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CAUSE NO. 2014-40964

ERIC TORRES, ADAM SINN, ) IN THE DISTRICT COURT  
XS CAPITAL MANAGEMENT, )  
L.P., and ASPIRE )  
COMMODITIES, L.P., )  
PLAINTIFFS, )  
VS. ) HARRIS COUNTY, TEXAS  
CRAIG TAYLOR AND ATLAS )  
COMMODITIES, L.L.C., )  
DEFENDANTS. ) 157TH JUDICIAL DISTRICT

CAUSE NO. 2015-49014

ERIC TORRES, ) IN THE DISTRICT COURT  
PLAINTIFF, )  
VS. ) HARRIS COUNTY, TEXAS  
S. JAMES MARSHALL, )  
DEFENDANT. ) 157TH JUDICIAL DISTRICT

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ORAL AND VIDEOTAPED DEPOSITION OF

ERIC TORRES

SEPTEMBER 13, 2016

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ORAL AND VIDEOTAPED DEPOSITION of ERIC TORRES,  
produced as a witness at the instance of the Defendant,  
and duly sworn, was taken in the above-styled and  
numbered cause on September 13, 2016 from 9:31 a.m. to

<p style="text-align: right;">Page 2</p> <p>1 10:12 a.m., before Delia Ordonez, CSR in and for the 2 State of Texas, reported by machine shorthand, at the 3 offices of Matthew M. Buschi, 1980 Post Oak Boulevard, 4 Suite 1200, Houston, Texas 77056, pursuant to the Texas 5 Rules of Civil Procedure. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 2 3 FOR THE PLAINTIFFS: 4 Matthew M. Buschi 5 Rapp &amp; Krock, PC 6 1980 Post Oak Boulevard, Suite 1200 7 Houston, Texas 77056 8 713.759.9977 9 Mbuschi@rk-lawfirm.com 10 11 FOR THE DEFENDANTS: 12 Geoffrey Berg 13 Berg Feldman Johnson, LLP 14 4203 Montrose Boulevard, Suite 150 15 Houston, Texas 77006 16 713.526.0200 17 Gberg@bergfeldman.com 18 19 THE VIDEOGRAPHER: 20 Dwayne Smith 21 22 23 24 25</p>
<p style="text-align: right;">Page 4</p> <p style="text-align: center;">I N D E X</p> <p>1 2 3 Appearances..... 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">E X A M I N A T I O N</p> <p>6 ERIC TORRES P A G E 7 Examination by Mr. Berg..... 5 8 Examination by Mr. Buschi..... 28 9 Further examination by Mr. Berg..... 34 10 Signature and Changes..... 37 11 Reporter's Certificate..... 39 12</p> <p style="text-align: center;">E X H I B I T S</p> <p>14 NO. DESCRIPTION P A G E 15 Exhibit 1 Assignment of Interests in 9 Settlement Agreement and Amount 16 Exhibit 2 Settlement Agreement 28 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 THE VIDEOGRAPHER: We are on the record at 2 9:31 a.m. This is the videotaped deposition of Eric 3 Torres in the matter of Eric Torres, Et Al. Versus Craig 4 Taylor, Et Al.; Eric Torres Versus S. James Marshall, 5 Cause No. 2014-40964, 2015-49014. This deposition is 6 being held at 1980 Post Oak Boulevard, Suite 1200, 7 Houston, Texas. 8 Will counsel please state their name for 9 the record. 10 MR. BERG: Jeff Berg for the defendants. 11 MR. BUSCHI: Mat Buschi for the plaintiffs. 12 THE VIDEOGRAPHER: Will the reporter please 13 swear in the witness. 14 ERIC TORRES, 15 having been first duly sworn, testified as follows: 16 EXAMINATION 17 BY MR. BERG: 18 Q. Good morning. 19 A. Good morning. 20 Q. Mr. Torres, did you review any documents in 21 preparation for your deposition today? 22 A. Yes, I did. 23 Q. Which documents? 24 A. Mostly documents from the previous deposition. 25 Q. So when you say documents, you just mean you</p>

Page 6

1 read the transcript?  
2 A. Transcript and then some of the -- um, some of  
3 the agreements that were -- that were presented, some of  
4 the paperwork that was presented, I think by you, during  
5 the actual deposition.  
6 Q. So the exhibits to that deposition?  
7 A. Correct.  
8 Q. Okay. Where is that material now?  
9 A. I do not have it with me.  
10 Q. Where was it when you reviewed it?  
11 A. On a hardcopy at home and then also an e-mailed  
12 copy form that I just looked through on my phone.  
13 Q. Okay. Do you have your phone here?  
14 A. Yes, I do.  
15 Q. So you have access to it wherever your phone  
16 is?  
17 A. I would have access to it if I choose -- if I  
18 chose to, correct, if -- yeah, via the phone.  
19 Q. Okay. And the hardcopy material that you  
20 looked through is at your home?  
21 A. Correct.  
22 Q. You didn't bring that with you?  
23 A. No.  
24 Q. Were you specifically instructed not to bring  
25 it with you?

Page 8

1 MR. BUSCHI: You can answer.  
2 A. I'm pretty sure I did review that.  
3 Q. (BY MR. BERG) Okay.  
4 A. Or at least part of it.  
5 Q. What are you suing James Marshall for?  
6 A. The suing James Marshall was an attempt, as I  
7 recall, to somehow -- because he's also a partner at  
8 Atlas to get the payment started up again because  
9 there's still an outstanding balance and that's --  
10 that's my understanding.  
11 Q. What are you suing Craig Taylor for?  
12 A. It's the same thing.  
13 Q. Atlas Commodities, L.L.C., the same thing?  
14 A. To -- to get them to start up the payments  
15 again, to finish what was in the original settlement.  
16 Q. Are you suing to recover attorney's fees from  
17 any of those entities?  
18 MR. BUSCHI: Object to the form. You can  
19 answer.  
20 A. I don't recall specifically but I would not be  
21 surprised if that's in there.  
22 Q. (BY MR. BERG) Have you incurred any attorneys  
23 fees in this case?  
24 A. I have not.  
25 Q. Now, you mentioned that you reviewed the

Page 7

1 A. Oh, no, I just left it at home. I had the  
2 other information in my phone.  
3 Q. Where is that phone now?  
4 A. It's in the other conference room.  
5 Q. So aside from your deposition transcript and  
6 the exhibits to that deposition transcript, did you  
7 review anything else?  
8 A. Transcript, deposition, transcript, the -- also  
9 the assignment, the assignment document.  
10 Q. Anything else?  
11 A. I think there were some IMs but I think those  
12 were presented by you last time, some e-mails between  
13 yourself and Chanler but I think that was presented last  
14 time. Yeah, I think that should be it.  
15 Q. Did you review your petition in this case?  
16 A. If I recall correctly, I did. I would probably  
17 have to take a look at the petition just to make sure  
18 it's the right document. A lot of these documents kind  
19 of blur together sometimes.  
20 Q. I don't have it here with me, but was it the  
21 document that says Plaintiff Eric Torres sues Craig  
22 Taylor, Atlas Commodities, James Marshall for the  
23 following things?  
24 MR. BUSCHI: Object to form.  
25 Q. (BY MR. BERG) You can answer.

Page 9

1 assignment, so let me attach that --  
2 A. Sure.  
3 Q. -- because I do have that.  
4 (Exhibit No. 1 marked.)  
5 Q. (BY MR. BERG) Mr. Torres, I'm handing you what  
6 I've marked as Exhibit 1 to your deposition.  
7 A. All right.  
8 Q. It's Bates labeled SINN266. I ask that you  
9 take a look at that document.  
10 A. Uh-huh.  
11 Q. Is this the assignment you referred to a moment  
12 ago?  
13 A. Correct.  
14 Q. What is this document?  
15 A. My understanding of this document was this was  
16 leading up to the -- to the lawsuit. I -- at the time I  
17 was in discussion with Chanler about -- about what was  
18 going to happen and I just kind of told him just let me  
19 know what you need, what you need me to do and he sent  
20 over the document, took a look at it and I sent it back  
21 after signing it.  
22 Q. This was before Chanler represented you?  
23 A. At that time Chanler was -- my understanding he  
24 was already representing me and Adam because that's kind  
25 of what I told Adam whenever this was going to go into a

Page 10

1 lawsuit that that's something that, you know, he needs  
2 to take care of and Chanler was going to -- he told me  
3 Chanler was going to take care of it.  
4 Q. Did you have an understanding of what the  
5 document actually is at the time that you signed it?  
6 A. Um, not -- not a complete understanding. I  
7 just -- you know, like I said, I told them Just let me  
8 know how I can help and that was one of the ways I  
9 thought that, you know, they needed in order to get the  
10 lawsuit going. I didn't know the actual purpose of it  
11 or -- you know, most of these legal documents, you know,  
12 I kind of trust the lawyers for the most part that are  
13 getting paid.  
14 Q. Well, what -- what was your understanding,  
15 though, of the effect of signing this document when you  
16 signed it?  
17 A. To -- I really did not have a great  
18 understanding of it. I just figured it was going to be  
19 used for some sort of purpose in order to get the -- the  
20 lawsuit started.  
21 Q. Did you understand at the time that this was an  
22 assignment of your interest in any recovery to Adam  
23 Sinn?  
24 A. Can you please -- I don't understand that  
25 question. Can you explain it?

