINEDA, CSR #6156
OFFICIAL REPORTER

COPY

1 CASE NAME: J.C. UNI-TEC VS. NAIDU
2 CASE NUMBER: NO. KC 049028
3 POMONA, CALIFORNIA THURSDAY, JANUARY 31, 2008
4 TIME: 9:34 A.M.
5 DEPARTMENT EAST R HON. ROBERT A. DUKES, JUDGE
6 REPORTER: DEBRA J. PINEDA, C.S.R. NO. 6156
7 APPEARANCES: (AS HERETOFORE NOTED.)
8
9

9 --000--
10

11 THE COURT: WE'RE ON THE RECORD. THIS IS THE MATTER
12 OF J.C. UNI-TEC, INCORPORATED, VERSUS NAIDU.

13 COUNSELS' APPEARANCES, PLEASE.

14 MR. ROBINSON: YOUR HONOR, MY NAME IS MICHAEL
15 ROBINSON. I'M SPECIALLY APPEARING ON BEHALF OF THE
16 PLAINTIFF. I HAVE BEEN DISCHARGED. THEY'VE ESSENTIALLY
17 FIRED ME FROM REPRESENTING THEM AND ARE SEEKING COUNSEL.
18 WE FILED A SUBSTITUTION OF ATTORNEY FORM YESTERDAY. I
19 HAVE THE PRINCIPALS HERE AVAILABLE IN THE COURTROOM TODAY.

20 THE COURT: OKAY.

21 MR. OLECKI: GOOD MORNING, YOUR HONOR.

22 MICHAEL OLECKI, GRODSKY & OLECKI, ON BEHALF OF
23 DEFENDANT DR. NARAIN NAIDU.

24 MR. DIEDRICH: OH, I'M SORRY, YOUR HONOR.

25 PETER DIEDRICH, MUSICK, PEELER & GARRETT,
26 APPEARING FOR DR. NAIDU.

27 THE COURT: I THINK I ALSO HAVE PRESIDENT
28 MR. HASEGAWA?

1 MR. TOM HASEGAWA: YES.

2 THE COURT: IS HE PRESENT?

3 MR. ROBINSON: YES.

4 THE COURT: MR. HASEGAWA, YOU'RE THE PRESIDENT OF
5 J.C. UNI-TEC?

6 MR. TOM HASEGAWA: YES, SIR.

7 THE COURT: AND I HAVE A SUBSTITUTION OF ATTORNEY
8 INDICATING THAT YOU ARE RELIEVING MR. ROBINSON, BUT YOU DO
9 NOT HAVE A NEW ATTORNEY; IS THAT CORRECT?

10 MR. TOM HASEGAWA: YES.

11 THE COURT: I WANT TO EXPLAIN TO YOU WHAT IS GOING TO
12 HAPPEN BASED UPON THAT.

13 THE MATTER IS HERE TODAY FOR TRIAL.

14 MR. TOM HASEGAWA: YES, SIR.

15 THE COURT: YOU ARE A CORPORATION, SO YOU CANNOT
16 REPRESENT THE CORPORATION YOURSELF.

17 MR. TOM HASEGAWA: YES, SIR.

18 THE COURT: YOU UNDERSTAND THAT?

19 MR. TOM HASEGAWA: YES, SIR.

20 THE COURT: IF YOU DO NOT HAVE AN ATTORNEY HERE TO
21 REPRESENT YOU, WE ARE GOING TO PROCEED TO TRIAL AND THERE
22 WILL BE NO REPRESENTATION OF THE CORPORATION, THE
23 PLAINTIFF.

24 DO YOU UNDERSTAND THAT?

25 MR. TOM HASEGAWA: YES, SIR.

26 THE COURT: AND IS IT STILL, UNDERSTANDING THAT, YOUR
27 DESIRE TO RELIEVE MR. ROBINSON?

28 MR. TOM HASEGAWA: YES.

1 THE COURT: WE ALSO HAVE VARIOUS MOTIONS THAT THE
2 COURT SET FOR HEARING TODAY. THAT MEANS THAT YOUR
3 CORPORATION WILL NOT BE REPRESENTED IN THE HEARING OF
4 THOSE MOTIONS.

5 DO YOU UNDERSTAND THAT?

6 MR. TOM HASEGAWA: YES, SIR.

7 THE COURT: AND UNDERSTANDING THAT, IS IT STILL YOUR
8 DESIRE TO RELIEVE MR. ROBINSON TODAY?

9 MR. TOM HASEGAWA: YES, SIR.

10 THE COURT: VERY WELL.

11 THANK YOU, MR. ROBINSON.

12 MR. ROBINSON: THANK YOU, YOUR HONOR.

13 THE COURT: YOU MAY HAVE A SEAT, MR. HASEGAWA.

14 MR. OLECKI: THANK YOU.

15 THE COURT: THE MATTER IS HERE, FIRST OF ALL, FOR A
16 MOTION THAT WAS FILED BY SPECIAL APPEARING DEFENDANTS
17 EN-N-TECH -- THAT'S E-N, DASH, CAPITAL N, DASH, T-E-C-H,
18 ALL LOWER CASE -- NAIDU LLC AND NAIDU FAMILY TRUST
19 SEEKING -- SEEKING TO QUASH THE SERVICE OF THE -- THE DOE
20 AMENDMENTS UPON THEM.

21 IS THAT CORRECT?

22 MR. OLECKI: YES, YOUR HONOR.

23 ACTUALLY, EN-N-TECH ALONE AS TO THE IMPROPER
24 PROCEDURE FOR NAMING AND THE OTHER TWO AS TO IMPROPER
25 SERVICE.

26 THE COURT: OKAY. I CUT AND PASTED FROM AN OLD
27 MOTION, AND SO THAT'S THE PROBLEM THAT I'M DEALING WITH
28 HERE.

1 OKAY. JUST A SECOND.

2
3 (PAUSE IN THE PROCEEDINGS.)

4
5 THE COURT: OKAY.

6 ON THE MOTION -- ON THE MOTION TO STRIKE THE
7 DOE ALLEGATIONS, MY UNDERSTANDING IS THAT IT IS THE
8 POSITION OF THE DEFENDANT THAT BECAUSE MR. ROBINSON WAS
9 THE ATTORNEY IN AN ARBITRATION REPRESENTING ANOTHER PARTY,
10 VITA-HERB, THAT HE -- MR. ROBINSON HAD KNOWLEDGE OF THE
11 DOE DEFENDANTS AND THAT AS THE AGENT OF J.C. UNI-TEC, THAT
12 KNOWLEDGE IS IMPUTED TO THE PLAINTIFF IN THIS ACTION SO
13 THAT THE AMENDMENT IS IMPROPER AS IT WAS -- THOSE PARTIES
14 WERE KNOWN TO THE PLAINTIFF AT THE TIME OF THE FILING OF
15 THIS ACTION AND IS THEREFORE A LATE AMENDMENT.

16 IS THAT THE GRAVAMEN OF YOUR ARGUMENT?

17 MR. OLECKI: YES, YOUR HONOR. ALL PREEXISTING THE
18 CLAIMED CONFIDENTIAL MATTERS THAT CAME UP IN THE
19 ARBITRATION.

20 THE COURT: OKAY.

21 AND THE ARBITRATION -- AND THE MATERIAL I
22 RECEIVED INDICATED THAT THE ARBITRATION WAS A CONFIDENTIAL
23 ARBITRATION.

24 MR. OLECKI: NO, YOUR HONOR, IT WAS NOT.

25 THE COURT: IT WAS NOT A MATTER OF PUBLIC RECORD, LET
26 ME PUT IT THAT WAY. I MEAN, THERE'S NOTHING IN THE PUBLIC
27 RECORD REGARDING THE ARBITRATION.

28 MR. OLECKI: THERE IS NOW. THERE WAS NOT THEN.

1 THE COURT: AT THAT TIME. OKAY.

2 HERE'S THE DIFFICULTY WITH -- THAT I SEE WITH
3 THAT ARGUMENT, AND THAT IS THAT MR. ROBINSON AS AN
4 ATTORNEY STANDS IN A DIFFERENT RELATIONSHIP THAN THE
5 GENERAL PRINCIPAL-AGENT RELATIONSHIP; THAT FROM THE MOVING
6 PAPERS, I CANNOT SEE THAT THE PRINCIPALS OF J.C. UNI-TEC
7 ARE ALSO OR WERE THE PRINCIPALS INVOLVED ON THE PRIOR
8 ARBITRATION.

