

In The Matter Of:

County of Dane vs.

Thomas M. Willan

Videotaped Deposition of ROGER LANE

June 01, 2017

Verbatim Reporting, Limited

2 East Mifflin Street, Suite 102

Madison, Wisconsin 53703

www.Verbatim-Madison.com

verbatim@tds.net

608.255.7700



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(No exhibits were marked)

(Original transcript filed with Thomas Willan;
copies provided to Mr. Willan and Attorney Gault)

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VIDEOTAPED DEPOSITION of ROGER LANE, called as a witness, taken at the instance of the Defendant, under the provisions of Chapter 885 of the Wisconsin Statutes, pursuant to notice, before Rachel M. Davis, CSR, RPR, and Notary Public in and for the State of Wisconsin, at Verbatim Reporting, Limited, 2 East Mifflin Street, Suite 102, Madison, Wisconsin 53703, on the 1st day of June, 2017, commencing at 8:35 in the forenoon.

A P P E A R A N C E S

DAVID R. GAULT, Attorney,
DANE COUNTY CORPORATION COUNSEL
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703,
appearing on behalf of the Plaintiff.
gault@co.dane.wi.us 608-261-9703

THOMAS WILLAN, PRO SE,
4407 Vilas Hope Road
Cottage Grove, Wisconsin 53527,
appearing on behalf of the Defendants.
tom@ironmanbuildings.com 608-438-3103

ALSO PRESENT: Jon Hansen - CLVS
Julia Willan

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1 THE VIDEOGRAPHER: Good morning. We
2 are on the record. This is the videotaped
3 deposition of Roger Lane, taken on June 1st, 2017
4 at 8:35.

5 The address of the deposition today
6 is Two East Mifflin, suite 102, Madison, Wisconsin.
7 This is the case of County of Dane versus Tom M.
8 Willan, Case Number 16 CX 014 in Dane County.

9 My name is Jon Hansen, CLVS, with
10 Verbatim Reporting.

11 At this time, if counsel can please
12 state their appearance for the record, after which
13 our reporter will swear in the witness, and we can
14 proceed.

15 MR. GAULT: Thank you. Attorney
16 David Gault, Assistant Corporation Counsel,
17 appearing on behalf of the County of Dane.

18 I would also like to speak for the
19 record that Mr. Lane is appearing voluntarily today
20 and is not under subpoena, and there was no
21 statutory notice of deposition given. Thank you.

22 MR. WILLAN: My name is Tom Willan,
23 and I am the defendant in this case. And I'm
24 acting pro se. And that the -- all the witnesses
25 that are appearing have volunteered with

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1 Mr. Gault's approval.

2 ROGER LANE,
3 called as a witness, being first duly
4 sworn, testified on oath, as follows:

5 E X A M I N A T I O N

6 BY MR. WILLAN:

7 Q What is your position, sir, Mr. Lane?

8 A I am the Dane County zoning administrator.

9 Q How long have you been the Dane County zoning
10 administrator?

11 A A little over ten years.

12 Q Ten years. That's an appointed position or an
13 elected position?

14 A It is an appointed position.

15 Q And your direct boss is?

16 A Todd violante, director of planning and
17 development.

18 Q And you are appointed, though, by the --
19 Mr. Parisi, the executive; is that correct?

20 A Yes. Through final approval.

21 Q Okay. Do you have a degree in zoning? Or do you
22 have a college degree?

23 A I don't believe there is a zoning degree, per se.

24 Q But do you have a college degree?

25 A No.

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1 Q Okay. Previous experience in zoning?