Page 12

1 Q. -- has the right to full settlement amount; is  
2 that right?  
3 A. Correct.  
4 Q. Okay.  
5 A. Uh-huh.  
6 Q. So now do you have a better recollection of  
7 what this was?  
8 A. Yes. I mean when it comes to this specific how  
9 the way it's written out and what that is actually  
10 saying, I understand that. I did not understand what  
11 the purpose of it was leading up to the actual lawsuit,  
12 per se; but yes, I understand the -- the assignment in  
13 the amount that was awarded during the settlement, which  
14 by all intensive purposes was going to Adam no matter  
15 what anyways. Yes, I understand.  
16 Q. So this is an assignment of your interest in  
17 the \$500,000 to XS Capital; is that right?  
18 A. Correct.  
19 Q. Okay. Is this an existing and valid agreement?  
20 A. I've heard conflicting things. I think my  
21 understanding of it now is that it's not valid.  
22 Q. Do you have an understanding as to why?  
23 A. If I recall correctly, there was something  
24 specifically in the settlement agreement that said any  
25 sort of changes have to be agreed on by both sides,

Page 11

1 Q. Sure. The title of the document is Assignment  
2 of Interest in Settlement Agreement and Amount; is that  
3 right?  
4 A. Correct.  
5 Q. And then if you read the actual text --  
6 A. Uh-huh.  
7 Q. -- it says that there's a settlement agreement,  
8 correct?  
9 A. Uh-huh.  
10 Q. And that under that settlement agreement Craig  
11 Taylor, James Marshall, and Atlas have jointly and  
12 severally agreed to pay you, Eric Torres, \$500,000?  
13 A. Correct.  
14 Q. That's right?  
15 A. Uh-huh.  
16 Q. And you say you acknowledge and warrant, lawyer  
17 words --  
18 A. Uh-huh, right.  
19 Q. -- but you represent that as of August 15th,  
20 2013, you, Eric Torres, have no right, title or interest  
21 in the \$500,000 -- and that XS, Adam Sinn's company,  
22 right?  
23 A. Uh-huh.  
24 Q. Is that right?  
25 A. Correct, XS.

Page 13

1 something like that.  
2 Q. Since the last time we spoke, which was last  
3 year, have you taken any steps to attempt to recover any  
4 of the text messages that have been requested in this  
5 case?  
6 A. Since that time, no, because I figured my  
7 attempts have been exhausted.  
8 Q. Have you done anything to recover any other  
9 messages other than texts, e-mails, instant messages,  
10 anything like that?  
11 A. I also exhausted -- I did the searches. I did  
12 everything that I could to track down any sort of  
13 relevant e-mails, messages. This had been done multiple  
14 times and I turned over whatever I could find basically.  
15 Q. So there's nothing more that you've done?  
16 A. No, you're right.  
17 Q. The last time we spoke I believe you testified  
18 that you still owed Adam Sinn something in the  
19 neighborhood of \$350,000.  
20 A. Correct.  
21 Q. What amount do you owe Adam Sinn as we sit here  
22 today?  
23 A. I guess it would be a similar amount with  
24 interest, yeah.  
25 Q. What is the interest rate he's charging you?



Page 14

1 A. I don't -- I don't recall. We have not  
2 discussed...

3 Q. Is that through Titan?

4 A. No, at this point I think it's -- it's just --  
5 it's outside of Titan, just between me and him. I mean  
6 we're -- we're, obviously, friends and associates and  
7 whatnot so -- but we have not had a conversation about  
8 that amount or anything, repayment or anything like  
9 that.

10 Q. Since we last spoke in 2015 --

11 A. Uh-huh.

12 Q. -- how much have you paid Adam Sinn?

13 A. Zero.

14 Q. Has he asked you for any additional payment?

15 A. No, he has not.

16 Q. And you remain, as you said, business  
17 associates but also personal friends, right?

18 A. Right.

19 Q. Were you with him on his trip to Canada a  
20 couple weeks ago?

21 A. I was not.

22 Q. Were you invited?

23 A. Actually, no, I was not. I'm not a big  
24 fishing/hunting person.

25 Q. Have you discussed with Mr. Sinn a payment plan

Page 16

1 understanding. This is just part of the way things work  
2 sometimes and you just have to deal with it.

3 Q. (BY MR. BERG) Let me look back for a moment to  
4 the assignment which is attached as Exhibit 1.

5 A. Uh-huh.

6 Q. We spoke briefly about your understanding at  
7 the time you signed it versus your understanding now.

8 A. Uh-huh.

9 Q. Regardless of what's written on this paper, do  
10 you have an assignment, as you understand it orally, as  
11 you testified last time, with Adam Sinn or XS Capital  
12 for recovery of the settlement funds?

13 MR. BUSCHI: Object to form.

14 A. I think last time I got a little, I would say,  
15 confused about assignment versus what was discussed  
16 immediately after the settlement agreement. So I  
17 couldn't -- you know, to -- I guess to clarify a little  
18 bit, I can't say that there was a verbal assignment. It  
19 was just an understanding that the -- the funds were  
20 going to go first to Chanler's law firm and that was it.

21 Q. (BY MR. BERG) And that you wouldn't ever get  
22 any of it?

23 A. I wouldn't touch it basically.

24 Q. So it's Adam Sinn's money?

25 MR. BUSCHI: Object to the form.

Page 15

1 for the outstanding balance?

2 A. I have not.

3 Q. If you do not recover in this case, what's your  
4 plan for repayment to Mr. Sinn?

5 A. I'm not quite sure. I mean it would be a large  
6 amount that even -- that is still a little bit tough to  
7 swallow, maybe a little bit easier to swallow, but, you  
8 know, that's something that me and Adam Sinn would have  
9 to figure out.

10 Q. The last time we spoke you testified that you  
11 had legal issues with Craig Taylor and that you didn't  
12 have a very high opinion of him. Do you recall that?

13 A. Correct.

14 Q. Has that changed?

15 A. I would say, yeah, just time changes it. I  
16 mean, you don't -- especially when you're not  
17 interacting with the people daily. I think some of that  
18 just kind of lessens and goes away, just time.

19 Q. You cooled down a little bit?

20 A. Sure.

21 MR. BUSCHI: Object to the form.

22 A. I would say -- wouldn't say I was hot about it.  
23 I just didn't have a very positive opinion, you know,  
24 because of the lawsuit and the ongoing lawsuit at this  
25 point. I -- I think I've come to a better

Page 17

1 Q. (BY MR. BERG) You can answer.

2 A. It's money that's going back to Adam Sinn,  
3 yeah. It's -- yeah.

4 Q. Okay. Okay. But as you sit here today -- and  
5 again, I'm not asking for a legal opinion.

6 A. Uh-huh.

7 Q. I'm not asking you to, you know, render any  
8 kind of judgment on contract law.

9 A. Sure.

10 Q. I'm just asking about your understanding of the  
11 document you signed attached as Exhibit 1 --

12 A. Uh-huh.

13 Q. -- Assignment of Interest in Settlement  
14 Agreement and Amount. This, as far as you're concerned,  
15 is of no effect?

16 A. My understanding of it now is that it doesn't  
17 have an effect, correct.

18 Q. All right. Are you aware that Adam Sinn  
19 testified in this case on September 2nd?

20 A. That deposition?

21 Q. Yes.

22 A. Correct, uh-huh.

23 Q. Are you aware that he testified that he has no  
24 interest in the settlement funds that are owed to you?

25 A. I'm aware of that now, after, correct. I had

Page 18

1 no idea what was discussed between him and Chanler and  
2 whatnot.  
3 Q. Let me direct your attention to the third line.  
4 A. Uh-huh.  
5 Q. I just want to clarify this. It says, In the  
6 settlement agreement dated on or about August 15th,  
7 2012. Do you see that?  
8 A. Correct, it looks like a typo.  
9 Q. Right.  
10 A. Uh-huh.  
11 Q. That is supposed to be 2013, correct?  
12 A. Uh-huh.  
13 Q. Is that right?  
14 A. Yes, correct.  
15 Q. You know of no settlement agreement dated  
16 August 15th, 2012, correct?  
17 A. No, correct.  
18 Q. All right. I just wanted to clarify that.  
19 When did your understanding about the effectiveness of  
20 this assignment change?  
21 MR. BUSCHI: Object to the form.  
22 Q. (BY MR. BERG) I'm not -- just to clarify, I'm  
23 not asking for any conversations you had with your  
24 lawyers.  
25 A. Sure.

