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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
BEFORE THE HONORABLE ROBERT MCGUINNESS, JUDGE
DEPARTMENT NO. 22

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GUYANA TRIBUTE FOUNDATION, a California
non-profit corporation; and JYNONA
NORWOOD, an individual,

NO. RG11575036

Plaintiffs,

vs.

THE EVERGREEN CEMETERY ASSOCIATION,
a California corporation; BUCK KAMPHAUSEN,
an individual, RON HAULMAN, an individual;
and DOES 1-50, inclusive,

Defendants.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

COUNTY ADMINISTRATION BUILDING
ALAMEDA COUNTY COURTHOUSE
OAKLAND, CALIFORNIA

Wednesday, May 25, 2011

APPEARANCES:

For the Plaintiffs: Vernon C. Goins II
Attorney at Law

For the Defendants: Steven H. Gurnee
Attorney at Law

Reported by Adrienne Peretti, CSR 11029

I N D E X

WITNESSES FOR THE PLAINTIFFS: PAGE

Billie Cortez

9 reviewed in the context of those supplemental orders. I did
10 a couple of things: One, I directed counsel and requested
11 that declarations be filed in this matter that would, I
12 labeled it, fill in the lengthy amount of time and action
13 between each party here conversationally and otherwise, and
14 I gave them to last Friday to file the supplemental
15 declarations. Each side did so.

16 And I would state on the record I have reviewed
17 at length all further filings with each party. I further
18 directed counsel to meet and confer specifically as to
19 potential resolution of this action.

20 I presume, counsel, you met and conferred?

21 MR. GURNEE: We did.

22 MR. GOINS: Yes.

23 THE COURT: All right. And the matter remains at
24 issue?

25 MR. GURNEE: Yes, it does, your Honor.

26 MR. GOINS: It does.

27 THE COURT: And I would want the record to reflect
28 the court doesn't normally do that, but I am -- as I've said

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1 before, I wish to be sensitive to the nature and
2 circumstances relative to the issues before the court.

3 I further ordered that in light of my
4 consideration of the argument made before me for the TRO my
5 review of the case law and the declarations that I would
6 give each side, if they wish, an hour to present oral
7 testimony in support of and in opposition to the request for
8 a preliminary injunction hearing.

9 All right. Mr. Goins, your show.

10 MR. GOINS: Before we -- again, I think there is one
11 slight housekeeping matter. I just need the exhibits that
12 counsel plans to --

13 MR. GURNEE: Your Honor, with respect to that, if I
Page 3

14 may?

15 THE COURT: You may.

16 MR. GURNEE: Are there any -- is this an appropriate
17 time to interpose objections to some of the exhibits, the
18 declarations, and so forth that were previously submitted or
19 do you want to do that later?

20 THE COURT: No. Let's do it now.

21 MR. GURNEE: Your Honor, I would object to the
22 declarations that were offered in support by Mr. Goins'
23 office. There are several bases for those objections. As
24 to Mr. Hendrickson's deposition, that's the Santa Barbara
25 monument person, I would object on the grounds that it's not
26 relevant, it's not competent, and it is lacking in
27 foundation, and certainly doesn't express any opinions
28 relevant to this case. Mr. Hendrickson has no factual basis

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1 on which to opine of what did or did not happen in this
2 case. And it's interesting and all that, but I don't
3 believe it adds anything to the case.

4 As to the declarations of family members and
5 supporters, your Honor, those are strictly just opinions in
6 support. I don't know that they are in any way factually
7 supportive of the claims being made in this case at all. I
8 have similar -- a similar document which I just gave to
9 counsel of dozens of letters of support for the other side
10 of this equation, which I will offer to the court, but for
11 the purposes -- they are clearly hearsay. They are also --
12 for the most part they are hearsay anyway, and they, I don't
13 believe, are relevant to the issue that is presented to the
14 court.

15 THE COURT: Okay. Mr. Goins.

16 MR. GOINS: Okay. May I respond first, Judge, with
17 regard to the declaration of the expert? I disagree with
18 the fact that counsel has indicated the characterization of

19 that declaration. That declaration actually is very
20 specific with regard to opinions related to how a monument
21 or at least a monument-creating company would proceed, which
22 is at issue here.

23 The issue in this particular case is whether or
24 not Dr. Norwood just went on her own, got a monument built,
25 and then came to the cemetery. Actually Jed Hendrickson's
26 declaration is specific with regard to not only his
27 experience insofar as working with cemeteries but also
28 particularly related to this case.

4

1 I point the court's attention to the declaration
2 of Jed Hendrickson filed on May 20th, dated May 20th of
3 the same, paragraph 13 where he talks about "given the size,
4 scope, and cost of the Guyana memorial, I know of no
5 monument company that would order material first without
6 receiving cemeterial approval," and then it goes on to
7 paragraph 14, and that's without this approval. The
8 monument company has obligated themselves to their vendor,
9 but they have no way to proceed and complete the sale that
10 is very germane to this particular case.

11 The fact that Dr. Norwood had testified to this
12 concept on detrimentally relying on a specific mandate by
13 Evergreen to use a specific monument company, we also,
14 Judge, have witnesses that we're going to bring forward here
15 today who were apart of that company, who were either
16 involved in the operation and management control of Marin
17 Monument or in fact very much so worked on the monument
18 itself and would be able to corroborate this very key expert
19 testimony.

20 THE COURT: Well, just remember you have an hour.
21 Here is what I'm prepared to do because I'm not surprised by
22 the objection. I'm going to strike the Hendrickson
23 declaration because candidly I'm not sure this court or any

24 other needs expert testimony as to the nature and process.
25 This is a judge -- I earned my white hairs. I know how
26 cemeteries work. I know how monument companies work. I
27 don't think it's going to give me any assistance in reaching
28 a conclusion as to what goes on here. I will not strike the

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1 declarations that have been otherwise submitted.
2 Understanding that they are opinion declarations, I will
3 give them whatever weight I choose to give them.

4 And certainly, Mr. Gurnee, if you have like kind
5 declarations on the same bases, I would allow those to be
6 submitted in the record also, but I would want everyone to
7 understand that this court is not going to decide this case
8 on the basis of counting ballots. I think that does not
9 give the respect to the nature and circumstance of what is
10 going on here. It's not a political process. It's a --
11 well, in this forum it is a legal process, but I quietly
12 expressed concern in the last hearing that this case is
13 maybe bigger than the method and nature of the proceedings
14 here. And I understand that there are competing interests,
15 perhaps competing leadership, but when you start to niche
16 the case that way, oftentimes you lose sight of the nature
17 of the circumstance otherwise which, from my opinion, is 32
18 years. It's taken 32 years to get this far, to make this
19 type of decision.

20 Having said that -- and, again, if you have
21 witnesses that might allow me to consider the interaction
22 between these parties and whether there is a contract, I'm
23 certainly here to listen to them, you know, coming from the
24 monument company or otherwise, but I have put some time
25 limits on this because of the request of leave motion which
26 is injunctive relief.

27 MR. GURNEE: Your Honor, I wonder if we could have
28 clarification as to exactly what is being sought here. As

1 we talked about last time, it was to stop construction.
2 Construction is completed. I gather that there is now
3 something going beyond that which was pled in the pleadings
4 by way of injunctive relief, a different type of order. I
5 think it's to stop any celebrations or memorial services
6 from occurring out there. I gather that's what that is. I
7 would like information on that because there has been no
8 formal request that I can discern.

9 THE COURT: Well, I can discern because I have it
10 right here. Have a seat.

11 MR. GURNEE: Thank you.

12 THE COURT: I have pounds of documents that I have.
13 My first set of documents is a proposed order granting
14 preliminary injunction when this hearing is concluded.

15 Mr. Goins, I'm going to ask you the same question
16 that counsel just asked you about. I will read the request
17 at this time. I'm going to listen to whatever evidence is
18 presented, whatever arguments are presented, and then I'm
19 going to go back to the same question, and I will tell
20 everybody it would be my intention to issue my decision
21 tomorrow morning. I want to listen to the evidence. I
22 want -- and I tell everybody who comes in this courtroom I
23 don't care who wins. That's not my province. What I do
24 care about is whatever decision is made, whether you agree
25 or disagree, is thoughtful, respectful, and based upon the
26 evidence presented. So I'm going to take my time to do
27 that.

28 The proposed order requested is as follows: That

1 defendants Evergreen Cemetery Association, Buck Kamphausen,
2 defendants, and their principals, officers, agents,
3 servants, employees, attorneys, and those persons under

4 their control or in active concert or participation with
5 them from permitting the New People's Temple or any other
6 person or entity from using, including but not limited to
7 public celebrations, transferring, selling, assigning,
8 altering, infringing on any memorial upon the mass grave
9 site of the victims of Jonestown until the instant action is
10 adjudicated.

11 Now, Mr. Goins, I'm going to listen to evidence.
12 I'm going to come back at you. That is a lot. That's a
13 very broad based injunction you are seeking. Again, I'm
14 going to listen to what you have to say. I will come back
15 to you at the conclusion of the proceeding and see where we
16 are, but it's a fair question. It happens to be counsel's
17 first, but the judge had it in terms of all the pounds of
18 documents here right on top, so along with the proceedings.

19 MR. GOINS: And before we continue with the
20 proceeding, I certainly have evidentiary objections as well.

21 THE COURT: Let's do it.

22 MR. GOINS: Okay. I object to certain aspects of
23 Mr. Haulman's declaration as being hearsay and in certain
24 instances lacking authentication and lacks foundation, and I
25 can go through each and every provision of what I have of
26 disagreement.

27 THE COURT: All right. Let's do it. Give me a
28 second because I have these documents organized by

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1 presentation. All right. Specific objections.

2 MR. GOINS: Okay. Objection number one is with
3 regard to page 2, paragraph 3.

4 THE COURT: Of the affidavit or the declaration?

5 MR. GOINS: Yes, that is correct.

6 THE COURT: Okay.

7 MR. GOINS: Okay. Page 2, paragraph 3, beginning at
8 line 16, where he states "I'm informed that Mr. Kamphausen

9 has in the past offered to donate the cost of the foundation
10 in installation of a memorial, but on the condition that has
11 been designed and specifics cases must be submitted and
12 approved by Evergreen as applied by its rules," that's
13 hearsay.

14 THE COURT: Mr. Gurnee, your response.

15 MR. GURNEE: Your Honor, the fact is that the
16 plaintiff has admitted that there was such conversations,
17 and that Mr. Haulman is a director of a nonprofit cemetery
18 association, member of a board of directors, that, as you
19 will see, is in one of the letters. That is an exhibit in
20 this case.

21 In 2002 Ms. Norwood was advised that it would
22 require an approval by the board of directors in order to do
23 this, and the cemetery has rules and regulations.

24 Mr. Haulman is certainly familiar with those rules and
25 regulations as being one of the directors of the cemetery,
26 like every cemetery in California, I think, has rules and
27 regulations.

28 MR. GOINS: May I respond, Judge?

9

1 THE COURT: You may.

2 MR. GOINS: With regard to the initial page of the
3 declaration, he indicates that he's been the executive
4 director since 2006. He lays no foundation with regard to
5 whether or not he was a previous employee of Evergreen,
6 whether or not -- what files, documents, or anything that
7 he's reviewed with regard to the -- how he's been informed
8 that Mr. Kamphausen has made these things in the past.
9 Certainly, again, and we also reviewed the facts that the
10 foundation in the installation was conditioned in the manner
11 of this declaration. Again, Mr. Kamphausen is additionally
12 a party unless he's here to testify. This is hearsay. It
13 lacks foundation.

14 THE COURT: I'm going to let it in. I've read every
15 declaration, and I understand the nature of the dispute. It
16 can be offered for nonhearsay purposes, which is to explain
17 conduct also, so I will allow it in. Candidly I read every
18 declaration, every paragraph, and organized by the
19 declarations submitted at this time the chronology as best I
20 could. I asked you to fill it in in terms of the first
21 presentation so I could be fair in the evaluation of the
22 nature of what has occurred here. So I will deny that
23 motion to strike under the -- it's either and/or
24 foundational or offered for the nonhearsay purpose to
25 explain conduct.

26 Next objection.

27 MR. GOINS: Next objection is with regard to
28 paragraph 4 -- page 4, paragraph 9, where it reads "neither

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1 I nor anyone else at Evergreen had any substantive contact
2 with Ms. Norwood thereafter until we received an e-mail from
3 her on November 2nd, 2009. Again, hearsay, lacks
4 foundation.

5 THE COURT: I will strike Norwood's. Anyone else's?
6 That could be hearsay. Certainly you can speak as to any
7 contact Norwood had or not had.

8 MR. GURNEE: If I may?

9 THE COURT: You may.

10 MR. GURNEE: Mr. Haulman, as a director, has
11 knowledge of the company as well. So to the extent that a
12 company being a person, that's defendant in this case, he
13 acts on behalf of the company, and as a director is
14 knowledgeable about what communications go on with the
15 company.

16 THE COURT: May or may not be, but at this juncture,
17 it's lacking in foundation. If he goes up and talks about
18 it, then I will say -- I will reserve the ruling subject to

19 laying a foundation, but at this juncture, I would strike
20 that.

21 MR. GURNEE: Thank you.

22 MR. GOINS: With regard to page 4, paragraph 10,
23 beginning line 27, it says, "In that letter we again made it
24 clear that before any memorial could be installed at
25 Evergreen its design and specifications first had to be
26 approved by the cemetery. We further advised her that the
27 two panels that were brought to Evergreen the preceding year
28 were too large to be placed on or near the grave site and

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1 would entail foundation work and would cost far beyond that
2 what Evergreen was willing to incur," and it just goes on.
3 And the problem that I have with this is that he's referring
4 specifically to a letter that he may have -- he may have
5 signed, but again he's referring to "we" including
6 Mr. Kamphausen. Again, hearsay, lacks foundation.

7 THE COURT: I will reserve the objection.

8 Are you going to be putting Mr. Haulman up on the
9 stand?

10 MR. GURNEE: Yes, I am.

11 THE COURT: Okay. Again, subject to establishing a
12 foundation.

13 MR. GURNEE: Your Honor, I would only point out in
14 that regard, as the declaration points out, Mr. Haulman
15 actually prepared this letter.

16 THE COURT: I understand.

17 MR. GURNEE: Thank you.

18 MR. GOINS: And that's it with regard to any
19 objections that we have with regard to that particular
20 declaration.

21 THE COURT: Okay.

22 MR. GOINS: Second objection with regards to these,
23 what appears to be 16 -- a compilation of letters of support

24 to Dr. Haulman beginning, I guess, contemporaneous with this
25 hearing date I guess sometime in this year, this is hearsay.
26 Unlike my declarations which are very specific in that they
27 are signed under penalty of perjury, these declarations are
28 not. These are a compilation of letters, you know, e-mails,

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1 and things of that nature. And unless counsel has something
2 to authenticate any one of these, I object to these
3 particular letters or this compilation of documents being
4 admitted for any purpose.

5 THE COURT: Which compilation are we talking about?

6 MR. GURNEE: Exhibit 16, which was marked this
7 morning, your Honor.

8 THE COURT: May I see it?

9 MR. GURNEE: Yes.

10 Can I approach?

11 THE COURT: Madam clerk is giving it to me.

12 MR. GURNEE: These are all letters that were
13 received by Mr. Haulman and Evergreen in support of the
14 current memorial, letters and e-mails. Mr. Haulman can
15 certainly attest to the fact that they were received as part
16 of the records of Evergreen.

17 THE COURT: All right. I am going to allow them in,
18 and I don't repeat myself often. I'm going to treat
19 everybody the same way on that. I'm not going to count
20 votes. I'm not going to count letters because all I think
21 that is going to do, if I give the perception of it, is
22 convert this into a political contest of some nature which,
23 forgetting being a judge, I think lacks some dignity, but I
24 will. But I'm going to do it consistently, and, again,
25 under the circumstances I related.

26 All right. Mr. Goins, are you ready to go?

27 MR. GOINS: One last issue, and that's with respect
28 to striking the declaration of Jed Hendrickson. Now that I

1 had the brief opportunity to review the exhibits that
2 counsel plans to provide, there appears to be an Exhibit 15,
3 an e-mail from Jed Hendrickson, the very same person who I
4 obtained a declaration.

5 THE COURT: All right. I'm not sure. I don't
6 believe I have seen that one. So my ruling was based upon
7 everything that has been submitted to me.

8 which one are we talking about?

9 THE CLERK: Defendant hasn't given me any exhibits,
10 your Honor.

11 THE COURT: Certainly if they open the door about
12 Mr. Hendrickson on something that is properly before the
13 court.

14 MR. GURNEE: I can provide -- we marked as
15 Exhibit 50.

16 THE COURT: All right. You are a little bit ahead
17 of me because you are giving me stuff you brought in today
18 to have marked.

19 MR. GURNEE: Your Honor, this is an e-mail that was
20 distributed by Mr. Hendrickson, January 3rd, 2011, to all
21 monument companies in the state. Mr. Hendrickson being, as
22 he attested to in his declaration, quite involved in
23 monument associations, so this was sent before his
24 declaration in this case, and we thought it was certainly of
25 interest depending upon how the court treated
26 Mr. Hendrickson's declaration in the first place.

27 THE COURT: Well, depending upon which side you sit
28 on in my courtroom, you may have thought I treated it well

1 or badly, but depending on the ruling that I made in light
2 of this, it would be relatively wise. I will stick with my
3 ruling. This is also out.

4 MR. GURNEE: Thank you.

5 MR. GOINS: At this time, Judge, I request that
6 before we begin oral testimony that any persons who are
7 called to be a witness or plan to testify in this particular
8 instance, either as a percipient witness or for purposes of
9 rebuttal, other than experts, be excluded from the
10 courtroom.

11 THE COURT: Any objection, Mr. Gurnee?

12 MR. GURNEE: Well, your Honor, this is not exactly a
13 trial. I think it might expedite matters for everybody to
14 hear what is going on, but I don't think the court has a lot
15 of discretion here.

16 THE COURT: The Court has plenty of discretion, and
17 I want to remind everybody that we have an hour's time limit
18 on oral testimony. If anybody is going to be called by
19 either lawyer and knows that at this juncture, I'm going to
20 ask you to excuse yourself from the courtroom, and we will
21 call you as needed for testimony.

22 I'm going to just address counsel on this. As I
23 made that order, I don't know how many people left the
24 courtroom but far in excess that the court thinks reasonably
25 could be called in one hour, so I'm just going to say it
26 directly: Each side has their hour. All right.

27 MR. GURNEE: Your Honor, although you struck
28 Exhibit 15, we would offer it. Is it not part of the

15

1 court's record at this point?

2 THE COURT: It's not part of the court's record
3 because I struck it, as I struck his testimony as an expert.

4 MR. GURNEE: All right. Thank you.

5 MR. GOINS: Can I just go get the witnesses?

6 THE COURT: Sure.

7 MR. GOINS: One final little housekeeping matter,
8 with regard to timing, I guess I just keep my own time.

9 THE COURT: I will keep time for you.

10 MR. GOINS: And with regard to any cross-examination
11 by counsel that's not going to count against me?

12 THE COURT: Does not count against you. It's an
13 hour of presentation, each side.

14 MR. GOINS: My first witness is Billie Cortez.

15 Billie Cortez,

16 called as a witness on behalf of the
17 plaintiffs, having been first duly sworn,
18 testified as follows:

19 THE CLERK: Please state and spell your full name
20 for the record.

21 THE WITNESS: Billie, B-I-L-L-I-E, Cortez,
22 C-O-R-T-E-Z.

23 DIRECT EXAMINATION

24 MR. GOINS: Q. Good morning, Ms. Cortez.

25 A. Good morning.

26 Q. What is your relationship to Marin Monument Company?

27 A. My husband and I owned it.

28 Q. And how long did you own Marin Monument Company?

1 A. I'm sorry. Since 1982.

2 Q. Okay. And with regard to the company, what did it do
3 during that time period?

4 A. What do you mean by "what did it do"?

5 Q. What was its line of business.

6 A. Its line of business was doing work in cemeteries,
7 suppling granite headstones, and doing inscriptions.

8 Q. And during this time period did Marin Monument create a
9 relationship with Evergreen?

10 A. Yes.

11 Q. And how long did that relationship last?

12 A. Since 1982.

13 Q. And please describe the relationship.

14 A. It was not only with Evergreen it was also with Mount
15 Tamalpais.

16 Q. And what did you do for Evergreen?

17 A. We would get borders and do headstones.

18 Q. And when did that relationship end?

19 A. Last year.

20 Q. Last year of?

21 A. Of '10.

22 Q. And why did it end?

23 A. Why did it end?

24 Q. Yes.

25 A. I have no clue.

26 Q. And do you recall -- and you had mentioned your
27 husband. What is his name?

28 A. John Cortez.

17

1 Q. And what was his position with the company during that
2 time period?

3 A. He owned the monument shop.

4 Q. Okay. And at a certain point in time did Marin
5 Monument Company come into contact with the Guyana Tribute
6 Foundation and Dr. Norwood?

7 A. Yes.

8 MR. GURNEE: Excuse me. I was going to say lack of
9 foundation, calls for speculation, and hearsay.

10 THE COURT: Overruled.

11 MR. GOINS: Q. What was the purpose of that
12 contact?

13 A. Well, it was speaking to Dr. Norwood. My husband told
14 me that he was --

15 MR. GURNEE: Hearsay, your Honor. Motion to strike.

16 THE COURT: I will let you make a motion to strike
17 in a second. It's -- I don't know what it is at this
18 juncture.

19 Ma'am, answer the question.

20 THE WITNESS: Can you repeat it, please?

21 MR. GOINS: Q. And with regard to coming into
22 contact with Dr. Norwood or Guyana Tribute Foundation, what
23 was the nature of that contact?

24 A. To do the monument.

25 Q. And when you referred to "monument," what are you
26 referring to?

27 A. The memorial for the people who died in Guyana.

28 MR. GOINS: May I approach the witness, Judge?

18

1 THE COURT: You may.

2 MR. GOINS: Q. Turning your attention to the
3 exhibit binder, Exhibit A, which is Exhibit A attached to
4 Dr. Norwood's declaration -- ma'am, I just handed you a
5 document that is dated 1995 by Marin Monument Company, Inc.
6 Are you familiar with it?

7 A. No.

8 Q. All right. And have you ever seen it before?

9 A. The other day.

10 Q. And do you know what it is?

11 A. It looks like a drawing of a preliminary monument.

12 Q. Okay. And did you prepare that drawing?

13 A. No, I didn't.

14 Q. Do you know who did?

15 A. No, I don't.

16 Q. Turning your attention now to Exhibit B --

17 A. I have to read it.

18 Q. Okay. Exhibit B is a document that is a 1992 --

19 A. 2002.

20 Q. -- 2002, letter?

21 A. Uh-huh.

22 Q. Have you ever seen this letter before?

23 A. No, I haven't.

24 Q. Do you know what it is?

25 MR. GURNEE: Objection. Calls for speculation, lack
26 of foundation, and the document speaks for itself.

27 THE COURT: The document does speak for itself, but
28 it could be foundational to the witness in other questions.

19

1 I will allow her to answer.

2 THE WITNESS: It looks like it's a letter written
3 for the foundation of the memorial in 2002.

4 MR. GOINS: Q. Okay. Turning your attention now to
5 Exhibit C, which is a March 2007 letter written by Dr.
6 Norwood, have you ever seen that document before?

7 A. No, I haven't.

8 Q. Do you know what it is?

9 MR. GURNEE: The same objections.

10 THE COURT: Noted for the record; the same answer.

11 THE WITNESS: It looks like a letter from Dr.
12 Norwood to Evergreen Cemetery written in 2007 concerning the
13 memorial.

14 MR. GOINS: Q. Okay. And at a certain point in
15 time are you aware of any instance where Marin Monument and
16 the Guyana Tribute Foundation entered into an agreement to
17 construct a memorial?

18 MR. GURNEE: Objection. Calls for hearsay.

19 THE COURT: It also calls for a legal conclusion so
20 you can rephrase your question.

21 THE WITNESS: Yes. I have read this.

22 MR. GOINS: Q. I have to rephrase. I have to
23 rephrase my question.

24 A. Sorry.

25 Q. Are you -- I've just pointed your attention to
26 Exhibit D. Do you know what it is?

27 A. It looks like a contract between my husband and Dr.
28 Norwood.

1 Q. And do you know what the purpose of the contract was
2 for?

3 A. It was for the six black pieces seven feet in size of
4 providing space for 102 adult names per piece.

5 Q. And does that refer to the memorial that you were
6 talking about earlier?

7 A. Now, what do you mean by "talking about earlier"? The
8 one that we took to the cemetery or the picture that you
9 showed me before?

10 Q. The one that you took to the cemetery.

11 A. Yes.

12 Q. Now, you were involved in Marin Monument Company. Do
13 you have an understanding as it relates to its custom and
14 practice?

15 A. No.

16 Q. Let me finish my question.

17 -- its custom and practice with regard to
18 constructing memorials?

19 MR. GURNEE: Objection. Vague.

20 THE WITNESS: No.

21 THE COURT: Overruled.

22 MR. GURNEE: Thank you.

23 MR. GOINS: Q. Okay. All right. Do you understand
24 the purpose of the agreement that you testified to?

25 MR. GURNEE: Calls for speculation.

26 THE COURT: Also calls for a legal conclusion.
27 Sustained.

28 MR. GOINS: Q. Do you understand what the purpose

1 of your husband signing that document -- what was that for?

2 MR. GURNEE: The same objections, your Honor. Calls
3 for a legal conclusion also calls for speculation, lack of

4 foundation.

5 THE COURT: If she knows. Overruled.

6 THE WITNESS: This is a contract between my husband
7 and Dr. Norwood.

8 MR. GOINS: Q. Okay. And with regard to this
9 particular contract between Dr. Norwood and your husband, it
10 was to construct the memorial; is that correct?

11 A. Yes.

12 Q. Okay. And are you aware of the steps that your husband
13 and Marin Monument, Inc. took to construct the monument?

14 A. I did not work there, but I do know that there were a
15 lot of things that needed to be done, the ordering of the
16 granite and also the names to be put on it.