9 AND BECAUSE OF ATTORNEY-CLIENT CONFIDENTIALITY,
10 I DO NOT THINK THAT I CAN FIND THAT THE KNOWLEDGE OF
11 MR. ROBINSON GAINED BY THE REPRESENTATION OF A SEPARATE
12 CLIENT IN THOSE PROCEEDINGS CAN BE IMPUTED TO THE
13 KNOWLEDGE OF THE PLAINTIFF -- AND THAT'S, I THINK, THE
14 KEY -- IN THE J.C. UNI-TEC ACTION. AND THAT, THEREFORE,
15 THE POSTURE PRESENTED BY J.C. UNI-TEC THAT THAT KNOWLEDGE
16 WAS GAINED BY THEM INDEPENDENTLY AT THE TIME OF THE -- OF
17 THE DEPOSITIONS IN JUNE OR JULY, WHENEVER THEY WERE,
18 PROPERLY THEN GAVE RISE TO THE DOE AMENDMENTS IN THIS
19 CASE.

20 MR. OLECKI: I UNDERSTAND.

21 AND, YOUR HONOR, IF THAT'S THE CONCLUSION THE
22 COURT'S REACHED ON THE CONFIDENTIALITY, I DON'T THINK I
23 CAN GET AROUND THAT POINT, SO I'LL SUBMIT.

24 THE COURT: OKAY.

25 SO THE COURT WILL DENY THE STRIKING OF THE DOE
26 AMENDMENTS.

27 SECOND ISSUE IS THE ISSUE REGARDING THE SERVICE
28 OF THE COMPLAINT AND -- UPON THE DOE AMENDMENTS. AND YOU

1 ARE SEEKING TO SET ASIDE AND STRIKE THE SERVICE AS TO
2 WHICH OF THE DEFENDANTS?

3 MR. OLECKI: I THINK IT WAS NAIDU LLC AND THE NAIDU
4 FAMILY TRUST.

5 THE COURT: OKAY. THAT MOTION IS GRANTED. THE
6 SO-CALLED SUBSTITUTE SERVICE WAS IMPROPER. THERE WAS NOT
7 PROPER SERVICE UPON THE AGENT FOR SERVICE OF PROCESS AND
8 THERE HAS NOT BEEN PROPER SERVICE UPON THOSE ENTITIES.

9 FINALLY, THERE IS THE DEMURRER TO -- TO THE
10 COMPLAINT. AND DO YOU WANT TO BE HEARD FURTHER ON THAT?

11 MR. OLECKI: ONLY TO SAY, YOUR HONOR, I DON'T THINK
12 THERE ARE SUFFICIENT CHARGING ALLEGATIONS TO KNOW WHAT THE
13 CLAIM OF THE PLAINTIFF IS AGAINST NAIDU LLP.

14 THE COURT: OKAY. THE DEMURRER IS OVERRULED.
15 SKETCHY, YES. SUFFICIENT, THOUGH, I BELIEVE. COULD
16 CERTAINLY BE HANDLED BY FURTHER AMENDMENT. SO THE
17 DEMURRER IS OVERRULED. TEN DAYS TO ANSWER.

18 OKAY. THE MATTER IS HERE TODAY NOW FOR JURY
19 TRIAL AS TO DR. NAIDU. AND THE COURT -- I'D LIKE TO HEAR
20 FROM THE DEFENDANTS AS TO -- YOU ARE ANSWERING ON
21 BEHALF -- OR WILL BE ANSWERING ON BEHALF OF ONE OF THE NEW
22 DEFENDANTS.

23 THE QUESTION THE COURT HAS, DO YOU WANT TO
24 SEVER THOSE ACTIONS FROM THIS ACTION, PROCEED ON THIS
25 TRIAL TODAY, OR DO YOU WISH TO CONTINUE THOSE -- THIS
26 ACTION TO MEET UP WITH THE TRIAL ON THE DOE DEFENDANTS?

27 MR. OLECKI: WE'RE READY TO GO FORWARD TODAY WITH
28 RESPECT TO ALL THE DEFENDANTS IN THE CASE AT THIS POINT,

1 YOUR HONOR.

2 THE COURT: OKAY. BASED ON THE NATURE OF THE
3 ALLEGATIONS THAT ARE CONTAINED -- THE SKETCHY ALLEGATIONS
4 AS TO THE ANSWERING DOE DEFENDANT, I CANNOT SEE THAT THERE
5 IS EITHER PREJUDICE TO DR. NAIDU OR PREJUDICE AS TO THAT
6 DEFENDANT BY SEVERING THOSE CLAIMS FOR TRIAL. THE MATTER
7 WILL PROCEED TO TRIAL TODAY AS TO DR. NAIDU. THERE CANNOT
8 BE A FINAL JUDGMENT UNTIL SUCH TIME AS THE OTHER
9 DEFENDANTS HAVE BEEN ADDRESSED OR RESOLVED.

10 MR. OLECKI: YOUR HONOR, MAY I SUGGEST WE'RE HAPPY TO
11 WAIVE THAT AND JUST PROCEED AS TO ALL THE DEFENDANTS ON
12 THE CLAIMS. I REALIZE THEY'RE SKETCHY. I SUSPECT THE
13 CLAIM IS THAT THEY GOT SOME SORT OF -- THOSE OTHER
14 DEFENDANTS GOT SOME SORT OF INDIRECT BENEFIT FROM THE
15 PAYMENTS EN-N-TECH RECEIVED BY SELLING PRODUCT TO NIKKEN.
16 WE CAN DEAL WITH THAT. WE'D JUST AS WELL AVOID ANY
17 PROBLEMS DOWN THE ROAD AS TO SEPARATE THINGS. WE'D REALLY
18 LIKE TO WRAP THIS UP. IT'S BEEN GOING ON A LONG TIME.

19 THE COURT: OKAY.

20 THEN WE WILL PROCEED AS TO THE ANSWER OF -- WHO
21 IS YOUR OTHER CLIENT NOW?

22 MR. OLECKI: NAIDU LLP.

23 MR. DIEDRICH: L.P.

24 MR. OLECKI: L.P. I'M SORRY.

25 THE COURT: L.P.

26 IS IT YOUR REQUEST THAT THE ANSWER OF DR. NAIDU
27 BE INCORPORATED AS THE ANSWER OF NAIDU LLP [SIC]?

28 MR. OLECKI: YES, YOUR HONOR.

1 AND ALTHOUGH I WOULD LIKE IT NOT TO BE SO, I
2 HAVE TO SAY THAT IT'S AS TO EN-N-TECH AS WELL, BECAUSE
3 THAT'S THE OTHER ONE.

4 THE COURT: AND EN-N-TECH, OKAY. THE COURT WILL SO
5 ORDER.

6 THE COURT WANTS TO MAKE A RECORD AS TO THE
7 ISSUES THAT HAVE COME UP DURING THE COURSE OF THIS ACTION
8 TO -- WHICH APPEAR TO HAVE BEEN BROUGHT AT VARIOUS TIMES
9 TO DELAY THE ABILITY OF THE DEFENDANTS TO POSTURE AND POSE
10 A DEFENSE ON THIS ACTION IN A REASONABLE MANNER. CAN YOU
11 DO THAT FOR ME?

12 I MEAN, HERE'S THE CONCERN. WE HAVE THE -- I
13 ALREADY OPINED THAT THERE WAS SUSPICION ABOUT THE LATE
14 FILING OF -- STRIKE THAT, THE LATE SERVICE OF THE DOE
15 AMENDMENTS. IT WAS CONTRARY TO CALIFORNIA RULE OF COURT
16 3.110, WHICH REQUIRES THAT ANY DOE AMENDMENT BE SERVED
17 WITHIN 30 DAYS. RATHER THAN SERVICE WITHIN 30 DAYS OF THE
18 AMENDMENT IN JULY, SERVICE WAS DONE SUCH THAT THE PARTIES
19 DID NOT NEED TO ANSWER UNTIL AFTER THE BEGINNING OF THE
20 TRIAL. AND THAT APPEARED TO BE AN ATTEMPT TO GAIN AN
21 ADVANTAGE AND A CONTINUANCE OF THE TRIAL.

22 THERE WERE THE ISSUES THAT WERE BROUGHT TO THE
23 COURT'S ATTENTION REGARDING THE OBTAINING OF CERTAIN
24 CONFIDENTIAL INFORMATION THAT THE COURT HAS PREVIOUSLY
25 ADDRESSED.