Page 20

1 Q. And I think you testified more than once it was  
2 a long time ago, I don't remember those things.  
3 A. Yeah.  
4 Q. Is that right?  
5 A. Uh-huh.  
6 Q. I need a yes or a no.  
7 A. Yes. Sorry.  
8 Q. As you sit here today, are you better able to  
9 remember with specificity more of the comments you made  
10 about Craig Taylor between the time the settlement  
11 agreement was signed and December 22nd, 2013?  
12 A. I wouldn't say that I have a better  
13 recollection, but after reading it -- reading the  
14 transcript, I also feel like I wasn't as clear as I  
15 should have been, if that makes sense.  
16 Q. Would you like to clarify?  
17 A. Yes. I mean the -- and if we're talking about  
18 specifically, I remember it was Evan Caron, Joon Park.  
19 I'm not sure who else I was specifically asked about.  
20 My -- I don't specifically remember what was said in  
21 conversation, but I also know that I was very aware,  
22 very cognisant after the settlement that I was not  
23 allowed to have conversations about the settlement. It  
24 would not be in my best interest to talk about Atlas,  
25 James Marshall or Craig Taylor. And I'm confident that

Page 19

1 Q. I don't want to know anything about -- I just  
2 want to know sort of the date range.  
3 A. I would say within the past couple of days,  
4 once I started perusing over everything again and...  
5 MR. BERG: Okay. Okay. I think that that  
6 is more or less all I have. I'm sure you are going to  
7 be disappointed. Give me -- let's go off the record.  
8 Give me about five minutes.  
9 MR. BUSCHI: Yeah, off the record.  
10 THE VIDEOGRAPHER: The time is 9:50 a.m.,  
11 we are off the record.  
12 (Off the record.)  
13 THE VIDEOGRAPHER: This is the beginning of  
14 Tape 2. The time is 9:51 a.m., we are on the record.  
15 Q. (BY MR. BERG) Mr. Torres, the last time we  
16 spoke --  
17 A. Uh-huh.  
18 Q. -- you had some difficulty recollecting all of  
19 the things that you had said about Craig Taylor or  
20 Atlas.  
21 A. Okay.  
22 Q. Do you remember that?  
23 A. Yes, I do.  
24 Q. Okay. You read your deposition?  
25 A. Right.

Page 21

1 I followed that and, you know, the only two people that  
2 I think I had conversations with about any of them was  
3 my wife and probably Adam Sinn.  
4 Q. Now you realize that that testimony you just  
5 gave is in conflict with testimony you gave before,  
6 don't you?  
7 MR. BUSCHI: Object to the form.  
8 A. I realize that I should have expounded in the  
9 previous one but I did not.  
10 Q. (BY MR. BERG) Did you have conversations with  
11 anyone that you work with about Craig Taylor or Atlas?  
12 A. Timeframe?  
13 Q. August 15th, 2013 to December 22nd, 2013.  
14 A. August 15th. I am fairly confident that --  
15 that I was asked about what was going on with -- with  
16 the whole thing by my bosses and especially around the  
17 time of the settlement agreement because I think that  
18 that was the timeframe that allowed me to fully broker  
19 every product that I was restricted before. So I think  
20 it was just a general How is it going, can you start  
21 brokering Texas Power now, that sort of stuff. I think  
22 if I recall correctly, yeah.  
23 Q. Did you mention Craig Taylor?  
24 A. I don't -- do not think I did, but I cannot  
25 recall 100 percent. I mean his name might have come up,

Page 22

1 you know, by -- by someone but I don't think I was the  
2 person that brought him up.  
3 Q. Did you mention Atlas?  
4 A. I -- like I said, I don't think I was the  
5 person that brought it up but I answered, you know, just  
6 general questions about what was going on.  
7 Q. And did you mention James Marshall?  
8 A. I do not think I did. Once again, actually, I  
9 don't even think they brought up James Marshall because  
10 most of the time he's just not mentioned, just Craig,  
11 Atlas.  
12 Q. Have you had conversations about James Marshall  
13 with anyone or did you have conversations with James  
14 Marshall with anyone other than Adam Sinn, your wife or  
15 your lawyers between August 15th, 2013 and  
16 December 22nd, 2013?  
17 A. I do not think so. I do not think I did.  
18 Q. Now you testified -- strike that.  
19 MR. BERG: I pass the witness. Thank you.  
20 EXAMINATION  
21 BY MR. BUSCHI:  
22 Q. Mr. Torres, do you mind going back to  
23 Exhibit 1.  
24 A. Sure.  
25 Q. I just have some questions on Exhibit 1 for

Page 24

1 recall testifying about generally an assignment between  
2 you and Adam Sinn or one of his entities?  
3 A. Correct. Yeah, I do.  
4 Q. Do you recall you testified specifically to the  
5 question -- the question was: Did you sign some  
6 agreement with Adam Sinn saying all the money under this  
7 settlement agreement is going to you? And you testified  
8 in response to that: If I recall correctly, I did. I  
9 don't remember the exact document but I think after the  
10 settlement day, between that until the actual final  
11 agreement, there was a document that I signed where the  
12 \$500,000 was to be paid to Adam Sinn essentially.  
13 A. Got you. Yes.  
14 Q. Do you recall testifying?  
15 A. I recall testifying that, yes.  
16 Q. Is this document that is Exhibit 1 to your  
17 deposition, is this the assignment you were talking  
18 about in that testimony that I just read?  
19 A. That's correct.  
20 Q. Okay. And so --  
21 MR. BERG: I'm sorry. When you say that's  
22 correct, does that mean, yes, it is?  
23 THE WITNESS: Yes, it is. I'm sorry.  
24 MR. BERG: I don't mean to interrupt but I  
25 just want a clear record.

Page 23

1 you. Eric, did you sign any other assignments besides  
2 this one?  
3 A. No, none.  
4 Q. Okay. So to your knowledge, this is the only  
5 assignment between you and Adam Sinn or a company owned  
6 by Adam Sinn?  
7 MR. BERG: Object to the form.  
8 Q. (BY MR. BUSCHI) Is that correct?  
9 A. That's correct.  
10 Q. When did you sign this?  
11 A. I think it's June 30th, 2014.  
12 Q. And that's the date here on the bottom of the  
13 document?  
14 A. That's correct.  
15 Q. So the date that's on here that says 30th day  
16 of June, 2014, by Eric Torres, that's the correct date  
17 in which you signed this document?  
18 A. Correct.  
19 Q. And that was about a week or two before this  
20 lawsuit was filed?  
21 MR. BERG: Object to the form.  
22 A. Timeframe is iffy but within a short amount of  
23 time, a couple week, I'm sure.  
24 Q. (BY MR. BUSCHI) Okay. Your previous  
25 deposition in this case on March 6th, 2015, do you

Page 25

1 THE WITNESS: No problem.  
2 MR. BUSCHI: That's perfectly fine.  
3 Q. (BY MR. BUSCHI) So this is the document you  
4 were referring to in your deposition at that time?  
5 A. Yes.  
6 Q. And this document is dated June 30th, 2014.  
7 A. Correct, yes.  
8 Q. So when you were testifying at your previous  
9 deposition that there was an assignment which you  
10 apparently thought was between the actual -- the day of  
11 the settlement and when there was a final agreement  
12 signed --  
13 A. Uh-huh.  
14 Q. -- were you confused about the timing of that?  
15 MR. BERG: Object to the form.  
16 A. That's correct. I was confused about the time.  
17 Q. (BY MR. BUSCHI) Okay. But this is the  
18 document you were talking about?  
19 MR. BERG: Object to the form.  
20 A. Yes, it is.  
21 Q. (BY MR. BUSCHI) This document -- did you sign  
22 this document after the defendants had already stopped  
23 paying under the settlement agreement?  
24 A. That's correct.  
25 Q. Did Adam Sinn ever ask you to sign that

Page 26

1 document?  
2 A. No, he did not.  
3 Q. And you testified earlier Chanler Langham had  
4 asked you to sign that document?  
5 A. That's correct.  
6 Q. And without going into anything you and Chanler  
7 might have talked about, just generally, was it in  
8 relation to filing this lawsuit?  
9 A. That's correct, yes.  
10 Q. Okay. Eric, in the -- in the settlement  
11 agreement that's at issue in this case, was it your  
12 understanding that you, Adam Sinn, XS Capital  
13 Management, Aspire Commodities, Atlas Commodities, Craig  
14 Taylor, James Marshall were all equally releasing any  
15 claims they had each -- had against each other at that  
16 time?  
17 MR. BERG: Object to the form.  
18 A. Via the settlement agreement?  
19 Q. (BY MR. BUSCHI) Correct.  
20 A. Correct.  
21 Q. Is that --  
22 A. Yes.  
23 Q. Has Adam Sinn ever assigned you any of his  
24 claims that he had against Atlas, Taylor or Marshall  
25 that he was releasing in the settlement agreement?

