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ENTERED  
Office of Proceedings  
June 24, 2014  
Part of  
Public Record

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20024

Re: Wichita Terminal Association, BNSF Railway Company & Union Pacific  
Railroad Company (the "WTA") – Petition for Declaratory Order  
**Finance Docket No. 35765 – Supplementation of Evidence**

Dear Ms. Brown:

As stated by the WTA in its June 4, 2014 letter, please find enclosed a transcript of the May 15, 2009 hearing before Kansas District Court Judge Timothy Henderson regarding the WTA's Motion for Relief From Judgment or Order Under K.S.A. § 60-260(b). Production of the enclosed transcript provides the Board with a "complete set of trial and hearing transcripts, journal entries, and oral or written orders and decisions by the Kansas District and Appellate courts dated after the February 20, 2007 bench trial on the first remand" as required by the Board's May 20, 2014 Decision.

Please contact me if you have any questions or need further information. Thank you for your attention to this matter.

Very truly yours,

LATHROP & GAGE LLP

*/s/ K. Paul Day*

K. Paul Day

KPD/wa

Enclosure

cc: Wyatt A. Hoch, Charles R. Curran, James Oliver

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

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WICHITA TERMINAL )  
ASSOCIATION, et al., )  
 )  
Plaintiffs, )  
 )  
VS. )  
 )  
F.Y.G. INVESTMENTS, INC., )  
et al., )  
 )  
Defendants. )  
 )

CASE NO. 02 CR 3688

TRANSCRIPT OF MOTION HEARING

PROCEEDINGS had before the Honorable TIMOTHY  
HENDERSON, Judge of Division 24 of the District  
Court of Sedgwick County, Kansas, at Wichita,  
Kansas, on the 6TH day of MAY, 2009.

APPEARANCES:

The Plaintiff appeared by and through Paul  
Day, Attorney at Law, 2345 Grand Blvd., Kansas  
City, Kansas 64108.

The Defendant appeared by and through Wyatt  
Hoch, Attorney at Law, 1551 North Waterfront  
Parkway, #100, Wichita, Kansas 67206.

1           THE COURT: The Court calls the case of  
2 Wichita Terminal Association versus FYG  
3 Investments, et al.

4           Counsel, please state your appearances.

5           MR. DAY: Paul Day on behalf of  
6 plaintiff, Wichita Terminal Association,  
7 Burlington, Northern, Santa Fe, and Union Pacific  
8 Railroad Company, Judge.

9           MR. HOCH: And Wyatt Hoch, Foulston  
10 Siefkin, on behalf of FYG and Treatco Inc. With  
11 me is FYG president, Margo Collins.

12          THE COURT: Before we begin on our two  
13 motions, let me see if I am understanding what  
14 the Court is dealing with here today.

15          And I also want to make a record of a  
16 conversation I had with Judge Lahey to make sure  
17 there is a record of that, as well.

18          First of all, it's my understanding, trying  
19 my best to use all of my abilities to read as  
20 quickly as I can, that this was litigation  
21 brought by the plaintiffs. And, in that  
22 litigation, there was a counterclaim by the  
23 defendant. And that was granted regarding an  
24 easement. And that a decision was made by  
25 Judge Bribiesca that went up to the Court of

1 Appeals. That the Court of Appeals, in part,  
2 reversed Judge Bribiesca, ordered him to make  
3 findings regarding the street, whether it was  
4 public or private, and certain other  
5 requirements. He is made that decision. That  
6 was done last August. And that decision is why  
7 we are here today with the Plaintiffs' motion for  
8 Relief from Judgment and the Defendants' motion  
9 for contempt and show cause. That is a highly,  
10 highly summarized series of transactions that  
11 have gone back to a 2002 case.

12 Am I accurate in my summary? Am I missing  
13 something in my desire to be as quick as I can to  
14 get to you and not have you sit here all morning  
15 while I'm trying to get up to speed?

16 MR. DAY: Judge, I'm somewhat new to  
17 this, as well. And these folks consider, I  
18 believe, that Summary Judgment at the Trial Court  
19 level was granted in favor of the Plaintiffs in  
20 this case. It went to the Court of Appeals and  
21 was reversed. I think you had it the other way  
22 when you gave your small synopsis.

23 THE COURT: Mr. Hoch, would you agree  
24 with that statement?

25 MR. HOCH: I will agree. That's my

1 understanding of the record. The only other  
2 thing. We're here today in the context of a  
3 final non-appealed judgment and permanent  
4 injunction.