2 A Yes.

3 Q Where at?

4 A Wisconsin.

5 Q Different municipality than Dane County or --

6 A Various, different municipalities.

7 Q Would you please list a few of those.

8 A Yes. City of Verona, City of Cedarburg, and
9 various other municipalities in Dane County.

10 Q Are you involved in zoning enforcement then as your
11 position as zoning administrator?

12 A That's correct.

13 Q How long have you been involved with the Willans'
14 property? Any idea, approximately?

15 A Since 2012.

16 Q And how did that come about?

17 A A complaint was received from the Town regarding
18 abandoned vehicle on the property.

19 Q Okay. And then somebody from the Town, or a
20 person, or the Town itself?

21 A I don't recall.

22 Q Okay.

23 A I think it may be an e-mail from the Town.

24 Q Okay. So a complaint came out, and everything was
25 resolved with that; correct?

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1 A I believe so.

2 Q Okay. What about -- was there an issue with zoning
3 on the Willans' property in 2013, approximately
4 around July, that came to light?

5 A Yeah. It did come to light with there were some
6 issues. We had interaction.

7 Q Okay.

8 A And we identified that zoning was not established
9 on the property some time ago. And the property in
10 2013 was a substandard A-1 exclusive property.

11 Q And how did it come about that we found out that
12 this thing wasn't zoned correctly back in 1998?

13 A How did we come about?

14 Q How did you get to know that the property was not
15 zoned properly in 1998 by Mr. Scribner?

16 A Mr. Scribner had no authority. He was a land
17 division officer.

18 Q But Mr. Scribner, did he accept the petition to
19 rezone the lot back in 1998?

20 A No.

21 Q He did not?

22 A No.

23 Q So --

24 A He was the land division officer.

25 Q Okay.

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1 A He was not responsible for zoning.

2 Q He didn't accept the petition then for zoning --
3 the re- -- zoning petition back in 1998?

4 A I don't understand accepting. Do you mean taking
5 it in?

6 Q He took it in and accepted the ap- -- after the --
7 let me get this correct.

8 when the paperwork is filed,
9 right --

10 A Uh-huh.

11 Q -- it has to come down and be admitted to
12 Dane County zoning authority --

13 A Uh-huh.

14 Q -- the land division, and --

15 A Well, just zoning, not the land division. The land
16 division is a separate --

17 Q Okay. Zoning. But Mr. Scriber was involved in it;
18 correct?

19 A Not with the zoning.

20 Q He wasn't involved in accepting the petition? Is
21 what you are saying, is that he didn't accept --
22 the petition was -- the paperwork was brought down
23 splitting off two lots; correct?

24 A That is correct.

25 Q So --

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1 A well, it was rezoning in order to create a CSM for
2 two lots.

3 Q And the -- there was a problem with the paperwork
4 being accepted after the deadline; is that correct?

5 A The rezoning application never was completed.
6 There were some conditions of approval that were
7 not met, and the rezoning was rendered null and
8 void.

9 Q And who determined that it was null and void?

10 A I believe the zoning administrator at the time.

11 Q Was anybody notified that it was null and void at
12 the time?

13 A I'm sure probably the owner at the time. I do
14 recall that there were reminder notices that went
15 out identifying that conditions of approval needed
16 to be met. That was in the file. But I looked at
17 that file in 2013, so my memory is not specific.

18 Q The -- but the file -- but in 2013 -- we purchased
19 the property in 2011, so it was determined in 2013
20 that there was a problem with the willans' lot;
21 correct?

22 A There wasn't a problem. It was the property had a
23 zoning classification of A-1 exclusive. The
24 property was under 35 acres in size, making it a
25 substandard lot.

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1 Q But wasn't the lot the willans were on created as
2 an RH-1 back in 1998?

3 A Once again, zoning and land division is two
4 different entities. The zoning, I believe -- I
5 don't know specifically what zoning category it was
6 going into. It could possibly have been HR [sic]
7 or -- or A-2. I don't know specifically what the
8 petition called for, but it was rendered null and
9 void because conditions of approval were not met.

10 Q And you have no knowledge of anybody being
11 notified, the previous owners, Mr. Coppenhaver, who
12 purchased the property, or C.J. Vale, who sold the
13 property in 1998, being notified?