Page 28

1 MR. BERG: Object to the form.  
2 A. Yes, I did.  
3 Q. (BY MR. BUSCHI) And you had not sold any of  
4 those claims that you were releasing to anyone else,  
5 correct?  
6 A. I had not.  
7 Q. You had not assigned them to anyone else?  
8 A. I had not.  
9 Q. Are you aware of any situation in which Atlas  
10 or Marshall -- James Marshall or Craig Taylor had been  
11 sued based on any of the claims that you had released in  
12 the settlement agreement?  
13 MR. BERG: Object to the form.  
14 A. I'm not aware, no.  
15 Q. (BY MR. BUSCHI) To your knowledge, did Adam --  
16 to your knowledge, did Adam Sinn, XS Capital Management,  
17 Aspire own all of its own claims that it was releasing  
18 in the settlement agreement against Taylor, Marshall and  
19 Atlas?  
20 A. I would not know.  
21 Q. Fair enough.  
22 (Exhibit No. 2 marked.)  
23 Q. (BY MR. BUSCHI) This is an exhibit from Adam  
24 Sinn's previous deposition.  
25 MR. BUSCHI: Do you want me to cover it?

Page 27

1 A. No, he hasn't.  
2 Q. Has Atlas Capital Management ever assigned you  
3 any of its claims against Taylor, Atlas or Marshall that  
4 it was releasing in the settlement agreement?  
5 A. No.  
6 Q. Has Aspire Commodities-- same question. Has as  
7 Aspire Commodities ever assigned you any of its claims  
8 against Taylor, Marshall or Atlas that it was releasing  
9 in the settlement agreement?  
10 A. No.  
11 Q. Did you ever assign to Adam Sinn or XS or  
12 Aspire Commodities any of the claims that you had  
13 against Atlas, Taylor or Marshall that you were  
14 releasing by the settlement agreement?  
15 A. No.  
16 Q. And you understand the settlement agreement was  
17 releasing the claims that you currently had against  
18 Atlas, Taylor and Marshall at the time of the settlement  
19 agreement?  
20 A. Yes.  
21 Q. Okay. So at the time you signed the settlement  
22 agreement and at the time you signed the final  
23 settlement agreement, did you own all of your own claims  
24 against Atlas, Taylor and Marshall that were being  
25 released by the settlement agreement?

Page 29

1 Q. (BY MR. BUSCHI) Exhibit 2. Mr. Torres, do you  
2 mind turning to page 5 of this document?  
3 A. Uh-huh. This one has writing on it.  
4 Q. Oops. Never mind. Let me remark it.  
5 A. Do we need a sticker for this one?  
6 Q. Yeah, I will remark it.  
7 Page 5, paragraph 11.  
8 A. Yeah.  
9 Q. Mr. Torres, can you first tell me what this  
10 document is?  
11 A. This is the settlement agreement from the  
12 previous lawsuit.  
13 Q. Okay. So this is the settlement agreement  
14 that's at issue in this case?  
15 A. Correct, yes.  
16 Q. Okay. Paragraph 11, it says -- it's entitled  
17 Warranty by Torres. Do you see that?  
18 A. Yep.  
19 Q. Okay. And it says here, correct me if I'm  
20 wrong, but it reads: "Torres hereby represents and  
21 warrants that he has not assigned or otherwise  
22 transferred to any other person or entity any interest  
23 in any claims, actions, demands and/or causes of action  
24 he has, or may have, or may claim to have in connection  
25 with the matters released hereby."

Page 30

1 Do you see that?  
2 A. Yes.  
3 Q. Did I read that correctly?  
4 A. Yes, you did.  
5 Q. And do you understand what that means?  
6 A. Yes, I do.  
7 Q. Was it true at the time that you signed this  
8 document?  
9 A. Yes, it was.  
10 Q. Is it still true today?  
11 A. Yes.  
12 Q. Eric, did you -- with regards to the telephone  
13 that you had on or around December 12th, 2013, did you  
14 destroy that phone?  
15 MR. BERG: Object to form.  
16 A. No, I did not.  
17 Q. (BY MR. BUSCHI) Did you take a hammer to it?  
18 A. No, I did not.  
19 Q. Did you burn it?  
20 A. No.  
21 Q. What happened to that phone?  
22 MR. BERG: Object to form.  
23 A. I turned the phone over when I transferred my  
24 mobile service. I turned it over to T-Mobile.  
25 Q. (BY MR. BUSCHI) Okay. And so you -- you moved

Page 32

1 Q. And at the time you turned it in, were there  
2 any relevant texts or documents on the phone?  
3 A. No, there was not.  
4 Q. If I -- if I talk to you about the picture at  
5 issue in this case, do you know what picture I'm talking  
6 about?  
7 A. Absolutely.  
8 Q. It's a picture of you and Adam Sinn and a  
9 couple other guys at a holiday party giving the middle  
10 finger to the camera; is that correct?  
11 A. Yes.  
12 Q. Do you recall taking that picture?  
13 A. Vaguely, yes.  
14 Q. And that would -- you said it was at a holiday  
15 party in 2013, correct?  
16 A. That's correct.  
17 Q. And that was at Mr. Sinn's house?  
18 A. Yes.  
19 Q. Do you remember if anybody was talking about  
20 Craig Taylor at the time that that picture was taken?  
21 A. No, they were not.  
22 Q. Well, do you recall if anybody was talking  
23 about Atlas Commodities at the time that picture was  
24 taken?  
25 A. No, they were not.

Page 31

1 over to T-Mobile?  
2 A. Uh-huh.  
3 Q. Who had you previously had?  
4 A. I think Verizon.  
5 Q. Okay. So you were switching providers?  
6 A. Correct.  
7 Q. And you turned in your phone, you got a new  
8 phone in return?  
9 A. That's correct.  
10 Q. Did you receive compensation from T-Mobile for  
11 turning in your phone?  
12 A. Yes, they paid me whatever they pay you for the  
13 value of the phone at the time.  
14 Q. Okay. And before you turned it over to  
15 T-Mobile, had you checked that phone for documents  
16 relevant to this case or --  
17 A. Yes.  
18 Q. I apologize. I jumped in front of you there.  
19 A. Sure.  
20 Q. Did you check your phone for document -- that  
21 phone that you turned in, before you turned it in, did  
22 you check that phone for documents, text messages,  
23 e-mails, the like before turning it in that were  
24 relevant to this case?  
25 A. Yes, I had.

Page 33

1 Q. When the picture was taken, was there some sort  
2 of plan to have this picture sent to Craig Taylor?  
3 A. Not to my knowledge.  
4 Q. To your knowledge, was this picture taken for  
5 the purposes of communicating a message such as fuck you  
6 or F you to Craig Taylor?  
7 A. Not to my knowledge.  
8 Q. Did you ever send that picture to anyone?  
9 A. I did not.  
10 Q. Did you ever -- did you ever send that picture  
11 to anyone with a tag line saying happy holidays Atlas?  
12 A. I did not.  
13 Q. Did you ever send the picture to anyone in any  
14 way purporting to be someone from Atlas?  
15 A. I did not.  
16 Q. And you previously testified today or at least  
17 it sounded like you said it's basically Adam Sinn's  
18 money that's money due under the settlement agreement.  
19 Do you remember testifying that way?  
20 A. Correct, yes.  
21 Q. Is that -- is that the case -- is it -- is it  
22 Adam Sinn's money or is it your money that you're paying  
23 over to Adam Sinn?  
24 A. It's my money that I'm paying over to Adam  
25 Sinn.

Page 34

1 MR. BUSCHI: I think that's all I have.  
2 FURTHER EXAMINATION  
3 BY MR. BERG:  
4 Q. Just a couple more.  
5 A. Sure.  
6 Q. If you will turn back to Exhibit 1.  
7 A. Yes.  
8 Q. Your lawyer was asking you what -- when this  
9 document was dated and you looked at the bottom there  
10 and said June 30th, correct?  
11 A. Correct.  
12 Q. 2014?  
13 A. Yes.  
14 Q. If you will turn to the -- look up to the first  
15 line.  
16 A. Uh-huh.  
17 Q. What is the effective date of this agreement?  
18 A. Effective as of the 15th day of August, 2013,  
19 '13.  
20 Q. Okay. And if you will look at Exhibit 2, which  
21 is the settlement agreement, what is the effective date  
22 of the settlement agreement?  
23 A. The 15th day of August 2013.  
24 Q. So the same day?  
25 A. Correct. Yes. Sorry.