26 AND NOW THERE IS THE REMOVAL BY THE CORPORATION
27 OF MR. ROBINSON, WHICH APPEARS TO BE A FURTHER ATTEMPT TO
28 DELAY THIS CASE OR CREATE SOME TYPE OF APPEALABLE ERROR.

1 THE COURT HAS EXPLAINED TO THE PRESIDENT THAT
2 BY REMOVING MR. ROBINSON AT THIS TIME AND NOT DOING WHAT
3 IS APPROPRIATE -- THAT IS, HIRING ANOTHER ATTORNEY TO BE
4 ABLE TO PROCEED -- THAT THAT NOW LEAVES THE CORPORATION
5 WITHOUT COUNSEL FOR THE TRIAL.

6 IS THERE ANYTHING ELSE THAT YOU WISH TO
7 INDICATE?

8 MR. OLECKI: I'M NOT SURE THAT THIS IS WHAT THE COURT
9 WAS ASKING, BUT PREVIOUSLY THE PLAINTIFF AND PLAINTIFF'S
10 COUNSEL REQUESTED THE TRIAL TO BE CONTINUED ON AT LEAST
11 TWO AND POSSIBLY THREE SEPARATE OCCASIONS. THERE WERE AT
12 LEAST TWO ATTEMPTS TO CONTINUE THE TRIAL.

13 EVEN BEFORE THAT, YOUR HONOR HAD TO RULE ON AT
14 LEAST TWO MOTIONS TO COMPEL AND GRANTED MONETARY SANCTIONS
15 IN EACH INSTANCE, WHICH WAS, IN MY VIEW, A TOTAL
16 STONEWALLING OF THE DISCOVERY PROCESS I THINK RELATED TO
17 EVERYTHING ELSE THAT FOLLOWED IT. THOSE ARE, I THINK, THE
18 THINGS I CAN REMEMBER OFF THE TOP OF MY HEAD.

19 THE COURT: WHAT IS THE PREJUDICE, IF ANY, TO YOUR
20 CLIENTS IF WE CONTINUE THE TRIAL A SHORT PERIOD OF TIME
21 TO ALLOW THE PLAINTIFF CORPORATION TO SEEK FURTHER
22 COUNSEL?

23 MR. OLECKI: THE PREJUDICE IS CERTAINLY MONETARY,
24 YOUR HONOR. I'VE PREPARED FOR THIS TRIAL THREE TIMES.
25 AND EACH OF THE THREE TIMES I HAVE PREPARED, I HAVE SPENT
26 MONEY, A LOT OF CLIENT'S MONEY DOING IT. I HAD A HUGE
27 NUMBER OF EXHIBITS AND OTHER MATTERS MOVED IN HERE TODAY.
28 WE'VE GOT WITNESSES FROM ACROSS THE COUNTRY SET. WE'VE

1 FIXED THEIR CALENDARS. I'D HAVE TO GO BACK TO SCRATCH,
2 AND I DON'T KNOW THAT I COULD GET EVERYBODY THE WAY THAT
3 WE NEEDED TO. I'VE HAD PEOPLE WORKING IN THE BACKGROUND
4 AT SUBSTANTIAL COST TO DR. NAIDU.

5 AND BEYOND THE PREJUDICE ISSUE, YOUR HONOR, I
6 THINK I'M RIGHT WHEN I SAY THIS, I THINK THE COURT TELLS
7 US WHEN WE COME HERE ON THE FIRST DAY OF TRIAL, WHICH IS
8 WHEN WE ARGUE THE MOTIONS, THAT WE ARE IN TRIAL.

9 AS FAR AS I UNDERSTAND IT, WE'RE IN TRIAL AND
10 WE SHOULD CONTINUE TO DO THE TRIAL AS OPPOSED TO SOME
11 DIFFERENT PROCEDURE. NOW, MAYBE I'M WRONG ON THAT.

12 THE COURT: WELL, FIRST OF ALL, YOU ARE CORRECT.
13 FROM THE COURT'S VIEWPOINT, TRIAL STARTED DAY BEFORE
14 YESTERDAY WHEN WE -- WHEN THE COURT RULED UPON -- WELL,
15 WHEN MOTIONS IN LIMINE WERE ARGUED AND RULED UPON AND THE
16 COURT ORDERED THE PARTIES AND WITNESSES TO BEGIN JURY
17 SELECTION TODAY. THE ONLY REASON WE COULD NOT BEGIN JURY
18 SELECTION, THE COURT WAS WRAPPING UP A TRIAL WHICH
19 FINISHED AND THERE WERE NOT JURORS AVAILABLE.

20 MY UNDERSTANDING IS THAT YOU HAVE -- I'M AWARE
21 OF AT LEAST ONE WITNESS THAT IS AN EXPERT WITNESS THAT
22 HAD BEEN SET FOR A 402 MOTION THAT IS COMING FROM OUT OF
23 STATE. FROM WHERE?

24 MR. DIEDRICH: FROM NORTH CAROLINA, YOUR HONOR.

25 THE COURT: AND THE OTHER WITNESSES ARE COMING -- THE
26 OUT-OF-STATE OR NON-LOCAL WITNESSES ARE FROM WHERE?

27 MR. OLECKI: I THINK EVERYBODY ELSE IS MORE OR LESS
28 LOCAL, YOUR HONOR.

1 IT JUST OCCURRED TO ME THERE IS ONE -- PROBABLY
2 THE MOST SIGNIFICANT THING THAT I ACTUALLY NEGLECTED TO
3 MENTION. AS YOU KNOW, DR. NAIDU IS A SCIENTIST. HE'S A
4 PROFESSOR. HE'S A SCHOLAR. HE'S AN INVENTOR. THIS YEAR
5 AND A HALF HAS TAKEN A TREMENDOUS TOLL ON HIM PERSONALLY
6 AND, FRANKLY, ON HIS SCIENCE.

7 HE'S A PERSON WHO, FRANKLY, AS THE EVIDENCE IS
8 GOING TO SHOW, HE GIVES LIFE TO PEOPLE. HIS INVENTIONS,
9 HIS CREATIONS, HIS -- HIS SUPPLEMENTS ARE ACTUALLY
10 CURATIVE. IT'S NOT OVERSTATEMENT TO SAY THAT PEOPLE COME
11 UP TO HIM AT CONVENTIONS AND JUST WANT TO TOUCH HIM TO SAY
12 THAT HE'S REAL. THIS YEAR AND A HALF HAS DERAILED THAT
13 SUBSTANTIALLY. THERE'S NO KNOWING WHAT HE COULD HAVE DONE
14 IN THE TIME THAT HE HAS HAD TO HELP ME ON BASICALLY A
15 DAILY BASIS SINCE THIS CASE WAS STARTED.

16 AND JUST THIS POINT: WARREN BUFFETT, THE
17 INVESTOR, THE GURU OF INVESTING, SAID IT TAKES 20 YEARS TO
18 BUILD A REPUTATION AND FIVE MINUTES TO DESTROY IT. I
19 DON'T KNOW HOW LONG IT'S GOING TO TAKE DR. NAIDU TO GET
20 THAT BACK. THAT'S SEVERE PREJUDICE, YOUR HONOR.

21
22 (PAUSE IN THE PROCEEDINGS.)
23

24 THE COURT: OKAY.

25 THE ACTIONS OF THE PLAINTIFF PUT THE COURT IN
26 AN EXTREMELY DIFFICULT POSITION, BUT THE PLAINTIFF AND ITS
27 PRESIDENT WAS PRESENT WHEN WE BEGAN THE TRIAL AND DID THE
28 MOTIONS IN LIMINE. HE WAS -- HE HAS BEEN ADVISED THAT --

1 AS TO HIS ACTIONS AT THIS TIME. MR. -- AS TO THE EFFECT
2 OF HIS ACTIONS AT THIS TIME.

3 MR. HASEGAWA --

4 MR. TOM HASEGAWA: YES, SIR.

5 THE COURT: -- HAVE YOU DISCUSSED THIS MATTER WITH
6 ANY OTHER ATTORNEY?

7 MR. TOM HASEGAWA: NO.

8 MR. ROBERT HASEGAWA: SIR, IS IT ALL RIGHT IF I JOIN
9 HIM?

10 MR. TOM HASEGAWA: THIS IS MY SON.

11 THE COURT: YOUR NAME.

12 MR. ROBERT HASEGAWA: THERE MIGHT BE A LITTLE BIT OF
13 A COMMUNICATION PROBLEM HERE IN TERMS OF HIM UNDERSTANDING
14 EXACTLY WHAT YOU'RE SAYING, SO I'M ACTUALLY HERE TO ASSIST
15 IN THAT.