17 Q. Okay. And with regard to -- did you ever have any
18 conversations with Ron Haulman concerning --

19 A. Yes.

20 Q. -- this particular memorial?

21 A. Yes.

22 Q. When?

23 A. The day of the -- we took the two pieces of granite to
24 the cemetery.

25 Q. And the date that you took the two pieces of granite to
26 the cemetery you are referring -- do you know what that date
27 is?

28 A. Two years ago --

22

1 Q. Do you know --

2 A. -- in '08.

3 Q. Do you know what the date is specifically?

4 A. No, I don't. I don't remember.

5 Q. I'm going to point your attention to Exhibit F, and
6 Exhibit F is the first page of a newspaper article. Does
7 that refresh your recollection?

8 A. Yes, it does.

9 Q. When did you take those two pieces of granite?
10 A. I can't really see the date. My eyes are not that
11 good. I know it was 2008.
12 Q. Okay. I'm going to represent to you that it was the
13 30th anniversary of the Jonestown massacre --
14 A. Yes, yes.
15 Q. -- November of 2008.
16 Did you have a conversation with a Ron Haulman
17 concerning the memorial?
18 A. Yes, I did.
19 Q. And is Ron Haulman present in court today?
20 A. Yes.
21 Q. Can you please point to Ron Haulman?
22 A. The gentleman at the end of the table.
23 Q. And what was discussed between you and him?
24 A. Can I set it up? Can I say when the conversation
25 happened?
26 Q. Yes, please.
27 A. It was --
28 THE COURT: Hold it. I get to run the courtroom.

23

1 You can ask her a question to lay that foundation, but we're
2 not going to go do narratives here on this hearing.
3 THE WITNESS: Sure.
4 MR. GOINS: Q. What did you and Mr. Haulman
5 discuss?
6 A. I walked up towards Mr. Haulman from the memorial. The
7 stones were on trailers in the driveway. I walked up to
8 him, and I said, "Are you really going to be able to do the
9 foundation for this memorial?" And he walked up to me, and
10 he said -- he was walking towards me, and he said "yes, no
11 problem." You would be able -- they would be able to put
12 the foundation in for that memorial, and that is what he
13 said.

14 Q. Okay. And is there any particular reason why you asked
15 him that question?

16 A. Because these were big pieces of granite, and I was
17 just asking him because I was so amazed that the cemetery --
18 the cemetery would do that, and they said they would. That
19 Jed, right there, said he would.

20 Q. And what was your understanding of Mr. Haulman's
21 relationship at the time that you had this conversation with
22 him?

23 A. He was the manager or director of Evergreen Cemetery.

24 Q. Okay.

25 MR. GOINS: I have no further questions of this
26 witness at this time.

27 THE COURT: Mr. Gurnee.

28 MR. GURNEE: Thank you, your Honor.

24

1 CROSS-EXAMINATION

2 MR. GURNEE: Q. Good morning, Ms. Cortez.

3 A. Good morning.

4 Q. You are employed at Marin Memorial?

5 A. No. I was married. I was also a part owner of the
6 shop.

7 Q. Never worked there?

8 A. I worked there helping my husband doing certain jobs.
9 I was never paid. I did it for free.

10 Q. When you said you didn't work there, that wasn't true?

11 A. I wasn't paid.

12 Q. I see. Okay. Now, you didn't actually manufacture the
13 stones, did you?

14 A. What do you mean?

15 Q. You personally.

16 A. Me personally?

17 Q. Yeah.

18 A. I helped deliver stones with my husband.

19 Q. Okay. Now, Marin Monument you said you started -- your
20 husband and you owned the company starting in 1982; is that
21 correct?

22 A. Correct.

23 Q. All right. Did you own any other monument companies?

24 A. We attempted to purchase one.

25 Q. Okay. You attempted to purchase something called
26 Amador Monument Company; isn't that correct?

27 A. Correct.

28 Q. You actually did purchase it, didn't you?

25

1 A. No, we didn't.

2 Q. Did you operate Amador Monument Company?

3 A. Yes, we did.

4 Q. When did you operate Amador Monument Company?

5 A. I can't remember. I think we decided to return it to
6 Mr. -- to the gentleman that we were purchasing it from in
7 '08.

8 Q. Okay. Were you the operator of Amador Monument
9 Company?

10 A. I wasn't.

11 Q. Was your husband --

12 A. Yes.

13 Q. -- operating the company in --

14 A. Yes.

15 Q. -- in November 2007?

16 A. I think. I'm not too sure.

17 Q. Okay. Let me show you -- it's previously actually been
18 marked as an exhibit in the binder that you have there. I
19 believe counsel just referred to it as Exhibit D. Do you
20 have that in front of you?

21 A. Yes.

22 Q. This is on the letterhead of Amador Memorial Company,
23 isn't it?

24 A. Yes.

25 Q. All right. And it's in Oakland, California, correct?

26 MR. GOINS: Objection. The document speaks for
27 itself.

28 THE COURT: You know, I'm going to try to give

26

1 everybody an even playing field here. Overruled. You can
2 answer the question, but what I want to say, Mr. Gurnee, I
3 just did five years of criminal trials in Oakland, and
4 sideshows -- I don't want a sideshow of this magnitude. I'm
5 not quite sure where it's going, where it's going to get
6 there.

7 MR. GURNEE: It's not going far.

8 THE COURT: I agree.

9 MR. GURNEE: Q. Ms. Cortez, you were operating the
10 company in 2007 in Oakland, is that right, Amador Memorial?

11 A. Uh-huh, yes.

12 Q. When did you stop operating Amador Memorial?

13 A. In '09 -- '08, excuse me.

14 Q. You gave it back to --

15 A. Yes.

16 Q. Was that before November 18, 2008?

17 A. No -- excuse me, yes.

18 Q. It's okay.

19 And the stones that were delivered out there at
20 Evergreen where are they currently?

21 A. Now 2468 5th Avenue, San Rafael, California.

22 Q. And who owns that property?

23 A. Nobody. It's in escrow.

24 Q. Have they been abandoned, those stones?

25 A. No.

26 Q. Who owns the stones currently? Do you know?

27 A. I do.

28 Q. You do.

1 Okay. Were you ever paid for them?

2 A. Paid for the stones?

3 Q. You paid for the stones?

4 A. No. I said the stones were paid for. Excuse me. I
5 was shortening --

6 Q. Yes, I'm sorry. Let me clarify my question. Sorry if
7 it was confusing. Did your company Marin Memorial or Amador
8 ever receive payment for the stones?

9 A. Yes, for --

10 Q. How much payment did you receive?

11 A. It says right here \$30,000.

12 Q. Okay. You never received any more than \$30,000?

13 A. No.

14 Q. And the total price was to be \$97,000; is that correct?

15 A. Yes.

16 Q. All right. And it was to be paid in a certain
17 sequence, wasn't it?

18 A. Yes.

19 Q. And the payments weren't made in March or April of 2008
20 for an additional \$33,000?

21 A. No.

22 Q. And were not paid in July or August of that same year
23 for 33,000?

24 A. No.

25 MR. GURNEE: One moment, your Honor.

26 I will get to it later. That's all I have, your
27 Honor. Thank you.

28 THE COURT: Mr. Goins, anything further?

1 MR. GOINS: Yes.

2 REDIRECT EXAMINATION

3 MR. GOINS: Q. With regard to these stones, have
 Page 25

4 you had any communication with Dr. Norwood or Guyana Tribute
5 Foundation insofar as completing the work?

6 A. Before my husband died, yes.

7 THE COURT: Might I ask, ma'am, sensitively as I
8 can, when did your husband pass? I need that for context.

9 THE WITNESS: December 12, 2010.

10 THE COURT: Thank you.

11 MR. GURNEE: Your Honor, if I may --

12 MR. GOINS: Excuse me.

13 MR. GURNEE: I'm sorry. I didn't know that you were
14 done.

15 MR. GOINS: Q. Did you ever make -- have you ever
16 had any discussions -- have you ever told Dr. Norwood that
17 you have a willingness to complete the work?

18 A. Before my husband died, a month before my husband died
19 we spoke with Dr. Norwood that if the stone -- if the
20 monument was too big for this spot that we could cut it in
21 half and we could make it smaller.

22 Q. Have you ever told anyone recently that you would
23 complete the monument?

24 A. No. We can't.

25 Q. All right. And why is that?

26 A. We no longer have a business.

27 MR. GOINS: And with regard -- I have no further
28 questions at this time.

29

1 MR. GURNEE: Thank you, your Honor.

2 RE-CROSS-EXAMINATION

3 MR. GURNEE: Q. Ms. Cortez, did you tell
4 Ms. Norwood in -- strike that.

5 Have you ever seen a design for the foundation
6 necessary for this memorial?

7 A. A design for the foundation? what are you talking
8 about? The foundation that would go in the ground before

9 the stones went on?
10 Q. Right.
11 A. No.
12 Q. And was one ever created by your company that you know
13 of?
14 A. A foundation?
15 Q. A foundation plan, right.
16 A. I have -- I don't know.
17 Q. And was a set of drawings or plans ever submitted to
18 your knowledge to Evergreen for this memorial?
19 MR. GOINS: Objection. Exceeds the scope.
20 THE COURT: Overruled.
21 MR. GURNEE: Q. Go ahead.
22 A. Repeat please.
23 Q. Was a set of drawings or plans for this memorial ever
24 submitted to Evergreen Memorial Park -- Evergreen Cemetery?
25 A. I don't know.
26 Q. Ms. Norwood, did she tell you in November of 2008 that
27 there were competing groups who were planning other types of
28 memorials?

30

1 MR. GOINS: Objection. Hearsay.
2 THE COURT: Overruled. It could be for a nonhearsay
3 purpose.
4 THE WITNESS: I don't remember. I do not recall.
5 MR. GURNEE: Okay. That's all I have. Thank you.
6 THE COURT: Finish your questions. I'm going to
7 give you one.
8 REDIRECT EXAMINATION
9 MR. GOINS: Q. Isn't it true that you have
10 represented to Dr. Norwood and the Guyana Tribute Foundation
11 that you would allow volunteers to finish the work in light
12 of the fact that your company is closed?
13 A. Yes.

14 MR. GURNEE: Irrelevant, calls for speculation, lack
15 of foundation, and it's also hearsay.

16 THE COURT: well, I don't think it's irrelevant, but
17 it could be lacking some foundation as posed. You can
18 rephrase the question, counsel, if you can get it right.

19 MR. GOINS: Okay.

20 Q. Would you allow Dr. Norwood to finish the memorial if
21 she were to provide the labor in order to complete the work?

22 A. Yes.

23 Q. And if the work were completed, what would happen then
24 to the stones?

25 A. They would be given to Dr. Norwood. She could do
26 whatever she wanted with them.

27 MR. GOINS: No further questions at this time.

28 THE COURT: Done, Ms. Cortez. Thank you.

31

1 THE WITNESS: Thank you.

2 MR. GOINS: And given the fact this is an expedited
3 hearing, all the witnesses are excused and no one reserves
4 the right to bring them back, something of that nature?

5 THE COURT: Subject to the exclusion order and
6 whatnot.

7 MR. GOINS: Thank you.

8 The witness is John David Cortez.

9 John Cortez,

10 called as a witness on behalf of the
11 plaintiffs, having been first duly sworn,
12 testified as follows:

13 THE CLERK: Please state and spell your name for the
14 record.

15 THE WITNESS: John Cortez, J-O-H-N, C-O-R-T-E-Z.

16 DIRECT EXAMINATION

17 MR. GOINS: Q. Are you familiar with the company
18 named Marin Monument Company?

19 A. Yes.
20 Q. How are you familiar with it?
21 A. I worked there for 25 years.
22 Q. And what were your duties and responsibilities over
23 that 25-year period?
24 A. Manufacturing of monuments and headstones and
25 installation.
26 Q. Do you know who owned the company?
27 A. Yes, I do. My father.
28 Q. What is your father's name?

32

1 A. John Cortez.
2 Q. And with regard to the nature of the work of Marin
3 Monument what was that?
4 A. Production of monuments and headstones for cemeteries
5 and memorials.
6 Q. Okay. And did Marin Monument ever -- sorry.
7 Did that work consist of design, installation,
8 and construction?
9 A. Yes, it did.
10 Q. And did you ever do design, installation, and
11 construction for memorials for Evergreen Cemetery?
12 A. Yes, we did.
13 Q. And do you have a recollection as to when was the first
14 time that you heard about your dad or Marin Monument being
15 interested in doing -- interested in preparing a monument
16 for Dr. Norwood?
17 A. I believe it was the late '80s when my dad started
18 talking about it. It started actually at Oakland Granite
19 and Marble I believe is where it started.
20 Q. What year was that?
21 A. It was the late '80s.
22 Q. And how long do you -- are you aware of that -- those
23 discussions, okay, going on?

24 MR. GURNEE: Objection. Calls for hearsay.

25 THE COURT: It's actually foundational, and there is
26 no content at this point, so a simple yes-or-no answer is
27 fine.

28 THE WITNESS: Can you ask the question again?

33

1 MR. GOINS: Q. Are you aware of how long your
2 dad -- how long a period your dad did talk --

3 A. Yes, I am.

4 Q. -- about this memorial?

5 A. Yes. He --

6 Q. How long did that last?

7 A. In the mid-'90s I remember my dad talking to somebody
8 about a memorial at Evergreen Cemetery for Jonestown.

9 Q. Turning your attention now to Exhibit A, which is a
10 1995 letter on Marin Monument letterhead, are you familiar
11 with it?

12 A. Yes, I am.

13 Q. And how are you familiar with it?

14 A. My dad drew that.

15 Q. Okay. And what does that -- what does that -- are
16 those plans and specifications?

17 MR. GURNEE: Objection. The document speaks for
18 itself.

19 THE COURT: Again, I will treat it as foundational.
20 You may answer, sir.

21 THE WITNESS: Yes.

22 MR. GOINS: Q. Okay. What are those -- do you know
23 what those plans and specifications are of?

24 A. The memorial for the Jonestown memorial.

25 Q. Okay. And what appears to be a drawing, do you know
26 what that drawing is?

27 A. Yes, I do.

28 Q. What is that drawing?

1 A. That shows the dimensions of the memorial.
2 Q. Okay.
3 A. This is actually an early drawing of the memorial.
4 Q. Okay. And with regards to the dimensions, what are you
5 referring to?
6 A. The numbers indicate side, top, bottom, or showing the
7 dimensions in feet and in inches.
8 Q. So in other words, height, length, or width?
9 A. Yes. This shows eight inches thick, 6-foot by
10 6-inches, 6 feet tall.
11 Q. Okay. And then under that there is some typewritten
12 information?
13 A. Yes.
14 Q. And what is that type -- what do you understand that
15 typewritten information to be?
16 A. Color of the granite and the dimensions also and the
17 finish and the finish of the stone.
18 Q. Okay. Now, you worked with your dad for over a 20-year
19 period, right?
20 A. Yes.
21 Q. Do you have -- do you have independent knowledge with
22 respect to custom and practice of Marin Monument, Inc. prior
23 to constructing a memorial for anyone?
24 A. Yes.
25 MR. GURNEE: Objection. Vague and overbroad.
26 THE COURT: And, oh, I'm only listening here. I
27 would like to know what 20-year period we're talking about
28 in the context of this case. what 20 years did you work

1 with the company, sir?

2 THE WITNESS: '88 to last year of October 31st.

3 THE COURT: All right. Overruled.

4 MR. GOINS: Q. What was your understanding of the
5 custom and practice of Marin Monument, Inc. prior to
6 constructing a monument?

7 A. Repeat the question.

8 Q. What was your understanding of the things that Marin
9 Monument, Inc. would typically do before it took on the
10 project of constructing a monument?

11 A. We would work with our customer, who was Dr. Norwood,
12 for instance, and design a monument to her request -- to
13 their request.

14 Q. Okay. So was there anything uncharacteristically
15 different about Marin Monument, Inc.'s relationship with Dr.
16 Norwood and other clients that you would have?

17 A. This memorial was special. That was the defining
18 difference. It was --

19 Q. Okay. All right. Turning your attention now to
20 Exhibit B, it is a 2002 September letter. Have you seen
21 that before?

22 A. No, I have not.

23 Q. Turning your attention now to Exhibit C, it's a May
24 2007 letter from Dr. Norwood to a Mr. Haulman. Have you
25 ever seen that before?

26 A. No. I have not.

27 Q. I want to point your attention specifically to a
28 paragraph, and that is the paragraph under "design

1 dimensions."

2 A. I see that.

3 Q. Okay. Where it reads -- and this is the third line --
4 "The wall is 36 feet long with the wall that features the
5 adult names seven feet above ground and eight feet above
6 ground." Do you see that?

7 A. Yes, I do.

8 Q. Now, you have been involved in the industry for over 20

9 years, correct?

10 A. Yes.

11 Q. Would you consider those plans and specifications that
12 would enable someone to construct or build a monument?

13 MR. GURNEE: Objection, your Honor. Lacks
14 foundation, speculation.

15 THE COURT: Yeah. Let's lay a little foundation
16 relative to that -- a little foundation relative to that
17 question.

18 THE WITNESS: To lay a foundation?

19 THE COURT: That's the lawyers work, Mr. Cortez.

20 THE WITNESS: Okay.

21 MR. GOINS: Well, not foundation in the sense of
22 laying a foundation.

23 THE COURT: I understand how he got confused, but I
24 will make the lawyers work in this courtroom.

25 MR. GOINS: Q. All right. So then I just read to
26 you some dimensions, correct?

27 A. Yes.

28 Q. Okay. It talked about length, correct? Talked about

37

1 height, correct?

2 A. Yes.

3 Q. Based on your experience in the field of constructing
4 monuments would you consider those dimensions sufficient
5 enough to begin -- to begin the design, construction, and
6 installation of a monument?

7 A. Those are the beginnings of the design.

8 Q. Okay.

9 A. It's what we would start working with.

10 Q. Okay. Turning your attention now to Exhibit D, have
11 you seen this document before?

12 A. Yes, I have.

13 Q. Do you know what it is?

14 A. Yes, I do.

15 Q. And what is it?

16 A. It's a contract between my father and Dr. Norwood.

17 Q. And what was the contract for, if you know?

18 A. The Jonestown memorial.

19 Q. And with regard to the contract itself -- I'm going to
20 point your attention to paragraph 1 where it reads,
21 second -- first sentence, "with all viewable sides polished,
22 six black pieces 5 feet by 7 feet in size with 102 adult
23 names per piece. The center piece will be of red granite
24 with a 6 by 5 foot heart." Do you see that?

25 A. Yes, I do.

26 Q. Are those plans and specifications for the Jonestown
27 memorial?

28 A. Yes, they are.

38

1 Q. And do you know how Marin Monument came about receiving
2 those plans and specifications?

3 A. Yes, I do.

4 Q. And how do you know?

5 A. I know because I spoke with my father about it.

6 Q. Okay. And what did you guys speak about?

7 MR. GURNEE: Objection. Calls for hearsay.

8 THE COURT: I will reserve a motion to strike on
9 this one. Overruled to this point.

10 MR. GOINS: Okay.

11 Q. And turning your attention now to Exhibit E, do you
12 know what Exhibit E is?

13 A. Yes, I do.

14 Q. And what is Exhibit E?

15 A. It's the drawing that my father made for the foundation
16 so the cemetery would know what size foundation to put in.

17 Q. Okay. And is Exhibit E -- is that the thing that
18 typically Marin Monument would do insofar as preparing plans

19 and specifications to be sent to Evergreen; is that the
20 custom?

21 A. No, this is not typical.

22 Q. Okay. And what's so untypical about this?

23 A. The size of the memorial is not a typical memorial that
24 would go into Evergreen Cemetery.

25 Q. Okay. And on this drawing you will see certain --
26 there is a drawing. I think there is about three
27 rectangular pieces of a letter of a left rectangle and three
28 pieces rectangular to the right of the middle rectangle.

39

1 what does that consistent of?

2 A. Consists of the monument, the memorial.

3 Q. So those are the memorial slabs?

4 A. Yes.

5 Q. And under those are numbers?

6 A. Yes.

7 Q. What are those?

8 A. Those are representing pins or steel rods that would be
9 put in the concrete foundation that would go into the bottom
10 of the memorial.

11 Q. Do you know if Marin Monument ever sent those plans and
12 specifications to Evergreen?

13 A. My father spoke with John Duley personally in our
14 office.

15 Q. And confirmed -- and confirmed that document was sent?

16 MR. GURNEE: Calls for hearsay, lack of foundation.

17 THE COURT: It does. And I want a specific answer
18 as to whether he knows these documents were ever sent to
19 Evergreen.

20 Do you know that, sir?

21 THE WITNESS: No, I do not.

22 MR. GOINS: Q. Are you aware of a meeting with you,
23 John Duley, and your father that took place sometime in the

24 beginning of 2008?

25 A. Yes, I do.

26 Q. Okay. And who is John Duley?

27 A. John Duley I believe is the general contractor of Buck
28 Kamphausen.

40

1 Q. And is -- John Duley is he also construction manager as
2 well?

3 A. Yes, he is.

4 MR. GURNEE: Objection, calls -- lack of foundation
5 and vague.

6 THE COURT: Overruled.

7 MR. GOINS: Q. Do you know if he is a construction
8 manager?

9 A. Yes.

10 Q. For who?

11 A. Buck Kamphausen.

12 Q. And for Evergreen Cemetery?

13 MR. GURNEE: Objection. Lacks foundation and calls
14 for a legal conclusion as to who he works for.

15 THE COURT: Overruled.

16 MR. GOINS: Q. Was John Duley a construction
17 manager for Evergreen Cemetery?

18 A. I don't know if he was or not.

19 Q. Do you know if he was a representative of Buck
20 Kamphausen?

21 A. Yes, he was.

22 Q. And how do you know that?

23 A. John Duley has worked with Buck Kamphausen for as long
24 as I have been working at Marin Monument, so I dealt with
25 him on many projects prior to this.

26 Q. And in 2007 what was your understanding of Buck
27 Kamphausen's relationship to Evergreen Cemetery?

28 A. He owned it.

1 Q. And with regard to this meeting that took place, did
2 you -- did you discuss with Mr. Duley any aspects of the
3 monument?

4 A. Yes.

5 Q. Okay. What did you discuss?

6 A. Specifications for the foundation that would be needed.

7 Q. Okay. And what were those specifications, if you
8 recall?

9 A. Size, depth, width, placement of holes for the steel
10 rods.

11 Q. Okay. And did he have any response with regards to
12 those specifications?

13 A. He looked over the drawing and --

14 Q. That drawing right there?

15 A. Yes.

16 Q. Okay.

17 A. He had this drawing in his possession.

18 Q. And what did he say?

19 A. He said it was a large foundation.

20 Q. Okay. Did he ever object to it?

21 A. Did not.

22 Q. Did he ever say it was impossible?

23 A. No.

24 Q. Did he ever say it was too big?

25 A. No.

26 Q. And with regard to -- okay. And so then based on that
27 information, did Marin Monument begin the construction,
28 begin the construction of the wall?

1 A. Yes.

2 Q. Okay. And did you personally work on the wall?

3 A. Yes, I did.

4 Q. And what did you do?

5 A. I typed all the names into the computer, I plotted the
6 stencil to be cut for the names, I attached the stencil to
7 the stone, I sandblasted the stone, I delivered the two
8 stones to the cemetery in 2008.

9 Q. This was for the 30 year anniversary?

10 A. Yes.

11 Q. And before that 30 year anniversary, sometime in 2008,
12 did Buck Kamphausen ever visit the site?

13 A. Yes, he did.

14 Q. And did he ever inspect the work that you had
15 completed?

16 A. The day I was sandblasting he came to our shop.

17 Q. Okay. And he looked at the size of the granite?

18 A. Yes, he did.

19 Q. And did he say anything to you?

20 A. He said when the granite is paid for we will install a
21 foundation.

22 Q. Have you ever heard from any representative --
23 withdraw.

24 Have you ever heard from anyone else holding
25 themselves out as an agent, representative, owner, or
26 officer of Evergreen that he -- that they instructed Marin
27 Monument to stop the work?

28 A. No.

43

1 Q. To stop the work because the monument was too big?

2 A. No.

3 Q. To stop the work because Marin Monument had taken away
4 Guyana Tribute Foundation's and Dr. Norwood's right to use
5 the cemetery for that monument?

6 MR. GURNEE: Objection. Argumentative.

7 THE COURT: Yes. Sustained.

8 MR. GOINS: No further questions at this time.

9 THE COURT: Mr. Gurnee.

10 CROSS-EXAMINATION

11 MR. GURNEE: Q. Mr. Cortez, you worked at -- did
12 you ever work at Amador Monument Company?

13 A. I did not.

14 Q. Amador Monument Company is the company that apparently
15 sent this letter, November 18, 2007, that you were shown as
16 Exhibit D, I believe, yes, Exhibit D in front of you.

17 MR. GOINS: Objection. Lacks foundation, lacks
18 authentication.

19 THE COURT: well, I will overrule you on foundation.
20 when you say authenticity now --

21 MR. GOINS: Yes.

22 THE COURT: Overruled.

23 THE WITNESS: Can you ask the question, please?

24 MR. GURNEE: Q. Well, looking at Exhibit D, the
25 contract that you said existed between Ms. Norwood and your
26 father, it's from a company called Amador Memorial?

27 A. Correct. My father owned that company at that time.

28 Q. I see. Did Amador Memorial ever produce any stones?

44

1 A. Amador Memorial -- my dad lost the company and the
2 person who took the company over told my dad that he can
3 take the memorial, the Jonestown memorial with him back to
4 Marin Monument to produce it.

5 Q. Okay. When this contract was entered into in 2007 were
6 you present when Ms. Norwood signed this contract?

7 A. I was not.

8 Q. And I notice that the contract, you said it contained
9 plans and specifications saying -- that was a question asked
10 of you from counsel. Do you recall that?

11 A. Yes.

12 Q. I don't see a drawing here of the design of this
13 monument. Was there a drawing of it that was part of this

14 contract?

15 MR. GOINS: Objection. Calls for speculation, vague
16 and ambiguous.

17 THE COURT: Only if he has knowledge.

18 Sir, do you have knowledge?

19 THE WITNESS: With this contract, I don't believe
20 there was a drawing, but prior to this contract there was
21 drawings made.

22 MR. GURNEE: Q. And you are referring there to
23 Exhibit A, is that right, that's the 1995 drawing?

24 A. It was redone since that drawing.

25 Q. How many versions of this monument were there to your
26 knowledge -- different designs, different number of
27 stones -- prior to November 2007, if you know?