Page 36

1 responsive to those requests?  
2 A. It was my view it -- because it was between me  
3 and Chanler and I wasn't sure what it was used for that  
4 I wasn't sure if it should be turned over or not in this  
5 case.  
6 Q. Did you give this document to your lawyers?  
7 MR. BUSCHI: Object to the form.  
8 A. I do not remember. I do not remember.  
9 MR. BERG: Let's go off the record.  
10 THE VIDEOGRAPHER: The time is 10:11 a.m.,  
11 we are off the record.  
12 (Off the record.)  
13 THE VIDEOGRAPHER: This is the beginning of  
14 file three. The time is 10:12 a.m., we are on the  
15 record.  
16 MR. BERG: Mr. Torres, thank you for your  
17 time this morning. I pass the witness.  
18 THE WITNESS: Thank you.  
19 MR. BUSCHI: I will pass as well.  
20 THE WITNESS: Thank you.  
21 THE VIDEOGRAPHER: The time is 10:12, we  
22 are off the record.  
23 (Deposition concluded at 10:12 a.m.)  
24  
25

Page 35

1 Q. Exhibit 1, the Assignment of Interest, is that  
2 or was that document in your files?  
3 MR. BUSCHI: Object to the form.  
4 A. Yes, an e-mail thread with Chanler.  
5 Q. (BY MR. BERG) So while you say an e-mail  
6 thread but was it like an attachment to an e-mail?  
7 A. Yes, yeah.  
8 Q. So when you got it from Chanler Langham, you --  
9 did you print it out, sign it, scan it, send it back?  
10 A. Yes.  
11 Q. And you have all of that in e-mails?  
12 A. Yes.  
13 Q. Do you recall being served with request for  
14 production in this case?  
15 A. Yes.  
16 Q. And was this document produced in response to  
17 that?  
18 A. No, it was not.  
19 Q. So it's your view -- I'm not asking about your  
20 conversation with your lawyers, I'm asking about you --  
21 well, let me back up.  
22 Did you do a search for documents  
23 responsive to those requests?  
24 A. Correct, yes.  
25 Q. And is it your view that this document was not

Page 37

1 CHANGES AND SIGNATURE  
2  
3 PAGE LINE CHANGE REASON  
4 \_\_\_\_\_  
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Page 38

1 I, ERIC TORRES, have read the foregoing deposition  
 2 and hereby affix my signature that same is true and  
 3 correct, except as noted above.  
 4  
 5  
 6  
 7 \_\_\_\_\_  
 8 ERIC TORRES  
 9  
 10  
 11 THE STATE OF TEXAS )  
 12 COUNTY OF HARRIS )  
 13  
 14 Before me, \_\_\_\_\_, on this day  
 15 personally appeared ERIC TORRES, known to me (or proved  
 16 to me under oath or through \_\_\_\_\_)  
 17 (description of identity card or other document) to be  
 18 the person whose name is subscribed to the foregoing  
 19 instrument and acknowledged to me that they executed the  
 20 same for the purposes and consideration therein  
 21 expressed.  
 22 Given under my hand and seal of office this \_\_\_\_  
 23 day of \_\_\_\_\_.  
 24  
 25 \_\_\_\_\_  
 NOTARY PUBLIC IN AND FOR  
 THE STATE OF \_\_\_\_\_

Page 40

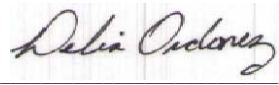
1 That the deposition transcript was submitted on  
 2 \_\_\_\_\_, 2016 to the witness or to the  
 3 attorney for the witness for examination, signature and  
 4 return to me by \_\_\_\_\_, 2016;  
 5 That the amount of time used by each party at the  
 6 deposition is as follows:  
 7 Matthew M. Buschi - 00:13  
 8 Geoffrey Berg - 00:25  
 9  
 10 That pursuant to information given to the  
 11 deposition officer at the time said testimony was taken,  
 12 the following includes counsel for all parties of  
 13 record:  
 14 Matthew M. Buschi, Attorney for Plaintiff  
 15 Geoffrey Berg, Attorney for Defendant  
 16  
 17 I further certify that I am neither counsel for,  
 18 related to, nor employed by any of the parties or  
 19 attorneys in the action in which this proceeding was  
 20 taken, and further that I am not financially or  
 21 otherwise interested in the outcome of the action.  
 22 Further certification requirements pursuant to Rule  
 23 203 of TRCP will be certified to after they have  
 24 occurred.  
 25 Certified to by me on this \_\_\_\_ day of September,  
 2016.

Page 39

1 CAUSE NO. 2014-40964  
 2 ERIC TORRES, ADAM SINN, ) IN THE DISTRICT COURT  
 3 XS CAPITAL MANAGEMENT, )  
 4 L.P., and ASPIRE )  
 5 COMMODITIES, L.P., )  
 6 PLAINTIFFS, )  
 7 )  
 8 VS. ) HARRIS COUNTY, TEXAS  
 9 )  
 10 CRAIG TAYLOR AND ATLAS )  
 11 COMMODITIES, L.L.C., )  
 12 DEFENDANTS. ) 157TH JUDICIAL DISTRICT  
 13  
 14 CAUSE NO. 2015-49014  
 15 ERIC TORRES, ) IN THE DISTRICT COURT  
 16 PLAINTIFF, )  
 17 )  
 18 VS. ) HARRIS COUNTY, TEXAS  
 19 )  
 20 S. JAMES MARSHALL, )  
 21 DEFENDANT. ) 157TH JUDICIAL DISTRICT  
 22  
 23 REPORTER'S CERTIFICATION  
 24 DEPOSITION OF ERIC TORRES  
 25 SEPTEMBER 13, 2016

1 I, Delia Ordonez, Certified Shorthand Reporter in  
 2 and for the State of Texas, hereby certify to the  
 3 following:  
 4 That the witness, ERIC TORRES, was duly sworn by  
 5 the officer and that the transcript of the oral  
 6 deposition is a true record of the testimony given by  
 7 the witness;

Page 41

1   
 2  
 3 \_\_\_\_\_  
 4 DELIA ORDONEZ Texas CSR 7040  
 5 Expiration Date: 12/31/16  
 6 Firm Registration No. 122  
 7 U.S. Legal Support  
 8 363 N. Sam Houston Parkway E.  
 9 Suite 1200  
 10 Houston, Texas 77060  
 11 713.653.7100  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

<p style="text-align: right;">Page 42</p> <p>1 FURTHER CERTIFICATION UNDER RULE 203 TRCP</p> <p>2</p> <p>3 The original deposition/corrections sheet was/was</p> <p>4 not returned to the deposition officer on</p> <p>5 _____:</p> <p>6 If returned, the attached Changes and Signature</p> <p>7 page contains any changes and the reason therefor;</p> <p>8 If returned, the original deposition was delivered</p> <p>9 to _____, Custodial Attorney;</p> <p>10 That \$_____ is the deposition officer's charges to</p> <p>11 the Defendant for preparing the original deposition</p> <p>12 transcript and any copies of exhibits;</p> <p>13 That the deposition was delivered in accordance with</p> <p>14 Rule 203.3, and that a copy of this certificate was</p> <p>15 served on all parties shown herein on _____ and</p> <p>16 filed with the Clerk.</p> <p>17 Certified to by me this _____ day of _____,</p> <p>18 2016.</p> <p>19</p> <p>20 _____</p> <p>21 DELIA ORDONEZ, Texas CSR 7040</p> <p>22 Expiration Date: 12-31-16</p> <p>23 Firm Registration No. 122</p> <p>24 U.S. Legal Support</p> <p>25 363 N. Sam Houston Parkway E.</p> <p>Suite 1200</p> <p>Houston, Texas 77060</p> <p>713.653.7100</p>	