16 THE COURT: YOUR NAME.

17 MR. ROBERT HASEGAWA: ROBERT HASEGAWA.

18 THE COURT: OKAY. STEP FORWARD.

19 MR. HASEGAWA, IT -- MR. TOM HASEGAWA, IT
20 DOESN'T APPEAR THAT YOU HAVE HAD ANY DIFFICULTY
21 UNDERSTANDING ME.

22 YOU UNDERSTAND WHAT'S GOING ON?

23 DON'T YOU ANSWER. I WANT HIM TO ANSWER.

24 MR. TOM HASEGAWA: WELL, I DISCUSS WITH MY SON, SO
25 SOMETIMES I HAVE A MISUNDERSTANDING BECAUSE I DIDN'T HAVE
26 ANY BACKGROUND WITH THE KNOWLEDGE ABOUT IT ALL.

27 THE COURT: WELL, YOU'VE TALKED TO MR. ROBINSON ABOUT
28 THIS; IS THAT CORRECT?

1 MR. TOM HASEGAWA: NOT EXACTLY WHAT I THOUGHT. I DID
2 IT, BUT AS HIS UNDERSTANDING, MY UNDERSTANDING, WE HAVE A
3 DISCREPANCY. SO MY SON SAID, DAD, THIS IS NOT RIGHT YOU
4 UNDERSTAND. SO THAT'S WHY HE IS HERE TODAY.

5 THE COURT: HOW LONG HAVE YOU BEEN IN THIS COUNTRY?

6 MR. TOM HASEGAWA: OH, MORE THAN 30 YEARS.

7 THE COURT: OKAY.

8 AND YOU RUN A CORPORATION; IS THAT CORRECT?

9 MR. TOM HASEGAWA: YES, SIR.

10 THE COURT: OKAY.

11 MR. HASEGAWA, I EXPLAINED IT TO YOU BEFORE. I
12 WANT TO KNOW IF YOU HAVE ANY QUESTIONS.

13 BY YOUR ACTIONS IN RELIEVING MR. ROBINSON, THE
14 CORPORATION DOES NOT HAVE ANYBODY TO REPRESENT IT IN THIS
15 TRIAL.

16 DO YOU UNDERSTAND THAT?

17 MR. TOM HASEGAWA: YES. WE NEED SOME OTHER
18 ATTORNEYS.

19 THE COURT: NO. YOU AREN'T GOING TO GET ANOTHER
20 ATTORNEY FOR THIS TRIAL. IT'S GOING TO PROCEED WITHOUT
21 YOU BEING REPRESENTED.

22 MR. TOM HASEGAWA: IT'S VERY DIFFICULT. I'M NOT
23 PROFICIENT, SO IT'S VERY DIFFICULT TO DO BY MYSELF BECAUSE
24 I DON'T HAVE --

25 THE COURT: YOU CAN'T DO IT BY YOURSELF. THE
26 CORPORATION HAS TO BE REPRESENTED BY AN ATTORNEY.

27 MR. TOM HASEGAWA: YES.

28 THE COURT: OKAY.

1 MR. TOM HASEGAWA: WE NEED SOME PROFESSIONAL PEOPLE.

2 THE COURT: YOU AREN'T GOING TO HAVE ANYBODY. I'LL
3 TELL YOU WHAT THE EFFECT OF THIS IS GOING TO BE. IN A
4 MOMENT, I'M GOING TO PROCEED WITH THE TRIAL. THERE WILL
5 BE NOBODY HERE TO PROCEED ON YOUR BEHALF, AND THIS MATTER
6 IS GOING -- JUDGMENT IS GOING TO BE ENTERED ON BEHALF OF
7 THE DEFENDANT.

8 MR. TOM HASEGAWA: SO I NEED TO -- TO BE FAIR TO DEAL
9 WITH THIS, I NEED SOME ATTORNEYS.

10 THE COURT: YOU NEEDED TO HAVE AN ATTORNEY HERE THIS
11 MORNING. YOU NEEDED TO HAVE AN ATTORNEY BEFORE YOU FIRED
12 MR. ROBINSON.

13 MR. TOM HASEGAWA: CAN HE EXPLAIN TO YOU?

14 THE COURT: EXPLAIN WHAT?

15 MR. TOM HASEGAWA: BECAUSE I DISCUSSED WITH MY SON
16 LAST NIGHT, SO HE KNEW ABOUT IT A LITTLE BIT.

17 THE COURT: WELL, I'M ASKING YOU. YOU'RE THE
18 PRINCIPAL OF J.C. UNI-TEC.

19 MR. TOM HASEGAWA: YEAH, BUT -- YES, BUT HE DID IT
20 SO-SO, SO I NEED TO HAVE IT TO SOMEONE TO KNOW ABOUT --

21 THE COURT: WHAT IS IT YOU AREN'T UNDERSTANDING?

22 MR. TOM HASEGAWA: BECAUSE HE'S RESIGNED, SO I DON'T
23 KNOW. WHAT CAN I SAY, BECAUSE IT'S LAST -- YESTERDAY, SO
24 I DON'T HAVE ENOUGH TIME DO NOTHING TO DO WITH THIS.

25 THE COURT: YOU'RE THE -- YOU'RE THE PRINCIPAL. YOU
26 SIGNED THIS FORM, AND IT SAYS THAT YOU ON BEHALF OF
27 J.C. UNI-TEC HAVE RELIEVED MR. ROBINSON.

28 MR. TOM HASEGAWA: HE WISHED TO RESIGN, SO I DON'T

1 HAVE ANY CHOICE.

2 THE COURT: WHO DOES?

3 MR. TOM HASEGAWA: MR. ROBINSON.

4 THE COURT: THAT'S NOT WHAT IT SAYS HERE. IT SAYS
5 THAT YOU'VE REMOVED HIM.

6 YOU DON'T HAVE TO -- YOU DON'T HAVE TO ALLOW
7 HIM TO QUIT.

8 MR. TOM HASEGAWA: WELL, THAT'S WHAT HE WISHED TO DO.
9 HE SEND ME THE LETTER, SO I DON'T HAVE ANY CHOICE.

10 THE COURT: YES, YOU DO. IF YOU WANT, YOU CAN HIRE
11 HIM BACK AND HAVE HIM DO THE TRIAL.

12 MR. ROBERT HASEGAWA: CAN I SPEAK WITH HIM -- CAN I
13 SPEAK WITH HIM OR CAN I MENTION SOMETHING?

14 THE COURT: SURE. WHAT DO YOU WANT TO TELL ME?

15 MR. ROBERT HASEGAWA: OKAY. SO BASICALLY LAST NIGHT
16 IT WAS DECIDED THAT WE WANTED -- OR, ACTUALLY, TWO DAYS
17 AGO THAT WE WANTED TO START LOOKING FOR ANOTHER LAWYER, SO
18 WE'RE ACTUALLY ACTIVELY SEEKING ANOTHER LAWYER. I'M NOT
19 SURE IF IT WAS UNDERSTOOD BY YOU THAT WE ACTUALLY ARE
20 LOOKING FOR ANOTHER LAWYER TO REPLACE --

21 THE COURT: I DON'T CARE. IT'S HERE FOR TRIAL.
22 THEY'VE GONE TO HUGE EXPENSE.

23 MR. ROBERT HASEGAWA: OKAY.

24 THE COURT: IF YOU WANT TO GET ANOTHER LAWYER, DO IT
25 A MONTH AGO OR DO IT LAST NIGHT. BUT YOU DON'T COME IN ON
26 THE -- WHILE WE ARE ENGAGED IN TRIAL AND SAY I'M GOING TO
27 FIRE MY LAWYER AND YOU DON'T HAVE ANOTHER ONE TO REPRESENT
28 YOU. IF YOU WEREN'T A CORPORATION, I'D HAVE YOU

1 REPRESENTING YOURSELF, BUT I CAN'T DO THAT.

2 MR. ROBERT HASEGAWA: OKAY.

3 THE COURT: SO THAT NOW THAT YOU'VE FIRED

4 MR. ROBINSON --

5 MR. ROBERT HASEGAWA: RIGHT.

6 THE COURT: -- YOU HAVE NO LAWYER, AND WE'RE GOING TO
7 TRIAL. YOU DON'T GET A CONTINUANCE. THAT'S MY WHOLE
8 VIEW. MY WHOLE VIEW IS IS THAT YOU HAVE ORCHESTRATED
9 THIS; THAT THE CORPORATION HAS ORCHESTRATED THIS TO TRY TO
10 DELAY THIS TRIAL AGAIN. THAT'S WHY I WAS MAKING THE
11 RECORD. AND I'M NOT GOING TO ALLOW THAT. IT'S BEEN
12 DELAYED BEFORE. WE ARE GOING TO PROCEED WITH JURY
13 SELECTION TODAY. WE ALREADY STARTED TRIAL TWO DAYS AGO.

