

March 24, 2009

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BEFORE THE STATE OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of:	)	
	)	
STATE OF CALIFORNIA, Employer,	)	Unfair Practice
and PEACE OFFICERS OF CALIFORNIA,	)	Charge No.
Petitioner, and CALIFORNIA	)	SA-SV-171-S
STATEWIDE LAW ENFORCEMENT ASSOC.,	)	
Exclusive Representative.	)	
	)	
_____	)	

MARCH 24, 2009

SHAWN CLOUGHESY  
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD  
1031 18th Street, Room 214  
Sacramento, CA

Transcribed by: Leisa M. Miller

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APPEARANCES

Administrative Law Judge

SHAWN CLOUGHESY

Representing Employer:

SHANNAN TRUONG  
Labor Relations Counsel

Department of Personnel Administration  
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Representing Peace Offices of California (POC):

JOE ROSE, Esq.  
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2240 East Bidwell Street  
Folsom, CA 95630

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1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And on behalf of  
2 the Employer.

3 MS. TRUONG: Shannan Truong, Legal Counsel for  
4 Department of Personnel Administration. With me is Linda  
5 Mayhew, Assistant Chief Counsel for Department of  
6 Personnel Administration, and Labor Relation Officer  
7 Kristine Rodrigues from the Department of Personnel  
8 Administration.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And on behalf  
10 of the Exclusive Rep [sic]. I'm sorry. Petitioner, who  
11 hopes to be the Exclusive Rep. Let me put it that way.

12 MR. ROSE: Good morning, Judge. Joe Rose  
13 representing Peace Officers of California. Seated at  
14 counsel table with me is attorney Diane Sabonis.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
16 I have -- while we were off the record none of the  
17 parties have stated there was any preliminary matters, at  
18 least that would prevent us from taking this witness  
19 next.

20 And sir, may I ask you to raise your right hand?

21 (Witness sworn by the Judge.)

22 THE WITNESS: Yes, I do.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state  
24 your name for the record, spelling your last name.

25 THE WITNESS: David Johnson. J-O-H-N-S-O-N.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
2 marking as Exclusive Representative BB what appears to be  
3 a Declaration of David Johnson.

4 (Exclusive Representative Exhibit BB marked  
5 for identification.)

6 MR. MESSING: What was the exhibit letter?

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Double B. BB.

8 MR. MESSING: Thank you.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And I have a  
10 couple preliminary questions for this witness. Sir, have  
11 you reviewed any of the transcripts of these prior  
12 proceedings?

13 THE WITNESS: No, I haven't.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. And do  
15 you know who James Cline is?

16 THE WITNESS: No, I don't.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Showing  
18 you Exclusive Representative double B. And sir, why  
19 don't you just take a quick look at that, and then tell  
20 me what it is if you recognize it.

21 THE WITNESS: Yes. This is my Declaration.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
23 you are on the signature page. So on page four -- if you  
24 need to take a break, we can.

25 THE WITNESS: No, I'm fine.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Is that your  
2 signature on that signature page?

3 THE WITNESS: Yes, it is, sir.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And did you sign  
5 it on or about the date and the location set forth  
6 therein?

7 THE WITNESS: Yes, I did.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing, any  
9 further questions?

10 MR. MESSING: Just a few.

11 TESTIMONY OF

12 DAVID JOHNSON,

13 Having been duly and regularly sworn, testified as  
14 follows:

15 DIRECT EXAMINATION

16 BY MR. MESSING:

17 Q. First of all, are there any corrections that you  
18 want to make to your Declaration?

19 A. Not that I see here.

20 Q. Now, you're a Supervising Museum Security  
21 Officer, correct?

22 A. Yes, sir.

23 Q. You've been a Supervisor for a decade. Were  
24 you -- is that right?

25 A. Yes, sir.

1 Q. Okay. Were you a Museum Security Officer before  
2 that?

3 A. Yes, I was.

4 Q. For how long?

5 A. For about nine years.

6 Q. Okay. So it's about 19 years total?

7 A. Yes.

8 Q. Okay. As a -- it says here that you're a  
9 sworn -- you're not sworn peace officers, but you have  
10 peace officer powers of arrest; is that right?

11 A. Yes, sir.

12 Q. Okay. Have you exercised the power of arrest as  
13 a Museum Security Officer or Supervisor?

14 A. Yes, I have.

15 Q. Okay. What kind of arrests have you made?

16 A. Well, I've made numerous arrests in the park.  
17 One that comes to mine, we were on patrol during a USC  
18 scrimmage game and I seen a vehicle that was on our  
19 play -- driving on our play field at a high rate of  
20 speed. And it ran over a couple people that were  
21 visiting in the park.