<hr/> <b>Exhibits</b> <hr/> <b>EX 0001 Eric Torres 091316</b> 4:15 9:4,6 16:4 17:11 22:23,25 24:16 34:6 35:1 <b>EX 0002 Eric Torres 091316</b> 4:16 28:22 29:1 34:20 <hr/> <b>\$</b> <hr/> <b>\$350,000</b> 13:19 <b>\$500,000</b> 11:12, 21 12:17 24:12 <hr/> <b>1</b> <hr/> <b>1</b> 4:15 9:4,6 16:4 17:11 22:23,25 24:16 34:6 35:1 <b>100</b> 21:25 <b>10:11</b> 36:10 <b>10:12</b> 36:14,21, 23 <b>11</b> 29:7,16 <b>1200</b> 3:5 5:6 <b>12th</b> 30:13 <b>13</b> 34:19 <b>150</b> 3:10 <b>15th</b> 11:19 18:6,16 21:13, 14 22:15 34:18,23 <b>1980</b> 3:5 5:6 <hr/> <b>2</b> <hr/> <b>2</b> 4:16 19:14 28:22 29:1 34:20 <b>2012</b> 18:7,16 <b>2013</b> 11:20 18:11 20:11 21:13 22:15,16	30:13 32:15 34:18,23 <b>2014</b> 23:11,16 25:6 34:12 <b>2014-40964</b> 5:5 <b>2015</b> 14:10 23:25 <b>2015-49014</b> 5:5 <b>22nd</b> 20:11 21:13 22:16 <b>28</b> 4:8,16 <b>2nd</b> 17:19 <hr/> <b>3</b> <hr/> <b>3</b> 4:3 <b>30th</b> 23:11,15 25:6 34:10 <b>34</b> 4:9 <b>37</b> 4:10 <b>39</b> 4:11 <hr/> <b>4</b> <hr/> <b>4203</b> 3:10 <hr/> <b>5</b> <hr/> <b>5</b> 4:7 29:2,7 <hr/> <b>6</b> <hr/> <b>6th</b> 23:25 <hr/> <b>7</b> <hr/> <b>713.526.0200</b> 3:11 <b>713.759.9977</b> 3:6 <b>77006</b> 3:10 <b>77056</b> 3:5 <hr/> <b>9</b> <hr/> <b>9</b> 4:15 <b>9:31</b> 5:2 <b>9:50</b> 19:10	<b>9:51</b> 19:14 <hr/> <b>A</b> <hr/> <b>a.m.</b> 5:2 19:10, 14 36:10,14,23 <b>Absolutely</b> 32:7 <b>access</b> 6:15,17 <b>acknowledge</b> 11:16 <b>action</b> 29:23 <b>actions</b> 29:23 <b>actual</b> 6:5 10:10 11:5 12:11 24:10 25:10 <b>Adam</b> 9:24,25 10:22 11:21 12:14 13:18,21 14:12 15:8 16:11,24 17:2, 18 21:3 22:14 23:5,6 24:2,6, 12 25:25 26:12,23 27:11 28:15,16,23 32:8 33:17,22, 23,24 <b>additional</b> 14:14 <b>agreed</b> 11:12 12:25 <b>agreement</b> 4:15, 16 11:2,7,10 12:19,24 16:16 17:14 18:6,15 20:11 21:17 24:6,7,11 25:11,23 26:11,18,25 27:4,9,14,16, 19,22,23,25 28:12,18 29:11,13 33:18 34:17,21,22 <b>agreements</b> 6:3 <b>allowed</b> 20:23 21:18 <b>amount</b> 4:15 11:2 12:1,13 13:21,23 14:8 15:6 17:14	23:22 <b>and/or</b> 29:23 <b>apologize</b> 31:18 <b>apparently</b> 25:10 <b>Appearances</b> 4:3 <b>Aspire</b> 26:13 27:6,7,12 28:17 <b>assign</b> 27:11 <b>assigned</b> 26:23 27:2,7 28:7 29:21 <b>assignment</b> 4:15 7:9 9:1,11 10:22 11:1 12:12,16 16:4, 10,15,18 17:13 18:20 23:5 24:1,17 25:9 35:1 <b>assignments</b> 23:1 <b>associates</b> 14:6,17 <b>Atlas</b> 7:22 8:8, 13 11:11 19:20 20:24 21:11 22:3,11 26:13, 24 27:2,3,8, 13,18,24 28:9, 19 32:23 33:11,14 <b>attach</b> 9:1 <b>attached</b> 16:4 17:11 <b>attachment</b> 35:6 <b>attempt</b> 8:6 13:3 <b>attempts</b> 13:7 <b>attention</b> 18:3 <b>attorney's</b> 8:16 <b>attorneys</b> 8:22 <b>August</b> 11:19 18:6,16 21:13, 14 22:15 34:18,23 <b>awarded</b> 12:13 <b>aware</b> 17:18,23, 25 20:21 28:9, 14
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<hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>back</b> 9:20 16:3 17:2 22:22 34:6 35:9,21 <b>balance</b> 8:9 15:1 <b>based</b> 28:11 <b>basically</b> 13:14 16:23 33:17 <b>Bates</b> 9:8 <b>beginning</b> 19:13 36:13 <b>Berg</b> 3:9 4:7,9 5:10,17 7:25 8:3,22 9:5 16:3,21 17:1 18:22 19:5,15 21:10 22:19 23:7,21 24:21, 24 25:15,19 26:17 28:1,13 30:15,22 34:3 35:5 36:9,16 <b>big</b> 14:23 <b>bit</b> 15:6,7,19 16:18 <b>blur</b> 7:19 <b>bosses</b> 21:16 <b>bottom</b> 23:12 34:9 <b>Boulevard</b> 3:5, 10 5:6 <b>briefly</b> 16:6 <b>bring</b> 6:22,24 <b>broker</b> 21:18 <b>brokering</b> 21:21 <b>brought</b> 22:2,5, 9 <b>burn</b> 30:19 <b>Buschi</b> 3:4 4:8 5:11 7:24 8:1, 18 15:21 16:13,25 18:21 19:9 21:7 22:21 23:8,24 25:2,3,17,21 26:19 28:3,15, 23,25 29:1 30:17,25 34:1</p>	<p>35:3 36:7,19 <b>business</b> 14:16</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>camera</b> 32:10 <b>Canada</b> 14:19 <b>Capital</b> 12:17 16:11 26:12 27:2 28:16 <b>care</b> 10:2,3 <b>Caron</b> 20:18 <b>case</b> 7:15 8:23 13:5 15:3 17:19 23:25 26:11 29:14 31:16,24 32:5 33:21 35:14 36:5 <b>Certificate</b> 4:11 <b>change</b> 18:20 <b>changed</b> 15:14 <b>Chanler</b> 7:13 9:17,22,23 10:2,3 18:1 26:3,6 35:4,8 36:3 <b>Chanler's</b> 16:20 <b>charging</b> 13:25 <b>check</b> 31:20,22 <b>checked</b> 31:15 <b>choose</b> 6:17 <b>chose</b> 6:18 <b>claim</b> 29:24 <b>claims</b> 26:15,24 27:3,7,12,17, 23 28:4,11,17 29:23 <b>clarify</b> 16:17 18:5,18,22 20:16 <b>clear</b> 20:14 24:25 <b>cognisant</b> 20:22 <b>comments</b> 20:9 <b>Commodities</b> 7:22 8:13 26:13 27:7,12 32:23</p>	<p><b>Commodities--</b> 27:6 <b>communicating</b> 33:5 <b>company</b> 11:21 23:5 <b>compensation</b> 31:10 <b>complete</b> 10:6 <b>concerned</b> 17:14 <b>concluded</b> 36:23 <b>conference</b> 7:4 <b>confident</b> 20:25 21:14 <b>conflict</b> 21:5 <b>conflicting</b> 12:20 <b>confused</b> 16:15 25:14,16 <b>connection</b> 29:24 <b>contract</b> 17:8 <b>conversation</b> 14:7 20:21 35:20 <b>conversations</b> 18:23 20:23 21:2,10 22:12, 13 <b>cooled</b> 15:19 <b>copy</b> 6:12 <b>correct</b> 6:7,18, 21 9:13 11:4, 8,13,25 12:3, 18 13:20 15:13 17:17,22,25 18:8,11,14,16, 17 23:8,9,14, 16,18 24:3,19, 22 25:7,16,24 26:5,9,19,20 28:5 29:15,19 31:6,9 32:10, 15,16 33:20 34:10,11,25 35:24 <b>correctly</b> 7:16 12:23 21:22 24:8 30:3 <b>counsel</b> 5:8 <b>couple</b> 14:20</p>	<p>19:3 23:23 32:9 34:4 <b>cover</b> 28:25 <b>Craig</b> 5:3 7:21 8:11 11:10 15:11 19:19 20:10,25 21:11,23 22:10 26:13 28:10 32:20 33:2,6</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>daily</b> 15:17 <b>date</b> 19:2 23:12,15,16 34:17,21 <b>dated</b> 18:6,15 25:6 34:9 <b>day</b> 23:15 24:10 25:10 34:18, 23,24 <b>days</b> 19:3 <b>deal</b> 16:2 <b>December</b> 20:11 21:13 22:16 30:13 <b>defendants</b> 3:8 5:10 25:22 <b>demands</b> 29:23 <b>deposition</b> 5:2, 5,21,24 6:5,6 7:5,6,8 9:6 17:20 19:24 23:25 24:17 25:4,9 28:24 36:23 <b>DESCRIPTION</b> 4:14 <b>destroy</b> 30:14 <b>difficulty</b> 19:18 <b>direct</b> 18:3 <b>disappointed</b> 19:7 <b>discussed</b> 14:2, 25 16:15 18:1 <b>discussion</b> 9:17 <b>document</b> 7:9, 18,21 9:9,14, 15,20 10:5,15</p>
---	---	---	---