5 THE COURT: I understand that. I got  
6 that part, as well.

7 And just so we're clear, you probably  
8 already know this, and may not frankly care, but  
9 I want there to be a record that -- I'm sure  
10 counsel can appreciate, one, Judges are also very  
11 hesitant about reviewing, reconsidering, another  
12 District Court Judge, because I'm not the  
13 appellate judge for Judge Bribiesca.

14 With his years of experience, if anybody  
15 should be the appellant of the other, it would be  
16 him over me, but we are both, of course, District  
17 Court Judges.

18 And I did speak with Judge Lahey, the  
19 presiding judge for civil, just a few moments  
20 ago. And he has spoke to Judge Bribiesca to see  
21 if he wishes to hear these motions here today.  
22 Judge Bribiesca is now assigned to the criminal  
23 department. And Judge Lahey informed me that  
24 Judge Bribiesca has been spoken to. And I don't  
25 know if this was with pleasure or regret, but he

1 is washing his hands of the case.

2 And it drops into my lap. And I'm glad to  
3 take it, and I will give all parties all the due  
4 process that they are entitled to. But I wanted  
5 to explain to the nonlawyers in the room, this is  
6 why it's coming before me today and not Judge  
7 Bribiesca. Different judges in the Eighteenth  
8 Judicial District get assigned to different  
9 departments every year. We do rotations.

10 with that explanation, is there any  
11 agreement upon the parties which motion should be  
12 heard first? It would seem to me, logically, the  
13 request for Relief of Judgment would make more  
14 sense to hear first. Because if I granted that,  
15 that somewhat has an impact whether they are in  
16 contempt. Am I missing something, or would we  
17 agree that would be the most logical way to  
18 proceed?

19 MR. DAY: I think that's appropriate,  
20 Judge.

21 THE COURT: Let's do it that way then.  
22 Let's do that.

23 MR. DAY: I suppose I'll try not to  
24 stray into my arguments on their motion at this  
25 point.

1 THE COURT: Well, understanding that  
2 I've tried to, this 30 to 45 minutes containing  
3 seven year's worth of litigation, non-straying is  
4 very helpful to the court.

5 MR. DAY: Then I will try to be as  
6 brief as possible, because this is not -- this  
7 part of this dispute is not complicated.

8 THE COURT: I'm grateful.

9 MR. DAY: Your Honor, the prior order  
10 entered in August of 2008 by Judge Bribiesca made  
11 certain findings of fact and conclusions of law,  
12 and ordered the Wichita Terminal Association, as  
13 well as the defendants, to engage in certain  
14 things, and for the railroads to do certain  
15 things.

16 The part of that order that is at issue,  
17 under Plaintiffs' Motion for Relief from Judgment  
18 under K.S.A. 60-260 (B), has to do with what  
19 Judge Bribiesca ordered the railroads to do with  
20 respect to the permanent railroad crossing  
21 protection that was being ordered installed at  
22 the crossing, wherever the crossing happened to  
23 be located.

24 And I'm sure there will be more discussion  
25 about this so you can get a little bit up to

1 speed on the facts. But that's essentially, in a  
2 nutshell, the part of the order that is at issue  
3 under our motion.

4 That order instructed the Plaintiffs to  
5 install permanent railroad crossing protection in  
6 compliance with Federal Railroad Administration  
7 Requirements. That's in journal entry, at page  
8 4.

9 THE COURT: And, in reading that,  
10 essentially, boiling it down, again, you're  
11 saying there are no such thing?

12 MR. DAY: Yes, Your Honor, there are no  
13 such things.

14 THE COURT: Is this a matter of  
15 semantics and they used the wrong word, or the  
16 wrong agency, or the wrong regulations? To your  
17 knowledge, are there any sort of National Federal  
18 Guidelines that say -- You would think -- I  
19 shouldn't make commentary. The Federal  
20 Government is not known for its lack of  
21 regulating things, so, if that's such a word --  
22 is there anything out there that regulates how a  
23 crossing is built?

24 MR. DAY: There is, Judge, and I did  
25 address that in our briefing.

1 I don't think it's a matter of semantics. I  
2 think that it's, just as the practical and  
3 factual matter, the Plaintiffs cannot comply with  
4 the requirements or regulations or standards that  
5 do not exist. The standards that do exist, which  
6 have been adopted in Kansas by statute, are found  
7 within the manual on Uniform Traffic Control  
8 Device.