14 SO YOU HAVE NO ATTORNEY. SO IF YOU -- IF YOU
15 CAN HAVE AN ATTORNEY HERE IN THE NEXT TEN MINUTES, FINE.
16 IF YOU WANT TO REHIRE MR. ROBINSON -- HE'S STILL
17 WAITING -- FINE, BUT WE'RE PROCEEDING TO TRIAL TODAY.

18 MR. ROBERT HASEGAWA: ALL RIGHT.

19 THE COURT: YOU GUYS GO OUT AND TALK AND TELL ME --
20 I'LL GIVE YOU FIVE MINUTES TO FIGURE OUT WHAT YOU'RE GOING
21 TO DO. IF MR. ROBINSON, YOU STILL DON'T WANT HIM HERE,
22 THEN WE'RE GOING TO PROCEED TO TRIAL WITHOUT HIM. THAT
23 WILL RESULT IN A JUDGMENT BY THE DEFENDANTS AGAINST YOU.

24 MR. ROBERT HASEGAWA: OKAY.

25 FIVE MINUTES?

26 THE COURT: TAKE FIVE MINUTES.

27 MR. ROBERT HASEGAWA: THANK YOU, YOUR HONOR.

28 THE COURT: WE'LL BE IN RECESS.

1 (RECESS.)

2
3 THE COURT: OKAY. WE'RE BACK ON THE RECORD.

4 AND MR. HASEGAWA IS PRESENT ALONG WITH HIS SON.
5 AND IT'S -- I'M SORRY.

6 MR. ROBERT HASEGAWA: ROBERT.

7 THE COURT: ROBERT AND TOM HASEGAWA.

8 MR. HASEGAWA, I GAVE YOU AN OPPORTUNITY TO SEE
9 IF YOU WANTED TO REHIRE MR. ROBINSON TO REPRESENT THE
10 CORPORATION OR SECURE ANY OTHER ATTORNEY THIS MORNING.
11 WHAT'S THE STATUS AT THIS TIME?

12 MR. ROBERT HASEGAWA: WE WERE -- OKAY. SO THAT IS
13 CORRECT, WE'VE TERMINATED MR. ROBINSON AND WE ARE
14 CURRENTLY SEEKING NEW COUNSEL, BUT WE UNDERSTAND THE
15 SITUATION OF THE COURT AND WHAT YOU'VE EXPLAINED TO US
16 EARLIER, THAT IT MUST CONTINUE. AND SO --

17 THE COURT: WHAT EFFORTS ARE YOU MAKING TO SECURE NEW
18 COUNSEL? WHAT HAVE YOU DONE?

19 MR. ROBERT HASEGAWA: WE'VE MADE A FEW PHONE CALLS
20 YESTERDAY AND WE'VE CONTACTED SOME CLOSE FAMILY FRIENDS.

21 THE COURT: WHO DID YOU CALL YESTERDAY? WHAT
22 ATTORNEYS DID YOU CALL?

23 MR. ROBERT HASEGAWA: WHAT ATTORNEYS? BUSINESS
24 CONNECTIONS TO OTHER BUSINESS ASSOCIATES.

25 THE COURT: WHO ARE THEY? WHO ARE THE ATTORNEYS?

26 MR. ROBERT HASEGAWA: WELL, WE ONLY KNOW THE FIRST
27 NAME OF ONE, WHICH IS HOWARD. THE OTHER ONES, WE'VE
28 CONTACTED OTHER COMPANIES WHO HAVE --

1 THE COURT: SO YOU'VE ONLY TALKED TO ONE ATTORNEY?

2 MR. ROBERT HASEGAWA: TWO.

3 THE COURT: WHO IS THE OTHER ATTORNEY?

4 MR. ROBERT HASEGAWA: THE OTHER ONE IS -- WELL, IT'S
5 MR. JOHNSON. HE'S A BILINGUAL LAWYER. HE CAN SPEAK
6 JAPANESE AND ENGLISH.

7 THE COURT: OKAY.

8 MR. ROBERT HASEGAWA: BUT WE HAVEN'T HAD TIME TO
9 ACTUALLY GO TO THE OFFICE AND SIT DOWN AND TALK WITH HIM
10 ABOUT THE DETAILS OF THE CASE.

11 THE COURT: YOU TOLD HIM THAT THE MATTER IS SET FOR
12 TRIAL AND WAS BEGINNING -- YOU KNOW, WAS IN TRIAL AT THIS
13 TIME?

14 MR. ROBERT HASEGAWA: NOT -- NOT EXACTLY.

15 THE COURT: OKAY.

16 MR. ROBERT HASEGAWA: SORRY.

17 THE COURT: THAT'S FINE. I DON'T WANT TO GET INTO
18 ATTORNEY-CLIENT STUFF. I JUST NEED TO KNOW WHAT EFFORTS
19 YOU'VE MADE.

20 MR. ROBERT HASEGAWA: OH, OKAY. SORRY.

21 THE COURT: OKAY.

22 MR. ROBERT HASEGAWA: SO, YEAH, WE UNDERSTAND WHAT'S
23 GOING ON. AND, I MEAN, IF YOU'RE NOT GOING TO ALLOW US
24 ANY MORE TIME TO FIND A LAWYER, THEN OBVIOUSLY WE CAN'T DO
25 ANYTHING, SO --

26 THE COURT: OKAY.

27 YOUR CALL. YOU'RE AGREEING IT'S AN APPELLATE
28 ISSUE, BUT IT'S YOUR CALL ON WHAT YOU -- IF YOU WANT TO

1 PROCEED TO TRIAL TODAY OR NOT.

2 MR. OLECKI: WE -- WE DO WANT TO PROCEED TO TRIAL
3 TODAY, YOUR HONOR.

4 AND IF I COULD, I'D PUT A COUPLE OF POINTS IN
5 FOR THE RECORD.

6 THE COURT: YES.

7 MR. OLECKI: MY GUESS WOULD BE THAT MR. HASEGAWA
8 CALLED HOWARD FREDMAN, WHO IS MR. KOIDE'S ATTORNEY.
9 OBVIOUSLY, MR. FREDMAN WOULD NOT BE ABLE TO REPRESENT THEM
10 IF THAT IS INDEED THE PERSON THEY CALLED BECAUSE
11 MR. FREDMAN REPRESENTS MR. KOIDE, WHO IS A SIGNIFICANT
12 PERSON INVOLVED IN THIS MATTER.

13 THE COURT: IS THAT THE NAME OF THE ATTORNEY YOU
14 CONTACTED?

15 MR. ROBERT HASEGAWA: WELL, I GUESS. I DON'T KNOW
16 HIM.

17 THE COURT: YOU AREN'T CERTAIN. OKAY.

18 GO AHEAD.

19 MR. OLECKI: THE SECOND POINT IS MR. HASEGAWA'S
20 DAUGHTER, I THINK HER NAME IS JANET, IS AN ATTORNEY. I
21 THINK SHE'S A DISTRICT ATTORNEY IN RIVERSIDE, BUT SHE IS
22 NEVERTHELESS AN ATTORNEY, HAS BEEN PRACTICING THREE OR
23 FOUR YEARS.

24 I HADN'T NOTICED THIS, BUT IT WAS MENTIONED TO
25 ME THAT DURING THE ENTIRE TIME WE'VE BEEN SPEAKING,
26 MR. ROBINSON HAS BEEN AT THE BACK OF THE COURTROOM.

27 THE COURT: YES.

28 MR. OLECKI: I'M NOT EXACTLY SURE WHY THAT IS. HE

1 WAS DISMISSED BY THE CLIENT AND YET HE REMAINS. THAT
2 PART -- THAT PART STRIKES ME SOMEWHAT MORE UNUSUALLY
3 BECAUSE WHEN I REPORTED IN THIS MORNING, MR. ROBINSON TOLD
4 YOUR CLERK THAT HE WAS BLEEDING SINCE YESTERDAY, AND THAT
5 MAKES ME THINK EVEN MORE IN LINE WITH WHAT YOUR HONOR HAS
6 SAID A COUPLE TIMES NOW THAT THIS MAKES IT EVEN MORE
7 SUSPECT. IF MR. ROBINSON IS REPORTING IN AS BLEEDING AND
8 YET HE STAYS AFTER HE'S BEEN DISMISSED, IT JUST ALL SEEMS
9 PART OF EXACTLY WHAT'S BEEN GOING ON IN THIS CASE FOR THE
10 LONGEST PERIOD OF TIME.