11:1 17:11 23:13,17 24:9, 11,16 25:3,6, 18,21,22 26:1, 4 29:2,10 30:8 31:20 34:9 35:2,16,25 36:6 <b>documents</b> 5:20, 23,24,25 7:18 10:11 31:15,22 32:2 35:22 <b>due</b> 33:18 <b>duly</b> 5:15 <b>Dwayne</b> 3:14	17:11 22:23,25 24:16 28:22,23 29:1 34:6,20 35:1 <b>exhibits</b> 6:6 7:6 <b>existing</b> 12:19 <b>explain</b> 10:25 <b>expounded</b> 21:8	<hr/> <b>G</b> <hr/> <b>gave</b> 21:5 <b>Gberg@ bergfeldman.com</b> 3:11 <b>general</b> 21:20 22:6 <b>generally</b> 24:1 26:7 <b>Geoffrey</b> 3:9 <b>give</b> 19:7,8 36:6 <b>giving</b> 32:9 <b>Good</b> 5:18,19 <b>great</b> 10:17 <b>guess</b> 13:23 16:17 <b>guys</b> 32:9	<b>incurred</b> 8:22 <b>information</b> 7:2 <b>instant</b> 13:9 <b>instructed</b> 6:24 <b>intensive</b> 12:14 <b>interacting</b> 15:17 <b>interest</b> 10:22 11:2,20 12:16 13:24,25 17:13,24 20:24 29:22 35:1 <b>Interests</b> 4:15 <b>interrupt</b> 24:24 <b>invited</b> 14:22 <b>issue</b> 26:11 29:14 32:5 <b>issues</b> 15:11
<hr/> <b>E</b> <hr/> <b>e-mail</b> 35:4,5,6 <b>e-mailed</b> 6:11 <b>e-mails</b> 7:12 13:9,13 31:23 35:11 <b>earlier</b> 26:3 <b>easier</b> 15:7 <b>effect</b> 10:15 17:15,17 <b>effective</b> 34:17,18,21 <b>effectiveness</b> 18:19 <b>entities</b> 8:17 24:2 <b>entitled</b> 29:16 <b>entity</b> 29:22 <b>equally</b> 26:14 <b>Eric</b> 4:6 5:2,3, 4,14 7:21 11:12,20 23:1, 16 26:10 30:12 <b>essentially</b> 24:12 <b>Evan</b> 20:18 <b>exact</b> 24:9 <b>examination</b> 4:7,8,9 5:16 22:20 34:2 <b>exhausted</b> 13:7, 11 <b>exhibit</b> 4:15,16 9:4,6 16:4	<hr/> <b>F</b> <hr/> <b>Fair</b> 28:21 <b>fairly</b> 21:14 <b>feel</b> 20:14 <b>fees</b> 8:16,23 <b>Feldman</b> 3:9 <b>figure</b> 15:9 <b>figured</b> 10:18 13:6 <b>file</b> 36:14 <b>filed</b> 23:20 <b>files</b> 35:2 <b>filing</b> 26:8 <b>final</b> 24:10 25:11 27:22 <b>find</b> 13:14 <b>fine</b> 25:2 <b>finger</b> 32:10 <b>finish</b> 8:15 <b>firm</b> 16:20 <b>fishing/hunting</b> 14:24 <b>form</b> 6:12 7:24 8:18 15:21 16:13,25 18:21 21:7 23:7,21 25:15,19 26:17 28:1,13 30:15, 22 35:3 36:7 <b>friends</b> 14:6,17 <b>front</b> 31:18 <b>fuck</b> 33:5 <b>full</b> 12:1 <b>fully</b> 21:18 <b>funds</b> 16:12,19 17:24	<hr/> <b>H</b> <hr/> <b>hammer</b> 30:17 <b>handing</b> 9:5 <b>happen</b> 9:18 <b>happened</b> 30:21 <b>happy</b> 33:11 <b>hardcopy</b> 6:11, 19 <b>heard</b> 12:20 <b>held</b> 5:6 <b>high</b> 15:12 <b>holiday</b> 32:9,14 <b>holidays</b> 33:11 <b>home</b> 6:11,20 7:1 <b>hot</b> 15:22 <b>house</b> 32:17 <b>Houston</b> 3:5,10 5:7	<hr/> <b>J</b> <hr/> <b>James</b> 5:4 7:22 8:5,6 11:11 20:25 22:7,9, 12,13 26:14 28:10 <b>Jeff</b> 5:10 <b>Johnson</b> 3:9 <b>jointly</b> 11:11 <b>Joon</b> 20:18 <b>judgment</b> 17:8 <b>jumped</b> 31:18 <b>June</b> 23:11,16 25:6 34:10
		<hr/> <b>I</b> <hr/> <b>idea</b> 18:1 <b>iffy</b> 23:22 <b>immediately</b> 16:16 <b>IMS</b> 7:11	<hr/> <b>K</b> <hr/> <b>kind</b> 7:18 9:18, 24 10:12 15:18 17:8 <b>knowledge</b> 23:4 28:15,16 33:3, 4,7 <b>Krock</b> 3:4
			<hr/> <b>L</b> <hr/> <b>L.L.C.</b> 8:13 <b>labeled</b> 9:8

<b>Langham</b> 26:3 35:8 <b>large</b> 15:5 <b>law</b> 16:20 17:8 <b>lawsuit</b> 9:16 10:1,10,20 12:11 15:24 23:20 26:8 29:12 <b>lawyer</b> 11:16 34:8 <b>lawyers</b> 10:12 18:24 22:15 35:20 36:6 <b>leading</b> 9:16 12:11 <b>left</b> 7:1 <b>legal</b> 10:11 15:11 17:5 <b>lessens</b> 15:18 <b>LLP</b> 3:9 <b>long</b> 20:2 <b>looked</b> 6:12,20 34:9 <b>lot</b> 7:18	<b>Mbuschi@rk- lawfirm.com</b> 3:6 <b>means</b> 30:5 <b>mention</b> 21:23 22:3,7 <b>mentioned</b> 8:25 22:10 <b>message</b> 33:5 <b>messages</b> 13:4, 9,13 31:22 <b>middle</b> 32:9 <b>mind</b> 22:22 29:2,4 <b>minutes</b> 19:8 <b>mobile</b> 30:24 <b>moment</b> 9:11 16:3 <b>money</b> 16:24 17:2 24:6 33:18,22,24 <b>Montrose</b> 3:10 <b>morning</b> 5:18,19 36:17 <b>moved</b> 30:25 <b>multiple</b> 13:13	<b>outstanding</b> 8:9 15:1 <b>owe</b> 13:21 <b>owed</b> 13:18 17:24 <b>owned</b> 23:5	13 <b>Plaintiff</b> 7:21 <b>plaintiffs</b> 3:3 5:11 <b>plan</b> 14:25 15:4 33:2 <b>point</b> 14:4 15:25 <b>positive</b> 15:23 <b>Post</b> 3:5 5:6 <b>Power</b> 21:21 <b>preparation</b> 5:21 <b>presented</b> 6:3,4 7:12,13 <b>pretty</b> 8:2 <b>previous</b> 5:24 21:9 23:24 25:8 28:24 29:12 <b>previously</b> 31:3 33:16 <b>print</b> 35:9 <b>problem</b> 25:1 <b>produced</b> 35:16 <b>product</b> 21:19 <b>production</b> 35:14 <b>providers</b> 31:5 <b>purporting</b> 33:14 <b>purpose</b> 10:10, 19 12:11 <b>purposes</b> 12:14 33:5
<hr/> <p style="text-align: center;"><b>M</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>N</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>P</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>Q</b></p> <hr/>
<b>made</b> 20:9 <b>make</b> 7:17 <b>makes</b> 20:15 <b>Management</b> 26:13 27:2 28:16 <b>March</b> 23:25 <b>marked</b> 9:4,6 28:22 <b>Marshall</b> 5:4 7:22 8:5,6 11:11 20:25 22:7,9,12,14 26:14,24 27:3, 8,13,18,24 28:10,18 <b>Mat</b> 5:11 <b>material</b> 6:8,19 <b>matter</b> 5:3 12:14 <b>matters</b> 29:25 <b>Matthew</b> 3:4	<b>needed</b> 10:9 <b>neighborhood</b> 13:19	<b>paid</b> 10:13 14:12 24:12 31:12 <b>paper</b> 16:9 <b>paperwork</b> 6:4 <b>paragraph</b> 29:7, 16 <b>Park</b> 20:18 <b>part</b> 8:4 10:12 16:1 <b>partner</b> 8:7 <b>party</b> 32:9,15 <b>pass</b> 22:19 36:17,19 <b>past</b> 19:3 <b>pay</b> 11:12 31:12 <b>paying</b> 25:23 33:22,24 <b>payment</b> 8:8 14:14,25 <b>payments</b> 8:14 <b>PC</b> 3:4 <b>people</b> 15:17 21:1 <b>percent</b> 21:25 <b>perfectly</b> 25:2 <b>person</b> 14:24 22:2,5 29:22 <b>personal</b> 14:17 <b>perusing</b> 19:4 <b>petition</b> 7:15, 17 <b>phone</b> 6:12,13, 15,18 7:2,3 30:14,21,23 31:7,8,11,13, 15,20,21,22 32:2 <b>picture</b> 32:4,5, 8,12,20,23 33:1,2,4,8,10,	<b>question</b> 10:25 24:5 27:6 <b>questions</b> 22:6, 25
<hr/> <p style="text-align: center;"><b>O</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>O</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>R</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>R</b></p> <hr/>
<b>Oak</b> 3:5 5:6 <b>Object</b> 7:24 8:18 15:21 16:13,25 18:21 21:7 23:7,21 25:15,19 26:17 28:1,13 30:15, 22 35:3 36:7 <b>ongoing</b> 15:24 <b>Oops</b> 29:4 <b>opinion</b> 15:12, 23 17:5 <b>orally</b> 16:10 <b>order</b> 10:9,19 <b>original</b> 8:15	<b>range</b> 19:2 <b>Rapp</b> 3:4 <b>rate</b> 13:25 <b>read</b> 6:1 11:5 19:24 24:18		