28 A. Numerous.

45

1 Q. How many?

2 A. Could be ten, could be five.

3 Q. And with each -- I notice in looking at Exhibit A --
4 did you have anything to do with the creation of the bid for
5 this project in 1995?

6 A. I did not.

7 Q. All right. According to Exhibit A it looks like it was
8 27,950 plus tax, but then somebody wrote \$25,000. Do you
9 know if there was ever an actual bid prepared?

10 MR. GOINS: Objection. The document speaks for
11 itself, lacks foundation, also lacks authenticity.

12 THE COURT: Overruled.

13 THE WITNESS: I do not.

14 MR. GURNEE: Q. Okay. And this contemplated three
15 stones, correct?

16 MR. GOINS: Objection. The document speaks for
17 itself.

18 THE COURT: Overruled.

19 THE WITNESS: This does, yes, three stones.

20 MR. GURNEE: Q. All right. And it shows that the
21 dimensions, as you said previously, of the anticipated
22 stones -- three stones on top but there are two stones
23 underneath, aren't there?

24 A. Yes, those are bases.

25 Q. They are bases, and they are the dimensions of -- those
26 bases are 10-foot by one to two feet?

27 A. One foot 2 inches.

28 Q. One foot 2 inches by 10 inches?

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1 A. Yes.

2 Q. Okay. And what was the total weight of the pieces?

3 A. I don't have that figure.

4 Q. Is weight also a consideration in the preparation of a
5 monument for placement of monuments at cemeteries? Is
6 weight a consideration?

7 A. No.

8 Q. Now, do you know -- do you have any knowledge as to
9 where this monument was to be placed at Evergreen Cemetery?

10 A. Yes.

11 Q. How did you know that?

12 A. I'm familiar with Evergreen Cemetery.

13 Q. Okay. Were you familiar with the place where there has
14 been a mass interment where people died in Jonestown?

15 A. Yes.

16 Q. Were you familiar with how those remains were interred?

17 A. No.

18 Q. Do you know how deep they were interred?

19 A. No, I do not.

20 Q. Do you know what kind of outer barrel container they
21 were placed in?

22 A. No.

23 Q. Do you know if they were placed in an outer barrel

24 container?

25 A. No.

26 Q. Would the -- well, strike that.

27 Do you know what sort of weight limit there might
28 be for placing something on the surface above those outer

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1 barrier containers?

2 A. Do not.

3 Q. This drawing doesn't have a foundation drawing with it,
4 does it, Exhibit D -- excuse me, Exhibit A, again?

5 A. A, no, it does not show a foundation.

6 Q. Now, did Ms. Norwood, to your knowledge, request this
7 estimate?

8 A. I believe so, yes.

9 Q. Did Ms. Norwood come back to you and say at any time
10 prior to November of 2007 I have not gotten the approval of
11 the cemetery to proceed with a monument of the type that was
12 originally envisioned in 1995?

13 A. She did not.

14 Q. Did she come back to you and say she had gotten
15 approval from anybody for any monument prior to November of
16 2007?

17 A. She had not.

18 Q. Now, you said that your father prepared the bid, which
19 is Exhibit D, that is the 2007 one, and that its plans and
20 specifications calling for six black pieces 5 feet by 7 feet
21 in size, without knowing more, how would one know whether
22 those pieces were 5 feet wide by 7 feet tall versus 7 feet
23 tall versus 5 feet tall? How would you know?

24 MR. GOINS: Vague and ambiguous, calls for
25 speculation also misstates testimony.

26 THE COURT: I'm not going to pay attention to the
27 misstatement because I will be the judge of any of the
28 testimony. I would like to know the answer.

1 THE WITNESS: The order of which the numbers are
2 given.

3 MR. GURNEE: Q. The order, so what is the protocol?

4 A. Seven feet would be how tall it is because it is the
5 first number -- excuse me, I'm sorry. Five feet because
6 it's -- the first number is how wide it is and seven feet
7 for how tall it is. I'm sorry, I'm nervous.

8 THE COURT: Sir, I want you to relax.

9 MR. GURNEE: No problem.

10 Q. So another monument maker, somebody else that you might
11 take this bid to, would know, in your belief -- you believe
12 that someone would know?

13 A. That's a standard.

14 MR. GOINS: Excuse me. Objection. Incomplete
15 hypothetical, calls for speculation.

16 THE COURT: All right. Gentlemen, gentlepersons,
17 one speaks at a time so I can listen to the question. One
18 objects --

19 Mr. Cortez, I will give you the same advice that
20 I have given 10,000 legal clients, listen to what we call
21 the question.

22 Now, Mr. Gurnee, back to you. Let me hear the
23 question without interruption.

24 MR. GURNEE: Thank you, your Honor.

25 Q. Is it your testimony, Mr. Cortez, that any other
26 monument maker would know that you were suggesting that it
27 was 5 feet wide by 7 feet in size just by the reference and
28 the order of the words?

1 A. Yes.

2 MR. GOINS: Objection.

3 THE COURT: Mr. Goins.

4 MR. GOINS: Objection. Incomplete hypothetical,
5 calls for speculation.

6 THE COURT: Sustained.

7 MR. GURNEE: Q. Mr. Cortez, when -- how many --
8 you've been in the business, you said, from 19 -- I'm sorry,
9 how many years have you been in business? 25 years, right?
10 A. Approximately, yes.

11 Q. How many pieces of granite 8 inches thick 5 feet wide
12 by 7 feet tall have you created as monuments during that
13 time?

14 A. Not many.

15 Q. This is the first time, isn't it?

16 A. One of the first times. It's the biggest memorial that
17 we probably would have made.

18 Q. And then you go on in this -- in this description here
19 to say that there is going to be -- the center piece is
20 going to be 5 foot six by 5 foot tall. So we know that 5
21 foot tall is the height in this case, right?

22 MR. GOINS: Objection. Assumes facts not in
23 evidence, calls for speculation.

24 THE COURT: Well, go ahead.

25 MR. GOINS: This document is not signed by John
26 David Cortez. It was signed by his father, so there is no
27 foundation with respect to Mr. Cortez preparing, reviewing
28 this document, nor has there been any testimony that

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1 Mr. Cortez was involved in the preparation or execution of
2 this document.

3 THE COURT: Well, we did listen to Ms. Cortez this
4 morning. I will let him answer.

5 MR. GURNEE: Q. Mr. Cortez, we know that this
6 centerpiece was going to be 5 feet tall because it says "5
7 feet tall," right?

8 A. Yes.

9 Q. Okay. Now, so it was going to be 2 feet shorter than
10 the other panels, correct?

11 A. Appears so.

12 Q. All right. So the design that we saw initially in
13 Exhibit A showed the center panel being taller than the
14 other two panels that were originally designed and now we're
15 going to have one that is shorter, correct?

16 A. By these documents that's what it appears to say.

17 Q. This is, in your mind, design and specifications, that
18 somebody could build this monument from?

19 A. Not from this contract, no.

20 Q. You would need more, wouldn't you?

21 A. Excuse me.

22 Q. You would need more detail, wouldn't you?

23 A. Of course we would like the drawing.

24 Q. Like a drawing?

25 A. Like the drawing.

26 Q. All right. And so when we look at this drawing, this
27 document that you said was a contract but also had plans and
28 specifications in it, it doesn't say anything about the

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1 weight of this particular monument, does it?

2 A. No, it does not.

3 Q. And then you said there was this drawing, and the
4 drawing I believe was marked as Exhibit E. It's the next
5 document there that was referred to. When was this created?
6 Do you know?

7 A. The same time that the contract was -- not the same
8 time as the contract was written or signed, but it was in
9 the works.

10 Q. Well, when did -- do you know when it was in fact drawn
11 by your father? You said it was drawn by your father?

12 A. It was drawn in 2008.

13 Q. Okay. And I notice that the design has changed again,

14 hasn't it?

15 A. Yes.

16 Q. In that the center panel is now apparently taller,
17 right?

18 A. Yes, it is.

19 Q. How tall in this drawing?

20 A. There is not a dimension given for how tall that piece
21 is.

22 Q. How wide is that center piece?

23 A. There is no dimension.

24 Q. Okay. And there is no dimension on the height or width
25 of the other pieces, is there?

26 A. There is not.

27 Q. Or thickness, is there?

28 A. No, there is not.

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1 Q. Okay. And what there are dimensions of are anticipated
2 depths of these rods that would have to be protruding into
3 the foundation to support these anticipated very heavy
4 objects, true?

5 MR. GOINS: Objection. Vague and ambiguous.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 MR. GURNEE: Q. All right. And I notice there is
9 also no mention of the weight of any of these panels; isn't
10 that true?

11 A. Yes.

12 Q. Okay. So am I reading this drawing correctly to say
13 that you would anticipate that the rods would penetrate the
14 foundation and the foundation would be zero -- strike that.

15 Did you understand this memorial was to sit on
16 the surface?

17 A. Yes.

18 Q. Okay. So that the foundation would be completely

19 obscured under the ground; isn't that your understanding?
20 A. Correct.
21 Q. So if I'm reading this correctly then, each of these
22 rods that were to penetrate into the foundation would have
23 to be a minimum of two feet in length -- in depth
24 penetrating into the foundation, in other words, below the
25 panels themselves, correct?
26 A. Correct.
27 Q. All right. And they would be spaced every three feet
28 or so?

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1 A. Correct.
2 Q. And did any -- and then in the case of the center
3 piece, there is a four foot span, but all the rods were to
4 penetrate to a depth of at least two feet, correct?
5 MR. GOINS: Objection. Counsel is testifying.
6 THE COURT: He's on cross. Overruled.
7 THE WITNESS: Yes.
8 MR. GURNEE: Q. Okay. And did anybody check to see
9 what the allowable depth of a foundation would be at the
10 site in question?
11 MR. GOINS: Objection. Vague and ambiguous, calls
12 for speculation.
13 THE COURT: It's cross-examination. Overruled.
14 THE WITNESS: When John Duley spoke to my father
15 about this document here -- this was a drawing for the
16 foundation. John Duley never mentioned once about
17 dimensions below ground that was needed. That was there.
18 MR. GURNEE: Q. Okay. Didn't John Duley tell you
19 that you have to talk to Buck Kamphausen about this?
20 A. And we did.
21 Q. And when did you talk to Buck Kamphausen about it?
22 A. The same -- we were sandblasting the name on the stone.
23 Q. Did you show Buck Kamphausen this drawing?

24 A. I did not show him.

25 Q. When this drawing was prepared, what was the
26 orientation to be of this monument as it relates to the
27 existing grave out there?

28 A. That would be determined by the cemetery.

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1 Q. So was it to be a straight line? was it to be a
2 circular feature? was it to be a V-shape? what was it
3 supposed to be?

4 A. A straight line.

5 Q. A straight line where in relation to the graves?

6 A. That would be determined by Evergreen Cemetery.

7 Q. I see. Okay. And so you never went out to the site to
8 see if something like this would even work out there, did
9 you?

10 A. I've been to the site. I can't say that I -- we gave
11 this to Evergreen Cemetery for the specifications of the
12 foundation. We were told by Buck Kamphausen when the
13 granite was paid for the foundation would be poured. We
14 took that as his word that it would be installed.

15 Q. I see. And the foundation -- the panels have never
16 been paid for, have they?

17 A. No, they have not.

18 Q. And in fact they are sitting in somebody else's
19 property now, aren't they?

20 A. No, they are not.

21 Q. Where are they sitting now?

22 A. They are still on my mom's property.

23 Q. Who owns the property?

24 A. My mom and my dad's ex-partner.

25 Q. Have the stones been paid for? Did you pay the
26 supplier for the stones?

27 A. We have not.

28 Q. So --

1 A. The stones that we have in our possession are paid for.

2 Q. Well, you don't have all the stones in your possession,
3 do you?

4 A. No. We were waiting for the last red piece.

5 Q. And that hasn't been purchased yet?

6 A. No, it hasn't been ordered.

7 Q. But the supplier has been paid for all the stones that
8 you do have in your possession?

9 A. I believe so.

10 Q. Only two have been etched; isn't that right?

11 A. Correct.

12 Q. Did you ever apprise anybody at Evergreen Cemetery
13 about the weight that this memorial represented once it was
14 going to be installed?

15 A. No, I did not.

16 Q. Have you seen any other designs that differ from the
17 one that you created?

18 MR. GOINS: Objection. Assumes facts not in
19 evidence.

20 THE COURT: And may not be evidence in life either
21 if they are normally designed, so if he knows.

22 THE WITNESS: I do not know.

23 MR. GURNEE: Q. Let me show you what I have had
24 marked, a couple of other items here.

25 THE COURT: Well, I do have -- Mr. Gurnee, I'm going
26 to say to members of the public, and I will deal with
27 counsel in a minute, that it's exceedingly rare relative to
28 the nature of this proceeding, that being a request for

1 preliminary injunction, that any oral testimony is allowed.
2 Okay. I allowed it for what I perceive to be good cause and
3 good reason subject to time limitations. I have a wealth of

4 information in declarations before me to assist me in making
5 a legitimate decision in this case, but I would wish you to
6 know that normally these proceedings, injunctive proceedings
7 are conducted entirely by and through declarations,
8 arguments of counsel, and memorandum of points and
9 authorities. I also serve the public. I have a number of
10 other calendars today to deal with, and I can assure you
11 that every member of the public who is involved in those
12 cases feels that their case is the most important, and
13 certainly it is to them and certainly it is. I don't judge
14 cases that are most important, but to members of the public
15 it is certainly important to each of them. So on that
16 basis, Mr. Gurnee, Mr. Goins, there has been a lot of
17 cross-examination. We're going to take a break here in a
18 moment, and I'm going to give you another half an hour to
19 put your side of the case on.

20 MR. GURNEE: If I may approach the witness, your
21 Honor?

22 THE COURT: You may.

23 MR. GURNEE: Q. And let me show you what is marked
24 as Exhibit 13. Mr. Cortez, this is an exemplar from
25 Ms. Norwood's website. It's a website called Jonestown --
26 Jones-town.org, and this particular page is called "the
27 supporters."

28 And I'm sorry, your Honor.

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1 THE COURT: That's okay. I'm only going to make the
2 decision this was --

3 MR. GURNEE: Q. As you can see on the bottom here,
4 it was printed May 23rd, 2011, and it shows a picture of a
5 proposed wall. Have you ever seen a design that looks like
6 that, Mr. Cortez?

7 A. Yes, I have.

8 Q. Okay. When did you first see that design?

9 A. When Dr. Norwood brought it to our office for my dad to
10 design a memorial for it.

11 Q. And when was that?

12 A. That was prior to 2008.

13 Q. Okay. So the heart that we see in this picture would
14 be shaped in that fashion. Is that -- what was going to
15 happen with this other stone?

16 A. Attaching the red granite to the stone to the memorial
17 like that wasn't what my dad thought was possible.

18 Q. Okay.

19 A. In this drawing of the foundation that represents the
20 heart piece; that's why it's taller.

21 Q. Okay. So it wasn't going to be a square like shown in
22 that foundation --

23 A. No.

24 Q. -- diagram?

25 A. I know there is a piece of -- there is a document
26 somewhere showing -- saying that the heart was going to be a
27 raised piece and that it was going to be higher up and
28 that's why it was taller.

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1 Q. Where is that? Is there a design for this somewhere
2 that your firm created?

3 A. There is. I know I saw -- I read a document that said
4 that.

5 Q. I see. And let me show you Exhibit 6 and ask you --
6 I've given his Honor a copy -- ask you is this another
7 document that is downloaded from Ms. Norwood's website on
8 the same -- it's dated on November 20th, 2011, and it
9 shows a design. This is under the part of the website
10 called "the wall," and it has a thing called
11 "specifications," and it shows a design of some sort. Have
12 you ever seen this before?

13 A. No.

14 Q. Did you have a notion that the wall Ms. Norwood was
15 contemplating it was going to actually extend out beyond the
16 burial area where the remains of the Guyana victims are
17 located?

18 MR. GOINS: Objection. Calls for speculation, lacks
19 foundation.

20 THE COURT: Well, let's see if you can establish a
21 foundation as to what the witness knows, counsel.

22 MR. GURNEE: Yeah.

23 Q. Did you have an understanding as to the citing of the
24 memorial that it would somehow extend beyond the area where
25 the remains of the victims of Jonestown were in fact
26 interred?

27 A. By this drawing?

28 Q. Yeah.

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1 A. No.

2 Q. Did you ever have a verbal communication from
3 Ms. Norwood to that effect?

4 A. No.

5 Q. Do you know why Ms. Norwood would have this on her
6 website currently along with the picture of the design that
7 your father originally drew back in 1995, Exhibit A, as the
8 specifications for the wall? Do you know why she would have
9 that on there?

10 MR. GOINS: Objection. Calls for speculation,
11 relevance.

12 THE COURT: Sustained. It's a tad argumentive also.

13 MR. GURNEE: Thank you.

14 Q. When did you order the stones, Mr. Cortez, if you know?

15 A. No, I do not.

16 Q. By you, your company, did you -- do you do the ordering
17 for the company?

18 A. No, I do not.

19 Q. Your father does?

20 A. He did.

21 Q. In fact you ordered -- your company ordered the stones
22 before the contract was signed; isn't that true?

23 A. That I don't know.

24 Q. Okay. When did you start work on the stones?

25 A. Prior to the 2008 unveiling, two weeks prior.

26 Q. Two weeks. It wasn't until two weeks before that time?

27 A. Approximately.

28 Q. The contract signed by your father required that the

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1 first payment of \$30,000 be made on the day the contract was
2 entered into, November 2007, and the remaining payments all
3 occurred prior to August of 2008. Why did your company
4 proceed with etching the stones when you were not paid?

5 MR. GOINS: Objection. Calls for a legal
6 conclusion, lacks foundation.

7 THE COURT: Well, actually I have testimony as to
8 payment of -- I will let him answer that. I don't see any
9 legal conclusion there either. You get paid or you don't.
10 Nothing legal about that.

11 THE WITNESS: It was customary for us to take a down
12 payment on a monument memorial and be paid in installments
13 as the memorial was being worked on.

14 MR. GURNEE: Q. Well, the second payment was
15 supposed to have been made in March, and it says when the
16 granite is delivered to our shop -- March 2008, that payment
17 was never made, was it?

18 A. It was not.

19 Q. Yet you went ahead and started carving on stones that
20 you hadn't been paid for; isn't that true?

21 A. True.

22 MR. GOINS: Objection. Argumentative.

23 THE COURT: Overruled.

24 THE WITNESS: True.

25 MR. GURNEE: I think that's all I have. Thank you,
26 your Honor.

27 THE COURT: All right. We're going to take a
28 ten-minute break. You have an hour on your case to deal

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1 with.

2 (Off the record.)

3 THE COURT: Mr. Goins, to you.

4 Gwendolyn Anthony,

5 called as a witness on behalf of the

6 plaintiff, having been first duly sworn,

7 testified as follows:

8 THE CLERK: Please state and spell your name for the
9 record.

10 THE WITNESS: My name is Gwendolyn,

11 G-W-E-N-D-O-L-Y-N, Anthony, A-N-T-H-O-N-Y.

12 DIRECT EXAMINATION

13 MR. GOINS: Q. Good morning, Ms. Anthony.

14 A. Good morning.

15 Q. Are you familiar with the Jonestown massacre?

16 A. Yes, I am.

17 Q. And how are you familiar with it?

18 A. My mother, two brothers, my baby sister, grandmother,

19 two nephews with one nephew, his wife and baby, my first

20 cousin, and my first cousin's seven children were all there.

21 Q. were all there. And do you know what happened?

22 A. Yes, I know what happened.

23 Q. what happened?

24 A. They were forced to either drink cyanide or if they

25 didn't they were shot and, they say, injected with something

26 if they didn't follow the procedure.

27 Q. And who was administering this procedure?

28 A. Jim Jones.

1 Q. And are you familiar with Evergreen Cemetery?

2 A. Yes.

3 Q. Do you have any relatives buried at Evergreen Cemetery?

4 A. Yes. I have my nephew David, my nephew Shawn which is,
5 you know, my nephew.

6 Q. And are you aware of a Jonestown memorial wall that was
7 created by the Guyana Tribute Foundation and Dr. Norwood?

8 A. Yes, uh-huh.

9 MR. GURNEE: Objection. Assumes facts not in
10 evidence that it was ever created.

11 THE COURT: Pardon me, ma'am.

12 You have to refine the question because the way
13 you phrased it presumes that there is already a built wall,
14 so back at the question.

15 MR. GOINS: But if I may, your Honor, there is, in
16 fact, already a built wall.

17 THE COURT: Well, the adjective you used could be a
18 verb as a matter of construction. The wall created by Dr.
19 Norwood at this juncture there are designs that apparently
20 evolved over the years on the evidence in front of me, but
21 there has not been a wall created by Dr. Norwood on the
22 evidence presented, so reframe your question.

23 MR. GOINS: Q. Are you aware of a wall that was
24 created by the -- are you aware of a memorial wall that was
25 designed by the Guyana Tribute Foundation?

26 A. Yes.

27 Q. And you've seen the design?

28 A. Yes.

1 Q. Does it meet your approval?

2 A. Yes.

3 MR. GURNEE: Vague as to which design, your Honor.

4 THE COURT: Sustained. Based upon the evidence
5 before me, I think she would like to know and certainly I
6 would like to know which design we're talking about.

7 MR. GOINS: Q. Pointing your attention to a picture
8 that appears on the television monitor of a concrete slab,
9 which has also been identified for the purposes of this
10 matter as Exhibit F --

11 A. Yes.

12 Q. -- do you see the --

13 A. Yes.

14 Q. Okay. Is that your understanding of the wall that
15 Guyana Tribute Foundation has designed?

16 A. Yes.

17 Q. And prepared?

18 A. Yes, yes, yes.

19 MR. GURNEE: Objection, your Honor. Vague as to
20 "prepared" and assumes facts not in evidence, I should say.

21 THE COURT: It does that. And all I want to say to
22 both counsel is in terms of what I'm being asked to do, I'm
23 looking at the complaint, and it's for damages, declaratory
24 relief, and injunctive relief largely relating to an alleged
25 contract between Dr. Norwood, the Guyana Tribute Foundation
26 and the Evergreen Cemetery Association. So when I wrote my
27 supplemental order, I said I want declarations that are fact
28 driven and specific content driven in regards to the lawsuit

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1 in front of me. I have told everybody I'm not going to
2 convert this into a county political process or any
3 political -- or anything of the above because I don't have
4 any interest in that, both as a judge and as a human being,
5 so, again, keeping it within the perimeters of what I need
6 to do. The fourth cause of action was negligent
7 representation of fact. So, Mr. Goins, to you.

8 MR. GOINS: Q. Are you aware of the facts that

9 there is currently a monument at Evergreen Cemetery that
10 bears the name Jim Jones?

11 A. Yes, I am.

12 Q. And what is your opinion of that?

13 MR. GURNEE: Objection. Irrelevant.

14 THE COURT: Sustained.

15 MR. GOINS: May I be heard, please?

16 THE COURT: You may.

17 MR. GOINS: Hopefully -- I understand exactly what
18 the court just said with regard to the perimeter of
19 consideration; however, the thrust behind our preliminary
20 injunction was -- one element of it is irreparable harm. My
21 client consist of an individual and also a nonprofit
22 corporation. As alleged in this nonprofit corporation, as
23 discussed in -- withdraw -- as attested to in Dr. Norwood's
24 declaration, this Guyana Tribute Foundation is an
25 organization that provides services, assistance in support
26 to people such as Ms. Anthony, and it is for that very
27 reason that we submitted all of the declarations that we
28 did, certainly not to win a popularity contest or to ask for

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1 the court to take a poll, but rather to understand that if
2 the cemetery allows someone else to use our plot of land, it
3 would cause irreparable harm to those people who receive
4 services and assistance from the nonprofit corporation.

5 THE COURT: And that may or may not be true flowing
6 from the breach of contract that you've alleged, and this is
7 an argument that is an admission because now it's focused on
8 the name rather than the lawsuit before me, and when you put
9 the name in play, you are putting a whole series of legal
10 issues, associations, and speech, and all kinds of things in
11 play. I will be very clear that in terms of both parties
12 before this court, the Guyana Tribute Foundation, in terms
13 of all the evidence that I have reviewed, all the things

14 that have been put before me, and all the things that I've
15 allowed today, Dr. Norwood has been consistent and diligent
16 in terms of her commitment to a circumstance to honor the
17 victims of Jonestown. That is understood by this court, of
18 all the people there and everywhere and referenced in the
19 press. She has been consistently out there for the purpose,
20 that is, that became this lawsuit. That's acknowledged.

21 I'm dealing -- and I have heard from the
22 cemetery, and my first comment on the cemetery is I'm not
23 sure other cemeteries would have walked the walk as long as
24 everybody did here. I still have to find out what the terms
25 of the alleged contract, if it existed, were. Was there a
26 meeting of the minds? But I'm not judgmentally interested
27 in any lack of respect in either decision made or my view of
28 it because everybody sitting at the table before me at this

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1 juncture has established by their commitment to honor
2 nameless victims in a mass gravesite by their conduct over
3 an extended period of years, but the issues before me are
4 factual and legal issues framed by this lawsuit, so I
5 certainly understand because I read Ms. Anthony's
6 declaration that was submitted to me, it was one of many, so
7 I'm very on board relative to her sense of loss and her
8 opinion about the nature of this memorial.

9 MR. GURNEE: Your Honor, if I may, I would like to
10 offer a stipulation as the cemetery, as we talked about
11 previously, has been caught in the middle of this thing
12 essentially. The stipulation would be that there is a
13 dispute between different survivors or relatives of
14 survivors or people that died there about what should be
15 done. We will stipulate that there is such a dispute.

16 when counsel says -- makes reference to our
17 property, our plot of property, it's not anybody's property
18 except my client's property. My client owns the cemetery.

19 And as the court is well aware, the right of interment is
20 not an ownership and fee of any property right. It's akin
21 to an easement. It's a quasi-easement. It's like a
22 condominium, if you will, but the fact of the matter is the
23 cemetery -- my clients would gladly stipulate that there are
24 competing interests here in terms of how these people should
25 be memorialized. We understand that. The question is, Did
26 we have an agreement to do something different than what was
27 done? And I think that's the frame of the question.