14 A In the file there were remainder notices that said,
15 This is going to be null and void if you don't file
16 the conditions of approval. And I wasn't there at
17 the time so I wouldn't know.

18 Q Okay. So let's go ahead now to 2013.

19 A Okay.

20 Q How -- in 2013, a lawsuit was filed by me; correct?

21 A I believe so.

22 Q Bringing Dane County zoning into a lawsuit that we
23 had going with the Town of Cottage Grove; correct?

24 A I don't know the specifics.

25 Q You don't know the specifics?

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1 A That's the corporation counsel's job.

2 Q But the corporation counsel was not involved.
3 Cervello was representing Dane County at the time
4 because this was a liability case, and it was
5 determined that -- we stipulated that there was
6 going to be a rezone on the property; is that
7 correct?

8 A Yes. Rezoning took place in 2013.

9 Q Originally, though, you -- remember some
10 correspondence with me back in 2013 regarding
11 asking a bunch of questions in an e-mail regarding
12 what took place with the zoning, and you told me
13 that I had to pay to get it rezoned? Is that
14 correct?

15 A That's correct.

16 Q And that based upon our lawsuit with Dane County,
17 it was agreed upon that you would rezone my
18 property -- our property at 4407 Vilas Hope; is
19 that correct?

20 A That's correct.

21 Q And that when you went to go to rezone this thing
22 in 2013, you were -- you recommended going back to
23 RH-1; correct?

24 A There were several discussions. The initial
25 discussion was rural homes; that's what the

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1 petition was called for. It was changed to A-2
2 because our discussions -- which you potentially
3 having a business on the property and could be run
4 as a limited family business. So midway through
5 the way, it was zoned to A-2, paren, I believe, 2
6 in order for someday you possibly having a business
7 on the property.

8 Q But that goes back to originally in 1998, it was
9 supposed to be zoned RH-1; correct?

10 A It was supposed to be, but it -- it never
11 transpired because the conditions of approval were
12 not -- were never met.

13 Q Absolutely. But my point is, in 2013, you tried to
14 go back to the original petition where it was RH-1,
15 and based upon conversations between you and I, and
16 a site visit, you determined that RH-1 wouldn't
17 work; is that correct?

18 A Well, the petition was originally filed as rural
19 homes, RH; to rezone the property. And then after
20 our discussions and a visit to the property and you
21 stating your future intentions of the property, I
22 suggested that the rezoning of that property should
23 be A-2.

24 Q who filled out that paperwork?

25 A who filled out that paperwork?

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1 Q Paperwork.

2 A I believe you submitted an application.

3 Q But there was other paperwork that went along with
4 it; correct?

5 A You know, that was 2013. So if the information --
6 if you have the information that was submitted,
7 I -- you know, the application was taken in and
8 accepted and went through the process. So I'm sure
9 the minimum information there was presented.

10 Q We will get back to that.

11 A Okay.

12 Q What I'm saying, Mr. Lane, is that I was not really
13 involved in the rezoning. You had been -- as an
14 agreement to our lawsuit, you had agreed to rezone
15 our property.

16 A Yes. And I believe you filled out an application.

17 Q Just with my name and signature. That is correct,
18 I did do that. But as far as the zoning goes, you
19 are an expert in zoning; is that correct?

20 A I wouldn't say I'm an expert.

21 Q You are not an expert in zoning and you are the
22 zoning administrator of the County of Dane?

23 A I administer the zoning --

24 Q Okay.

25 A -- to the best of my ability.

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1 Q Absolutely. And nobody would expect anything less
2 of you. However, what I'm getting to is that the
3 willans were relying upon you to pick the best
4 zoning for them based upon what their needs and
5 their use of the property was going to be; is that
6 correct?

7 A I -- I guess so. But, you know, you were fully
8 involved with the process. We had a public
9 hearing. We had various discussions on what was
10 the most appropriate zoning for your property.

