

1 REPORTER'S RECORD
2 VOLUME 1 OF 1
3 CAUSE NO. D-1-GV-09-000916
4

5 EX PARTE) IN THE 419TH JUDICIAL
6)
7 CITY OF FRIENDSWOOD)
8)
9) DISTRICT COURT OF
10)
11)
12) TRAVIS COUNTY, TEXAS

13 *****

14 REPORTER'S RECORD

15 *****

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17 BE IT REMEMBERED, on the 15th day of
18 June, 2009, the following proceedings came on to be heard
19 in the above-entitled and numbered cause before the
20 Honorable Rhonda Hurley, Judge presiding, held in Austin,
21 Travis County, Texas.

22 Proceedings reported by machine

23 shorthand.

24

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1 APPEARANCES

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3

4 FOR THE CITY OF FRIENDSWOOD:

5 MR. PATRICK MIZELL AND

MR. MICHAEL MARIN

6 (Vinson & Elkins)

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Houston, Texas 77002

8 Phone No. 713-758-2932

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FOR THE OFFICE OF THE ATTORNEY GENERAL:

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12 MS. LESLIE BROCK

Assisant Attorney Generals

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Austin, Texas 78711

14 Phone No. 512-475-2929

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15

ALSO PRESENT:

16

Janis Lowe

17 Kathy Rogers

Deborah Winters Chaney

18 Mel Austin

Leslie Roque

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1 P R O C E E D I N G S

2 June 15, 2009

3 THE COURT: Good morning. All right, for
4 the record, this is Cause No. GV-09-000916. Let me get
5 the attorneys to state their appearances for the record
6 first.

7 MR. MIZELL: Your Honor, Pat Mizell and
8 Mike Marin with Vinson Elkins for the City of
9 Friendswood. Also Carly Milner also with Vinson Elkins.

10 THE COURT: All right.

11 MR. HENDERSON: Good morning, Your Honor.
12 Adrian Henderson, Office of the Attorney General and
13 Leslie Brock, Office of Attorney General.

14 THE COURT: All right, and this is a notice
15 of proceeding and order. And I understand that there may
16 be some folks here who wish to oppose this.

17 Could I get each one of you to please stand
18 and state your name for the record.

19 MS. LOWE: Your Honor, my name is Janice
20 Lowe, L-O-W-E. And we would understand from our counsel
21 leaders last week that if we opposed we would have to

22 post a \$500,000 bond. We don't have an attorney, so
23 we're here, but we don't know what to do after that.

24 THE COURT: All right. Let me go ahead and
25 get everyone else's appearances, and then we'll discuss
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1 that issue, okay. Anyone else? Sir, come on up here and
2 state your name for the record, please.

3 MR. AUSTIN: My name is Mel Austin, just
4 like Austin, Texas.

5 THE COURT: All right.

6 MS. WINTERS CHANEY: My name is Deborah
7 Winters Chaney from Friendswood, Texas.

8 THE COURT REPORTER: Spell your last name.

9 MS. WINTERS CHANEY: C-H-A-N-E-Y.

10 THE COURT: Thank you, ma'am.

11 MS. ROGERS: I'm Kathy Rogers. Kathy with
12 a K, Rogers no D, from Friendswood. I'm appearing only
13 if penalties and fines are waived.

14 MS. ROQUE: Your Honor, name is Leslie,
15 L-E-S-L-I-E, Roque, R-O-Q-U-E.

16 THE COURT: All right, thank, you ma'am.
17 Now, Mr. Mizell, I talked with you just briefly this
18 morning. I understand that you are waiving the
19 requirement of a bond; is that correct?

20 MR. MIZELL: Your Honor, I'm not filing one
21 at this moment. We would like to reserve the option to

22 do that. It does not look like at this point we're going

23 to do that, but I don't want to waive it right now.

24 The City Council may decide at some future

25 point that that's an option that they want to do, but at

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1 this point we're not seeking --

2 THE COURT: All right, at this point no
3 decision has been made on that then.

4 All right, is there anything else that we
5 need to address with the attorneys here? Have you-all
6 discussed a reset date for the actual hearing?

7 MR. MIZELL: The lawyers have talked about
8 a reset date. I have not spoken with -- to Ms. Lowe or
9 the citizens. The date we were looking at was July 13th,
10 and I don't know if that works from you-all's standpoint.
11 But we would come back for a full trial on July 13th.

12 THE COURT: And that would be at 9:00
13 o'clock?

14 MR. MIZELL: Yeah, that time wouldn't be a
15 statutory time, so you could do it at whatever the Court
16 wants.

17 THE COURT: Right, the dockets are at 9 and
18 2.

19 MR. MIZELL: Nine would be fine, 9:00
20 o'clock on July 13th, Monday morning, July 13th.

21 THE COURT: All right, does everybody

22 understand that out there? That's the date that you
23 would need to be back. You would need to stay in touch
24 with you, correct?