22 Q. Okay. When you say numerous arrests -- yeah.  
23 Did you make an arrest in that case?

24 A. Yes, we did.

25 Q. Okay. And who did you -- I mean not the name,

1 but what was the arrest for?

2 A. For assault with a deadly weapon. ADW with a  
3 vehicle.

4 Q. Okay. So in a given year how often would you  
5 have to make an arrest?

6 A. Well, you know, it's whenever need be. Our  
7 officers frequently make arrests. But me as a  
8 supervisor, I review those arrests prior to taking the  
9 individuals into custody. But myself arresting folks,  
10 it's only when it happens right in front of me.

11 Q. Okay. How many Museum Security Officers do you  
12 work with on a daily basis?

13 A. On my watch there's approximately 10.

14 Q. Okay. So how often would there be an arrest on  
15 your watch by any Museum Security Officer?

16 A. Maybe twice or three or four times a month maybe.  
17 It's on a case-by-case basis, you know.

18 Q. Okay. Now, you -- you're armed with a gun?

19 A. Yes, sir.

20 Q. Okay. And in the course of your duties as a  
21 Museum Security Officer or Supervisor have you had to  
22 unholster that gun?

23 A. Yes, I have.

24 Q. Okay. And what about the folks that you  
25 supervise, do they -- are they folks who have typically

1 had to unholster their gun in the line of duty?

2 A. They have in the past.

3 Q. Okay. Have there been any shooting incidents  
4 where an officer -- one of your officers or you have had  
5 to utilize your duty weapon in the line of duty?

6 A. I can remember one instance where a shooting took  
7 place on the grounds.

8 Q. Okay. And can you -- do you remember what  
9 happened and approximately when?

10 A. I would say approximately -- I'd say about four  
11 or five years ago one of our officers was checking an  
12 area and he observed a vehicle occupied with two  
13 individuals. He approached the vehicle. The vehicle, in  
14 turn, backed up and tried to run him down, and the  
15 officer discharged his weapon.

16 Q. Okay. Can you describe what your normal uniform  
17 and safety equipment consists of?

18 A. Okay. I wear a tan shirt similar to the  
19 Los Angeles County Sheriff's Department, and green pants.  
20 I have a full Sam Brown belt, basket weave, with a  
21 holster and cuffs, pepper spray, also a baton.

22 Q. Okay. Do you have a badge?

23 A. Yes, I do.

24 Q. Okay. And where is that located?

25 A. There's a area on my shirt that accepts the badge

1 and we wear the badge.

2 Q. Okay. Do you have a patch on your shirt?

3 A. Yes. Yes, we do.

4 Q. And where is that located?

5 A. On each shoulder.

6 Q. Okay. Do you carry any kind of a baton or  
7 some -- an asp, or anything of that sort?

8 A. Yes, sir. The asp and occasionally the PR24.

9 Q. Okay. Do you get defensive tactics training in  
10 your job?

11 A. Yes, we do. Matter of fact, I just went last  
12 week for a refresher.

13 Q. Now, are Museum Security Officers members of the  
14 peace officer/firefighter retirement?

15 A. Yes, they are, sir.

16 Q. Okay. What about Supervising Museum Security  
17 Officers?

18 A. No, they're not.

19 Q. Okay. All right. The uniform that you described  
20 and the equipment, is that standard for the folks who  
21 work as Museum Security Officers and Supervisors?

22 A. Yes, sir.

23 Q. Okay. The officer who was involved in the  
24 shooting that you described, was -- did he receive  
25 representation from CSLEA?

1 A. Yes. Immediately.

2 Q. Okay. Are you -- have you ever had other  
3 occasions where you or your people have had to call upon  
4 CSLEA for assistance in grievances, discipline, or any  
5 other type of representation?

6 A. Yes, sir.

7 Q. Okay. And how would you rate the responsiveness  
8 of CSLEA to the request for assistance?

9 A. Well, on a scale from one to ten, I would make it  
10 ten.

11 Q. Okay. Do you know if that opinion is shared by  
12 other folks that you work with?

13 A. From the ones that I communicate with, yes.

14 Q. Okay. And those would be predominantly the  
15 people who work with you on the same shift?

16 A. Yes, sir. And other shifts also.

17 Q. Let's see. Now, the people who you report to are  
18 sworn peace officers, correct?

19 A. Yes, sir.

20 Q. Okay. And that's -- and there's -- is there an  
21 Assistant Chief and a Chief position?

22 A. Yes, there are.

23 Q. Just give me one more minute here. Give me one  
24 more second. What kind of POST training, if any, do your  
25 people receive?