28 Thank you, your Honor.

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1 THE COURT: Mr. Goins, back to you for a minute.

2 MR. GOINS: Well, given -- and I certainly don't
3 want to -- if that's the stipulation, then his client should
4 be on board insofar as allowing for the court or at least
5 stipulating to the court to issue a preliminary injunction
6 if his client is in fact acknowledging that there is a
7 dispute between these parties over easement rights. If you
8 would then certainly -- the natural step then would be to
9 stop this hearing, stipulate to a preliminary injunction,
10 allow for the competing parties to resolve their issues
11 since his client is supposedly in the middle of this, that's
12 what we're seeking.

13 MR. GURNEE: Well, your Honor, what they're seeking,
14 as I understand it, is to prevent a whole host of people
15 that are very much just as interested in this thing as
16 Ms. Norwood is from visiting, from grieving, from
17 memorializing their loved ones just as Ms. Norwood would
18 like to do. It's a cemetery. That's what happens there.
19 My client cannot prohibit people coming in to honor their
20 loved ones in whatever way they want to as long as it's
21 orderly and lawful. Nothing proposed here and this is --
22 this unveiling on the 29th where we have people coming
23 from all over the country including the brass coming in from

24 Washington DC. We cannot prevent people coming in and
25 having an orderly grieving process, and that's what is being
26 asked for here, so we can't stipulate to an injunction to
27 prevent people from grieving over their loved ones. And we
28 won't do that. Our cemetery is open to the family members.

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1 THE COURT: And the two of you are doing in an open
2 courtroom what I was trying to promote by my interim order
3 in terms of understanding. The court fully understands
4 differences between style and substance. Any time you talk
5 about a memorial it has dimensions, height, weight, color of
6 marble, you know, scripting on the memorial, and I
7 understand everybody in this courtroom could probably
8 differ, have a personal opinion as to how it all ends up.
9 And, Mr. Goins, as you fully understand, as an educated
10 lawyer, that's one thing, but those are stylistic
11 differences.

12 Substantive differences go to preventing people
13 from mourning as they would choose under circumstances of
14 their choice whichever sense of mind is a protected right,
15 that is, for every good reason including speech, but in
16 every good reason is embedded in our Constitution for many
17 good reasons according to our founders, but it continues to
18 beg the question -- whatever I decide in this matter, it
19 would be my hope that it not serve as a source of debate as
20 to winning and losing. That is not what this case is about
21 from this judge. It may serve to remind everyone about the
22 fact they took 32 years to get to this point to memorialize
23 406 nameless victims in a mass grave.

24 There will be some frustration of mine that I'm
25 sure I will reduce to writing as to understanding the
26 breadth of the decision that I will render, but the
27 limitations upon me in the framework of what is before me as
28 a matter of fact and law, if it serves, whatever decision I

1 make, to remind everybody about what the road has been, the
2 time it has taken, and the substance of what should be going
3 on, which is to perhaps debate, always remember what went on
4 that day so we can learn how to avoid it again and gather in
5 celebration of those lives in and out of respect for each
6 other, then that's okay with me. But my limitations as a
7 judge are as to what is before me, but with the hope that
8 those who have gathered apparently for years remain vital in
9 both the memory of and discussion of what occurred that day
10 in both honoring and memorializing the victims of that day
11 and continuing to put in good order both the debate and
12 resolution of why and how it should or shouldn't happen
13 again.

14 Back to you.

15 MR. GOINS: I have no further questions of this
16 witness.

17 THE COURT: Good. Okay. Because we are on a clock.

18 MR. GOINS: Yes.

19 THE COURT: Ms. Anthony, I assure you, I already
20 have reviewed your declaration, and I know the substance of
21 it. Thank you for your time.

22 MR. GURNEE: I have no questions either, your Honor,
23 to the extent that I was invited to cross-examine.

24 THE COURT: You are invited.

25 All right. Ms. Anthony, thank you.

26 MR. GOINS: My next witness is Dr. Norwood, but I
27 need to meet and confer with the clerk for a minute.

28 ///

1 Jynona Norwood,
2 called as a witness on behalf of the
3 plaintiff, having been first duly sworn,
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4 testified as follows:

5 THE CLERK: Please state and spell your name for the
6 record.

7 THE WITNESS: Jynona Norwood, J-Y-N-O-N-A,
8 N-O-R-W-O-O-D.

9 DIRECT EXAMINATION

10 MR. GOINS: Q. Good morning, Dr. Norwood.

11 A. Good morning.

12 Q. Are you familiar with the Jonestown massacre?

13 A. Yes, I am.

14 Q. And how are you familiar with it?

15 A. We lost 27 people in our family including my mother and
16 17 children.

17 Q. And do you know how you lost -- or do you know why your
18 family members were lost?

19 A. They went to build a better world and Jim Jones took
20 advantage of their trust and -- in order to start killing
21 the children first and those who did not drink the poison
22 were led into the jungles, and they were shot, stabbed, or
23 injected, and Senator Feinstein's office told me that.

24 Q. And in light of this tragedy -- in light of this
25 tragedy, did you take steps to honor the loss of your family
26 members?

27 A. Yes, I did.

28 Q. And others as well?

1 A. Yes, I did.

2 Q. What have you done in that regard?

3 A. In 1979 -- well, in 19 -- when the bodies first came
4 back, I was the only person that showed up at the Oakland
5 Air Force Naval Base to the bodies.

6 MR. GURNEE: I will interpose an objection as
7 calling for a narrative in light of the circumstances.

8 THE COURT: I will let Dr. Norwood educate me a

9 little bit, but let's keep on board with specific questions
10 and answers.

11 Dr. Norwood, you can go.

12 THE WITNESS: And after I met the bodies at the
13 Oakland Air Force Base, I prepared and I contacted President
14 Carter and everybody, and I organized and funded a memorial,
15 May the 21st, at the Queen Adah Hall down on Filmore and
16 started doing memorial services from that date.

17 MR. GOINS: Q. And do you know if any of the
18 victims are buried at Evergreen Cemetery?

19 A. Do I know what?

20 Q. Do you know if any of the victims of Jamestown are
21 buried at Evergreen Cemetery?

22 A. Yes. 400 from what I read from Ron Haulman and Buck
23 Kamphausen. It's 409. Every year the totals would change.
24 One year it was like 276 children, then it was 305 children,
25 then it was 912, 909. Every year the news media would give
26 us a different count.

27 Q. And do you know if Jim Jones is buried there?

28 A. No. He's not buried there.

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1 Q. Do you know if any adults are buried there?

2 A. I think there may be 20 adults according to the
3 declaration from Evergreen but most of them -- we were the
4 first family to sue Jim Jones estate. The money that buried
5 the bodies there came from the estate of the money and our
6 families gave to them, and none of the Jones family was
7 buried there from my knowledge other than maybe Jones'
8 grandchildren because the infants -- there are 40 infants
9 there. I watched them. I watched 40 infant caskets, most
10 of the children, almost 300 children, 305 children are
11 there.

12 Q. And with regard to honoring the victims' memories, you
13 have gone to Evergreen?

14 A. I have gone to Evergreen a million times, and I
15 organize the memorial service every year, and the first 14
16 years I got death threats. People said shut up, don't start
17 bringing this up, we're going to kill you if you keep
18 honoring these fools. Nobody wants to remember those black
19 people. I got all kinds of threats. Nobody came out except
20 Feinstein's office, my son, my uncle, me. Nobody else would
21 come to the memorials for almost 14 years, about 12 or 14
22 years. It was such a stigma on my family, and my family
23 couldn't deal with it down south. Somebody showed up and
24 then I called Jim Jones' son, Steven Jones, and I said you
25 owe it to us --

26 MR. GURNEE: Your Honor, hearsay.

27 THE WITNESS: -- to come and tell us.

28 MR. GOINS: I would ask if any witness is going to

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1 testify --

2 MR. GURNEE: Move to strike.

3 THE COURT: I see people talking at once, and that's
4 now --

5 MR. GURNEE: I move to strike as nonresponsive, and
6 it's calling for a narrative.

7 THE WITNESS: Steven's son is sitting right there.

8 THE COURT: Dr. Norwood, let's calm down. You may
9 answer the question.

10 THE WITNESS: I called Steven Jones sitting right
11 there, Jim Jones' biological son. He owes it to us to tell
12 us what happened, why our families are gone because Steven
13 defied his dad over there and did not want to see this
14 happen, so I believe that -- so when I invited Steven and
15 Steven started coming, and I let him speak, and then
16 everybody else started coming, and then people started
17 coming saying Jim Jones was a good man, and so the community
18 said you have to stop letting them speak because I would

19 give open mic. He was not a good man. When I stopped
20 letting them speak, then they start coming up with all this
21 stuff.

22 MR. GOINS: Q. And they were coming up with things,
23 and so with --

24 A. They opened their own forum. We couldn't get money.

25 Q. Right. And with regard to your efforts, when did you
26 start -- so you did the memorials each and every year?

27 A. Yes.

28 Q. How about with something more permanent?

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1 A. Every year I was begging Buck can we put a wall up
2 here.

3 Q. Who is Buck?

4 A. Buck Kamphausen. He never gave permission. He did not
5 give permission. He would laugh at me, so we would kick --
6 it's off the hill, he said, we don't want that up here, and
7 I begged Buck. Then the coalition, we start meeting to
8 raise money to try to get Buck to agree, and finally they
9 gave us a letter in writing in '97, but he did give me a
10 little bit of a verbal agreement.

11 Q. And so with regard to this verbal agreement what was
12 it?

13 A. Well, he said we can put a wall up.

14 Q. Okay. And when did that verbal agreement happen?

15 A. Probably in the '90s.

16 Q. Okay. And did you describe to him what you wanted to
17 put up?

18 MR. GURNEE: Vague as to time.

19 THE WITNESS: I just --

20 THE COURT: Doctor, just for a minute -- because I
21 have to sort through a lot of stuff here, so what I know now
22 is that you had some verbal conversation with Mr. Kamphausen
23 in the '90s, correct?

24 THE WITNESS: well, the '70 -- '79 all the way
25 through the '80s, and then in the '90s is when he started
26 warming up to the idea.

27 THE COURT: Okay. And the idea was to build a
28 memorial?

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1 THE WITNESS: Yes.

2 THE COURT: Okay.

3 MR. GOINS: Q. And some time he confirmed this in
4 writing?

5 A. Yes.

6 Q. Okay. And the thing that he confirmed, the verbal
7 promises that he made, was that confirmed in writing in
8 Exhibit B?

9 A. Yes, in 1997.

10 Q. Okay. And he sent that letter to you?

11 A. Yes.

12 Q. And you received it?

13 A. Yes.

14 Q. And at the time that you received it, was it around
15 1992?

16 A. '97.

17 Q. '97?

18 A. He just gave us verbals, you know.

19 Q. Okay.

20 A. And then, you know, the community -- the leaders of the
21 community said we need it in writing.

22 Q. And what was your understanding of Exhibit B that is
23 before you?

24 A. This letter that they were going to donate the base,
25 and the foundation they would -- that they would give
26 approval.

27 Q. And did you ever have any conversations with Buck
28 concerning this Exhibit B?

1 MR. GURNEE: Vague as to time.

2 THE WITNESS: What do you mean?

3 THE COURT: Sustained. I need to know time because
4 a lot was going on here.

5 MR. GOINS: Q. Well, it was just -- did you ever --
6 I'm just -- when was the first -- withdraw.

7 THE COURT: Lay a foundation, but you have to link
8 it up for me because I have to have something to --

9 MR. GOINS: Q. When was the first time that you had
10 a conversation with Buck Kamphausen regarding Exhibit B?

11 A. The letter -- I mean, what do you mean "conversation"?
12 I don't know what you mean.

13 Q. Regarding that letter.

14 A. We thanked him.

15 Q. Okay. And in fact isn't it true that Buck Kamphausen
16 attended some of the memorial services?

17 A. Yes. He attended quite a bit of the memorials and
18 spoke at the memorials, and it's on the website where he was
19 standing right at the wall that Marin Monument put up.

20 Q. Okay. And so after you got the verbal assurances and
21 you got the letter, what were the first steps that you took
22 to bring the wall into being?

23 MR. GURNEE: Mischaracterizes the testimony.

24 THE WITNESS: I need that package to --

25 THE COURT: Overruled.

26 THE WITNESS: We, you know, I described the wall
27 with all the names and a little college kid drew the
28 drawing, that was not specifications. The kid did the

1 drawing because I said I want a wall and we're going to put
2 the children in the red heart, and so a kid down in LA just
3 drew this, so this was not a design or specification or

4 anything. This was just a drawing of a kid that I gave to
5 Marin.

6 MR. GOINS: Q. Okay. And do you know when the kid
7 made this drawing?

8 A. No, I can't remember.

9 Q. Okay.

10 MR. GURNEE: Can we have a record of what drawing
11 she's looking at, please?

12 MR. GOINS: Okay.

13 THE WITNESS: This one.

14 MR. GOINS: Let the record reflect that Defendant's
15 Exhibit 14 is the drawing that appears on the television
16 screen, and that's the drawing I believe that Dr. Norwood is
17 referring to.

18 Q. And so between 2002 and 2007, what did you do in order
19 to get the wall designed?

20 A. I went to who they told me to go to, Marin Monument.

21 Q. And when you say they told you --

22 A. Buck Kamphausen. We went to Willis Granite, and we
23 went to other people, and they put bids in. Everybody
24 wanted to design the wall.

25 Q. And why did you go to Marin Monument?

26 A. Because Buck Kamphausen said we don't want the one that
27 he put up there. We don't want him. We don't want Willis
28 Granite because they are not local. We want you to use our

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1 vendor because he knows our grounds, he knows how much the
2 ground will hold, and if the names get dingy, they will come
3 and whiten the names. John Cortez will maintain the wall.
4 We will keep it shiny. This is who we want to use. This is
5 who we trust, and you can trust them too.

6 Q. And so when you were referring to Willis Granite --
7 Willis Granite is -- did you see the document that I've put
8 on the screen?

9 A. Yes, sir.
10 Q. That's the Willis Granite that you are referring to?
11 A. Yes, sir.
12 Q. And that's the exhibit that is attached as Exhibit B to
13 the complaint that you verified?
14 A. Yes.
15 Q. Okay. And so did you also make steps to fundraise
16 during that time period?
17 A. Yes.
18 Q. And what were some of the things that you did?
19 A. We held a concert at Center of Hope, Bishop Ernst
20 Williams Green. We held a -- with Kamala Harris. We
21 honored Mayor Gavin Newsom and held a fundraiser.
22 Can you hand me that package? It's in that one
23 right there. I need that one right there.
24 We held a fundraiser, and we raised \$300. It was
25 packed, and, you know, we raised \$300. The republican party
26 and the democratic party was there. It was West Bay. Then
27 we held a BB Memorial this year and raised \$816. Reverend
28 Lumpkin is the treasurer.

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1 Q. And during this five-year period from 2002 all the way
2 to 2007 were you having communications with Evergreen
3 concerning the monument?
4 A. Yes, I was.
5 Q. And what were the narrations of those conversations?
6 MR. GURNEE: Objection. Calls for hearsay and vague
7 as to who and when.
8 THE COURT: On vagueness I will sustain it because I
9 need much more in terms of timing on this.
10 MR. GOINS: Q. Did you talk to Buck Kamphausen?
11 A. Many times.
12 Q. Let me finish my question.
13 THE COURT: Dr. Norwood, take a deep breath. Let

14 your lawyer do his job.

15 MR. GOINS: Q. Did you talk to Mr. Kamphausen about
16 your fundraising efforts?

17 A. Yes.

18 Q. What did you talk to him about?

19 A. I told him that we were still trying to raise the funds
20 for the memorial.

21 Q. Okay. And then at a certain point in time, did you
22 come into communication with a Ron Haulman?

23 A. Yes.

24 MR. GURNEE: Vague as to time, your Honor. Can we
25 establish time frame?

26 MR. GOINS: This is the same time frame, the
27 five-year time frame.

28 MR. GURNEE: What is that?

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1 THE COURT: We need to button it down, counsel.

2 THE WITNESS: I never had discussions.

3 MR. GOINS: Hold on.

4 THE COURT: Let's see if we can get to a year so we
5 can have a least in both of -- both the judge and the
6 defense, a sense of the true timing of these things.

7 MR. GOINS: Q. When was the first time that you had
8 communication with Ron Haulman concerning the memorial wall?

9 A. It had to be I guess after 2006. I never had that many
10 conversations with Ron. I talked to him about the wall. I
11 would call -- well, whenever --

12 MR. GURNEE: Move to strike as nonresponsive. The
13 question was when.

14 THE COURT: After 2006 she said.

15 THE WITNESS: I had some conversations with Ron. I
16 sent the letter to Ron. I talked to Ron about, well, Buck
17 told me to go to Amador and Marin Monument with John Cortez,
18 and so, you know, that's what Ron and I discussed. He told

19 me he would send it to me in writing.

20 MR. GOINS: Q. And is that what you did?

21 A. That's what I did.

22 Q. Is that consistent of Exhibit D, the exhibit that is
23 before you, this March 22nd, 2007?

24 A. Yes. Because I had been trying to get a loan from the
25 bank because I was trying to raise money, so I was just
26 going to pay for it myself.

27 Q. And pointing your attention -- there is a part of this
28 exhibit that says "design dimensions."

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1 A. Yes.

2 Q. Why did you put the design dimensions in this exhibit?

3 MR. GURNEE: Irrelevant.

4 THE COURT: Overruled.

5 THE WITNESS: Because he asked me to. It detailed
6 what we had envisioned.

7 MR. GOINS: Q. Who asked you to do this?

8 A. Ron.

9 Q. When did he ask you to do it?

10 A. Just before I did it, and I talked to Marin Monument,
11 and, you know, they gave their -- there has never been a lot
12 of designs. These designs were submitted by people. We
13 just -- all I knew is that I wanted a wall to put the
14 children's names and a red heart.

15 Q. And at a certain point in time did you do exactly what
16 Evergreen instructed you to do?

17 A. Yes.

18 Q. With regard to using their preferred vendor?

19 A. Yes.

20 Q. And who was that preferred vendor?

21 A. John Cortez of Marin Monument.

22 Q. And at a certain point in time did you enter -- did you
23 provide plans and specifications to--

24 A. Yes.

25 MR. GURNEE: Can we wait until the question is asked
26 before it's answered.

27 THE COURT: How about until the question is
28 completed.

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1 THE WITNESS: Okay.

2 THE COURT: All of us, the question completed.

3 MR. GOINS: Okay.

4 Q. Sometime in November 2007 did you take steps to use the
5 preferred vendor required of you of Evergreen Cemetery?

6 A. Yes.

7 Q. Okay. And --

8 A. But Evergreen -- I mean, Evergreen sent me to them in
9 '95.

10 THE COURT: You answered the question.

11 THE WITNESS: Okay.

12 THE COURT: Let the lawyer do his job.

13 THE WITNESS: Okay.

14 MR. GOINS: Q. Turning your attention now to
15 Exhibit D -- it's also on the screen -- do you know what
16 this document is?

17 A. It's an agreement of contract between Marin, Amador,
18 Mr. John Cortez.

19 Q. Okay. And what was the -- did you know what the
20 purpose of the agreement was?

21 A. To pay installments because I had been approved for a
22 loan.

23 Q. Okay. And it was to construct the memorial?

24 A. Yes.

25 Q. And do you see the first paragraph?

26 A. Yes.

27 Q. Okay. And this first paragraph -- the document is
28 right in front of you -- it has -- does it have

1 specifications?

2 A. Yes.

3 Q. Okay. Does it talk about size of the wall?

4 A. Yes, it does.

5 Q. And the height of the wall?

6 A. Yes, it does.

7 Q. And the things you envision of the wall?

8 A. Yes, but I didn't do the design. I just gave them the
9 picture. That's what they told me it needed to be.

10 Q. And the picture that you are referring to that you gave
11 to them is Defendant's Exhibit 14?

12 A. Right, because that's 10 pounds. That was just
13 something for the media to see.

14 Q. Okay.

15 A. I'm not an architect. I don't know how to do
16 specifications. That's not my job. They told me to trust
17 John Cortez because he does excellent work, you will be
18 happy, the family will be happy. And after they rejected
19 Willis Granite, they told me that Amador -- Marin Monument
20 would do everything because they have been working for them
21 for years, and that's what I did.

22 Q. When you say "they," who are you referring to?

23 A. Buck Kamphausen.

24 Q. Okay. Turning your attention now to Exhibit E, do you
25 know what this document is?

26 A. Yes, sir.

27 Q. What is it?

28 A. It's the base and foundation that John Cortez told me

1 that he gave to John Duley. John Duley came to his shop,
2 and he gave it to him.

3 MR. GURNEE: Move to strike as nonresponsive and
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4 also hearsay.

5 THE COURT: Overruled.

6 MR. GOINS: Q. And at any point in time did John
7 Cortez ever tell you that the design that he had prepared
8 for your wall had been objected to by you?

9 A. Nor did Evergreen.

10 Q. Disapproved --

11 THE COURT: Okay. Folks, Doctor, please let him
12 finish his question so I have a record. That is
13 intelligible.

14 THE WITNESS: I'm sorry.

15 MR. GOINS: Q. Disapproved --

16 A. No. He never said that it was disapproved. He said
17 that Buck came and looked at the granite pieces and told him
18 I will do anything to install -- to help you install this
19 wall. He said I will do anything. That's what he told me
20 Buck told him while they were sandblasting the names. They
21 never said Ron is lying. He never said do not do that wall.
22 He never said to me that wall was too heavy. I don't know
23 why they would lie. I lost 27 people. Who did you lose?

24 Q. With regard to -- did you ever have a chance to
25 interview Mr. Cortez concerning this particular incident?

26 A. A week before he died.

27 MR. GOINS: Your Honor, I have one minute of this
28 interview that is set up on DVD that I need to have

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1 introduced and considered for this court as well as some --

2 THE COURT: Has defense counsel seen it?

3 MR. GURNEE: Nope. I have a copy of it. Apparently
4 that was handed to me this morning. I have not heard it. I
5 have, no doubt, some objections to it.

6 THE COURT: All right. Well, we will defer any
7 questions about it until he has had the opportunity to see
8 what it is, and then we will go from there.

9 THE WITNESS: Your Honor --

10 THE COURT: Do you have something to play it, first
11 of all?

12 MR. GOINS: Yes, I do.

13 THE COURT: well, at some point in time we will take
14 a break so you can see it and we will deal with it.

15 MR. GURNEE: Thank you.

16 THE COURT: Do you need to do something with this
17 witness? And I let it in, and I will allow you to do that.

18 MR. GOINS: I'm sorry.

19 THE COURT: If I let it in after objection and you
20 need to recall the witness to establish whatever points you
21 are trying to make with it, I will allow that.

22 MR. GOINS: Okay.

23 Q. Okay. And at a certain point in time after you sent
24 the March 2007 letter, you paid the first installment for
25 the wall, correct?

26 A. Yes, I did.

27 Q. And then did you see the wall sometime in November
28 2008?

□

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1 A. Yes, I did. I gave Mr. Cortez \$371 to put it on a
2 trailer and bring it over to Evergreen.

3 Q. And this was at the 30th anniversary?

4 A. Yes, sir.

5 Q. And did you have any conversations or communications
6 with Mr. Haulman at the 30th anniversary concerning the
7 wall?

8 A. What are you getting at?

9 Q. Did he talk to you about the size of the wall?

10 A. No. He never said anything about the size. He never
11 objected. No one did.

12 Q. Okay.

13 A. They knew that wall was going over there because I

14 talked to them and told them that. I asked them -- I asked
15 them specifically, where could we put this wall for the
16 30th anniversary? and they said there is room to bring
17 that wall.

18 Q. Sometime in 2009 did you receive a communication from
19 Mr. Haulman concerning the wall?

20 A. Yes.

21 Q. And is that Exhibit G before you?

22 A. Yes.

23 Q. And do you know what this Exhibit G in this --
24 Exhibit G, there is reference made to Evergreen never
25 receiving plans and specifications.

26 A. Yes. That is not true.

27 Q. Why is that not true?

28 A. Because we gave it to them. I've been talking to him

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1 forever about the wall. They had designs from Marin
2 Monument and the picture that I showed them. The picture
3 was on the book for many years. This picture that's been on
4 many of our memorial books on the website.

5 Q. And that picture that you are referring to --

6 A. It's just a drawing.

7 Q. -- is Defendant's Exhibit 14?

8 A. Yes.

9 Q. There is also mention made in this letter that any
10 plans --

11 MR. GURNEE: Your Honor, the document speaks for
12 itself. It's leading.

13 THE COURT: well, ask the question. The letter does
14 speak for itself, and certainly Dr. Norwood is acquainted
15 with this letter.

16 MR. GOINS: Q. with regard to the letter where it
17 refers to placement of the wall, have you ever had any
18 communications with Mr. Haulman concerning the placement of

19 the wall?

20 A. My communications were with Buck. He said that the
21 wall -- the little stones stay there and that the wall would
22 be put behind that stone.

23 Q. Okay. So there was a specific site for this?

24 A. Right. Because we used to walk the land and talk about
25 where to put the wall, so he said he don't want -- he does
26 not want to move the little marker, so we talked about
27 putting the wall on the side, putting the wall -- he didn't
28 want to put it in front of the little marker.

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1 Q. And do you know what is at that site right now?

2 A. The little marker.

3 Q. Okay. And where your wall was supposed to go?

4 A. Where they promised our wall to go.

5 Q. Do you know what is there now?

6 A. A Jim Jones honor wall, and I'm not going to go see it,
7 and I don't plan to.

8 MR. GURNEE: Objection. Nonresponsive.

9 THE COURT: Overruled.

10 MR. GOINS: Q. With regard to -- as soon as you got
11 that letter, what did you -- did you make any efforts to get
12 in contact with Buck?

13 A. I called him a thousand times. I couldn't believe that
14 they sent that letter to me, and they would say call Buck,
15 and they gave me the 707 number. I called. I left ten
16 voice mail messages for Buck to call, but he never returned
17 my call. Ron never returned my call. I called and asked
18 why did they send that letter.