11 ONE LAST ISSUE, JUST A LITTLE COATTAIL ISSUE.
12 IN TERMS OF MR. HASEGAWA'S ENGLISH, HE MAJORED IN ENGLISH
13 AT THE UNIVERSITY OF HAWAII.

14 SECONDLY, I ASKED HIM ON THE RECORD IN HIS
15 FIRST SESSION OF THE DEPOSITION, SAYING, "NOW, YOU'RE A
16 NATIVE JAPANESE SPEAKER; RIGHT?"

17 AND HE SAID, "YES."

18 AND THEN I SAID, "BUT YOU CONDUCT BUSINESS IN
19 THE UNITED STATES EVERY DAY BY SPEAKING ENGLISH; CORRECT?"

20 "YES" WAS HIS ANSWER.

21 AND THEN MY QUESTION, "DO YOU HAVE ANY PROBLEM
22 FOLLOWING ENGLISH CONVERSATION?"

23 ANSWER: "NO, NOT SO FAR. NO."

24 THAT'S ON -- AGAIN, FOR THE RECORD -- I THINK
25 PAGE NINE OF THE FIRST SESSION OF HIS DEPOSITION I BELIEVE
26 IN NOVEMBER OF 2006.

27 THE COURT: OKAY. THANK YOU FOR THAT.

28 OKAY. GENTLEMEN, THANK YOU. YOU MAY HAVE A

1 SEAT.

2 AND FOR THE RECORD, YES -- I MEAN, IT'S A
3 PUBLIC TRIAL. MR. ROBINSON HAS BEEN HERE. I KNOW THEY'VE
4 CONFERRED. AND IT APPEARS THAT HE'S LEAVING THE COURT AT
5 THIS TIME.

6 OKAY.

7 PLEASE -- OFF THE RECORD.

8
9 (A DISCUSSION WAS HELD OFF THE
10 RECORD.)

11
12 THE COURT: OKAY. WE'LL BE IN RECESS UNTIL THE
13 JURORS COME DOWN.

14
15 (RECESS.)

16
17 THE COURT: OKAY. WE'RE BACK ON THE RECORD IN THE
18 MATTER OF J.C. UNI-TEC VERSUS NAIDU.

19 DEFENDANT IS PRESENT WITH COUNSEL. THERE IS NO
20 COUNSEL APPEARING ON BEHALF OF PLAINTIFF.

21 THIS MATTER BEGAN TRIAL TWO DAYS AGO FROM A
22 TECHNICAL STANDPOINT. THE PARTIES WERE INFORMED THAT WE
23 WERE IN TRIAL, TO BRING THEIR WITNESSES. THE COURT RULED
24 ON THE MOTIONS IN LIMINE AND OTHER MATTERS, AND THE COURT
25 ORDERED A PANEL OF 50 POTENTIAL JURORS FOR THE PURPOSES OF
26 JURY SELECTION.

27 DEFENDANT HAS ANNOUNCED -- THE PLAINTIFF HAD
28 PREVIOUSLY ANNOUNCED THEY WERE READY TO PROCEED THROUGH

1 THEIR THEN-ATTORNEY OF RECORD MR. ROBINSON, OR IN THE
2 ALTERNATIVE DID NOT REQUEST ANY FURTHER CONTINUANCE.

3 THE DEFENDANT HAS INDICATED THAT THEY WOULD
4 SUFFER FINANCIAL PREJUDICE AND FURTHER PREJUDICE TO THEIR
5 DEFENDANT'S REPUTATION FOR A CONTINUED DELAY IN THIS
6 MATTER.

7 THE PLAINTIFF CORPORATION HAS RELIEVED
8 MR. ROBINSON AND DOES NOT HAVE AN ATTORNEY PRESENT TO
9 REPRESENT THEM.

10 ADDITIONALLY, THE DEFENDANT IS PRESENT.

11 HOW MANY WITNESSES DO YOU HAVE HERE IN THE
12 AUDIENCE TODAY?

13 MR. OLECKI: PROBABLY ACTUALLY IN THE AUDIENCE JUST
14 TWO TODAY, YOUR HONOR.

15 THE COURT: OKAY.

16 FINALLY, THE COURT HAS ALLOWED THE DEFENDANT TO
17 MAKE A RECORD, AND THE COURT IS FINDING THAT THE -- THE
18 RELIEVING OF ATTORNEY ROBINSON IS CONSISTENT WITH
19 FURTHER -- WITH THE ACTIONS OF THE PLAINTIFF IN THE PAST
20 TO DELAY AND HINDER THIS ACTION AND THE ABILITY OF THE
21 DEFENDANT, DR. NAIDU, TO DEFEND IN THIS ACTION; THAT THE
22 PLAINTIFF AND THE PLAINTIFF'S PRESIDENT, MR. TOM HASEGAWA,
23 HAS BEEN INFORMED BY THE COURT OF THE EFFECT OF HIS FIRING
24 OF MR. ROBINSON AND THAT THE MATTER WILL PROCEED. HE HAS
25 BEEN GIVEN THE OPPORTUNITY WHILE MR. ROBINSON WAS STILL
26 HERE TO RECONSIDER THAT, AND HE HAS DECLINED TO HIRE
27 MR. ROBINSON. HE HAS NOT MADE ANY DILIGENT EFFORTS TO
28 SECURE OTHER COUNSEL PRIOR TO TODAY'S DATE. AND FURTHER

1 DELAY, THE COURT FINDS, WOULD IN FACT PREJUDICE THE
2 DEFENDANT. SO THE IMPLICIT REQUEST, ALTHOUGH ONE HAS NOT
3 BEEN RECEIVED BY THE COURT, TO CONTINUE THE MATTER BY THE
4 PLAINTIFF HAS AND IS DENIED.

5 THE COURT HAS ORDERED 12 JURORS SO THAT WE CAN
6 PROCEED ON THIS CASE. THE COURT UNDER THESE CIRCUMSTANCES
7 DOES NOT FIND THAT WE NEED THE 50 JURORS THAT HAVE BEEN
8 SUMMONED, AND I WILL RELEASE THEM FOR FURTHER SERVICE.

9 IT IS THE INTENT OF THE COURT TO BRING A JURY
10 AND SWEAR A JURY BEFORE WHOM THIS MATTER MAY BE TRIED.

11 ANYTHING ELSE ON BEHALF OF THE DEFENDANT THAT
12 COUNSEL WISHES TO ADDRESS REGARDING THE ISSUES THAT HAVE
13 ARISEN BASED UPON THE RELIEVING OF MR. ROBINSON BY THE
14 PLAINTIFF?

15 MR. OLECKI: NOT DIRECTLY, YOUR HONOR. BUT JUST IN
16 TERMS OF MAKING THE RECORD, THERE ARE TWO OR THREE THINGS
17 I HAD FORGOTTEN ABOUT WHEN WE ADDRESSED THIS BEFORE THE
18 BREAK.

19 THE COURT: YOU MAY.

20 MR. OLECKI: I THINK IT'S IN THE MOVING PAPERS
21 PREVIOUSLY IN THE CASE, BUT THERE HAD BEEN A -- CONSISTENT
22 AGAIN WITH THE DELAY AND THE OBFUSCATION AND THE DETERRING
23 OF A DEFENSE, THERE HAD BEEN A SERIES OF ACTIVITIES BY THE
24 PLAINTIFF AND ITS COUNSEL. ONE WAS CONTACTING OF AN
25 UNDESIGNATED CONSULTANT NAMED MR. OLEXO (PHONETIC). I PUT
26 THAT IN PRIOR PAPERS TO THE COURT.