1 you were elevated from Museum Security Officer to  
2 Supervising Museum Security Officer?

3 A. Okay, sir. As far as I can remember, when I  
4 accepted the position of Supervisor, they did not have  
5 the peace officer/firefighters retirement. Since that  
6 time they've been working on it to try to get us that  
7 retirement, but we haven't been successful yet with it.

8 Q. And that's been since December of 1990?

9 A. No. That's when I started at the museum in  
10 December of 1990.

11 Q. Oh, I see.

12 A. In 19 --

13 Q. That's been for about 10 years?

14 A. Yes, sir.

15 Q. So for about 10 years CSLEA has tried to get  
16 peace officer/firefighter retirement for you  
17 unsuccessfully; is that correct?

18 A. Yes.

19 Q. Are you satisfied with the results of CSLEA's  
20 efforts in connection with your retirement status?

21 A. Well, I feel that they're working on it. There's  
22 a lot of stones that need to be turned to take and make  
23 that work, legislation, and there's a lot of different  
24 variables that have to take place to make it happen.  
25 And, you know, they're working on it.

1 Q. Are you the only Supervising Museum Security  
2 Officer?

3 A. No, I'm not.

4 Q. How many others are there, sir, if you know?

5 A. Currently there's three additional.

6 Q. Have you spoken to the other Supervising Museum  
7 Security Officers about the fact that you do not have  
8 peace officer/firefighter retirement?

9 A. They're aware of it.

10 Q. And have they expressed any opinion to you  
11 regarding their satisfaction with CSLEA's representation  
12 in that regard?

13 A. Well, they'd like to have it.

14 Q. Have they -- have they said they're unhappy with  
15 CSLEA's representation?

16 A. I haven't heard that.

17 Q. Now, the people that you report to are an  
18 Assistant Chief and a Chief?

19 A. Yes, sir.

20 Q. And they're peace officers?

21 A. Yes, they are.

22 Q. And they receive peace officer/firefighter  
23 retirement?

24 A. Yes, they do. Well, sir, I can say the Assistant  
25 Chief does. The Chief is on loan from the California

1 Highway Patrol, so I'm assuming that he does.

2 Q. I see. And you mention in your Declaration that  
3 that's a Lieutenant who's in acting capacity?

4 A. Yes, sir.

5 Q. Okay. Now, interesting situation you're in  
6 because of the fact that you have peace officer powers  
7 but are not actually a full peace officer; would you  
8 agree?

9 A. We have peace officer powers when we're getting  
10 ready to effect an arrest.

11 Q. Are you -- has there been any effort or interest  
12 in becoming full peace officers?

13 A. Yes, there has.

14 Q. How would you characterize the importance that  
15 Museum Security Officers place on the concept of becoming  
16 full peace officers?

17 A. Well, everybody in the classification would love  
18 to be a full time peace officer.

19 Q. Are there any employees, either Museum Security  
20 Officers or Supervising Museum Security Officers who  
21 don't have at least the 832 level of training?

22 A. None that I know of.

23 Q. And that's the basic minimum requirement to have  
24 the powers of arrest when you're on duty, correct?

25 A. Yes, sir.

1 Q. What efforts, if any, has CSLEA undertaken to  
2 acquire full peace officer status for Museum Security  
3 Officers?

4 A. Well, sir, I can remember back as far as possibly  
5 1992 with then CAUSE being on board trying to achieve  
6 peace officer status for the organization. We tried  
7 several times and we were unsuccessful the last time with  
8 legislation being introduced by Assemblyman Mark Ridley-  
9 Thomas with CSLEA was on board with that also. So  
10 they've been supportive with us trying to achieve that  
11 status.

12 Q. And the legislation that was introduced that you  
13 refer to with Assemblyman Thomas, was that in 1992?

14 A. No. That was way back when -- during the '92  
15 era, that would have been Assemblywoman Theresa Hughes,  
16 okay, that introduced that legislation. We had  
17 legislation that was done at that time. Another time was  
18 Assemblywoman Marguerite Archie-Hudson introduced  
19 legislation, and with Assemblyman Mark Ridley-Thomas.

20 Q. And when was the most recent occasion in your  
21 memory that legislation was introduced for the peace  
22 officer status?