19 Q. And with regard to people other than yourself?

20 A. When they refused to give me the courtesy of a return
21 call, I called NAACP. The letter that I e-mailed is there.
22 Then I went to Ron Dellums' office and said that they will
23 not return their calls.

24 Q. And did you make any -- and with regard to Exhibit I,
25 the letter from the arbitration and mediation services --
26 A. After I --
27 Q. -- from the California Lawyers for the Arts?
28 A. After I dealt with Mayor Ron Dellums' office from

89

1 February to July or somewhere after that, August, the
2 NAACP -- then I contacted in August California Lawyers for
3 the Arts arbitration, because I have my e-mail to them, it
4 was August, probably the end of August, and they were
5 calling Buck, and then they sent this letter, and Buck would
6 not return their calls, Buck or Ron. The only person who
7 would return their call was Ron Cortez.

8 Q. Did you ever receive any communication from Evergreen,
9 whether consistent of their representatives, Ron Haulman, or
10 Buck Kamphausen that they no longer wanted to provide you
11 your wall with a foundation or base?

12 A. They never ever said that to me. I heard about it on
13 the news.

14 Q. Okay. And did you ever receive any written or oral
15 communication from December 9 until now from Evergreen, Ron
16 Haulman, or Buck Kamphausen about their desire to no longer
17 allow for your wall to be installed or constructed?

18 A. I have never -- when we went to last year's
19 anniversary, the community, that was this heavy statute, Ron
20 Haulman told them to get off the property. Told me to get
21 off the property. He took the chairs from those old senior
22 citizens, grandmothers, and he said you can't sit down.
23 And, again, no one went and got the chairs and put the
24 canopy up to keep the sun off of us. Ron cut the mics off.
25 He tried to throw us off the property, and then Gregory said
26 just pray.

27 Q. And with regard -- with regard to --

28 A. And then he told me that they spent \$3,000 a year just

1 to give us a mic, and I found out that was a lie.

2 Q. And with regard to the differences -- your memorial
3 honors those people who were buried there, correct?

4 A. It honors the 305 children in a special heart and all
5 the victims except for Jim Jones.

6 Q. Okay. But it doesn't honor all of the 918 victim, does
7 it?

8 A. Except for Jim Jones.

9 Q. Your memorial?

10 A. Yes.

11 Q. As it stands now in its current state, how many names
12 are etched on the two slabs?

13 A. There are two panels, 204 names.

14 Q. 204 names, not the full 918, correct?

15 A. No, because the other panels have not been done, but
16 Ms. Cortez, her son still engraves, but we have volunteers
17 who are ready to finish the wall, and she said that she
18 would give us the slabs and cut it in half.

19 THE COURT: Okay. Your time is up, Mr. Goins.

20 MR. GOINS: No further questions at this time.

21 THE WITNESS: And this is my time line. I called --
22 from 2009 I called 60 attorneys, and the attorneys told
23 me -- and this is the only lawyer that lowered his price,
24 this attorney that I called.

25 MR. GOINS: I would like to object with regard to
26 attorney-client privilege.

27 THE COURT: I wouldn't want the perception to be
28 that he's cheap.

1 THE WITNESS: well, he's the only attorney. And one
2 attorney told me that the other side was pressuring people
3 not to take the case.

4 THE COURT: Well, I'm not going to pay too much
5 attention to that, but then, Doctor, don't leave yet. They
6 have some questions for you, I'm sure, but certainly it's
7 obvious to the court the commitment Mr. Goins has made and
8 it's not shocking to me maybe a bit of that commitment
9 himself in terms of the nature of the case and the demands.

10 Mr. Gurnee.

11 MR. GURNEE: Thank you, your Honor.

12 CROSS-EXAMINATION

13 MR. GURNEE: Q. Who is Fred Lewis, Ms. Norwood?

14 A. My uncle.

15 Q. And Fred Lewis was the -- originally who came up with
16 the idea of the memorial?

17 A. That's a lie.

18 Q. Okay. Did Fred Lewis raise money for a memorial?

19 A. He raised money on his own.

20 Q. Okay. And did he not approach -- do you know if he
21 approached Evergreen about a memorial?

22 A. I have no idea of his dealings with Evergreen.

23 MR. GURNEE: Let me show you, if I may, Exhibit 1,
24 your Honor. A whole packet was given to your clerk so I
25 don't think you have it.

26 THE COURT: I have a lot of packets up here.

27 MR. GURNEE: Q. Let me show you Exhibit 1, which is
28 an article from July 1993, written by someone with the

92

1 Examiner, and talks about two plans for Jonestown monuments.
2 You were aware in July of '93, at least not later than that,
3 weren't you aware that there were competing groups for
4 putting up a memorial at Evergreen; isn't that right?

5 A. I held the first concert in '93. They got the idea
6 from me.

7 Q. Okay.

8 A. And the Guyana Tribute Foundation and other people

9 started running with it after the community accepted it, and
10 my uncle was one of them.

11 Q. Were you aware in July of 1993 that there were
12 competing groups wanting to put up a memorial at Evergreen?

13 A. Yes, I was.

14 Q. And you were aware one of those were led by Fred Lewis,
15 your uncle?

16 A. Yes, I was.

17 Q. And Mr. Lewis had gone out and raised some money at
18 that point, hadn't he?

19 A. I don't know what he did. I was told that he raised
20 money.

21 Q. Well, the article refers to them having an estimate for
22 a memorial, doesn't it?

23 MR. GOINS: Objection. The document speaks for
24 itself.

25 THE COURT: Overruled.

26 THE WITNESS: well, Eugene Lumpkin came on board in
27 '92. This is '93 when they copied us.

28 MR. GURNEE: Q. I see.

93

1 A. I have a record from Mayor Frank Jordan.

2 Q. Did you indicate, as reflected in this article,
3 Ms. Norwood, that you were proposing a gray stone memorial
4 that would be 8 feet high and 20 feet wide and on one side
5 would list the names of 913 people, temple followers who
6 died, in the sum of \$31,071.

7 A. Where is that at?

8 Q. It's the third to last paragraph.

9 A. That is not true.

10 Q. You didn't have a bid from a company for \$31,670 for a
11 monument of that type?

12 A. We always had the black stone fashioned after the
13 Vietnam Memorial, the black shiny granite. This came out

14 from Fred Lewis and his group.

15 Q. Were you proposing in '93 a monument that was 20 feet
16 high and 20 feet wide?

17 A. I can't recall. I may have.

18 Q. Did you have a bid from some monument company for
19 \$31,671?

20 A. Nobody needs to show me the bid.

21 Q. You don't remember?

22 A. It says "would be made from gray stone." I didn't give
23 them that quote. It does not say I gave them that quote.
24 It says "would be made from that stone." I had also said
25 black shiny granite after the Vietnam Memorial, after we
26 first began. I have the granite that Mr. Cortez gave me,
27 the black stone. They showed me some graystone. We didn't
28 want that.

94

1 Q. You and your uncle didn't see eye to eye on how this
2 memorial should go; is that true?

3 A. That's not true. My uncle -- I got off the airplane,
4 and I was on the front page of the Examiner that I was
5 raising money, and they did not get my permission to use my
6 image and likeness to raise money. And any time you don't
7 get my permission to use my image and likeness and you are
8 raising money and you have a bank account, I ask them to
9 cease and desist, and that's when he got upset.

10 MR. GURNEE: Your Honor, I don't happen to have -- I
11 just have one copy of this so I marked it as Exhibit 18.

12 THE COURT: Okay.

13 MR. GURNEE: This is an article dated August 19,
14 1995, entitled "Feud Threatens Jonestown Memorial Plan."

15 Q. Were you having a feud with other groups in the summer
16 of 1995 concerning what the memorial should be?

17 A. What other groups?

18 Q. Any other groups.

19 MR. GOINS: Objection. Relevance.

20 THE WITNESS: I cannot recall.

21 THE COURT: All right. I think it's contextually --

22 THE WITNESS: This is in '92. The mayor put him on
23 this. Anything after '93 they were copying us. I have been
24 talking about this wall since '79.

25 MR. GURNEE: Q. Okay. Well --

26 A. My uncle never talked about this wall. He was used by
27 other people to try to stop me just like Jim Jones, Jr. is
28 used by Fielding McGehee to stop me.

95

1 Q. Were you aware that your uncle was heading up a
2 competing group at this point in 1995 to raise money for a
3 memorial?

4 A. Yes, I was.

5 Q. That was different than the one you proposed?

6 A. I didn't know it was in the Vietnam Memorial.

7 Q. Weren't you aware in the early 1990s, Ms. Norwood, that
8 one group or other people had a different point of view than
9 you did whether Mr. Jones' name should be on the memorial;
10 isn't that true?

11 A. Jones' name never came up about whether it should be on
12 the memorial because we never allowed that. We didn't even
13 broach that discussion in any of our meetings at the
14 African-American Cultural Center. Reverend Lumpkin's
15 church -- we never even -- nobody would even insult those
16 families there or the community to broach even putting Jim
17 Jones' name on this.

18 Q. How many different bids did you get over the years
19 for --

20 THE COURT: Just so you understand it, you might
21 think the judge has the toughest job. It's actually the
22 court reporter who is trying to record what three people are
23 saying at once. That takes a real talent. We can calm down

24 so we can have again an intelligible record.

25 MR. GURNEE: Q. How many different bids did you
26 have -- have you had for a memorial at Evergreen since 1979?

27 A. Probably about three or four.

28 Q. Okay.

96

1 A. Maybe five different architects would see us talking
2 about it on the news, and they would submit a bid, not a
3 bid, they would submit a picture and say we want to put this
4 wall up.

5 Q. You would agree that your plans changed over time,
6 didn't they?

7 A. It changed a couple of times.

8 Q. And let me show you Exhibit 2. This is a 1993 bid from
9 a place called National Monument Company?

10 A. What about them? I mean, are you asking a question?

11 Q. Yeah. Do you recall getting this bid?

12 A. No.

13 Q. You don't.

14 Do you recall asking Evergreen to get a bid for a
15 monument that you then describe as being 5 feet wide and 9
16 feet high in various panels?

17 A. That could have happened, but I don't recall that.

18 Q. Okay.

19 A. This, you know -- you know, you are talking about '93.

20 Q. Yes. In fact -- do you know that this is the bid
21 that -- one of the bids that Fred Lewis got for a monument
22 that he was going to build?

23 A. No. I didn't ask for this, and I have never seen this
24 before.

25 Q. Never seen this before?

26 A. No.

27 Q. Good enough. But you have seen what was marked -- and
28 I will just give you another copy to save time here.

1 A. I don't know who these people are.

2 MR. GOINS: There is no question pending.

3 MR. GURNEE: Q. Let me just give you my copy of
4 this. It's Exhibit 3, Plaintiff's Exhibit 3. This is Marin
5 Monument Company. You have seen this before, haven't you?

6 A. Yes.

7 Q. Now, this was 1995. Was this a design -- a bid that
8 was prepared at your request?

9 A. Yeah. They designed that. I didn't design that.

10 Q. Okay.

11 A. Yeah, it was.

12 Q. There was going to be three panels and about 20 feet
13 long, right?

14 A. That's correct.

15 Q. Okay. Did you ever provide any of this -- did you ever
16 provide this document to Evergreen?

17 A. I don't remember. I am saying this: Evergreen told me
18 to trust their people.

19 Q. Okay. This was one of the monuments -- this was at the
20 time Mr. Cortez's place, wasn't it?

21 A. That is correct. And this particular wall when I met
22 with Mr. Cortez -- the reason why the design changed is
23 because he said the names would be so small we would not be
24 able to see it.

25 Q. Okay. I see.

26 A. And then he changed the design.

27 Q. And then in between that date and 2002, you had no
28 discussions with Evergreen concerning your proposed

1 memorial, did you?

2 A. That's not true.

3 Q. Okay.

4 A. I talked to Buck. Whenever I could talk to Buck or
5 whenever he came and spoke at the memorial, we discussed
6 that wall.

7 Q. You mentioned these memorials that you had at
8 Evergreen. When did they start?

9 A. In '79 -- in 1980.

10 Q. 1980, shortly after the remains were buried there?

11 A. That's correct.

12 Q. Okay. By the way, were you there during the interment
13 of the remains?

14 A. I was there when they were digging the hole and all the
15 caskets were laying on the side. I saw some of the bodies.

16 Q. And they were both adults and children; isn't that
17 right?

18 A. Yes.

19 Q. You said there are 305 children. The rest are adults?

20 A. I would -- almost three -- what I was told is most of
21 those bodies are children. I saw 40. I counted. No one
22 told me this. I counted 40 infant caskets.

23 Q. Well, did you see adult caskets, too?

24 A. I saw adult caskets but that could also be teenagers.

25 MR. GURNEE: Your Honor, again, I didn't have this.
26 Let me show you photograph -- it's not coming out. I can
27 see why.

28 THE COURT: I actually have it on my screen. It's

99

1 coming out fine, so I put a screen up for me.

2 MR. GURNEE: Q. Does this look familiar,
3 Ms. Norwood?

4 A. Yes, it does.

5 Q. In the left photograph we see a number of caskets
6 stacked on top of what are called "outer barrier containers"
7 or "vaults"; is that correct?

8 A. That's correct.

9 Q. And in the right picture we see the same thing with a
10 worker there doing something, right?

11 A. Yes.

12 Q. And then in the lower picture we see them actually
13 being buried, correct?

14 A. Right.

15 Q. In fact, this was on a hillside at Evergreen, wasn't
16 it?

17 A. Right.

18 Q. And it was terraced green side; is that right? That
19 means it was stepped down to make the interment.

20 A. I don't know that.

21 Q. You don't know that?

22 A. I don't know if they had to step down. I don't know
23 what step down means. And here is the letter. November
24 17th, 1992, is when we first started meeting at the
25 mayor's office on this wall.

26 MR. GURNEE: Your Honor, I'm going to mark these
27 photographs collectively as 19 for the record.

28 Q. And looking at the next is a series of these

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1 photographs. We see the caskets again on top of the burial
2 containers, and we see somebody with -- the area being where
3 it was executed in and outer burial containers placed in the
4 area of excavation. Were you there for that?

5 A. No.

6 Q. And in the lower left we see an open hole. Did you
7 ever see that?

8 A. I saw them digging that hole.

9 Q. Okay.

10 MR. GOINS: Your Honor, may I just have a request of
11 whatever -- if you are going to mark these as exhibits, let
12 me just see them first?

13 THE COURT: Certainly fair to the judge.

14 MR. GOINS: Please.

15 MR. GURNEE: Go ahead.

16 Q. Does this refresh your recollection that they were
17 stepped down?

18 A. No.

19 Q. It doesn't. Okay.

20 And that the grave --

21 THE COURT: For the record, counsel, there is
22 already an Exhibit 19.

23 MR. GURNEE: Is there. I will make it 20 then, your
24 Honor.

25 THE COURT: well, good. We just cleaned up the
26 record.

27 MR. GURNEE: Thank you.

28 Q. The memorials that you had out there at Evergreen were

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1 at the suggestion and at the -- with the permission of
2 Mr. Kamphausen and Evergreen, true?

3 A. It was not at the suggestion.

4 Q. Well, didn't Mr. Kamphausen --

5 A. I came to him that we were going to have a memorial
6 service there in 1980, and he had no objection.

7 Q. Okay. In fact not only he didn't have an objection, he
8 provided chairs?

9 A. That's correct.

10 Q. Tents and microphones, et cetera?

11 A. Until Ron Haulman came on board and started giving us
12 problems.

13 MR. GURNEE: Move to strike the last as
14 nonresponsive.

15 THE COURT: That last sentence is stricken.

16 MR. GURNEE: Q. Ms. Norwood, Mr. Kamphausen every
17 year thereafter provided tents?

18 A. Yes, he did.

19 Q. And chairs?
20 A. Yes, he did.
21 Q. And he didn't charge you for that, did he?
22 A. No, but I would give donations, and sometimes I would
23 leave some in the office, but it was not a charge.
24 Q. Okay. Well, now, you didn't ever -- you don't own
25 property at Evergreen, do you?
26 A. My family is buried there. I do not own property
27 there.
28 Q. Do you own any interment rights at Evergreen?

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1 A. What do you mean when you say "interment"?
2 Q. Did you go and buy a right to bury there, you
3 personally?
4 A. My mother -- I gave my uncle the money, and me and my
5 sister -- well, my sister didn't because she was upset, but
6 I gave Brett money, yeah, to go and purchase the plot for my
7 mother which is his wife, and my mother and a couple of the
8 children are buried in that plot. Yes, I did.
9 Q. Are they buried in the same plots that we just saw?
10 A. Right next to it, the plot.
11 Q. They are buried in an individual plot, aren't they?
12 A. A few feet away, and my grandmother is buried a few
13 feet away.
14 Q. Not in the mass grave?
15 A. No.
16 Q. When you sent -- or strike that.
17 When you said you talked to Mr. Buck Kamphausen
18 regarding the establishment of a memorial, that actually
19 occurred in about 1997, didn't it?
20 A. No. I was talking to him since the 1970s. I saw that
21 little mark. This is an insult. These people lived. They
22 should have people describe -- they lived. They deserve to
23 be remembered.

24 Q. Looking at the letter that has been referred to -- and
25 this is the September 24, 2002, letter, from Mr. Kamphausen,
26 which I had marked as Exhibit 4 -- it's been marked
27 elsewhere -- you received this letter, right?
28 A. Yes. I got that letter five years earlier.

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1 Q. Okay. And you understood that he was going to provide
2 a setting and a footing for an appropriate monument at
3 Evergreen, right?

4 A. Yes.

5 Q. Did he tell you in this -- didn't he tell you in this
6 letter that he needed to know some particular information
7 regarding what you were proposing?

8 A. Yes.

9 Q. And he wanted to know its design, its length, its
10 height, its thickness, and its weight plus the names,
11 addresses, and phone numbers; isn't that right?

12 A. Yes.

13 Q. Did you ever provide --

14 A. Yes, I did.

15 Q. If you would wait until my question is finished.

16 A. I'm sorry.

17 Q. Did you provide him with each of those things?

18 A. Yes, I did.

19 Q. When did you provide Mr. Kamphausen with any data
20 concerning the weight of the proposed project?

21 A. I gave him what Willis Granite gave me based on the
22 information that I had from Marin some years earlier.

23 Q. Willis Granite?

24 A. Yes.

25 Q. So Willis Granite wasn't somebody who you bought
26 product from, was it?

27 A. No.

28 Q. Let's look at Willis Granite. Exhibit 5 is a document

1 dated July 22nd, 2005, addressed to you --

2 A. Yes.

3 Q. -- in which it says "price for Jonestown, number seven
4 design." what does that refer to?

5 A. I don't know what number seven design is. They gave me
6 several pictures of walls.

7 Q. Are any of them the wall shown in Exhibit 14?

8 A. well, they got the same picture that John Cortez had.

9 Q. They got this picture, Exhibit 14?

10 A. That is correct.

11 Q. Okay.

12 A. But we didn't give them any specifications. I'm not an
13 architect or a construction person, so that's not my skill.

14 we left it up to them as their skill.

15 Q. well, according to this document, Exhibit 5, the Willis
16 Granite bid for \$59,000 -- I take it, you never entered into
17 a contract with Willis Granite, did you?

18 A. No, because Evergreen rejected their proposal saying
19 that they would prefer for us to use Marin and Amador.

20 Q. You said it says, "this wall is 25 feet long with a
21 wall that features the adult names six feet above ground and
22 the heart seven feet above ground." That's not the same
23 wall that you proposed with Mr. Cortez, is it?

24 A. Mr. Cortez said that the names would also be too small
25 and so he changed the specifications.

26 Q. So it was changed again?

27 A. No. He changed them.

28 Q. All right.

1 A. That's his skill.

2 He said if you want people to be able to read
3 those names clearly, it has to be this size.

4 Q. And so you never entered into a contract for this item,
5 correct?

6 A. Evergreen rejected them, so I was not able to enter
7 into a contract with them.

8 Q. And when Mr. Kamphausen told you in September 2002 to
9 submit the design length, height, thickness, and weight,
10 plus the supplier's name, when did you next -- when did you
11 in fact do that?

12 A. When I started getting momentum and people started
13 sending -- like they were going to help give us money.

14 Q. What year?

15 A. When Willis Granite --

16 Q. Well, that wasn't the wall that was built.

17 A. No, it wasn't.

18 Q. And that was the wall that you actually wanted to
19 build, is it?

20 A. It was the wall that I wanted to build, but it was too
21 small according to Mr. Cortez. He said those names would be
22 too small.

23 Q. I see.

24 A. I was talking to Marin Monument, and I went with Marin
25 Monument because Evergreen did not want anyone else on their
26 property.

27 Q. You understood in this process, did you not,
28 Ms. Norwood, that Evergreen's rules and regulations

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1 required -- and Mr. Kamphausen told you this -- that
2 Evergreen's rules and regulations required that the cemetery
3 first approve a memorial before it could be installed
4 there; is that right?

5 A. I gave Evergreen Willis Granite's proposal because they
6 wanted to approve it once they rejected, and I went to other
7 people. They did not want anyone on their property even.

8 This is Marin Monument's letterhead. They only wanted Marin

9 Monument, and so when I contacted Marin Monument, they did
10 everything to help us.

11 Q. All right.

12 A. And they designed the wall.

13 Q. My question was different than that, Ms. Norwood. If
14 you just listen to the question, it would be great.

15 MR. GOINS: Your Honor, that is harassing.

16 THE WITNESS: You don't have to be sarcastic.

17 THE COURT: Folks, I'm going to stop this right now.

18 The court certainly understands respect to all the parties
19 to this proceeding. No glib comments. Let's keep it
20 between the lines. Let's move forward.

21 MR. GURNEE: Thank you.

22 Q. Ms. Norwood, did you understand when you went to get
23 this estimate from Willis Granite that whatever design you
24 came up with and whatever company you selected would have to
25 be approved by Evergreen?

26 A. Evergreen told me that they had to approve it, and they
27 rejected it.

28 Q. So they rejected this design?

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1 A. So when I went -- when they sent me to John Cortez,
2 they told me that they would handle everything. There was
3 nothing else to do but trust them.

4 Q. So in between the 2002 letter that Mr. Kamphausen wrote
5 you and the time that you got this bid from Willis Granite,
6 did you submit any other designs or specifications to
7 Mr. Kamphausen or Evergreen?

8 A. I can't remember. I don't know if I did, but I believe
9 pretty much that would be it.

10 Q. All right.

11 A. Other people may have.

12 Q. Then we have the document that --

13 A. And then you have the community that was upset.

14 MR. GOINS: Ms. Norwood, there is no question.

15 THE COURT: Doctor, there is no question pending.

16 THE WITNESS: Okay.

17 MR. GURNEE: Q. We have your letter of March
18 22nd, 2007, previously marked as Exhibit C. For ease here
19 I will just give you another copy of it. That's March
20 22nd, 2007. You sent a letter to Mr. Kamphausen. Is that
21 the first time that you talked to Mr. Kamphausen or
22 communicated with him since you submitted the willis --

23 A. No.

24 Q. That you said --

25 A. No. I had been calling them asking them -- we're ready
26 to put the wall up, and so they asked me to send this to
27 them in writing. And they don't answer their phones right
28 away, trust me, and Buck does not return phone calls,

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1 period, and I have all my phone bills.

2 Q. So after you submit the willis estimate and before you
3 submit this letter in 2007, March of 2007, you had no
4 communications with him?

5 A. Yes, I did.

6 Q. You did. You actually did talk to him?

7 A. I mean, I didn't talk to Buck. I was calling him about
8 the wall.

9 Q. The question is, Did you in fact communicate with him?
10 That means that you talked to them, and they talked to you.
11 Did you do that between July of '05 when you had the willis
12 estimate in March of '07?

13 A. I talked to Buck Kamphausen at the memorials when he
14 would come by, and I would talk to Ron at the memorials;
15 however, between that period of time, we were trying to
16 raise money to pay for the memorial, so I called -- I mean,
17 I don't understand what your question is.

18 Did I talk to him five times? Ten times? I

19 don't know.

20 Q. Did you communicate with him about the design of the
21 memorial during that time?

22 A. No. I gave him this.

23 Q. You give him the letter of March 22nd?

24 A. I gave him the letter, but I talked to them on the
25 telephone, that's for sure. I talked to Ron a couple of
26 times, but I couldn't get to Buck.

27 Q. The design dimensions that are mentioned here from your
28 letter where did those come from?

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1 A. From John Cortez.

2 Q. Did he give you some document at sometime prior to
3 writing this letter which sets forth these design criteria?

4 A. I may have. I may have some kind of document because I
5 couldn't come up with these. I'm not an architect. I
6 couldn't come up with the money.

7 Q. Mr. Kamphausen told you to submit a design length,
8 height, width, thickness, and weight in December of 2002.
9 Did you do that in this letter?

10 A. In this letter I sent him design dimensions.

11 Q. You sent him --

12 A. Now, when you talk about the amount that it would
13 weigh, the wall would weigh, I'm not an architect. I'm not
14 a construction builder. I wouldn't know how to do that. I
15 gave him what I had been told.

16 Q. Did you ever submit to him what he asked for in 2002,
17 that is, a design?

18 A. I couldn't.

19 Q. Length, width, thickness, and weight influences -- the
20 supplier's name, address, and phone was that ever submitted
21 as a package to Mr. Kamphausen?

22 A. I could not submit it because he sent me to his vendor
23 and told me that his vendor would handle all of that, so I

24 didn't have it to submit. I gave this to Ron Haulman in
25 writing, and they told me that their vendor Mr. John Cortez
26 would handle everything. They did not tell me to go hire an
27 architect. They didn't tell me to go hire a construction
28 person to build monuments. They told me to trust John

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1 Cortez, he did excellent work, and he has integrity.

2 Q. I see. So your answer is no, you never gave that to
3 Mr. Kamphausen yourself; is that correct?

4 A. I did not because he sent me to his vendor and said his
5 vendor would handle it.

6 Q. And then you went to someplace called Amador Memorial
7 Company, right?

8 A. Aren't they the same?

9 Q. Were they the same at the time?

10 A. From what I understand.

11 Q. And that's where you signed this agreement on November
12 18, 2007?

13 A. That's what Buck told me to sign with.

14 Q. Well, you never showed Mr. Kamphausen this agreement,
15 did you?

16 A. He told me to go and deal straight with them.

17 why would I show it to them?