9 THE COURT: Let me write that down.

10 Okay. Is that Federal or is that State?

11 MR. DAY: Well, it is a publication  
12 that was ordered to be produced by the Federal  
13 Highway Administration, not the Federal Railroad  
14 Administration.

15 Now, so --

16 THE COURT: That makes sense because  
17 this is the intersection of a railroad with the  
18 public road.

19 MR. DAY: Exactly, Judge.

20 THE COURT: Okay.

21 MR. DAY: So there are State and  
22 Federal requirements and standards that would  
23 apply to a public railroad crossing. Of course,  
24 those are not FRA requirements, those are  
25 pursuant to State statute. Or if we want to look

1 at the Federals, FHWA safety standards, I think  
2 the Federal statute would restrict the  
3 application of the MUTCD from crossing where  
4 Federal funding was involved. That's set forth  
5 in our briefing.

6 So, with regard to a Federal standards  
7 applying to this particular crossing, I don't  
8 believe there is one. But the MUTCD would come  
9 in under the State statute in Kansas adopting  
10 that requirement.

11 THE COURT: Do we not comply with the  
12 spirit and intent of Judge Bribiesca's order to  
13 simply modify that or add and/or grant your  
14 motion, and limit it to complying with these  
15 standards?

16 MR. DAY: Judge, I think that is  
17 correct in the way that you phrased it. I think  
18 there are significant factual problems with this  
19 particular location in complying with those  
20 standards.

21 The situation here is that that WTA, the  
22 Wichita Terminal Association tracks, which are  
23 the tracks at issue, are a set of interchanged  
24 tracks, which are double tracks, that come over  
25 the Burlington on the Santa Fe mainline. For

1 whatever reason, apparently pursuant to a  
2 ordinance in Wichita, that was put on the books  
3 around the turn of the century, in 1914, 1907,  
4 those tracks essentially run down the street's  
5 right-of-way of 25<sup>th</sup> street. So, to comply  
6 with the MUTCD, if we were just to modify this  
7 order and say, railroad, go put this in  
8 compliance with the MUTCD, that is very difficult  
9 to do. Because the results in signal posts or  
10 crossbuck warning sign posts, if we comply with  
11 the applicable standards -- and I can put  
12 witnesses on today about this -- if that standard  
13 is complied with, that signal post or that  
14 crossbuck post is in the street's right-of-way.  
15 It's in the lane of travel of the right-of-way.

16 And the ordinance that created all of this,  
17 from around the turn of the century, does  
18 specifically say that this has to be done safely,  
19 that these crossings have to be put in safely.  
20 And I think there is a factual issue here as to  
21 whether that's possible at this particular  
22 location. It is very unique.

23 THE COURT: Why wasn't Judge Bribiesca  
24 made aware of this dilemma at this hearing?

25 MR. DAY: I cannot address that, Judge,

1 I was not at that hearing. I wasn't counsel at  
2 that time.

3 THE COURT: Are there transcripts of  
4 that hearing?

5 MR. DAY: They're available, and I do  
6 not recall if that issue was actually discussed.

7 THE COURT: Here's what I'm struggling  
8 with. And I want to be very fair to you.

9 I'm really hesitant to give a Mulligan here  
10 to redo the litigation that's already occurred,  
11 especially when appeal times have ran on it. If  
12 there is a simple use of the wrong language, I  
13 want to come as close to -- we need to correct  
14 that -- I want to come as close to what that  
15 original order that was litigated comes to.  
16 Bearing that in mind, what would you have me do  
17 today?

18 MR. DAY: Well, I would like you to  
19 hear my evidence about --

20 THE COURT: I will gladly hear your  
21 evidence.

22 MR. DAY: -- about this factual  
23 problem, and how compliance with these  
24 clearances, the MUTCD cannot be reached at this  
25 particular time at this particular location.

1 That raised the issue: How is it that the  
2 railroads are going to comply with  
3 Judge Bribiesca's previous order even if we adopt  
4 the MUTCD language, as you suggest? I think  
5 there is a factual issue as to whether that is  
6 not only safe but even possible at this  
7 particular location.

8 THE COURT: Okay.

9 You wish to present evidence on the motion.  
10 Go right ahead. I will take this as an opening  
11 statement at this point, and I'll let Mr. Hoch  
12 make an opening statement, if you're wishing to  
13 present evidence. That's what I'm hearing you  
14 saying, is that correct, sir?