11 Q But the most appropriate from the expert
12 recommending it; is that correct?

13 We were involved in the process;
14 however, the process was relying upon the expert
15 that -- based upon our conversation, our site
16 visit, our use for our property.

17 A So what you are getting at is that I forced you to
18 rezone your property? I don't understand the
19 question.

20 Q This is what I'm getting at, is that you have
21 recommended -- that first you recommended RH-1, and
22 you determined that wouldn't work for --

23 A Through our conversations.

24 Q Absolutely.

25 A Through our conversations.

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1 Q And then you come up and told us, Hey, you know,
2 based upon our conversation, ag. 2 looks more
3 appropriate for your use; is that correct?

4 A That's correct.

5 Q Okay. Now, my next question is, is there such a
6 thing as split zoning in Dane County, where a
7 property has got its own zoning district that could
8 be partially commercial, partially ag., partially
9 residential, partially commercial?

10 A There are some very large parcels that have areas
11 designated for a specific use, primarily if you
12 have -- such as a large farm, okay, or someone has
13 a hundred or 200 acres of land that is just wooded
14 and they are just using a very specific area for a
15 single-family residence, that area would be
16 reclassified for residential zoning district.

17 Q So are you familiar with America's Best down by --
18 located on Vilas Hope Road -- Flowers shop? And --
19 America's Best Flowers shop is located down on
20 Vilas Hope Road, down from us. I am sure you have
21 probably seen it many times if you have driven back
22 and forth to our property.

23 You are not aware of that piece of
24 property?

25 A I am aware of that business name, but --

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1 Q It is at 4311 Vilas Hope Road. And when we looked
2 up that lot, it's zoned -- it's a 32-acre parcel.

3 A Uh-huh.

4 Q Commercial is 1.988 acres, and ag. 1 is 30 acres,
5 or just a smidge over 30 is ag. -- ag. 1 exclusive.

6 A Okay.

7 Q So my question is, that ag. 1 exclusive requires it
8 to be 35 acres; correct?

9 A Yes. There is also substandard parcels.

10 Q Absolutely. But you just referred to only large
11 parcels. Now, there's a property right in front of
12 there, of America's Best, that is owned by
13 Mr. Eckloff, 4295 Vilas Hope Road. And that is
14 .789-acre lot. And we met Mr. Eckloff the other
15 day. And commercial point is .11 of an acre. It
16 is zoned commercial, and the rest is residential 3
17 for his duplex.

18 So I guess my question to you,
19 knowing that, how can you sit here and say that
20 it's only big lots?

21 A Mr. Willan, we went over this. And the County is
22 in the process of remapping their parcels because
23 we are going through the process of an in- -- with
24 our land division and surveying records, that we
25 are getting accurate information where all the

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1 section corners are and all the mapping information
2 is being updated. The -- the layer that has the
3 parcel boundaries and the zoning district layer
4 that has those polygons are not matching up
5 exactly.

6 Q what --

7 A And we told you that. And we are correcting that
8 as we are going through --

9 Q But we are talking about two different things. We
10 are talking about land area maps, and we are
11 talking about specific zoning.

12 You can't have a driveway on a piece
13 of property going into a bigger parcel unless it is
14 zoned commercial; is that correct?

15 A I don't understand your question.

16 Q There's a private driveway going through
17 Mr. Eckloff's property that is eleven-tenths [sic]
18 of an acre that is used for commercial use.

19 And that's what we are talking about
20 here, is zoning, not land maps; correct?

21 A I don't have a zoning map in front of me --

22 Q I'm not asking you --

23 A -- and I don't know exactly all of Dane County
24 zoning --

25 Q I'm not asking you --

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1 A -- so I'm kind of at a loss here.