18 Q. Did you ever give him a copy of this agreement?

19 A. Which agreement? The money?

20 Q. The November 18, 2007, contract which is marked --
21 which you signed with Mr. Cortez. Did you ever give it to
22 Buck Kamphausen?

23 MR. GOINS: Objection. Calls for a legal
24 conclusion.

25 THE COURT: I think that the focus of the question
26 is, Did she present the document? I will deal with the
27 legal conclusion aspect.

28 MR. GURNEE: Q. There is Exhibit 8. Do you

1 remember giving, Exhibit 8, a copy of this letter and
2 contract that you signed to Evergreen?

3 A. Evergreen never asked me for how much it would cost.
4 To give them a letter -- why would I know? I'm supposed to
5 give them a letter? Was I supposed to tell them what I was
6 paying for it? I did tell Buck what the amount was.

7 MR. GURNEE: I would move to strike as
8 nonresponsive.

9 THE COURT: I'm going to strike it because it was
10 nonresponsive.

11 Doctor, again, please listen and just answer the
12 question posed.

13 MR. GURNEE: Q. Did you give a copy of this
14 document --

15 A. No, because I was not asked to give it to him.

16 Q. Thank you.

17 A. He did not ask me to give him a contract between me and
18 Evergreen.

19 Q. All right.

20 A. I mean, John Cortez -- he told me John Cortez will
21 handle everything, trust him.

22 Q. And it's true, is it not, by this contract that you
23 signed with Mr. Cortez you were obligated to pay \$97,800 of
24 which you only made one payment actually in two installments
25 of \$30,000 total; is that correct?

26 A. That is correct.

27 THE COURT: Okay. On that note we're going to take
28 a ten-minute break for my reporter. Again, we're going to

1 reconvene. I have an afternoon calendar. I will work
2 through my lunch hour. I will go another half hour in this
3 proceeding to entertain argument, and I suspect that you

4 have another witness, Mr. Gurnee, but we're going to take a
5 ten-minute break. We will come back at 12:10, and we will
6 go to, let's see, oh, five to 1:00. Okay. That allows
7 me -- and by the way, I have to write a decision in this
8 case at some point. That's what we're going to do. I will
9 see you at 12:10.

10 (Off the record.)

11 THE COURT: Do you have an objection?

12 MR. GURNEE: I do.

13 MR. GOINS: First of all, it goes to the -- a couple
14 of things. So number one, I wanted to show this to Dr.
15 Norwood so she can talk about her communications that she
16 had with this gentleman.

17 THE COURT: When?

18 MR. GOINS: This was --

19 THE COURT: I understand it was -- the testimony
20 before me is he died in December 2010. I understand when
21 this occurred. But what communications of Dr. Norwood of
22 Mr. Cortez? When?

23 MR. GOINS: 2007 at the formation of the agreement,
24 2008 when John Duley came to the facility, yeah, John Duley
25 came to the facility, the construction manager, and then
26 third Buck Kamphausen coming and visiting the granite
27 stones.

28 THE COURT: Okay. And what is the nature of your

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1 objection?

2 MR. GURNEE: It's hearsay. Not having had an
3 opportunity to examine the witness, it's highly prejudicial.
4 I have not seen the whole thing. As I understand it,
5 Mr. Goins has said it's going to be about ten minutes long,
6 the whole thing is ten minutes long.

7 MR. GOINS: No.

8 MR. GURNEE: I have not seen the whole thing. I

9 would like to see it. There are things on there frankly
10 that I saw that he doesn't want me to see that I think are
11 helpful, but I think the whole thing is inappropriate and
12 not --

13 THE COURT: And my concern, of course, is that he's
14 not available under any circumstance, and it's an interview
15 context. Most times I will let this out because he's now
16 deceased.

17 MR. GOINS: If I may, your Honor. There were other
18 people who were present at this interview. His son was
19 present and his wife.

20 THE COURT: Of course, if you want to recall the son
21 for two minutes, that's fine with me, but the answer in an
22 interview with a decedent is not going to go into evidence.

23 Let's get everybody in here. We need to go.

24 MR. GOINS: Thank you.

25 MR. GURNEE: Your Honor, just by way of ground rules
26 here -- now, you got another half an hour you said -- are we
27 going to come back for a different day?

28 THE COURT: No, no. I may go a little longer

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1 depending on what I think is fair.

2 How many witnesses do you have, Mr. Gurnee?

3 MR. GURNEE: Well, I have Mr. Haulman as well as I
4 have Jim Jones, Jr., the sponsor of the new project, and
5 John Cobb and his brother Jim Cobb who was present in Guyana
6 when he was shot. We probably don't need to call him in
7 light of the court's ruling.

8 THE COURT: When I go like this, I agree.

9 MR. GURNEE: John Cobb and Jim Jones were
10 instrumental in getting the monument done, so they could be
11 very brief.

12 THE WITNESS: They have only been on board one year.

13 THE COURT: Put Mr. Haulman up there, Mr. Jones, and

14 Mr. Cobb, and I will give you a little bit more time as I
15 assess what I am going to do with my afternoon calendar.

16 MR. GOINS: The only thing that I would ask at this
17 time, certainly, Judge, I have been cut off insofar as
18 bringing direct witnesses and testimony.

19 THE COURT: You both are.

20 MR. GOINS: Yes. And that's what I was going to
21 basically indicate, and that is counsel has spent --

22 THE COURT: I agree. I gave you, candidly, by my
23 clock, more than an hour after I got rid of his cross which
24 was pretty exhaustive, so I was keeping track of that.

25 MR. GOINS: Okay. Thank you, Judge.

26 THE COURT: Don't thank me. I mean, look, I've been
27 on both sides of these cases, plaintiff and defense, and I
28 know the defense can use up the clock.

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1 okay. where is everybody?

2 MR. GOINS: Since we're on the topic, as it relates
3 to the conversations that she had, is the court going to not
4 allow that to go into the record as well because that's the
5 reason --

6 THE COURT: Well, I would like to think that she has
7 already testified a bit about the nature of her
8 conversations with Mr. Cortez, but, you know, those
9 conversations, if it goes to that interview, I have the same
10 liability of the one that I'm concerned about here.

11 (Off the record.)

12 THE COURT: All right. For the record the court has
13 made a ruling relative to a DVD of an interview with Dr.
14 Norwood -- between Dr. Norwood and John Cortez, Sr., that I
15 determined resolved. The record should reflect based upon
16 the testimony before me that Mr. Cortez died in December
17 2010, and contextually both in terms of what he said and the
18 nature of the interview and whatnot, he is unavailable in

19 the most basic sense known to this court, and so I'm not
20 going to allow that DVD.

21 I want the record to reflect that there has been,
22 considering this is a preliminary injunction, history,
23 fairly exhaustive examination, and cross-examination of the
24 first witness, Mr. Cortez, I will use the term Jr., and then
25 contextually both direct and cross of Dr. Norwood to this
26 point.

27 All right. Mr. Gurnee, back to you.

28 MR. GURNEE: Thank you, your Honor.

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1 Q. Ms. Norwood, you've had -- we talked about several
2 different designs that you had. What is -- can you tell me
3 why this is posted on your website, Exhibit 6?

4 A. Because there was a lot of interest from other people
5 who wanted to be involved and they gave me this design.

6 Q. Okay. And who prepared that?

7 A. Devero and Cornell. They did the memorial on
8 Washington, the black soldiers.

9 Q. And was this per your request?

10 A. Yes. They wanted -- no, it was not my request. A
11 congressperson came and told me about them and told me that
12 they had spoken to them and that we should go to them to get
13 a design and a drawing and this is what they presented.
14 This was not my request.

15 Q. Did you hire them to prepare that document?

16 A. No, I didn't hire them.

17 Q. And that's a drawing supposedly at Evergreen?

18 A. No. This is a drawing because other people who saw us
19 on the news said that they would like to be involved with
20 honoring the victims of Jonestown.

21 Q. Okay. All right.

22 A. Therefore, this drawing came to us.

23 Q. All right. Now, you communicated with Mr. Kamphausen

24 after your -- the 2007 time frame in which Mr. Kamphausen --
25 let me hand you a couple more documents here. You sent an
26 e-mail to Mr. Kamphausen in 2009, which I have had marked as
27 Exhibit 10. That's your e-mail, isn't it?

28 A. Yes, it is.

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1 Q. You sent it to Mr. Cortez as well?

2 A. Yes.

3 Q. All right. Now, you understood -- and this reflects,
4 among other things, that there were competing groups out
5 there trying to get this memorial done with a different
6 design, different folks, right?

7 A. No. There was only one competing group. That was my
8 uncle.

9 Q. Your uncle.

10 Okay. And you indicated that -- in response to
11 this e-mail Mr. Kamphausen sent you a letter, Exhibit 11,
12 didn't he?

13 A. Yes.

14 Q. Okay. And that's his letter of December 15, 2009. And
15 you understood from that letter, did you not, that
16 Mr. Kamphausen had yet to be provided with a design or
17 specifications for a memorial that were acceptable to
18 Evergreen Cemetery; isn't that true?

19 A. Mr. Kamphausen told me that Mr. John Cortez is
20 excellent on matters of integrity that I could trust. After
21 I went to Marin Monument, there was no longer any need for
22 me to contact Mr. Kamphausen about any designs. I'm not an
23 architect. He sent me this after I sent him a letter about
24 Jim Jones' lovers coming up there at the anniversary to
25 honor Jim Jones' name, and a lot of the family members were
26 upset, and I asked him why he allowed that.

27 Q. Didn't you understand when you received this letter,
28 and that's why you made all these phone calls that you

1 talked about afterwards, that Mr. Kamphausen had told you in
2 this letter that there had yet to be approved a design for
3 your memorial?

4 A. Mr. Kamphausen changed his story. Because when he sent
5 me to Marin Monument and said that those were the people
6 that he trusted and for us to use them, I found John Cortez
7 to be compassionate to the families and I trusted Marin
8 Monument.

9 MR. GURNEE: Your Honor, move to strike as
10 nonresponsive. It's a yes-or-no question.

11 THE WITNESS: He changed the letter.

12 THE COURT: All right. I got it. Denied. Next
13 question.

14 MR. GURNEE: Q. Ms. Norwood, after this letter that
15 you got from Mr. Kamphausen, did you submit any design or
16 specifications to him or anyone else at Evergreen?

17 A. After this -- I'm sorry.

18 Q. After getting this letter from Mr. Kamphausen, did you
19 submit design specifications that included the design, the
20 height, the width, the length, and the weight of the
21 proposed wall? Did you submit that to him then?

22 A. After I got this letter?

23 Q. After you got that letter.

24 A. After I got the letter, because he changed from the
25 2007 letter, I started calling Mr. Kamphausen asking him
26 what does this mean. Now, you are saying that families are
27 involved. You can't -- after we paid Mr. Cortez 30,000,
28 then he sends this letter. He sent this after the contract

1 was in effect.

2 Q. Did you --

3 A. So he changed his verbiage after we paid the \$30,371.

4 Q. Isn't it true that you did not submit to him a design,
5 plan specification after getting this letter that told
6 Evergreen what you intended as far as size, in terms of
7 dimensions of height, width, length, and weight of this
8 project; isn't that true?

9 A. I had already done that in that 2007 letter that he
10 asked for and Mr. Cortez submitted in April '08 the
11 specifications and the foundation, so it was no need for me
12 to do it because he told me to trust Mr. Cortez in that he
13 would handle all of that.

14 MR. GURNEE: Again move to strike as nonresponsive.

15 THE COURT: I will deny it. Let's move on. I
16 understand the nature of the context.

17 MR. GURNEE: Thank you.

18 Q. Ms. Norwood, your complaint about the proposal that was
19 done by the other group, including Mr. Jim Jones, Jr., John
20 Cobb, and others who put together the memorial that was
21 actually constructed out there, your chief complaint about
22 that is it includes Jim Jones' name; isn't that right?

23 MR. GOINS: Objection. Assumes facts not in
24 evidence.

25 THE COURT: I'm going to allow it because in terms
26 of whatever relief on a preliminary injunction basis and
27 perhaps otherwise, a resolution of this case, I would like
28 an answer to that question.

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1 THE WITNESS: My chief complaint is that Ron Haulman
2 came on board after Buck Kamphausen and I had made an
3 agreement, and he sent me to his trusted vendor who I found
4 to be outstanding in integrity, that they had the foundation
5 to raise public money, and pay the first installment to
6 Mr. Cortez, and now reneging. That's my chief complaint.
7 They promised that mass gravesite to the families, not the
8 people -- not Jim Jones, Jr., and Steven Jones, who I'm

9 really shocked that Steven is even involved in this because
10 I trusted him, but now they are trying to honor Jim Jones.
11 That's my chief complaint. That's their dad. They have a
12 right to honor him. Honor him on this gravesite. My family
13 is dead, a lot of families are dead. My chief complaint is
14 that the families and the country is outraged that anyone
15 would honor somebody that first ordered the murder of
16 Congressman Leo Ryan but did nothing but try to save those
17 people and then turned around before he killed the adults
18 and said kill the babies first.

19 Q. Let's talk about that first, Ms. Norwood. You want to
20 honor everybody except Jim Jones, right?

21 A. Well, people that raised the question -- wait a second.
22 You asked me a question.

23 MR. GURNEE: Your Honor, can I get an instruction,
24 please?

25 THE COURT: Ma'am, please answer that question for a
26 minute.

27 THE WITNESS: I'm not interested in honoring the
28 assassins. I would like to honor all the victims, but I

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1 don't know who the assassins were, so they have to be
2 honored.

3 MR. GURNEE: Q. How many people died in Jonestown
4 on November 18, 1978?

5 A. The count that I got from the news was 919. That's
6 what -- that's what they sent me. I have it in my computer.
7 So we deleted Jim Jones' name which makes it 918.

8 Q. Well, haven't you made the assertion in your pleadings
9 here and in the press that you want 917 names?

10 A. Okay. Because I got a different count at that time.
11 At that time they told me it was 918 in the news.
12 Mr. McGehee had not sent me that report yet, so then we
13 deleted Jim Jones' name, and it was not 917.

14 Q. Well, this drawing, Exhibit 14, that you talked about
15 earlier with Mr. Goins, that is on your website or was on
16 your -- was this on your website?

17 A. It's always been on my website. It may not be there
18 now.

19 Q. It says "remembering to remember the 913 lives lost."

20 A. Because the news media told us it was 914 people. The
21 news media -- every report that you see in the magazines --
22 and I can pull the newspaper reports -- they gave us those
23 counts. Then it was 909 bodies. I know -- they have given
24 us so many counts you don't know who died. They had 917
25 people who died in Jonestown, so who knows.

26 THE COURT: And, Doctor, just remember there is an
27 old military expression "to stand down." One of the
28 educations that I have gotten in this proceeding is I'm not

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1 sure anyone knows how many people died that day. I think
2 that's very sad. But by my count there were six different
3 counts within the press and otherwise. First of all, the
4 total number -- but I think that from my view highlights the
5 nature of the circumstances here where in legitimate debate
6 we can't even agree upon how many died that day.

7 MR. GURNEE: Right.

8 Q. And your current website has the same picture, and I
9 marked this as Exhibit 13. I believe it's been -- I will
10 give you a copy. It has the same picture on it at least as
11 of the day before yesterday, but it references 918.

12 A. That is correct.

13 Q. Not 913, right?

14 A. Because the news media gave us a thousand different
15 counts, you know, quite a few counts.

16 THE COURT: Okay. Doctor, I'm not up to a thousand,
17 but I agree it's a good number, and again just --

18 THE WITNESS: Well, Fielding McGehee sent me a --

19 THE COURT: You don't need to explain yourself. I
20 think there is --

21 THE WITNESS: I don't know.

22 THE COURT: -- legitimate reasons why the numbers
23 are different, and by my count in terms of what I have
24 reviewed there are at least six different counts. I'm sure
25 there are others.

26 MR. GURNEE: Your Honor, we are all confused about
27 that, apparently so.

28 THE COURT: It's not a source of confusion, you

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1 know. You know, it's not about the number.

2 MR. GURNEE: Let me just finish here, your Honor.

3 Q. Ms. Norwood, you do not have a written contract with
4 anybody at Evergreen to put up a memorial, do you?

5 A. Evergreen Cemetery told me to go to John Cortez, and
6 that's where we would get the wall done because they are
7 their vendor. They provided the headstones for them.
8 That's who they sent me to. When I tried to give Evergreen
9 the money, they said we trust John Cortez. He is our
10 vendor. Pay him the money. And that's what I did. So it
11 was no need for me to do anything else. That's what I did.

12 Q. Do you have a written agreement with Evergreen itself?

13 A. Yes, I do. I have the letter of commitment that
14 Evergreen gave to me and told me to pay all moneys to Marin
15 Amador Monument because that's who they trusted. That's who
16 I trusted.

17 Q. You don't have a letter that tells you to pay moneys to
18 Marin Monument, do you?

19 A. Evergreen Cemetery told me to go to their vendor, so --

20 Q. Thank you.

21 A. -- there was no need to go back to Evergreen after they
22 rejected willis Granite.

23 MR. GURNEE: Your Honor, I think I'm finish. Thank
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24 you.

25 THE WITNESS: And the new monument people, they just
26 came on board a year ago to try to highjack this project and
27 honor a murderer of children. That's continued
28 victimization of children, victimization.

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1 THE COURT: All right. Doctor, thank you. You may
2 step down.

3 Mr. Gurnee.

4 MR. GURNEE: Thank you.

5 THE WITNESS: Can I just add one thing? You go and
6 do any type of deals with a retailer, you know, and a
7 wholesaler, once you go to the wholesaler or, you know, the
8 people who are going to put the wall up there, you know, I
9 was not required to go back. They didn't tell me to come
10 back to them. That was a contract they told me to make, you
11 know, with --

12 THE COURT: I've understood your testimony, and I
13 certainly will try to put it in context for my decision.

14 THE WITNESS: The first walkathon was in 2002, and I
15 sent that letter trying to raise money.

16 THE COURT: Look, I stated on the record, Doctor, I
17 don't have any legitimate concern about your passion and
18 industry and the length of time that you devoted to the
19 project.

20 MR. GURNEE: Thank you, your Honor. I would like to
21 call Mr. Haulman.

22 Ronald Haulman,
23 called as a witness on behalf of the
24 defendants, having been first duly sworn,
25 testified as follows:

26 THE CLERK: Please state and spell your name.

27 THE WITNESS: Ronald Haulman, R-O-N-A-L-D,
28 H-A-U-L-M-A-N.

1 DIRECT EXAMINATION

2 MR. GURNEE: Q. Mr. Haulman, can you tell us by
3 whom you are employed?

4 A. I'm employed by Buck Kamphausen in a capacity as
5 executive director for Evergreen Cemetery Association.

6 Q. In your job as executive director of Evergreen -- by
7 the way, how long have you had that job?

8 A. Since 2006, July 2006.

9 Q. Prior to that?

10 A. I was the executive director of the Neptune Society
11 which I still am. There are several different companies
12 that he owns, and I have had that privilege.

13 Q. How long have you been in the funeral business,
14 cemetery business, or otherwise?

15 A. Seventeen years.

16 Q. Are you familiar with the process and procedure for
17 cemetery -- the cemeteries employ in purchasing and/or
18 supplying markers for grave sites?

19 A. Yes.

20 Q. And what -- as you understand it from your work with
21 Evergreen and others, if that's the case, what is the
22 standard practice as it relates to the acquisition and
23 purchase of memorials from the cemetery's standpoint?

24 MR. GOINS: Objection. Vague and ambiguous,
25 relevance.

26 THE COURT: I thought I dealt with this. So
27 everybody rest easy on this. The court with a very diverse
28 law practice represented mortuaries and people -- I'm

1 thoroughly acquainted with the industry -- monument
2 companies, and all of that, so I will sustain the objection,
3 but nobody is educating me in terms of how business is run

4 both from a retailer, as Dr. Norwood would say, a
5 wholesaler, and cemeteries itself.

6 MR. GURNEE: Okay.

7 THE COURT: But to be consistent, I will sustain it.

8 MR. GURNEE: Q. Well, let me go this way,
9 Mr. Haulman. Does Evergreen sell monuments?

10 A. Yes.

11 Q. Does Evergreen allow monuments to be brought in from
12 outside vendors at the request of families?

13 A. Yes. That's a law.

14 Q. Okay. And as it relates to outside monuments or those
15 that it sales does Evergreen approve the design
16 characteristics and so forth as they relate to each monument
17 installed at Evergreen?

18 A. Yes.

19 Q. And how does that approval process work?

20 A. Well, they have to meet the specifications of a
21 particular area that they are going into. So some areas are
22 flat-marker areas, so you can't have upright stones; others
23 you could have a variety. So if a family goes to an outside
24 vendor and wants to buy something, they would let the vendor
25 know what they want to purchase and the vendor would call us
26 and fax us over the design and specifications, the
27 dimensions, height, weight, and then we would give them the
28 approval. We would basically write an approval on their fax

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1 and fax it back to them.

2 Q. Since 2006, when you have been the executive director
3 there at Evergreen, has Evergreen had a preferred vendor or
4 an exclusive with any vendor?

5 A. No.

6 Q. As it relates to vendors -- outside vendors submitting
7 designs or specifications what typically is submitted?

8 A. Well, there is a worksheet, so the family has --

9 THE COURT: Hold it, Mr. Haulman.

10 when I was a criminal court judge if cell phones
11 went off in my courtroom, I told them that I would throw it
12 in the lake. This is a civil courtroom. If you have a cell
13 phone turn it off now or I will take it. Thank you.

14 MR. GURNEE: Q. Do you have the question in mind?

15 A. Yeah. If someone was to order a stone from us, we
16 would write up the description of it and we would submit it
17 along with a font type and font size to a monument company,
18 and we would have it basically designed and manufactured and
19 then the monument company would bring it over to the
20 cemetery for setting.

21 Q. But an outside vendor for a family that wants to put a
22 memorial in of their own design or what have you, what do
23 you require to be approved?

24 A. Just written permission from us, an approval, a written
25 approval.

26 Q. What information does the cemetery need in order to
27 make that approval?

28 A. Size, dimension, shape, type, weight.

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1 Q. Now, has that been the practice since you joined
2 Evergreen?

3 A. It's been the practice for longer than I joined it.

4 Q. All right. Now, when you first encountered Ms. Norwood
5 would have been when?

6 A. 2006.

7 Q. Okay. And prior to -- when you encountered her, how
8 did you meet her?

9 A. I met her at the November 18th, 2006, Jonestown
10 memorial.

11 Q. Okay. At Evergreen?

12 A. At Evergreen.

13 Q. Was there any discussion at that time regarding any

14 proposed memorials to be erected at the site?
15 A. Not per se, but every single year that Dr. Norwood
16 came, the focus of her efforts at some point in time during
17 her celebration was the erection of a memorial.
18 Q. Did you have discussions with her about the need to
19 submit design and specifications for a memorial?
20 A. It did come up, not in 2006.
21 Q. Okay. It came up when?
22 A. In 2007.
23 Q. Okay. Did you ever see design and specifications of
24 the type that you would normally expect to get for a
25 memorial of this magnitude at any time prior to today from
26 Ms. Norwood or anybody on her behalf?
27 MR. GOINS: Objection. Vague and ambiguous.
28 THE COURT: Overruled.

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1 THE WITNESS: No.
2 MR. GURNEE: Q. Now, when -- at some point in time
3 did you become aware that there were other groups of family
4 members or survivors that wished -- that also wished to
5 establish a memorial at Evergreen?
6 A. Yes.
7 Q. And who were they?
8 A. You mean specifically during my tenure?
9 Q. Yeah, during the time that you've been there.
10 A. A group called the Jonestown Memorial Fund.
11 Q. Okay. And who are some of the people involved with
12 that?
13 A. Their principal officers were John Cobb, Fielding
14 McGehee, and Jim Jones, Jr.
15 Q. Did Ms. Norwood ever come to you and say I have now
16 purchased a memorial wall and I wish to have it installed at
17 Evergreen?
18 A. That's so hard to answer, Mr. Gurnee, because even by
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19 her testimony today she often made pleadings to the fact
20 that she had purchased something, but to the specifications
21 that the cemetery required, nothing had ever been purchased.

22 Q. We talked -- and I will be brief. We talked about this
23 letter that Mr. Kamphausen signed in 2009 to Ms. Norwood.

24 Did you have something to do with its preparation?

25 A. Yes. I prepared the letter, submitted it to
26 Mr. Kamphausen for his approval, had him sign it, and then I
27 sent the correspondence to Dr. Norwood.

28 Q. Okay. At the time that you did that were you aware of

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1 any sort of agreement that had been reached between
2 Evergreen and Ms. Norwood for the construction of a
3 particular memorial?

4 A. I can tell you -- I can tell you at the time that I
5 wrote that letter that in fact the situation deteriorated
6 greatly, and there was absolutely no contract between the
7 cemetery and Ms. Norwood.

8 Q. How had it deteriorated?

9 A. In March of 2007 after the submission of her design, I
10 called her and I said that John Duley and Buck Kamphausen
11 had talked with John Cortez and myself and it wasn't going
12 to work and that she shouldn't really move forward with this
13 until we had a complete picture. By the time she came
14 around to the November 18 date of that same year, they were
15 already buying stones and getting ready to do work on them,
16 and I reminded her again we weren't going to put that
17 monument down. It had significant problems.

18 Q. Now, what were the problems with the monument that she
19 was proposing?

20 A. Its height and weight would have required a foundation
21 that would have gone down four to five feet based upon our
22 estimates, and the problem with that is the decedents that
23 came to Evergreen Cemetery in 1979 were buried in a mass

24 grave on a sloping hill, so the bottom of the grave was
25 obviously flat and level, but the top, after soil was
26 replaced, was a descending grade, and in some places, unlike
27 traditional cemeteries where you would always have six feet
28 of dirt on the body, we knew there were places in this

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1 particular grove that there were only four feet of dirt.

2 Q. So there were logistical problems in terms of depth and
3 putting a foundation in, we saw the drawing that Mr. Cortez
4 apparently prepared with these two-foot deep steel rods,
5 would that presuppose more concrete underneath that?

6 A. Absolutely.

7 Q. At any rate were there -- how about the weight? How
8 would that -- was that an issue as it related to the wall
9 that Ms. Norwood was proposing?