23 A. It would have been with Assemblyman Thomas.

24 Q. And what year was that approximately, if you  
25 know?

1           A.  Maybe five or -- five or six years.  Four, five,  
2   six years ago.

3           Q.  Now, how many Memorandums of Understanding have  
4   been ratified in Bargaining Unit 7 since you've been  
5   Supervising Museum Security Officer, if you know?

6           A.  You know, that's not within my scope, so I'm not  
7   aware of any Memorandums of Understanding.

8           Q.  Are you -- have you ever participated in  
9   bargaining with CSLEA?

10          A.  Yes, I have.

11          Q.  What participation have you had personally in  
12   bargaining with CSLEA?

13          A.  Well, just this past year I was invited up and I  
14   was able to talk about the things that happen within our  
15   particular classification.  So it was sometime last year.  
16   The other times is that we've just given information to  
17   representatives as to what we would like to see take  
18   place in our negotiations.  But this time, like I said,  
19   last year I was actually invited to Sacramento to  
20   participate in the negotiations.

21          Q.  And when you were invited this past year, were  
22   you actually seated at the bargaining table, or were you  
23   in some other meeting?

24          A.  Oh, no.  I was at the table.

25          Q.  What proposals were advanced by CSLEA on behalf

1 of Museum Security Officers and Supervising Museum  
2 Security Officers this past year?

3 A. Well, the one that you talked about, getting the  
4 Museum Security Officers and peace officer/firefighters.  
5 That was one that was talked about. Because it was  
6 dear -- it was near and dear, so we definitely talked  
7 about that. And some other things, you know, as far as  
8 pay increases and stuff like that, you know.

9 Q. Did the concept of -- well, strike that. Did DPA  
10 have an opinion or position on the peace officer/  
11 firefighter retirement for Supervising Museum Security  
12 Officers?

13 A. They may have, but it's unknown to me what their  
14 position was.

15 Q. When the proposal was communicated -- well, was  
16 the proposal communicated to the State at the bargaining  
17 table for peace officer/firefighter retirement?

18 A. Yes, it was.

19 Q. And who was it communicated by?

20 A. I was one of the people there at the table at the  
21 time. I think there was representatives from CSLEA that  
22 was also there.

23 Q. And who was it communicated to?

24 A. To the group that was at the table representing  
25 the State.

1 Q. Did the State representatives reply in any way to  
2 that suggestion or proposal?

3 A. Not at that time.

4 Q. Ultimately did you ever learn why State was not  
5 in agreement with the peace officer/firefighter  
6 retirement proposal for Supervising Museum Security  
7 Officers?

8 A. No.

9 Q. Are you -- have you ever asked CSLEA to inquire  
10 of the State why they are not willing to grant peace  
11 officer/firefighter retirement to the Supervising Museum  
12 Security Officers?

13 A. No, I haven't.

14 Q. Among the Museum Security Officers that you  
15 interact with and Supervising Museum Security Officers,  
16 have there been any complaints in the last three to four  
17 years about CSLEA's representation?

18 A. None that I know of, sir.

19 Q. Were there any other representatives present at  
20 the bargaining table other than yourself, sir, this past  
21 year for your group?

22 A. No, there wasn't. But during that time period,  
23 prior to going to the table, if I remember correctly, we  
24 passed out information documents where if anybody had  
25 anything that they would like to communicate to the

1 people at the table, they could submit these to the  
2 representatives that we have in the Los Angeles area.  
3 Where that if they had some desire trying to enhance the  
4 contract of something that they'd like to take and see in  
5 the contract as far as our organization was concerned,  
6 they were given that opportunity to do that.

7 Q. Are you a member of an affiliate organization  
8 within CSLEA?

9 A. Yes. Yes, I am. And it's CALEE.

10 Q. What does that stand for? C-A-L-I?

11 A. C-A-L-E-E, I think.

12 Q. C-A-L-E-E.

13 A. And we didn't have enough people in our  
14 organization to form an actual affiliate, so they used to  
15 be like called CAUSE only. But they have this group now  
16 which -- small groups that are just out there by  
17 themselves, and we're part of CALEE.