<p>30:3 <b>reading</b> 20:13 <b>reads</b> 29:20 <b>realize</b> 21:4,8 <b>recall</b> 7:16 8:7,20 12:23 14:1 15:12 21:22,25 24:1, 4,8,14,15 32:12,22 35:13 <b>receive</b> 31:10 <b>recollecting</b> 19:18 <b>recollection</b> 12:6 20:13 <b>record</b> 5:1,9 19:7,9,11,12, 14 24:25 36:9, 11,12,15,22 <b>recover</b> 8:16 13:3,8 15:3 <b>recovery</b> 10:22 16:12 <b>referred</b> 9:11 <b>referring</b> 25:4 <b>relation</b> 26:8 <b>released</b> 27:25 28:11 29:25 <b>releasing</b> 26:14,25 27:4, 8,14,17 28:4, 17 <b>relevant</b> 13:13 31:16,24 32:2 <b>remain</b> 14:16 <b>remark</b> 29:4,6 <b>remember</b> 19:22 20:2,9,18,20 24:9 32:19 33:19 36:8 <b>render</b> 17:7 <b>repayment</b> 14:8 15:4 <b>reporter</b> 5:12 <b>Reporter's</b> 4:11 <b>represent</b> 11:19 <b>represented</b> 9:22 <b>representing</b> 9:24</p>	<p><b>represents</b> 29:20 <b>request</b> 35:13 <b>requested</b> 13:4 <b>requests</b> 35:23 36:1 <b>response</b> 24:8 35:16 <b>responsive</b> 35:23 36:1 <b>restricted</b> 21:19 <b>return</b> 31:8 <b>review</b> 5:20 7:7,15 8:2 <b>reviewed</b> 6:10 8:25 <b>room</b> 7:4</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>scan</b> 35:9 <b>search</b> 35:22 <b>searches</b> 13:11 <b>send</b> 33:8,10,13 35:9 <b>sense</b> 20:15 <b>September</b> 17:19 <b>served</b> 35:13 <b>service</b> 30:24 <b>settlement</b> 4:15,16 8:15 11:2,7,10 12:1,13,24 16:12,16 17:13,24 18:6, 15 20:10,22,23 21:17 24:7,10 25:11,23 26:10,18,25 27:4,9,14,16, 18,21,23,25 28:12,18 29:11,13 33:18 34:21,22 <b>severally</b> 11:12 <b>short</b> 23:22 <b>sides</b> 12:25 <b>sign</b> 23:1,10 24:5 25:21,25 26:4 35:9</p>	<p><b>Signature</b> 4:10 <b>signed</b> 10:5,16 16:7 17:11 20:11 23:17 24:11 25:12 27:21,22 30:7 <b>signing</b> 9:21 10:15 <b>similar</b> 13:23 <b>Sinn</b> 10:23 13:18,21 14:12,25 15:4, 8 16:11 17:2, 18 21:3 22:14 23:5,6 24:2,6, 12 25:25 26:12,23 27:11 28:16 32:8 33:23,25 <b>Sinn's</b> 11:21 16:24 28:24 32:17 33:17,22 <b>SINN266</b> 9:8 <b>sit</b> 13:21 17:4 20:8 <b>situation</b> 28:9 <b>Smith</b> 3:14 <b>sold</b> 28:3 <b>sort</b> 10:19 12:25 13:12 19:2 21:21 33:1 <b>sounded</b> 33:17 <b>specific</b> 12:8 <b>specifically</b> 6:24 8:20 12:24 20:18, 19,20 24:4 <b>specificity</b> 20:9 <b>spoke</b> 13:2,17 14:10 15:10 16:6 19:16 <b>start</b> 8:14 21:20 <b>started</b> 8:8 10:20 19:4 <b>state</b> 5:8 <b>steps</b> 13:3 <b>sticker</b> 29:5</p>	<p><b>stopped</b> 25:22 <b>strike</b> 22:18 <b>stuff</b> 21:21 <b>sued</b> 28:11 <b>sues</b> 7:21 <b>suing</b> 8:5,6,11, 16 <b>Suite</b> 3:5,10 5:6 <b>supposed</b> 18:11 <b>surprised</b> 8:21 <b>swallow</b> 15:7 <b>swear</b> 5:13 <b>switching</b> 31:5 <b>sworn</b> 5:15</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>T-MOBILE</b> 30:24 31:1,10,15 <b>tag</b> 33:11 <b>taking</b> 32:12 <b>talk</b> 20:24 32:4 <b>talked</b> 26:7 <b>talking</b> 20:17 24:17 25:18 32:5,19,22 <b>Tape</b> 19:14 <b>Taylor</b> 5:4 7:22 8:11 11:11 15:11 19:19 20:10,25 21:11,23 26:14,24 27:3, 8,13,18,24 28:10,18 32:20 33:2,6 <b>telephone</b> 30:12 <b>testified</b> 5:15 13:17 15:10 16:11 17:19,23 20:1 22:18 24:4,7 26:3 33:16 <b>testifying</b> 24:1,14,15 25:8 33:19 <b>testimony</b> 21:4, 5 24:18 <b>Texas</b> 3:5,10 5:7 21:21</p>
--	--	--	--

<b>text</b> 11:5 13:4 31:22	<b>true</b> 30:7,10	<b>ways</b> 10:8
<b>texts</b> 13:9 32:2	<b>trust</b> 10:12	<b>week</b> 23:19,23
<b>thing</b> 8:12,13 21:16	<b>turn</b> 34:6,14	<b>weeks</b> 14:20
<b>things</b> 7:23 12:20 16:1 19:19 20:2	<b>turned</b> 13:14 30:23,24 31:7, 14,21 32:1 36:4	<b>whatnot</b> 14:7 18:2
<b>thought</b> 10:9 25:10	<b>turning</b> 29:2 31:11,23	<b>wife</b> 21:3 22:14
<b>thread</b> 35:4,6	<b>typo</b> 18:8	<b>words</b> 11:17
<b>time</b> 7:12,14 9:16,23 10:5, 21 13:2,6,17 15:10,15,18 16:7,11,14 19:10,14,15 20:2,10 21:17 22:10 23:23 25:4,16 26:16 27:18,21,22 30:7 31:13 32:1,20,23 36:10,14,17,21	<hr/> <b>U</b> <hr/>	<b>work</b> 16:1 21:11
<b>timeframe</b> 21:12,18 23:22	<b>uh-huh</b> 9:10 11:6,9,15,18, 23 12:5 14:11 16:5,8 17:6, 12,22 18:4,10, 12 19:17 20:5 25:13 29:3 31:2 34:16	<b>writing</b> 29:3
<b>times</b> 13:14	<b>understand</b> 10:21,24 12:10,12,15 16:10 27:16 30:5	<b>written</b> 12:9 16:9
<b>timing</b> 25:14	<b>understanding</b> 8:10 9:15,23 10:4,6,14,18 12:21,22 16:1, 6,7,19 17:10, 16 18:19 26:12	<b>wrong</b> 29:20
<b>Titan</b> 14:3,5	<hr/> <b>V</b> <hr/>	<hr/> <b>X</b> <hr/>
<b>title</b> 11:1,20	<b>Vaguely</b> 32:13	<b>XS</b> 11:21,25 12:17 16:11 26:12 27:11 28:16
<b>today</b> 5:21 13:22 17:4 20:8 30:10 33:16	<b>valid</b> 12:19,21	<hr/> <b>Y</b> <hr/>
<b>told</b> 9:18,25 10:2,7	<b>verbal</b> 16:18	<b>year</b> 13:3
<b>Torres</b> 4:6 5:3, 4,14,20 7:21 9:5 11:12,20 19:15 22:22 23:16 29:1,9, 17,20 36:16	<b>Verizon</b> 31:4	
<b>touch</b> 16:23	<b>versus</b> 5:3,4 16:7,15	
<b>tough</b> 15:6	<b>view</b> 35:19,25 36:2	
<b>track</b> 13:12	<hr/> <b>W</b> <hr/>	
<b>transcript</b> 6:1, 2 7:5,6,8 20:14	<b>wanted</b> 18:18	
<b>transferred</b> 29:22 30:23	<b>warrant</b> 11:16	
<b>trip</b> 14:19	<b>warrants</b> 29:21	
	<b>Warranty</b> 29:17	