27 SECOND, IT DIDN'T AFFECT US DIRECTLY, BUT THE
28 COURT HAS HEARD ABOUT IT FROM COUNSEL FOR NIKKEN THAT

1 MR. ROBINSON WAS CONTACTING NIKKEN WITNESSES AND PERSONNEL
2 DIRECTLY.

3 THE COURT: IN A DECLARATION THE COURT RECEIVED IN AN
4 EX PARTE MOTION TO QUASH -- STRIKE THAT.

5 I BELIEVE IN RESPONSE TO A REQUEST BY THE
6 PLAINTIFF THAT THE COURT ISSUE ORDERS TO FORCE A
7 REPRESENTATIVE OF NIKKEN TO TESTIFY, THE DECLARATION FROM
8 NIKKEN DID INDICATE THAT PLAINTIFF AND THEIR ATTORNEY HAD
9 BEEN INFORMED OF THE REPRESENTATION BY CORPORATE COUNSEL
10 OF THEIR EMPLOYEES AND HAD OBJECTED TO MR. ROBINSON'S
11 DIRECT CONTACTING OF THE WITNESSES.

12 WHAT I WANT TO BE CLEAR ABOUT IS THE COURT IS
13 OF THE VIEW THAT ALTHOUGH MR. ROBINSON IS -- THE COURT HAS
14 BEEN CRITICAL OF MR. ROBINSON'S SPECIFIC ACTIVITIES, THE
15 COURT IS OF THE VIEW BASED ON THE NATURE OF THOSE
16 ACTIVITIES, THE INFORMATION THAT HE IS RECEIVING AND THE
17 MANNER IN WHICH THAT INFORMATION IS RECEIVED AND DIRECTED
18 THAT THE PLAINTIFF CORPORATION AND ITS PRINCIPAL HAVE BEEN
19 COMPLICIT AS WELL IN THE SUPPLYING OF THAT INFORMATION AND
20 IN THE ACTIVITIES OF THEIR ATTORNEY AND THAT IT HAS BEEN
21 DONE WITH THEIR KNOWLEDGE, IF NOT AT THEIR DIRECTION.

22 YOU MAY PROCEED.

23 MR. OLECKI: THANK YOU, YOUR HONOR.

24 AND I GUESS ONE LAST POINT. THE COURT GOT MORE
25 OF A FEELING OF IT AS THE CASE WENT ON AND THERE'S BEEN NO
26 ACTUAL DETERMINATION OF IT, BUT OUR POSITION IS AND WE --
27 WE WERE PREPARED AND REMAIN PREPARED TO PROVE THAT THE
28 DOCUMENT ON WHICH THE PLAINTIFF BASES THIS ENTIRE CASE WAS

1 FABRICATED ABOUT 18 MONTHS AFTER THE DATE IT BEARS, AND
2 MR. HASEGAWA AND MR. KOIDE BOTH SWORE UP AND DOWN IN
3 DEPOSITION THAT IT WAS CREATED ON THAT DAY. WE HAVE
4 SCIENTIFIC EVIDENCE TO PROVE THAT'S NOT THE CASE. WE HAVE
5 A LACK OF A PAPER TRAIL, AND WE HAVE ABUNDANT EVIDENCE.
6 IT WAS GOING TO BE THE CENTERPIECE OF OUR CASE. SO THAT
7 AS WELL, WHICH IS CONSISTENT WITH THE NATURE OF THE CASE,
8 THE ALLEGATIONS, THE CONDUCT OF COUNSEL AND THE PLAINTIFF,
9 EVERYTHING KIND OF LEADING UP TO THIS, IT JUST ALL FITS
10 TOGETHER HOW IT'S BEEN HANDLED.

11 THE COURT: SO THE RECORD IS AGAIN CLEAR, THE COURT
12 DID SET A 402 HEARING PRIOR TO THE TESTIMONY OF THE INK
13 EXPERT, WHO THE COURT HAS BEEN INFORMED WILL TESTIFY THAT
14 AN ANALYSIS OF THE INK ON THAT DOCUMENT WOULD SHOW THAT IT
15 WAS OF AN AGE AFTER THE PURPORTED DATE OF THE DOCUMENT.

16 IS THAT CORRECT?

17 MR. OLECKI: ABSOLUTELY, YOUR HONOR.

18 THE COURT: AND THE COURT DID SET THAT MATTER ON A
19 402 HEARING.

20 AND IT IS THE COURT'S VIEW THAT, AGAIN, THE
21 ATTEMPT TO CIRCUMVENT THE TRIAL OR CONTINUE THE TRIAL IS
22 IN PART MOTIVATED, AMONG OTHER FACTORS, TO AVOID THE
23 POTENTIAL OF THAT EVIDENCE COMING IN TO TRIAL IN OPEN
24 COURT AND THE POTENTIAL FRAUD, IF ADMITTED, THAT WOULD
25 HAVE BEEN SHOWN AS TO THE PLAINTIFF.

26 THE COURT IS ALSO OF THE VIEW THAT IT'S AN
27 ATTEMPT TO FURTHER PUNISH AND HARM DR. NAIDU FINANCIALLY
28 AND BY REPUTATION BY FURTHER DELAY OF THE TRIAL.

1 ANYTHING FURTHER?

2 MR. OLECKI: I DON'T THINK SO, YOUR HONOR.

3 THANK YOU.

4 THE COURT: OKAY.

5 THE 12 JURORS HAVE BEEN SUMMONED. THE COURT IS
6 GOING TO PROCEED WITH THE IMPANELLING OF THE JURORS. I AM
7 GOING TO GIVE THEM A SHORT STATEMENT OF THE NATURE OF THE
8 CASE. I WILL ALLOW VOIR DIRE AT YOUR DISCRETION. AND
9 THEN WE WILL PROCEED WITH THE PRESENTATION OF EVIDENCE.

10 SUMMON THE JURORS, PLEASE.

11
12 (THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT IN THE PRESENCE
14 OF THE PROSPECTIVE JURORS:)

15
16 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

17 THE PROSPECTIVE JURORS: GOOD MORNING.

18 THE COURT: THIS IS GOING TO BE A FAIRLY SHORT
19 PROCEEDING. I DON'T EXPECT IT'S GOING TO LAST LONGER THAN
20 FIVE OR FIFTEEN -- FIVE TO FIFTEEN MINUTES. BUT THIS IS A
21 CIVIL MATTER. THIS IS A MATTER ENTITLED J.C. UNI-TEC,
22 INCORPORATED, VERSUS NAIDU.

23 AND THE LLC IS --

24 MR. OLECKI: NAIDU L.P. AND EN-N-TECH, E-N --

25 THE COURT: EN-N-TECH AND NAIDU LLP.

26 THIS IS A MATTER IN WHICH THE PLAINTIFF,
27 J.C. UNI-TEC, CLAIMS THAT THE DEFENDANTS AND HIS BUSINESS
28 ENTITIES COMMITTED A FRAUD UPON THE PLAINTIFF AND

1 INTERFERED WITH ITS BUSINESS AND WAS UNJUSTLY ENRICHED
2 THEREBY.

3 YOU -- THEY BOTH -- STRIKE THAT. THE PLAINTIFF
4 HAS DEMANDED A RIGHT, AS IS THE RIGHT UNDER THE
5 CONSTITUTION, TO A TRIAL BY JURY. THIS MATTER ANNOUNCED
6 READY AND BEGAN ACTUALLY TWO DAYS AGO, BUT YOU WERE
7 SUMMONED HERE TODAY SO THAT WE COULD SELECT A JURY.

8 I'D LIKE TO ASK THAT ALL OF YOU STAND AT THIS
9 TIME TO BE SWORN AS POTENTIAL JURORS.

10 THE CLERK: LADIES AND GENTLEMEN, YOU DO, AND EACH OF
11 YOU, UNDERSTAND AND AGREE THAT YOU WILL ACCURATELY AND
12 TRUTHFULLY ANSWER, UNDER PENALTY OF PERJURY, ALL QUESTIONS
13 PROPOUNDED TO YOU CONCERNING YOUR QUALIFICATIONS AND
14 COMPETENCY TO SERVE AS A TRIAL JUROR IN THE MATTER PENDING
15 BEFORE THIS COURT; AND THAT FAILURE TO DO SO MAY SUBJECT
16 YOU TO CRIMINAL PROSECUTION.

17 IF SO, PLEASE STATE "I DO."

18
19 (THE PROSPECTIVE JURORS RESPONDED
20 IN THE AFFIRMATIVE.)

21
22 THE CLERK: THANK YOU.