15 MR. DAY: That's what I would like to  
16 do, Judge.

17 Now, I suppose we could argue the rest of  
18 the motion that is pending, or we can proceed  
19 with the evidence.

20 THE COURT: well, let's, at this point,  
21 since you want to present evidence, I will take  
22 what you have given me as opening statement.  
23 I'll let Mr. Hoch do the same, and I'll let you  
24 call the first witness.

25 MR. DAY: If I could say something

1 else. There is a disagreement about whether  
2 the -- all of the conditions, under  
3 Judge Bribiesca's previous order, has been  
4 complied with.

5 AS I read that order, we were supposed to  
6 do -- the parties were supposed to consult  
7 regarding the impact on Interstate Commerce where  
8 this crossing was supposed to go minimizing that  
9 impact. The Plaintiffs were supposed to provide  
10 some engineering diagrams. In my view, those  
11 have not been provided. What they've provided is  
12 a street diagram. There is no engineering  
13 diagrams for the crossing itself.

14 THE COURT: Once again, you and  
15 Mr. Hoch know what you're facing far better than  
16 I do. This is what it's feeling like to me --  
17 and you tell me where I'm wrong -- this is  
18 sounding more like a need for me to schedule one  
19 to two days for trial. Because sounds like we're  
20 going to have -- we have a factual dispute about  
21 whether what Judge Bribiesca ordered is safe and  
22 feasible. And we have a factual dispute as to  
23 whether the drawings themselves complied with the  
24 order. And then we have an issue as to whether  
25 there has been any sort of discussions between

1 the parties.

2 Am I misreading that?

3 MR. DAY: No, I agree.

4 THE COURT: Okay.

5 Mr. Hoch, am I misreading that? I have  
6 learned, in eight years of being a Judge, when  
7 the lawyers say it's a simple issue, it's never a  
8 simple issue. I'm not being critical, that's  
9 just the nature.

10 MR. DAY: It is important for me, no  
11 matter what you're ruling here is, to communicate  
12 to the court the impact that this crossing is  
13 going to have on my client's railway operations  
14 in Wichita, and --

15 THE COURT: I interrupted you. Go  
16 ahead.

17 MR. DAY: And it is a significant  
18 impact, it will disrupt these operations. It  
19 renders a section of, very important storage  
20 section of track, virtually unusable. If my  
21 client complies with State regulations regarding  
22 splitting crossings and internal regulations, on  
23 the same topic, internal policies that are  
24 adopted by all the railroads, they have to leave  
25 a gap at this crossing of 500 feet, 250 feet on

1 each side of this crossing. The result of this  
2 is that, for storage purposes, this interchange  
3 is rendered useless. And I want to make sure  
4 that I am clear to the Court how important this  
5 is to my client. We would not be engaged in two  
6 years of litigation unless this was a significant  
7 problem for us.

8 THE COURT: Okay. I understand that.  
9 And, of course, I will make my decisions based on  
10 the evidence presented to me and the law in the  
11 State of Kansas. And I want to equally convey  
12 back to you, you're dealing with a Court that  
13 grew up in Western Kansas working with train cars  
14 on railroad tracks. So I appreciate the  
15 significance of what you're talking about. But  
16 what you just said does beg this question: Did  
17 you not have a day in court? Did your client not  
18 have a day in court for all these issues? And  
19 the decision has been made that's not been  
20 appealed. Is what I just said unfair or a  
21 misrepresentation of where we are in this case?

22 MR. DAY: Well, I think there is a  
23 significant disagreement about where we are in  
24 this case, and what the defendants should have  
25 done to comply with that order, and what we need

1 to have as far, as direction from the Court, to  
2 comply with that order. And whether its even  
3 possible to comply with such an odor at this  
4 particular location. I think there are factual  
5 issues here that the Court needs to hear and  
6 address.

7 THE COURT: All right.

8 Thank you very much.

9 Mr. Hoch, I'm still back to my question. Do  
10 you believe -- and both counsel are here today  
11 when I tried to -- and I probably shouldn't have  
12 now in hindsight -- tell other counsel I'll try  
13 to make a decision on their motion this morning.

14 Do you, Mr. Hoch, believe that we can  
15 address this today, or I'll schedule you  
16 something here within the next few weeks, if your  
17 calenders will permit. And I'll take your  
18 comments as an opening as well. And I'd ask you  
19 to address if this matter can be resolved today.

20 MR. HOCH: Thanks, Judge. And good  
21 morning.

22 THE COURT: Good morning, sir.

23 MR. HOCH: I believe this matter can be  
24 resolved today, and should be resolved today. I  
25 think your use of the word Mulligan is very

1 appropriate.