10 A. Yeah, it would have a significant impact. We didn't
11 really have any good idea of what these things weighed other
12 than an estimate. We continued to try to get an idea of
13 their weight by either Mr. Cortez or Ms. Norwood going over,
14 but they are so heavy, they are so large that seven of these
15 panels along with this large, raised heart sitting on top of
16 probably 30 or 40 yards of concrete in this hall or site
17 with just these grave liners, no way. It's not going to
18 happen.

19 Q. I showed previously Exhibit 20, the pictures of the
20 installation of the graves of the interments taking place in
21 1979. Was there a concern about crushing the outer barrier
22 containers due to the weight of this monument that was
23 proposed?

24 A. Let me be clear, I was not there in 1979. I was in
25 elementary school, but as opposed to my position, when the
26 proposal was made in those dimensions and design in 2007,
27 again a site plane, so we went to plane the site, and to do
28 a site evaluation in that area, and it just wasn't going to

1 work.

2 Q. Okay. Now, thereafter did someone else come forth with
3 an alternate proposal for a memorial?

4 A. Yes, the Jonestown Memorial Fund.

5 Q. Okay. And when did they approach you or Evergreen
6 about that?

7 A. August of 2010.

8 Q. All right. And did they submit a plan for the -- and
9 with specifications -- design, height, weight, all of those
10 sorts of things?

11 A. They did.

12 Q. And did they ask for Evergreen's approval?

13 A. They did ask for Evergreen's approval.

14 Q. Evergreen -- in fact the monuments themselves are four
15 flat granite stones, are they not?

16 A. Correct.

17 Q. Those were prepared by whom?

18 A. By Amador Memorial.

19 Q. The same Amador Memorial that we have been talking
20 about?

21 A. Under the ownership that took it over after the
22 Cortezes ceased owning it.

23 Q. And the Jonestown Memorial Fund paid for those stones,
24 did it?

25 A. They did in their entirety.

26 Q. And then was a drawing prepared as it relates to what
27 that monument was going to look like?

28 A. Yes.

1 Q. And that was all submitted to Evergreen, was it?

2 A. Correct.

3 Q. And was it approved by the board of directors as per

4 the rules and regulations of the cemetery?

5 A. It was.

6 Q. When did construction of that project begin?

7 A. April 15th or 16th of this year.

8 Q. And when was it approved for construction?

9 A. November 30th, I believe.

10 Q. All right. And when did you hear from Ms. Norwood or
11 about Ms. Norwood's complaint or intention to try to stop
12 construction?

13 A. I believe it was when we were served on May 11, 2011.

14 Q. And what was the status of the construction at that
15 point?

16 A. Except for a safety railing, they had to go up on the
17 retaining wall. It was done.

18 MR. GURNEE: Your Honor, I would like to offer as
19 Exhibit 21 a couple of photographs.

20 THE COURT: First of all, has Mr. Goins seen them?

21 MR. GURNEE: Yeah.

22 THE COURT: I'm making progress.

23 MR. GURNEE: Q. Let me show you -- I marked this as
24 Exhibit 21, Mr. Haulman. Can you tell us what those are?

25 A. I'm sorry, the question again.

26 Q. Can you tell me what those photographs depict?

27 A. They depict -- they depict the site of the 1979 mass
28 interment of the Jonestown victims that came back from

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1 Guyana.

2 Q. Is this the completed memorial financed in part at
3 least by the Jonestown Memorial Fund?

4 A. It is complete.

5 Q. And the cost of the foundation, the wall -- first of
6 all, can you tell us what is underneath these granite
7 stones?

8 A. Yes, absolutely. So from the basic site -- I think the
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9 judge had the earlier pictures in the record. The entire
10 site was excavated and basically graded and then a concrete
11 wall, a one-piece concrete wall with 15 yards of granite was
12 poured as a single slab so that there was a level surface
13 for these panels to go into.

14 Q. This wall that surrounds this retaining wall, that
15 surrounds the area, that was installed as part of this
16 memorial, correct?

17 A. Absolutely. Again, the site was a sloping site so it
18 was uneven so we had concerns about the weight of even this
19 relatively modest foundation that was put in, so we built
20 this retaining wall to hold all this earth back in winter
21 conditions so that this 15 yards of concrete would not
22 slide.

23 Q. Okay. And the graves, the mass graves are within the
24 area encompassed basically by the fence and the grass area
25 and the foot -- the foreground of this picture, the first
26 one?

27 A. Correct.

28 Q. Okay. And during construction was there contact made

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1 with any of the outer barrier containers in excavating for
2 the digging?

3 A. There was. When you look at the pictures on the
4 left-hand side is a pillar where the foundation wall began
5 at basically ground level. When the footing was dug for
6 that retaining wall in that spot, just two feet, we came
7 into contact with grave liners from the 1979 burial.

8 Q. At a depth of two feet?

9 A. At a depth of two feet.

10 Q. So putting the wall of the type envisioned by
11 Ms. Norwood across those or around those graves would that
12 have worked?

13 A. No.

14 Q. Where is Mr. Kamphausen today?

15 A. He's been out of the country since the original
16 notification that there was legal action. He's never been
17 in California.

18 Q. Has Mr. Kamphausen ever told you that he approved any
19 design or specifications for a memorial submitted by
20 Ms. Norwood?

21 MR. GOINS: Objection. Hearsay.

22 THE COURT: Overruled.

23 THE WITNESS: I have been specifically told by him
24 that he has never approved anything.

25 MR. GURNEE: Q. How about the other members of the
26 board? There are other members of the board, correct?

27 A. There are several members of the board; however, they
28 all answer to him, and he did have the final say.

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1 MR. GURNEE: Okay. Thank you very much.

2 That's all I have, your Honor.

3 THE COURT: Mr. Goins.

4 CROSS-EXAMINATION

5 MR. GOINS: Q. Good afternoon, Mr. Haulman.

6 A. Good afternoon, Mr. Goins.

7 Q. Isn't it true that John Cortez was the exclusive vendor
8 for Evergreen from 1988 to 2007?

9 A. No.

10 Q. And let me just make sure I understand what Evergreen's
11 position is here. More specifically, as of December 15,
12 2009, it's Evergreen's position that it had never received
13 any specifications concerning the Jonestown memorial wall,
14 correct?

15 A. No.

16 Q. And then --

17 A. No, that's not true.

18 Q. Okay.

19 THE COURT: Thank you for clarifying that.

20 MR. GOINS: Q. When did Evergreen first receive
21 plans and specifications concerning the Jonestown memorial
22 wall?

23 A. 1993.

24 Q. And after that did those plans and specifications
25 change?

26 A. Many, many, many times.

27 Q. Okay. So from 1993 up until 2009 Evergreen received
28 plans and specifications concerning the wall that Dr.

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1 Norwood and her organization wanted to build, true?

2 A. No, not the way you asked the question.

3 Q. Did Evergreen Cemetery receive plans and specifications
4 about any wall that Dr. Norwood or Guyana Tribute planned to
5 build?

6 A. Yes.

7 Q. Okay. Turning your attention now to the December 15,
8 2009, letter, which you claim that you authored, correct?

9 A. I did author it.

10 Q. And everything in it is true?

11 A. Everything in it is true.

12 Q. Okay. You write --

13 A. May I see a copy of that as you are reading it?

14 Q. Sure.

15 MR. GURNEE: There should be one --

16 THE COURT: As a courtesy --

17 MR. GURNEE: There should be one.

18 THE COURT: -- you should be provided a copy.

19 THE WITNESS: Thank you very much.

20 Excuse me. This is very hard to read, Mr. Goins.

21 Mr. Gurnee, do you happen to have a better copy
22 of this?

23 MR. GURNEE: Yes. Fine. I thought I brought one up
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24 there.

25 THE WITNESS: I don't see it, and this is hard to
26 read. I'm sorry, your Honor.

27 MR. GURNEE: There you go.

28 THE COURT: No apology necessary.

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1 MR. GURNEE: Is this better?

2 THE WITNESS: Yes. It's better.

3 Go ahead, Mr. Goins. Sorry.

4 MR. GOINS: Q. Okay. Fifth paragraph you write,
5 "To date no design has received the approval of the
6 Evergreen Cemetery ownership." Do you see that?

7 A. I do.

8 Q. Okay. So isn't it true then that prior to December 15,
9 2009, Dr. Norwood had provided you with a design concerning
10 the wall?

11 A. She had.

12 Q. Okay. And isn't it true that this design was in fact
13 prepared by Mr. Cortez to you because your clients are
14 people who want to lay to rest their loved ones? They don't
15 prepare the designs and fax them to you directly, do they?

16 MR. GURNEE: Objection. Compound.

17 THE COURT: It is compound. Break it down.

18 MR. GOINS: Q. You received designs only from the
19 entity that creates the memorial, not from a client; isn't
20 that true?

21 A. No.

22 Q. What you are saying is you're saying that John -- that
23 Marin -- when someone wants to bury someone at Evergreen,
24 they are required to prepare a schematic for you concerning
25 a memorial?

26 A. I think we're talking about two different things. A
27 design is whether or not you want a black stone or a red
28 stone or a green stone and whether or not you want one

1 particular border or an angel or a star, what you want the
2 font to be, what size you want the font to be. The cemetery
3 doesn't tell families what their design is. The families
4 tell cemeteries what designs they want.

5 Q. So the families communicate the design and then you
6 approve it?

7 A. We submit it, yes.

8 Q. And then you send that approval to the person who
9 actually creates the memorial, correct?

10 A. We submit the design, specifications basically, if
11 we're asked to do it, to a monument company, and they lay
12 out basically a proof, and the proof comes back to the
13 cemetery, and the cemetery has the family sign off on the
14 proof because money is exchanging hands and cemeteries don't
15 want to have bad proofs. So the family approves it and then
16 the cemetery approves it and sends it back to the monument
17 company.

18 Q. And there is a specific form that Evergreen uses,
19 right?

20 A. Yeah.

21 Q. And it's something that you gave to the client and then
22 they fax it over to you for approval, right?

23 A. Yes.

24 Q. And you never provided such a form to Dr. Norwood, did
25 you?

26 A. Well, I think we listened to hours of Dr. Norwood.

27 MR. GOINS: Move to strike as nonresponsive.

28 THE WITNESS: All right.

1 THE COURT: First of all, don't refer to Dr.
2 Norwood's testimony. If you can just answer the question.

3 THE WITNESS: She didn't ask us for it.

4 MR. GOINS: Q. You never provided the form to her,
5 did you?

6 A. She never asked us for it.

7 Q. Is that a yes or no?

8 A. What's the question?

9 Q. Did you ever provide Dr. Norwood with an Evergreen --
10 with the Evergreen form that you used that outlines the
11 designs and specifications?

12 A. No.

13 Q. That outlines the design and specifications of a
14 particular memorial?

15 A. No.

16 Q. And prior to December 2009 you never informed her what
17 this process is that you just described: Use a form, send
18 it to us for approval, then we will contact the monument
19 marker; isn't that true?

20 A. What's the question again?

21 Q. You never informed Dr. Norwood or Guyana Tribute
22 Foundation of the process of approving the design, weight,
23 size, specifications of the memorial, you never did that to
24 her in writing; isn't that true?

25 A. I did not, no.

26 Q. And, you know, for that matter, throughout your
27 testimony you talked about rules and regulations of
28 Evergreen. Are they in writing?

1 A. Yeah, we have several rules in writing.

2 Q. But with respect to installing, designing, and
3 installing monuments at the Evergreen Cemetery are those
4 rules and regulations in writing?

5 A. Nope.

6 Q. So you have these rules and regulations that have been
7 in place -- how long has Evergreen been in business?

8 A. The rules and regulations are in writing by the state

9 of California.

10 Q. They are on written rules. You have no written rules
11 that are specific to Evergreen Cemetery with regard to the
12 process that you just described insofar as clients ready,
13 willing, and able to design, construct, and install, and
14 place a monument on your grounds; isn't that true?

15 THE COURT: Mr. Goins, either stay at the podium or
16 stay in your seat. Don't walk the courtroom.

17 MR. GOINS: Okay.

18 THE COURT: All right. Now --

19 MR. GURNEE: The question is vague and ambiguous as
20 phrased.

21 THE COURT: And it was a bit long and a bit
22 compound, so let's break it down so the witness can answer
23 whatever question is posed.

24 MR. GOINS: Q. There is no such thing as the
25 Evergreen rules and regulations that appear in writing
26 anywhere?

27 A. Is that a statement or a question?

28 Q. I will withdraw the question.

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1 THE COURT: Okay.

2 MR. GOINS: Q. Does Evergreen have rules and
3 regulations concerning the cemetery in writing?

4 A. Yes.

5 Q. In that written set of rules and regulations is there
6 anything that describes how one would seek approval for
7 designing a monument?

8 A. No.

9 Q. Is there anything in this set of rules and regulations
10 with regard to the installation of a monument?

11 A. No.

12 Q. There is -- so isn't it true then in these rules and
13 regulations, there is nothing with regard to how

14 monuments -- this whole approval process with respect to how
15 monuments are installed at the cemetery?

16 A. Well, we wrote a letter in 2002 because this is a very
17 unique situation, and it outlines the rules and regulations
18 for this monument.

19 Q. Right. So with regard to now these unwritten rules and
20 regulations concerning the approval of monuments, what are
21 those?

22 A. What unwritten rules?

23 Q. Well, you certainly have no rules that are in writing,
24 and you have been -- you wrote some documents pertaining to
25 some rules and regulations. You testified here today that
26 there were rules and regulations concerning Dr. Norwood
27 receiving approval of the monument. What are those rules?

28 A. Well, there are general rules that cover the entire

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1 spectrum of what you're talking about. The cemetery has the
2 right to approve any marker, monument, or permanent memorial
3 that comes into the cemetery, and it has to meet a basic set
4 of specifications for the area that it's going into.

5 Q. And by the way, in these -- in this set of unwritten
6 rules, who approves -- who has the final say so as to
7 whether or not the monument is installed?

8 A. Within the standard of limitations of an area, the
9 cemetery's manager; anything extraordinary, Mr. Kamphausen.

10 Q. Okay. Pointing your attention now to the September
11 2002 letter that Mr. Kamphausen wrote, appearing in this
12 binder as Exhibit B, second paragraph, "This is subject to
13 approval by the Evergreen Cemetery Association Board of
14 Directors as to the design, size, style, and height of the
15 memorial." Do you see that?

16 A. Yes.

17 Q. What is -- does that refresh your recollection or give
18 you a better understanding as to who approves specifications

19 concerning the memorial?
20 A. Yes.
21 Q. Is it the board?
22 A. Yes.
23 Q. It's not Mr. Kamphausen because he doesn't own the
24 cemetery, right?
25 A. Yes, he does.
26 Q. Okay. So Evergreen Association is a nonprofit?
27 A. Yes.
28 Q. So Mr. Kamphausen owns the nonprofit?

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1 A. I'm not sure where you are going with this.
2 Q. Well, my understanding is that there are two types of
3 nonprofits, mutual and public benefit, and that no
4 individual owns a nonprofit. So my question to you is this:
5 Isn't it true that Mr. Kamphausen does not own Evergreen
6 Cemetery?
7 A. You will have to -- I don't know his business matters.
8 Q. So you don't know that about the organization.
9 Do you know about how many board members were
10 sitting on the board as of 2009?
11 A. Anywhere from three to five at any given time.
12 Q. Who were they?
13 A. I don't know.
14 Q. So you don't know. You don't know who was sitting on
15 the board as of December 15, 2009, then.
16 Isn't it true that you certainly didn't go to
17 their -- go to them to ask for their approval for the
18 Jonestown memorial as presented to you?
19 A. I went to Buck Kamphausen.
20 Q. Okay. And Buck Kamphausen, does he sit on the board?
21 A. Yes.
22 Q. Okay. And what is his capacity on the board?
23 A. President.

24 Q. And so it's your testimony that you went to him for
25 approval, right?

26 A. Right.

27 Q. And it's also your testimony that it is the board that
28 approves everything, correct?

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1 A. If needed to be approved, yes.

2 Q. Okay. All right. Pointing your attention to the
3 December 15, 2009, letter, the third paragraph where you
4 write on behalf of Mr. Kamphausen, "Lastly there is the
5 matter of any proposed memorial wall plans. It has been my
6 position from the very" -- I can't read that word.

7 A. Start.

8 Q. -- "start," thank you, "of memorial wall conversations
9 and planning that I would need to approve the design and
10 final concept before green lighting the project." Do you
11 see that?

12 A. Yes.

13 Q. Doesn't that directly contradict what your
14 understanding of how Evergreen Memorial approves monuments?

15 A. I think this is semantics.

16 Q. Okay. So certainly -- so basically, in essence, it's
17 your testimony here today, or at least -- withdraw.

18 You don't even know what your approval process
19 is, do you?

20 A. Yes, I do.

21 Q. You don't know who has the right to approve it, do you?

22 A. I do.

23 Q. And in fact you don't know for certain that the board
24 was ever even presented with the Jonestown memorial wall for
25 approval, do you?

26 A. I know the president of the board was.

27 Q. And just only the president of the board, right?

28 With regard to your December 19 -- December 15,
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1 2009, letter, you wanted to address three specific issues:
2 Plans for future wall, committees, foundations, and other
3 organizations, and memorial services, and cemetery visitors.
4 That was basically the gist of it, right?

5 A. Uh-huh.

6 Q. And you were responding to an e-mail that Dr. Norwood
7 sent to you that contained certain plans and specifications
8 for a wall, right?

9 MR. GURNEE: Objection. Mischaracterizes the
10 e-mail.

11 THE COURT: Sustained.

12 MR. GOINS: Q. This letter was in response to an
13 earlier e-mail that Dr. Norwood sent to you, correct?

14 A. Do we have the e-mail?

15 Q. Do you know if this letter was in response to anything
16 that Dr. Norwood may have sent to you?

17 A. It was in response to an e-mail, yes.

18 Q. Okay. With regard to the plans for this specific
19 memorial, the fifth paragraph, there is a bunch of bullet
20 points. Were you basically thinking any plans then for
21 blind -- I can't read that -- should take into account these
22 basic facts: Placement, size, expense, and consensus. Do
23 you see that?

24 A. Yes.

25 Q. So back in September of 2002 in Mr. Buck Kamphausen's
26 letter was there anything that was mentioned of any type of
27 consensus?

28 A. No.

1 Q. And certainly because you do not have a written policy
2 with regard to approval of monuments, you know -- there is
3 nothing in writing that Evergreen adheres to with regard to

4 requiring groups to get consensus from family members,
5 right?

6 A. Yes.

7 Q. Okay. And so basically, in essence, this particular
8 condition it was just meant to make things harder for Dr.
9 Norwood, correct?

10 MR. GURNEE: Objection. Mischaracterizes the
11 document.

12 THE COURT: It could be argumentative.

13 MR. GURNEE: It's also argumentative.

14 THE COURT: Thank you. Sustained.

15 MR. GOINS: Q. As of December 13, 2009 -- prior to
16 December 15, 2009, Evergreen never required Dr. Norwood to
17 obtain some type of consensus, correct?

18 A. Well, that's not true.

19 Q. Do you have anything in writing that shows that
20 Evergreen Cemetery asked Dr. Norwood to come up, quote, with
21 a consensus?

22 A. Well, there is a 1993 Examiner article where
23 Mr. Kamphausen mentioned that while he understands there are
24 competing groups that want to put a memorial down that only
25 one memorial would be put down.

26 Q. Oh, okay. I see. So now you're expanding the
27 definition of "consensus" not to include the consensus of
28 the family of the victims but rather the consensus of the

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1 competing groups, correct?

2 MR. GURNEE: Objection. It's argumentative as
3 phrased.

4 THE COURT: Yes, it is.

5 And, Mr. Goins, I'm going to give you another
6 five minutes. I'm going to close this proceeding at 1:30.
7 I've been gracious with both counsel in terms of the order
8 and time constraints I put on each of you, but I'm going

9 to -- the gavel is going to ring at 1:30 in this case. You
10 have ten more minutes on cross.

11 MR. GOINS: Q. All right. With regard to this
12 consensus, there is something in parenthesis that says "a
13 majority of family members with loved ones buried at
14 Evergreen Jonestown site should be in agreement." Do you
15 see that?

16 A. Yes, I do.

17 Q. That consensus doesn't exist for the People's Temple,
18 does it, in their memorial?

19 MR. GURNEE: Objection. People's Temple, your
20 Honor, mischaracterizes the evidence. There is no People's
21 Temple.

22 THE COURT: Well, it's interesting that you should
23 object. I was reflecting on that. I'm not sure of the
24 status of that, but I will sustain it because I think it
25 just gets us in a sideshow.

26 MR. GOINS: Withdraw.

27 Q. As it relates -- as it relates to the present memorial
28 that sits on the site where the Jonestown memorial is

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1 supposed to be, did Evergreen obtain a consensus from the
2 names of the family members that are etched on that memorial
3 in order to -- when deciding whether or not to allow for the
4 memorial to be installed?

5 A. At the time that we approved it, we had a much greater
6 consensus of family members who had loved ones buried there
7 than we ever had in our talks with Ms. Norwood.

8 Q. How many?

9 A. Hundreds.

10 Q. What family members did you talk to?

11 A. Quite a few. The Stein family, the Dennis family, the
12 McGehees, the Moores, the Cobbs, the Joneses obviously.

13 There were many other family members. I mean, John Cobb's

14 family alone has ten people buried right there at that site.

15 Q. And again -- and this is more specifically within the
16 scope of your definition of consensus, and that is a
17 majority of family members with loved ones buried at
18 Evergreen Cemetery Association. Jim Jones isn't buried
19 there, is he?

20 A. No, but Kimo his brother is. Other relatives of the
21 Joneses' family are buried there. Members of the Cobb
22 family, members of the McGehee family, the Stein family.
23 There are a lot of people buried there, and they have
24 multiple family relations.

25 Q. So is it your testimony that you talked to over 200
26 people with regard to the construction of the current
27 memorial?

28 A. Talked to over 50 people about it and got letters from

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1 almost 75 to 100.

2 Q. And the letters are the ones that your counsel brought
3 here today?

4 A. No. I actually received other information from
5 different times and people, especially the 18. When I was
6 there in 2010, there were 20 people right there, and they
7 were from different family members.

8 Q. And you, of course, responded to them in writing?

9 A. I did not.

10 Q. And that's basically the custom and practice of
11 Evergreen not to respond to people in writing, correct?

12 MR. GURNEE: Objection. Argumentative and
13 overbroad.

14 THE COURT: It is. Sustained.

15 MR. GOINS: Q. From December of 2009 until the
16 present time, you have not sent one letter to Dr. Norwood
17 concerning her wall, right?

18 A. No.

19 Q. And --

20 THE COURT: You have "right" and "no," so you
21 haven't sent any letters to Dr. Norwood?

22 THE WITNESS: No.

23 MR. GOINS: Q. No e-mails?

24 A. No.

25 Q. You received voice mail messages from her, didn't you?

26 A. Yes.

27 Q. And you didn't return them?

28 A. Correct.

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1 Q. And you didn't return them because you just had no
2 regard for her organization, did you?

3 MR. GURNEE: Argumentative.

4 THE COURT: Sustained.

5 MR. GOINS: Q. You didn't return any of her phone
6 calls despite her pleas and her voice mail messages to you
7 time and time again asking please tell me what is going on,
8 right?

9 MR. GURNEE: Argumentative and assumes facts not in
10 evidence.

11 THE COURT: Sustained.

12 MR. GOINS: Q. And in all of these voice mail
13 messages she asked you to get back to her, correct?

14 A. Yes.

15 Q. She asked you because she wants to know the status of
16 the memorial -- of her memorial, correct?

17 MR. GURNEE: Objection. Calls for speculation,
18 lacks foundation.

19 MR. GOINS: Q. These are voice mail messages that
20 you heard, right?

21 A. Yes.

22 Q. And in any of these voice mail messages did she ask you
23 to get -- to contact her concerning the status of her wall?

24 A. Yes.
25 Q. And is there any particular reason why you did not?
26 A. Because she already disapproved it.
27 Q. Is there any letter that you can point to where you
28 have disapproved Dr. -- or withdraw.

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1 Is there any letter that you can point to showing
2 that you withdrew Guyana Tribute Foundation's right to use
3 the site for a memorial?

4 MR. GURNEE: Objection, your Honor. Assumes facts
5 and a legal conclusion that they have any right.

6 THE COURT: Sustained on that basis.

7 One more question, Mr. Goins.

8 MR. GOINS: Q. Isn't it true that Evergreen
9 Cemetery promised to donate to Dr. Norwood and her
10 organization the very same land where the current Jim Jones'
11 wall is located?

12 A. No.

13 MR. GOINS: No further questions.

14 THE COURT: Mr. Gurnee.

15 REDIRECT EXAMINATION

16 MR. GURNEE: Q. You didn't donate land to anybody,
17 did you?

18 A. No.

19 Q. And the letter of December 15, 2009, that you wrote to
20 Mr. Kamphausen signed was that intended to inform
21 Ms. Norwood that in fact she had yet to submit a design for
22 a wall or a memorial that had met the approval of the
23 cemetery?

24 A. Yes.

25 Q. And you were asked about forms whether Evergreen had
26 ever sent a form to her about memorials. You don't send
27 forms to people with respect to third-party vendors that
28 they go and buy a memorial from, do you?

1 A. Right.

2 Q. In fact they are required to submit design
3 specifications to you in those situations --

4 A. Correct.

5 Q. -- for your approval, correct?

6 A. Correct.

7 Q. All right. Now, you mentioned that -- you were asked
8 about rules and regulations. Let me show you what has been
9 marked as Exhibit 22.

10 I didn't know that we would need these today, but
11 I will -- while he's reading that -- I guess I better wait.

12 THE COURT: It has something to do with the
13 nonprofit organization, I suppose.

14 MR. GURNEE: It has specifications of approval of
15 the design and memorial.

16 THE COURT: I expect that in the context of a
17 nonprofit.

18 MR. GURNEE: Let me hand you Exhibit 21.

19 Your Honor, I will make another copy available to
20 the clerk. You could have that copy actually.

21 THE COURT: Just for my record and my information,
22 what is Exhibit 21?

23 MR. GURNEE: Exhibit 21 is a set of rules and
24 regulations of Evergreen Cemetery.

25 MR. GOINS: It's marked as Exhibit 22.

26 MR. GURNEE: Did I say 21?

27 THE COURT: Yeah, you did.

28 MR. GURNEE: I already marked 21, sorry.

1 22. Thank you, counsel.