25 MR. MIZELL: Yes.
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1 THE COURT: To determine the issue of the
2 bond, if one is required to be posted or not. And I'm
3 assuming that you may want to file your petitions to
4 intervene between now and then, okay.

5 MR. MIZELL: Your Honor, the only thing I
6 would ask is, that the statute sort of contemplates this,
7 is that we not reset, but actually adjourn until July
8 13th.

9 THE COURT: Okay, I will adjourn this
10 hearing then from this date until July 13th at 9:00 a.m.,
11 and you-all will need to check the bulletin board when
12 you come into the courthouse and see where to go on that
13 date and at that time, as far as where this is going to
14 be heard. Yes, ma'am.

15 MS. LOWE: If the issue of the bond is not
16 waived, we would not financially be able to do anything.
17 So if he's not going to waive that you wouldn't need a
18 matter to reset. We couldn't possibly be responsible for
19 that.

20 THE COURT: At this point there's been no
21 bond set and there's no amount that has been required,

22 okay. You just need to stay in touch with Mr. Mizell to

23 find out the status of that as well as if a bond is set,

24 what amount that would be.

25 I don't believe there's been any
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1 determination that it's a \$500,000 at this time. Is that
2 correct?

3 MR. MIZELL: That's correct. It's a number
4 that could actually be higher than that, but I don't want
5 to --

6 THE COURT: Okay, so at this point there is
7 no information on that, but no bond is required as of
8 now. Okay?

9 MS. LOWE: Okay.

10 THE COURT: Does everybody have -- I'm
11 going to offer you up. Does everybody have Mr. Mizell's
12 information, contact information?

13 MR. MIZELL: Do you-all want to write it
14 down. Pat Mizell, 713-758-2932. And my e-mail address,
15 which is the best way to communicate with me,
16 Pmizell@VElaw.com. And if you-all will all send me
17 e-mails so I can notice you with your addresses, then
18 I'll just put you on --

19 THE COURT: Keep everybody in the loop.

20 MR. MIZELL: Keep you noticed by that.

21 Because I don't have everyone's addresses for service and

22 pleadings and that sort of thing.

23 THE COURT: Everybody got that?

24 UNIDENTIFIED SPEAKER: Would you please

25 repeat the phone number?

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1 MR. MIZELL: 713-758-2932.

2 THE COURT: All right. Ma'am?

3 MS. BROCK: Your Honor, the standard for
4 the security is under 1205.101, and so it's not -- just
5 to clarify, you know, a motion would have to be filed and
6 granted, and that it's not automatic. There's a standard
7 that it would be delay caused by the opposing party, and
8 so given this is an expedited hearing, I guess I just
9 want to clarify that it's not a done deal.

10 MR. MIZELL: Yeah, the appeal, which could
11 take up to six months would be the delay contemplated
12 under the case law. So it's not -- it is expedited, but
13 there would be costs associated with appearance of
14 parties. I mean, we're having argument that doesn't
15 matter because I haven't filed a motion.

16 MS. BROCK: I just mean that just to appear
17 at the trial, itself, and just for people to have an
18 opportunity to speak.

19 THE COURT: Okay, I'm going to let them
20 address you after this hearing with any questions they
21 have and you can give them some direction on that, okay.

22 Anything else we need to do here today,

23 counsel?

24 MR. MIZELL: No, Your Honor, thank you.

25 THE COURT: Okay, then this case has been
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1 adjourned until July 13th at 9:00 a.m. Everybody is
2 excused, thank you.

3 (Hearing concluded.)

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1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS)

3 COUNTY OF TRAVIS)

4 I, Patricia A. Day, Official Court Reporter for
5 the 98th Judicial District Court of Travis County, Texas,
6 do hereby certify the foregoing contains a true and
7 correct transcription of all portions of evidence and
8 other proceedings requested by counsel for the parties to
9 be included in this volume of the Reporter's Record, in
10 the above-styled and numbered cause, all of which
11 occurred in open court or in chambers and were reported
12 by me.

13 I further certify that the Reporter's Record
14 truly and correctly reflects the exhibits, if any,
15 admitted by the respective parties.

16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$75.00 and was
18 paid/will be paid by Deirdre Brown.

19 WITNESS MY OFFICIAL HAND this the 26th day of June,
20 2009.

21

Patricia A. Day, CSR, RPR, RMR

22 Official Court Reporter
 98th Judicial District Court
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24 Certification No. 967
 Date of Expiration of Current
25 Certification: 12/31/10
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