2 And I believe that if you apply the  
3 principal that there are no Mulligans for final  
4 non-appealed orders from this Court, the focus of  
5 this hearing will be substantially narrower than  
6 what it will be if we get into all these  
7 arguments about where the crossing is supposed to  
8 be, where Judge Bribiesca's order says the  
9 crossing is supposed to be, whether they've had  
10 their day in court, and so on.

11 THE COURT: Well, let me ask you this  
12 question: Do you disagree that the language that  
13 Judge Bribiesca chose to use, that there are no  
14 regulations in the terms that he chose?

15 MR. HOCH: You know, no. Yeah, I do  
16 disagree. You referred to the Federal  
17 Regulations, the code of Federal Regulations,  
18 Chapter 49, Parts 234 and 236, have pages and  
19 pages and pages of rules and standards for  
20 crossing. I don't disagree that the manual for  
21 Uniform Traffic Control Devices provides the  
22 recommendations for the uniform, based on the  
23 uniform standards for what goes there.

24 The City of Wichita ordinance also applies.  
25 And that's Section 12.04100, which basically says

1 that: It is the duty of the designated railroad  
2 to maintain and operate a clearly visible  
3 electrical or mechanical railroad signal of a  
4 type approved by the City Traffic Engineer at the  
5 railroad grade crossing on a schedule approved by  
6 the City Council.

7 So, to go to your first point, yes, I  
8 believe it is entirely appropriate to address the  
9 question of a modification of this journal entry  
10 to clarify what that last provision means. But  
11 there is no question, there is nothing raised  
12 about the location of this crossing, and the fact  
13 that the crossing was supposed to be built and  
14 hasn't been built. The information in our order,  
15 in our motion, that's part of the order now are  
16 established, it hasn't been built.

17 And so, you know, to just to bring focus to  
18 the: Is this about clarifying what it is that  
19 Judge Bribiesca ordered and the standards? Yeah,  
20 we can do that. I tell you, Judge, I find myself  
21 puzzled at Mr. Young's absence here. It's not  
22 like the Plaintiffs in this lawsuit were not  
23 represented, they had a very good lawyer. And  
24 Glenn Young and I had three different hearings  
25 with Judge Bribiesca, after I got in the case, in

1 the spring of 2008, which resulted in the  
2 August 1 final journal entry and permanent  
3 injunction.

4 And at no time, on the back side of that,  
5 was there any question raised about what  
6 standards had to be applied, by the railroad, in  
7 building the crossing that we're after. There is  
8 no evidence before you. I never got question one  
9 from Glenn about "we're not sure." Indeed the  
10 language came from him, and, yet, here we are  
11 today asking, or defending, against a request for  
12 a Mulligan on the narrow issue of the standards  
13 for the crossing protection. There is nothing in  
14 the motion that talks about the crossing itself.  
15 So that's the gist.

16 THE COURT: I'm confused, Mr. Hoch.  
17 You just said, a moment ago -- I thought I heard,  
18 and I may have misheard -- that you have no  
19 disagreement with, we can clarify what it means  
20 under what regulations we need to build this.  
21 And then I just heard you say, "It was very  
22 clear, and it was suggested by Mr. Young himself  
23 that we use this language --

24 MR. HOCH: Yeah.

25 THE COURT: -- there is no reason to

1 clarify these orders." which one is it?

2 MR. HOCH: If I said, "There is no  
3 reason to clarify it," I misspoke.

4 THE COURT: I may have misheard. Go  
5 ahead.

6 MR. HOCH: The language was suggested  
7 by Mr. Young, if it doesn't satisfy the  
8 railroads, and there is a more appropriate  
9 standards for them to comply with in this order,  
10 then we ought to talk about that. The crossing  
11 is of primary importance to us. The safety  
12 device is used. And whether they have yellow  
13 lights, red lights, whether they're 20 feet tall  
14 or 40 feet tall, frankly, matters for the public  
15 safety. But from us getting to the standpoint of  
16 land, lot, property doesn't matter very much.  
17 And, in order to resolve this, if we need to  
18 change the Federal Railroad Administration  
19 standards in the manual and Uniform Traffic  
20 Control Devices, then we ought to talk about  
21 doing that. I don't know where that fits in the  
22 context of the City Code, which I know does  
23 apply.