18 Q. Okay. Does CALEE involve any peace officers,  
19 full sworn peace officers?

20 A. You know, I'm not sure.

21 Q. Are you an officer of CALEE?

22 A. No, I'm not.

23 Q. Other than your status as a member of CSLEA do  
24 you have any official title with the organization?

25 A. Well, I'm a Job Steward.

1 Q. How long have you been a Job Steward?

2 A. I think probably since about 1992 or so.

3 Q. Are there any other Job Stewards in the Museum  
4 Security Officer --

5 A. Yes, there -- yes, there are.

6 Q. Who are they?

7 A. Dorothy Vick. Kenneth Williams. Those are the  
8 two that come to mind.

9 Q. And do those officers work with you at the  
10 Science Center?

11 A. Yes, they do.

12 MR. ROSE: Thank you, sir. Nothing further.

13 MS. TRUONG: Nothing from us.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing?

15 MR. MESSING: Just one question, I think.

16 REDIRECT EXAMINATION

17 BY MR. MESSING:

18 Q. When you were at the bargaining table did the  
19 issue of donning and doffing come up? The taking on --  
20 putting on and taking off uniforms and getting paid for  
21 that period of time of putting on the safety equipment?

22 A. It was mentioned. It was -- it was definitely  
23 mentioned.

24 Q. Okay. Do you know whether DOJ Security Officers  
25 are in CALEE?

1 MR. ROSE: Objection. Leading.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, I'm  
3 actually going to allow that. It's not really going to  
4 prejudice anybody. Go ahead.

5 THE WITNESS: You know, I'm not sure.

6 MR. MESSING: Okay. Nothing further.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

8 MR. ROSE: Nothing.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sir, I need to  
10 give you an admonishment not to discuss your testimony  
11 with any of the other witnesses. You're free to discuss  
12 it with anyone at this table right here. Do you  
13 understand the admonishment?

14 THE WITNESS: Yes, sir.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And with that,  
16 double B is admitted.

17 (Exclusive Representative's Exhibit BB received  
18 in evidence.)

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And I have --  
20 didn't have double A checked yet, but that's also  
21 admitted.

22 (Exclusive Representative's Exhibit AA received  
23 in evidence.)

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So thank you  
25 very much. We'll go off the record.

1 (Off the record.)

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on  
3 the record. We have another witness called by the  
4 Exclusive Representative. I'm going to ask you to raise  
5 your right hand.

6 (Witness sworn by the Judge.)

7 THE WITNESS: Yes.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state  
9 your name for the record, spelling your last name.

10 THE WITNESS: Okay. My name is Steven Michael  
11 Bradley. B-R-A-D-L-E-Y.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
13 Marking as Exclusive Representative double C what appears  
14 to be a Declaration of Steven Bradley.

15 (Exclusive Representative's Exhibit CC marked  
16 for identification.)

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I have a couple  
18 of preliminary questions for you, Mr. Bradley. The first  
19 one is, have you read a transcript of any prior  
20 proceedings in this matter?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
23 do you know an individual by the name of James Cline?

24 THE WITNESS: No.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Handing to you

1 Exclusive Representative double C, take a look at that.  
2 And if you can tell me whether you recognize what it is,  
3 that'd be great.

4 THE WITNESS: This is a copy of the statement that I  
5 submitted.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I'm just going  
7 to move this a little bit closer here just so that it'll  
8 catch you.

9 All right. Why don't you turn to the signature page  
10 of that document. And, sir, is that your signature?

11 THE WITNESS: That is in fact my signature.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Did  
13 you sign it on or about the time and location set forth  
14 in that Declaration?

15 THE WITNESS: Yes.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
17 Mr. Messing?

18 TESTIMONY OF

19 STEVEN M. BRADLEY,

20 Having been duly and regularly sworn, testified as  
21 follows:

22 DIRECT EXAMINATION

23 BY MR. MESSING:

24 Q. Any corrections that you'd like to make to this  
25 Declaration?

CERTIFICATION AND  
DECLARATION OF TRANSCRIBER

1  
2  
3  
4 I, Leisa M. Miller, a duly designated transcriber of  
5 Vine, McKinnon & Hall, do hereby declare and certify  
6 under penalty of perjury that I have transcribed from a  
7 CD recording the proceedings in the matter of STATE OF  
8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,  
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT  
10 ASSOCIATION, Exclusive Representative, Unfair Practice  
11 Charge No. SA-SV-171-S, which recording was duly recorded  
12 at Sacramento, California on March 24, 2009, and that the  
13 foregoing pages 1 through 189 constitute a true, complete  
14 and accurate transcription of the aforementioned  
15 recording to the best of my ability.

16 Dated this 14th day of April, 2009, at Dixon,  
17 California.

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20 \_\_\_\_\_  
21 Leisa M. Miller, Transcriber  
22 VINE, MCKINNON & HALL  
23 Certified Shorthand Reporters  
24  
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