2 THE COURT: It happens with lawyers all the time.

3 MR. GURNEE: Sorry. So the record will reflect that
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4 I misspoke and it's Exhibit 22 that I handed the witness and
5 counsel, which are the Evergreen rules and regulations.

6 Q. Does that refresh your recollection as to whether
7 Evergreen has in fact a set of written rules and regulations
8 regarding the approval of markers and tablets to be
9 installed in the cemetery?

10 A. Yeah.

11 Q. Does it require -- does it have standard
12 specifications?

13 A. It does have standard specifications.

14 Q. This was not a standard project, was it?

15 A. Right. That's what I was basically getting at. We
16 were talking about something general and this is
17 extraordinary.

18 Q. So you don't have rules and regulations that would
19 apply specifically to specifications for a project like
20 Ms. Norwood was proposing?

21 A. No.

22 Q. That's not your usual marker, is it?

23 A. No.

24 Q. But these do require the approval of all markers by the
25 cemetery authority, correct?

26 A. Correct.

27 Q. The cemetery authority is the licensee, is it not?

28 A. Correct.

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1 Q. And that's Evergreen Cemetery Association, right?

2 A. Correct.

3 Q. All right. And Mr. Kamphausen is the president of
4 that?

5 A. Correct.

6 Q. Does he have, in your understanding, the authority to
7 approve or disapprove of markers that are proposed?

8 A. Yes.

9 MR. GURNEE: That's all I have. Thank you.
10 THE COURT: All right. Mr. Haulman, thank you.
11 MR. GOINS: Just one quick question --
12 THE COURT: One.
13 MR. GOINS: -- as it relates to the new document
14 that counsel --

15 RE-CROSS-EXAMINATION

16 MR. GOINS: Q. You never gave these regulations --
17 you never provided a copy of those regulations to Dr.
18 Norwood or Guyana Tribute at any point in time, did you?
19 A. No.

20 THE COURT: Okay. Thank you.
21 Any further witnesses, Mr. Gurnee?
22 You may step down.

23 MR. GURNEE: Yes. I would like to call Mr. John
24 Cobb.

25 Since I'm only going to call him, can I have the
26 others come in now?

27 THE COURT: Sure, on that basis.

28 MR. GURNEE: Mr. John Cobb, your Honor.

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1 THE WITNESS: Yes.

2 THE COURT: Come on up, and we will swear you in.

3 John Cobb,

4 called as a witness on behalf of the
5 defendants, having been first duly sworn,
6 testified as follows:

7 THE CLERK: Please state and spell your name for the
8 record.

9 THE WITNESS: John Cobb, J-O-H-N, C-O-B-B.

10 DIRECT EXAMINATION

11 MR. GURNEE: Q. Good afternoon, Mr. Cobb.

12 what relationship did you have to the People's
13 Temple?

14 A. I was a member, basically born in the temple, so I was
15 there all my life. Lost ten family members in Jonestown
16 back in November of 1978. I was at the capital in
17 Georgetown at the time.

18 Q. So you were in Guyana when the events occurred?

19 A. Exactly.

20 Q. All right. Have you been involved since that time in
21 the efforts to build a memorial at Evergreen Cemetery?

22 A. Recently yes.

23 Q. All right. And is there a, by the way, a People's
24 Temple today as far as you know?

25 A. First time I heard about that was in the paper, I
26 guess, just recently today. The New People's Temple I don't
27 know anything about that.

28 Q. Never heard of New People's --

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1 A. Never heard of it. There is no such thing. If there
2 is, I'm not part of it.

3 Q. You are not part of it?

4 A. Don't know anybody in it, no.

5 Q. Do you know the gentleman sitting here in the black
6 coat?

7 A. That's James Cobb, my brother.

8 Q. Your brother James was he also a member at the temple
9 in Guyana?

10 A. Yes, he was a member. He was actually apart of Leo
11 Ryan's group that came in --

12 Q. All right.

13 A. -- concerned parents that came in.

14 Q. And do you know the gentleman sitting behind him with a
15 tie on there?

16 A. Yes. Jimmy Jones, Jr.

17 Q. And what is his relationship?

18 MR. GOINS: Objection. Relevance.

19 THE COURT: Yeah, counsel, you know, as we go
20 through this process, there are probably a lot of folks out
21 there that I should meet, and that's one of my frustrations
22 as a judge, but I'm interested in hearing from Mr. Cobb
23 because I got some decisions to make in this case.

24 MR. GURNEE: I understand, your Honor. The
25 relationship is they had to do with the establishment of
26 this very memorial.

27 THE COURT: Okay. But we have Mr. Cobb under oath,
28 and, you know, I would like to hear from him.

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1 MR. GURNEE: Q. Mr. Cobb, did those individuals
2 participate in an effort to have a memorial built at
3 Evergreen?

4 A. In different capacities, yes.

5 Q. All right. Were you aware since the tragedy in
6 Jonestown of other efforts to build a memorial by other
7 people including Dr. Norwood?

8 A. I was aware of her efforts, yes.

9 Q. And did at some point in time you become frustrated
10 with those efforts?

11 A. Oh, definitely.

12 Q. And why was that?

13 A. You never saw an end to the project. It just became
14 the thing of when will it ever happen.

15 Q. Okay. And at some point did you and others, including
16 Mr. Jones and your brother and others, get together to
17 develop your own plan for a memorial?

18 A. Yes, we did. We thought -- we've been talking about
19 it, and we said let's see what we can do to make it happen,
20 and it took all of a few months to get this whole thing to
21 come together. Going to the memorial every November -- and
22 I've gone to a few -- it became --

23 MR. GOINS: Motion to strike as nonresponsive.

24 THE COURT: Yeah, let's get back on board.

25 THE WITNESS: Okay.

26 MR. GURNEE: Q. Did you attend memorials that were
27 held at Evergreen?

28 A. I have been before, yes.

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1 Q. And you were present at memorials when Ms. Norwood was
2 there?

3 A. Yes.

4 Q. And she would speak about the progress she was making
5 or lack of progress she was making in building a
6 memorial; is that right?

7 A. Yes.

8 Q. Did you enter into negotiations or participate in
9 negotiations with Evergreen for the construction of an
10 alternate memorial?

11 A. Yes.

12 Q. And who did you talk to?

13 A. I spoke with Ron.

14 Q. And when did you start those conversations? Do you
15 recall?

16 A. Oh, gosh, I -- well, November of 2010, I believe,
17 November.

18 Q. And did you present -- you or your group -- are you a
19 member of some group that did this?

20 A. Not a group. We actually had the name of Jonestown
21 Memorial Fund that was only for the reason that people would
22 have an avenue of donating.

23 Q. Were donations solicited?

24 A. Yes.

25 Q. Were moneys raised to finance the building of a
26 memorial?

27 A. Yes.

28 Q. How much money was raised?

1 A. Approximately about \$22,000.

2 Q. And was -- did the -- did you and your group enter into
3 a contract with Evergreen for the construction of a
4 memorial?

5 A. Yes.

6 Q. And did Evergreen -- did you pay for part of that
7 construction?

8 A. Yes, we had a memorial built, yes.

9 Q. And there were tablets with names on them, correct?

10 A. Correct.

11 Q. And how many names are on those tablets?

12 A. 918.

13 Q. 918. Do those names include the name of the founder of
14 the People's Temple Jim Jones?

15 A. Yes.

16 Q. Now, Jim Jones is the adoptive father of Jim Jones, Jr.
17 here; is that correct?

18 A. That's correct.

19 Q. All right. Now, you have family members that died in
20 Guyana; is that right?

21 A. Yes.

22 Q. How many?

23 A. Ten.

24 Q. And are they buried at Evergreen?

25 A. Yes. Some of them -- most of them are, yes.

26 Q. And the memorial that was built there, did it -- why
27 did you include 918 names as opposed to just those people
28 thought to be unknown that are actually buried there?

1 A. Because that's how many people died there. This whole
2 process is taking so long, and looking at it there could be
3 several names that could be in question on whether or not

4 they should be there, but who is the judge of that? My
5 niece's friend, she was harmed and her life was almost
6 taken. She bears the scars of that to this day. Should the
7 lady who did that not be on there? That question has never
8 been raised. You know, so who is the judge of who should
9 and should not be there? History shows who all died there,
10 and that's what we're reflecting. We're not trying to judge
11 who should and who should not. He did not do this by
12 himself, but the fact is they all died there.

13 Q. Now, there is a service, an unveiling -- this project
14 was just completed a couple of weeks ago, wasn't it?

15 A. Yes.

16 Q. There is an official or unofficial unveiling scheduled,
17 isn't there?

18 A. This Sunday.

19 Q. And who is planning to attend? Do you know?

20 A. Wow, we estimated at the beginning 200 people. That's
21 grown quite a bit. We recently heard the ambassador from
22 Guyana plans to attend, so there are several people planning
23 to attend. People made plans, reservations, hotel
24 reservations. People are really happy that this is finally
25 coming to an end hopefully, and so they have a place to just
26 mourn and say this is where my loved one is at instead of
27 hearing every year one day, one day. It's 32 years ago, you
28 know, ironically when this first happened.

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1 MR. GOINS: Move to strike as nonresponsive.

2 THE COURT: At this point it is.

3 MR. GURNEE: Q. Okay. Well, these people that are
4 planning to attend, do you know a number of them?

5 A. Oh, yes, most of them I know.

6 Q. Do you know where they come from? Give me some
7 examples of where they come from.

8 MR. GOINS: Objection. Calls for a narrative.

9 THE WITNESS: But I know.

10 THE COURT: I'm going to sustain it. I mean, it
11 certainly would be the court's wish if the ceremony goes
12 forward. It doesn't matter what side I sit on in the state
13 of California courtroom that the spirit of the memory of the
14 victims takes over your thinking and any participation not
15 dependent on what I do and when I do it, but I don't need to
16 hear a guest list. I would like to more candidly prefer to
17 hear about simple people of faith who want to gather for all
18 the right reasons. I'm not interested in politicians or the
19 guest list. I'm more interested in hearing from Mr. Cobb
20 otherwise.

21 MR. GURNEE: Your Honor, my only question was having
22 to do with the request, as I understand it, to stop any sort
23 of ceremony from going forward.

24 THE COURT: I understand, and that's why I allowed
25 it even though there is no objection; otherwise, I would
26 have cut it off.

27 MR. GURNEE: Thank you.

28 Q. What kind of -- you mentioned the Guyana ambassador,

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1 but other than that are their family members coming?

2 A. There is a vast list of people coming. People who have
3 loved ones who passed away there. Friends of those people.
4 And it's interesting that the responses that we're
5 getting -- people have moved on, passed any personal
6 feelings, hatred, or whatever. They are happy this is
7 completed to have a place to come and mourn. It's
8 surprising how many people really want to come. It's just
9 totally overwhelming the response we've gotten back from
10 them. The people are pleased that it's finally done. You
11 know, it's been like an open wound for 32 years, and it's --
12 me personally I'm almost embarrassed that it hadn't been
13 done sooner. It's something that should be done. There is

14 no reason that it shouldn't be.

15 MR. GURNEE: Thank you. That's all I have.

16 THE COURT: Mr. Goins.

17 CROSS-EXAMINATION

18 MR. GOINS: Q. Have you received any objections or
19 anyone stating that they would not attend the memorial
20 because Jim Jones' name appears on it?

21 A. I have not, no.

22 Q. Okay. And you made no effort to explore that?

23 A. No, I have not.

24 Q. And you have -- and you have not contacted Guyana
25 Tribute Foundation to ask their position concerning the
26 memorial?

27 A. No, I have not. And I was never contacted by that
28 foundation, from my opinion, on that monument.

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1 Q. And you never contacted Dr. Norwood to ask for her
2 authorization to have the names of her family members appear
3 on the monument?

4 A. I don't think she has that authority.

5 MR. GURNEE: It seeks a legal conclusion and a fact
6 that is required.

7 THE COURT: Sustained.

8 THE WITNESS: I didn't think she had that authority
9 nor did I think that she had that. When I go to the website
10 and see the pictures of my dead loved ones on her website --

11 MR. GOINS: Objection. No foundation.

12 THE COURT: Mr. Cobb, for a minute. Thank you.

13 Notwithstanding the complexity and emotion
14 otherwise of this proceeding, we have now pretty much stayed
15 between the lines of everybody, so I'm going to ask you to
16 do the same.

17 THE WITNESS: I apologize.

18 MR. GOINS: Q. With regard to your statement

19 "people were just happy that this was coming to an end,"
20 certain people came into -- understood that Dr. Norwood and
21 her organization were going to put up a memorial wall,
22 correct?

23 A. Yes, had that understanding for several years.

24 Q. And you've been in attendance at the annual memorial
25 tributes?

26 A. Periodically.

27 Q. Were you there in 2008 where the Jonestown memorial
28 wall was unveiled?

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1 A. I was there.

2 Q. And since that time you have not protested as it
3 relates to the design of the memorial wall?

4 A. I have never protested anything. In good faith I was
5 waiting for one to be built. This mourning process is so
6 deep we felt the urgency to have this done. People have
7 been waiting and starting to pass away waiting for this wall
8 to be built. When is it going to be built?

9 Q. And with regard to more specifically you, in your
10 opinion of the Jonestown memorial wall, you don't have a
11 problem with its size, do you?

12 MR. GURNEE: Objection. Vague as to which wall
13 we're talking about.

14 THE COURT: I was just reflecting.

15 what wall are we talking about?

16 MR. GOINS: Our wall is the Jonestown memorial wall.

17 THE WITNESS: Who says that?

18 MR. GOINS: Excuse me.

19 THE COURT: Mr. Goins, don't argue the case at this
20 time. Okay.

21 MR. GOINS: But all I'm saying, Judge, is that there
22 is no other wall.

23 THE COURT: well, I'm looking at Exhibit 21, and I
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24 will admit there doesn't appear to be a wall because
25 everything is flat --

26 MR. GOINS: Right.

27 THE COURT: -- so I think I'm going to let it go as
28 long as we don't get argumentative on it.

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1 MR. GOINS: Okay.

2 Q. And with regard to the size of the memorial wall, as --
3 with regard to the size of the memorial wall as you saw it
4 in November of 2008, you don't have a problem with its size,
5 do you?

6 A. I'm not an engineer. I don't -- I looked at the thing
7 and said it was massive, that will look nice, but where is
8 it going to go.

9 Q. You didn't disapprove of its weight, did you?

10 MR. GURNEE: Calls for speculation.

11 THE COURT: In the context that I have to make a
12 decision, it's irrelevant. Sustained.

13 THE WITNESS: What I disapproved of was the time it
14 has taken.

15 THE COURT: Mr. Cobb, you don't need to answer that.

16 MR. GOINS: Q. You didn't disapprove of its color,
17 did you?

18 A. It was a monument wall.

19 Q. You didn't disapprove of the names that appeared on it,
20 did you?

21 MR. GURNEE: Objection. Relevance.

22 THE COURT: Sustained.

23 MR. GOINS: No further questions.

24 THE COURT: All right.

25 MR. GURNEE: That's it, your Honor.

26 THE COURT: Mr. Cobb, why don't you have a seat.

27 I started this proceeding, Mr. Goins, with a
28 question to you, so I'm going to go back to it. The

1 specific question is as a matter of injunctive relief, what
2 specifically are you asking this court to do?

3 MR. GOINS: We are asking for, number one, for the
4 court to not allow for Evergreen Cemetery or for that matter
5 any group to which it has sold any rights to to hold out
6 this land, you know, as what -- hold out this land as --
7 just to make sure I articulate this correctly, we're asking
8 for this court to enjoin Evergreen Cemetery from using,
9 transferring, assigning any right to use this particular
10 space of land. We're asking this court to enjoin Evergreen
11 Cemetery from making any public or private positions,
12 whether they be in the media or on their website or through
13 letters or communication to anyone, that this land -- or
14 this right to use this land belongs to someone else.

15 We're asking that this court not allow anyone
16 other than the Guyana Tribute Foundation or at least anyone
17 near until this matter is resolved to use the land for any
18 public celebrations, to alter it, or to infringe on any
19 rights that Guyana Tribute Foundation would have to the land
20 pursuant to the contract.

21 THE COURT: Is that all?

22 MR. GOINS: Yes.

23 THE COURT: Okay. Broad brush.

24 Mr. Gurnee, for a moment.

25 MR. GURNEE: Well, your Honor, I think we just heard
26 the very problem with this whole request, and that is we
27 don't really know what they're requesting, and I, for one,
28 had a hard time deciphering and I think that counsel is

1 having a hard time articulating it.

2 THE COURT: I think I get it.

3 MR. GURNEE: It's from using the land, let's put it
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4 there, using the land. The land is owned by my client.
5 It's not owned by Guyana Tribute, it's not owned by the
6 Jonestown Memorial Fund, it's not owned by anybody other
7 than my client. My client maintains the land, mows the
8 lawn, it waters it, it trims it, it does all those things.
9 It has people coming onto the land all the time to pay
10 respects to their families, to bury people, to cremate.
11 There are all kinds of things that happen there everyday.
12 So using the land to proscribe the owner of the land from
13 using his own land for a legitimate, lawful purpose would
14 be -- there is no basis for that, and there is certainly no
15 irreparable harm caused by my client using his own property
16 in the manner it was intended. It's zoned as a cemetery.
17 It's supposed to be a cemetery, and people are supposed to
18 be able to come and pay their respects at any cemetery
19 including this one.

20 when he asked for an injunction to enjoin us from
21 transferring, I'm not sure what he's talking about. We
22 don't -- certainly there is no impending or imminent peril
23 that we're going to transfer the site where this memorial is
24 located and the graves beneath are located to anybody. How
25 would we do that? We certainly wouldn't do that. I think
26 that would be proscribed by law anyway to transfer it to
27 somebody else to use for some other purpose, to disinter,
28 et cetera, without the proper authority.

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1 Assigning any rights to use that piece of land to
2 someone, I'm not sure what that means or how that works.
3 We're not assigning rights to anybody. We're allowing
4 guests to come in an orderly fashion in a lawful way to pay
5 their respects.

6 For making any public or private statements, that
7 the right to use the land belongs to someone else, it only
8 belongs to Evergreen Cemetery Association. Why would we

9 make such a representation? We're not saying that it
10 belongs to the people that are buried there. We're not
11 saying that it belongs to Ms. Norwood. We're not saying
12 that it belongs to anybody. It belongs to Evergreen. The
13 dirt belongs to Evergreen.

14 Not allow anyone other than -- actually strike
15 that -- anyone to use the land for public celebrations, I
16 don't think -- I think would be a gross violation of
17 constitutional rights not to mention private property rights
18 to proscribe people from coming there and celebrating the
19 death of their loved ones or mourning the same.

20 Infringe on any rights and to -- he wants to
21 restrain us from infringing on any rights. Guyana Tribute
22 Foundation would have the land per the contract. There is
23 no contract. If they're claiming they have a right to the
24 land per a contract, it better be in writing, and it
25 better -- to satisfy the statute of frauds, number one;
26 number two, as the court has seen, no one has produced a
27 contract pertaining to an interest in land. What we're
28 talking about here is a claim contract, a claim, an oral

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1 agreement apparently to install a monument. And there is a
2 real question, and the court certainly has these questions
3 in mind, about the fundamental principle, basic issues
4 involved in any contract case: Offer, acceptance, and
5 consideration. There is lacking evidence on all of those
6 counts, all of those elements that the court -- I don't know
7 what rights -- I don't think GTF or Guyana Tribute
8 Foundation has any rights, so how would we infringe on them
9 and how would the court restrain us from infringing on
10 rights that don't exist?

11 Your Honor, this is a power grab I think by one
12 group trying to take a position and force its way into
13 creating a memorial wall that they like versus another group

14 that wanted to do something different to get it done, and,
15 again, our cemetery is caught in the middle here.

16 THE COURT: And remind me -- I'm going to use that
17 as the theme. Why don't you have a seat. It's only my view
18 that I will distill during the course of this evening that,
19 as I sit here and reflect now, that I don't believe it's a
20 power grab at all. Okay. Certainly I listened to Dr.
21 Norwood, and I am convinced that she has maybe been alone in
22 terms of the length of time, but not necessarily, but for
23 years has been committed to the cause of a memorial on
24 behalf of the victims of Jonestown. And I think your
25 reasons, some of which were larger than her pursuit of her
26 dream, such as the economy of the United States and how it
27 came down, it may have interfered with the pursuit of that
28 dream.

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1 I agree that the cemetery -- I'm not sure that
2 they are in the middle because I'm not sure as to whom or
3 what, but I equally think that both by geography, history --
4 those who lay and are laying in Evergreen Cemetery this was
5 a very appropriate place to bury and memorialize the victims
6 of Jonestown.

7 Now, I used to represent classes and class
8 actions, and if I made the argument on behalf of the victims
9 of Jonestown who are buried in that mass grave -- and what
10 the evidence here shows is there is a dispute even as to how
11 many, and then the nature of how many children versus adults
12 and whatever which candidly I think is a bit shameful, but
13 certainly their voices have not been heard. And the
14 testimony before me, the issue is whether since 1979, when
15 I've been a lawyer for four years, Mr. Haulman had been in
16 grammar school, or 1992 which is -- well, coming on 19 years
17 or since last November, but if I were representing the
18 victims, I think I would be eloquent in terms of not putting

19 either side to this dispute in a negative light. I think
20 there are very legitimate reasons why you are here. Some of
21 it may be personalities, some may be a claim of leadership,
22 but I don't see bad faith, and I haven't heard bad faith by
23 anybody here. I am concerned -- there is that old English
24 expression that you don't kill the messenger with the
25 message, and a little bit of that is happening here.
26 Because as I opened this proceeding, I talked about we all
27 have different styles, and memorials and monuments bring out
28 the differences we have in opinion as to what is

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1 appropriate.

2 Now, I was a baseball coach who gave out
3 trophies, and when I gave them out, I said it's not about
4 their length, it's not about their width, it's not about
5 their cost, it's about the memory. Okay. It forces one --
6 it's a symbol, and a symbol is something that draws us to
7 remember. So it is a difficult case on a judge.

8 The first thing I'm going to do now, because I
9 haven't been accused of being naive, probably ever, I'm
10 going to set an early settlement conference. You are going
11 to call me at 4:00 o'clock on Tuesday after Memorial Day,
12 and we're going to set up a settlement conference in this
13 case understanding -- first of all, can you agree for me to
14 do it. If you stipulate, I will do it, and if not I have a
15 judge in mind for that purpose, but I'm not naive. It's
16 taken, depending upon your specific factual view of this
17 case, 32 years, 19 years, or a number of months since
18 November even to get here, so I'm not naive in terms of the
19 difficulties of the case, and I'm not naive -- no matter how
20 I rule for injunctive relief at this time that in any way
21 that necessarily puts behind everybody in this courtroom and
22 many others outside of it, the problems that have persisted
23 and led to this litigation. Having said that, I want

24 everybody to be very careful that the theme doesn't get
25 lost. There are -- too many years have gone by or months,
26 in the court's opinion, that this matter was condemned to a
27 history rather than -- you know, I always try to take a
28 positive spin on everything. The fact that I have all of

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1 these people in my courtroom who debated the circumstances
2 is healthy because it will raise the level of consciousness
3 as to what went on 30 years ago, and the mere raising the
4 level of consciousness is a good thing no matter how you
5 fall on the side of this debate because there hasn't been
6 enough consciousness for far too long. So I'm going to set
7 an early settlement conference in this case. I'm going to
8 be as judicious as I can in terms of the expression of my
9 decision which will be in writing. It will be delivered
10 sometime tomorrow. Candidly I'm a couple of hours behind
11 where I thought I might be to take care of the rest of the
12 duties that I have to discharge today, but I think -- I hope
13 I have sent the message here.

14 First of all, I think this was a well-conducted
15 proceeding, not only by counsel but by the witnesses and the
16 audience, and I think this type of issue and debate needs to
17 have that. I will do the best I can as a judicial officer
18 to render a decision according to law, but I want everybody
19 to understand both in terms of this litigation and in terms
20 of building traction and momentum relative to Jonestown and
21 what happened that day, I would not wish that anything I say
22 or do, because I'm duty bound to apply the law and the facts
23 as I see them, would detract from the capacity of obviously
24 decent people to resolve whatever differences they have with
25 the greater goal of the memory of the victims of Jonestown
26 being not only the call of the day but the call of the
27 month, or the call of the years, because again it could be
28 32 years, 19 years, or 6 months, and that could be a little

1 vague. On that basis the proceeding is closed. I will go
2 to work.

3 MR. GOINS: Can I say one thing?

4 THE COURT: Let me do this for my record, I'm
5 admitting into evidence the declarations submitted to me by
6 prior court order with the exception of those I objected to,
7 the exhibits presented by plaintiff and defendant today
8 absent those objective two and the rulings I have otherwise
9 made on the record.

10 MR. GOINS: And then last, your Honor, first I
11 wanted to fall in line with the court, and thank counsel
12 very much for being professional throughout this proceeding.
13 And last but not least, I want to thank you and your court
14 staff. Your order was to give us a specific amount of time,
15 and it is now a quarter to 2:00. We have been at this since
16 a little bit over 9:00 o'clock, and I thank you very, very
17 much for providing both parties the opportunity to be heard
18 and to allow your witnesses to go forward. And again thank
19 you, your court reporter, and your staff for working through
20 lunch. We certainly appreciate it.

21 MR. GURNEE: I couldn't have said it as eloquently,
22 but I ditto what Mr. Goins said.

23 THE COURT: I will nod my head and go about the
24 business of the court.

25 (Off the record.)

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4 STATE OF CALIFORNIA)
5) ss.
6 COUNTY OF ALAMEDA)

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9 I, ADRIENNE E. PERETTI, a certified court reporter
10 employed by the State of California, County of Alameda, do
11 hereby certify that the foregoing is a full, true, and
12 correct transcription of my stenographic notes of the
13 testimony given and proceedings had in the above-entitled
14 action.

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17 September 23, 2011

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ADRIENNE E. PERETTI, CSR 11029

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