24 THE COURT: Let me ask this question,  
25 technical question.

1           Contempt is a very technical area of the  
2 law. If we concede that there may have been  
3 better language or better terminology used for  
4 these regulations, or how to build this crossing,  
5 technically the contempt probably fails.

6           MR. HOCH: I don't agree.

7           THE COURT: Okay. Why not?

8           MR. HOCH: There are two things, there  
9 are two parts of the order. One is to keep the  
10 temporary crossing open. And the evidence is  
11 undisputed that they haven't done that.

12          THE COURT: It's now closed. Was it  
13 opened at one time?

14          MR. HOCH: No, the temporary crossing  
15 is blocked from time to time by rail cars.

16          THE COURT: Okay. Okay.

17          MR. HOCH: They move them back and  
18 forth. And there are days at a time where there  
19 are cars blocking that crossing. That's not what  
20 Judge Bribiesca said. And there is no dispute  
21 about that part. The second part is the  
22 obligation to build a permanent crossing at the  
23 particular location with the traffic control  
24 devices, or protection systems set out, in the  
25 Federal Railroad Administration Regulations.

1 Now, there are no dispute that they have not  
2 built the crossing. There is also no dispute --  
3 there will be no dispute if he puts witnesses on,  
4 that not until after we filed the motion for the  
5 Show Cause order, did the railroad ever say  
6 "we're confused about this." There is already,  
7 in the record, as part of the Collins' affidavit,  
8 Glenn Young's one inquiry back to me in December  
9 of 2008, after we provided the drawings, where he  
10 says, "Tell us exactly where this is supposed to  
11 be." And we told him, "Here it is, it's on the  
12 drawings, but here's the exact location."

13 And, at no point, since we provided the  
14 drawings, indeed no point since the August 1  
15 Journal Entry was entered, has there ever been a  
16 question, until after the Show Cause order was  
17 entered, about the standards to which the rail  
18 protection was going to be. You know, the  
19 traffic control or warning devices, about whether  
20 we had to design the crossing that they were then  
21 going to build. Nobody ever said that. Nobody  
22 ever said, "Oh, we're unsure about this. "We'll  
23 build a crossing, let's work out this language on  
24 the order." Absolutely no response, nothing.

25 And I submit to you, that's contempt. And

1 that's why, even if you adjust the standards by  
2 which the crossing protection signage is referred  
3 to, why there still is a live question here about  
4 contempt under the second build, the permanent  
5 crossing obligation in the order.

6 THE COURT: And your remedy that you  
7 would like the Court to impose would be?

8 MR. HOCH: Judge, obviously a Court  
9 order isn't enough, so we're going to ask you to  
10 impose a daily monetary penalty, plus attorney  
11 fees incurred to bring this back before you.

12 We're now 50-some days since that crossing  
13 was supposed to be built, by the end of March.  
14 And we're no closer today than we were then. So  
15 we got to have some kind -- I mean, a Court order  
16 is not enough, I guess, so monetary sanctions is  
17 what we're going to ask you to do.

18 THE COURT: All right. I understand.  
19 Counsel, if you could join me in chambers at  
20 this time.

21 We'll be in recess.

22 (At this time, a recess was taken, after  
23 which the following proceedings  
24 continued:)  
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\* \* \* \* \*

CERTIFICATE OF COMPLETION

1  
2 I, BELINDA K. WESTERFIELD, a Certified  
3 Shorthand Reporter, under and by virtue of the  
4 laws of the State of Kansas, and a regularly  
5 appointed, qualified, and acting Official  
6 Reporter for the Eighteenth Judicial District of  
7 the State of Kansas, do hereby certify that as  
8 such Official Reporter, I was present at and  
9 reported in Stenotype shorthand the above and  
10 foregoing proceedings in Case No. 09 CV 3688,  
11 heard on June 8, 2009, before the Honorable Tim  
12 Henderson, Judge of Division 24 of said court.

13 I FURTHER CERTIFY that, upon the Written  
14 Request of the Chief Appellate Defender, I  
15 personally prepared the foregoing transcript of  
16 my shorthand notes via computer-aided  
17 transcription, and that said transcript,  
18 consisting of 25 typewritten pages, is true and  
19 correct, all to the best of my knowledge and  
20 ability. SIGNED, OFFICIALLY SEALED, and FILED  
21 WITH THE CLERK OF THE DISTRICT COURT, this 23RD  
22 day of June, 2014.

23 \_\_\_\_\_  
24 BELINDA K. WESTERFIELD, CSR 1371  
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