23 THE COURT: OKAY.

24 LADIES AND GENTLEMEN, I'M GOING TO CALL YOUR
25 NAMES. THESE NAMES HAVE BEEN SELECTED BY THE JURY
26 COMMISSIONER IN A RANDOM ORDER. WHEN I CALL YOUR NAME,
27 I'M GOING TO ASK THAT YOU TAKE A SEAT IN THE JURY BOX
28 UNDER -- UNDER OR IN FRONT OF THE NUMBER THAT IS

1 DESCRIBED.

2 THE FIRST NAME IS SUZETTE BOSVELD.

3 PROSPECTIVE JUROR BOSVELD: YES.

4 THE COURT: MS. BOSVELD, IF YOU'D TAKE SEAT NUMBER 1.

5 OH, YOU CAN GO THROUGH THERE IF YOU DON'T KNOCK
6 THE PODIUM.

7 PROSPECTIVE JUROR BOSVELD: I'M THIN, SORT OF.

8 THE COURT: OKAY.

9 I THINK IT SWINGS THE OTHER WAY, TOO.

10 THAT'S NUMBER 1.

11 NUMBER 2, TERESA MONJARAZ.

12 NUMBER 3, PAUL O'LEARY.

13 NUMBER 4, IRENE SCOTT.

14 NUMBER 5, GLORIA REYES.

15 NUMBER 6, LELIA WILLIAMSON.

16 NUMBER 7, LOLITA SANTIAGO.

17 MS. SANTIAGO, SEAT NUMBER 7 IS IN THAT SECOND
18 ROW RIGHT IN FRONT OF WHERE MS. GARZA IS POINTING.

19 NUMBER 8, ROBERT SENCER.

20 NUMBER 9, ELIZABETH BROOKS.

21 NUMBER 10, WENDY TRAVIS.

22 NUMBER 11, GENOVEVA ROCHA.

23 NUMBER 12, PATRICIA CRUZ.

24 LADIES AND GENTLEMEN, I'M GOING TO ALLOW
25 COUNSEL TO ASK YOU QUESTIONS IF THEY WISH REGARDING YOUR
26 ABILITY TO SERVE ON THIS JURY TO DETERMINE IF YOU HAVE ANY
27 BIASES OR PREJUDICES OR OTHER REASONS UNDER OUR
28 CONSTITUTION THAT YOU SHOULD BE DISCHARGED OR RELEASED.

1 PLAINTIFF MAY VOIR DIRE.

2 THERE BEING NO INQUIRY, DEFENDANT MAY VOIR
3 DIRE.

4 MR. OLECKI: YOUR HONOR, WE'LL ACCEPT THE PANEL AS
5 CONSTITUTED.

6 THANK YOU.

7 THE COURT: VERY WELL.

8 LADIES AND GENTLEMEN, PLEASE STAND TO BE SWORN
9 AS JURORS.

10 THE CLERK: LADIES AND GENTLEMEN, YOU DO, AND EACH OF
11 YOU, UNDERSTAND AND AGREE THAT YOU WILL WELL AND TRULY TRY
12 THE CAUSE NOW PENDING BEFORE THIS COURT, AND A TRUE
13 VERDICT RENDER THEREIN ACCORDING ONLY TO THE EVIDENCE
14 PRESENTED TO YOU AND THE INSTRUCTIONS OF THE COURT.

15 IF SO, PLEASE STATE "I DO."

16
17 (THE JURY PANEL RESPONDED IN THE
18 AFFIRMATIVE.)

19
20 THE CLERK: THANK YOU.

21 PLEASE BE SEATED.

22 THE COURT: PLAINTIFF MAY MAKE OPENING STATEMENT OR
23 CALL THEIR FIRST WITNESS.

24 THERE BEING NO WITNESSES CALLED AT THIS TIME,
25 THE COURT ORDERS THAT THE PLAINTIFF REST.

26 DEFENSE.

27 MR. OLECKI: YES, YOUR HONOR. THANK YOU.

28 WE'D LIKE TO MAKE A MOTION. I BELIEVE IT'S

1 UNDER SECTION 630 OF THE CCP OR, IN THE ALTERNATIVE,
2 MOTION FOR JUDGMENT.

3 THE COURT: VERY WELL.

4 THE COURT BOTH DIRECTS A VERDICT FOR JUDGMENT
5 AS -- FOR THE DEFENDANT AGAINST THE PLAINTIFF AND GRANTS
6 THE MOTION FOR JUDGMENT.

7 AT THIS TIME, THE JURY WILL BE DISCHARGED WITH
8 THE COURT'S THANKS.

9 MR. OLECKI: I THINK THE COURT SAID "DEFENDANT." IT
10 PROBABLY SHOULD --

11 THE COURT: WELL, IT'S JUDGMENT FOR THE DEFENDANT
12 AGAINST THE PLAINTIFF.

13 MR. OLECKI: DEFENDANTS, PLURAL.

14 THE COURT: DEFENDANTS.

15 MR. OLECKI: THANK YOU.

16 THE COURT: AGAINST THE PLAINTIFF.

17 WOULD YOU ASK THEM TO REMAIN IN THE JURY
18 DELIBERATION ROOM.

19
20 (THE FOLLOWING PROCEEDINGS WERE
21 HELD IN OPEN COURT, OUT OF THE
22 PRESENCE OF THE JURY:)

23
24 THE COURT: AT THIS TIME, THERE BEING NO EVIDENCE
25 SUBMITTED, THE COURT ORDERS ALL UNNAMED DOES DISMISSED
26 FROM THE COMPLAINT.

27 THERE BEING NO EVIDENCE ON BEHALF OF THE
28 PLAINTIFF IS THE REASON THAT THE COURT DIRECTED THE

1 VERDICT AND GRANTED THE REQUEST FOR JUDGMENT.

2 THE MATTER IS SET FOR -- THIS MATTER IS SET FOR
3 AN ORDER TO SHOW CAUSE AS TO WHY THE AMENDED DEFENDANTS
4 SHOULD NOT BE DISMISSED FOR FAILURE TO SERVE AND PROSECUTE
5 PURSUANT TO CALIFORNIA RULE OF COURT 3.110 -- THAT IS,
6 WITHIN 30 DAYS FROM THE DATE OF THE AMENDMENT -- OR
7 SANCTIONS UP TO \$1,500 AGAINST PLAINTIFF FOR FAILURE TO DO
8 SO PURSUANT TO 177.5.

9 THE MATTER IS ALSO SET FOR A CASE MANAGEMENT
10 CONFERENCE REGARDING THE UNSERVED DEFENDANTS AS WELL.
11 THAT CASE MANAGEMENT CONFERENCE IS SET --

12 GIVE ME ABOUT A FIVE-WEEK -- FOUR- TO FIVE-WEEK
13 DATE.

14 THE CLERK: I'M SORRY. HOW LONG, YOUR HONOR?

15 THE COURT: ABOUT FIVE WEEKS.

16 THE CLERK: HOW ABOUT MONDAY, MARCH 10.

17 THE COURT: MARCH 10TH AT 8:30 IN THE MORNING. THE
18 DEFENDANT IS TO GIVE -- THIS DEFENDANT IS TO GIVE NOTICE
19 OF THAT.

20 ANYTHING ELSE?

21 MR. OLECKI: I CAN'T THINK OF ANYTHING ELSE, YOUR
22 HONOR.

23 THANK YOU.

24 THE COURT: OKAY.

25 I'M GOING TO BE IN RECESS JUST VERY BRIEFLY TO
26 PERSONALLY THANK THE JURORS FOR THEIR TIME. IF ANYTHING
27 ELSE COMES UP, GIVE ME A CALL.

28 MR. OLECKI: VERY GOOD.

1 THANK YOU, YOUR HONOR.

2 THE COURT: WE'LL BE IN RECESS.

3
4 (THE PROCEEDINGS WERE CONCLUDED.)
5
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT EAST R

HON. ROBERT A. DUKES, JUDGE

4
5 J.C. UNI-TEC, INC., A CALIFORNIA
6 CORPORATION,

7 PLAINTIFF,

8 VS.

9 ALUGUPALLI SATYANARAYAN NAIDU, AN
10 INDIVIDUAL ALSO KNOWN AS A.S. NARAIN
11 NAIDU, AND DOES 1 THROUGH 100,
12 INCLUSIVE,

DEFENDANTS.

)
)
)
) NO. KC 049028

)
) REPORTER'S
) CERTIFICATE

13 I, DEBRA J. PINEDA, OFFICIAL REPORTER OF THE
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
15 OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
16 PAGES, 1 THROUGH 32, INCLUSIVE, COMPRISE A FULL, TRUE AND
17 CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE
18 ABOVE-ENTITLED MATTER ON JANUARY 31, 2008.

19 DATED THIS 6TH DAY OF FEBRUARY, 2008.

20
21 Debra J. Pineda, CSR #6156
22 DEBRA J. PINEDA
23
24
25
26
27
28