2 Q I'm not asking you that. But we are talking
3 specifically about zoning on those parcels, not
4 maps. We are talking about one portion of the --
5 it's called a specific zoning district; correct?
6 You can -- by statute, you can create a zoning
7 district on a parcel; correct?

8 A Yeah.

9 Q Absolutely.

10 A All of Dane County is zoned one way or another --

11 Q Absolutely.

12 A -- and classified into different zoning --

13 Q And in order -- and my point is, in order for you
14 to get up to America's Best on a private driveway
15 on a separate parcel of land, which it happens to
16 be Mr. Eckloff's land, it has to be zoned -- is it
17 true that it would have to be zoned commercial to
18 get onto that property?

19 A I would have to look at the situation at hand.

20 Q Okay.

21 A You know, once again, you're -- you're saying stuff
22 without any zoning maps or anything on specific
23 properties that I have really little, no knowledge
24 of.

25 Q I -- I believe I sent you an e-mail so you could

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1 check into it, but that's neither here nor there.

2 (Cross-talk)

3 THE REPORTER: wait a second. wait
4 a second. I cannot take this if you're talking at
5 the same time. So everything has to be one at a
6 time.

7 THE WITNESS: Okay.

8 MR. WILLAN: Okay.

9 BY MR. WILLAN:

10 Q What I'm getting at, Mr. Lane, is the fact that
11 this whole lawsuit is about use of my property;
12 correct? A lot of this lawsuit is about use of my
13 property; correct?

14 A Well, on June 16th, I wrote a letter that had
15 specific violations on your property.

16 Q I'm not asking you the violations. I'm asking you,
17 specifically, most of this lawsuit is about the use
18 of my property; correct?

19 A There were various items in the lawsuit. There
20 were grading of property. There were --

21 Q Once again, we are only --

22 A -- other land use activities that were occurring
23 that were in violation --

24 Q Okay.

25 A -- of the zoning district.

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1 Q what I'm asking you is -- we are not going to deal
2 with the erosion control. Those people are coming
3 in here in a little while, and they will explain
4 their portions of the deal.

5 what I'm talking about, Mr. Lane, is
6 property use. Our property is zone ag. 2; is that
7 correct?

8 A Yes, that's correct.

9 Q Okay. So in order -- in order for me to do things
10 on my property, I have to fall within ag. 2 rules
11 and regulations; correct?

12 A There are -- there's a zoning classification of
13 A-2. There are land uses that are permitted by
14 right, land uses that are conditional use land
15 uses, and there are requirements, such as setbacks
16 and number of animals you can have on the property.

17 Q Absolutely. So my point, back to Mr. Eckloff's
18 property, right, if Mr. Eckloff had strictly a
19 residential lot, and he was using a portion of his
20 property to allow cars to go into America's Best
21 property, which is a commercial property, would
22 that be in violation of the zoning ordinance?

23 A I would really have to take a look at it, sir.

24 Q well, I guess what I'm trying to --

25 MR. GAULT: I'm going to object to

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1 this line of questions. You have asked the
2 question five or six times, and he's told you,
3 without specifics of that lot, he doesn't know.
4 That's his answer. So he is not going to answer --

5 MR. WILLAN: Okay.

6 MR. GAULT: -- anymore on this line
7 of questions.

8 BY MR. WILLAN:

9 Q Okay. This line of questioning is that if you --
10 the land use of somebody's property has to conform
11 to the zoning ordinance; correct?

12 A Correct.

13 Q So in our case, of our property, right?

14 A Uh-huh.

15 Q This is a little scenario. Right? I have talked
16 to you about wanting to make a portion of our
17 property commercial and then making the house
18 residential 3 so we could get the -- get this
19 supposably (sic) duplex thing --

20 A Uh-huh.

21 Q -- taken care of. Is there -- is that a viable
22 option to take care of this problem?

23 A And I have responded to you, sir, in that regards.
24 You create two lots; one for a residential building
25 and one for your commercial business.

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1 Q what I'm getting at, Roger, is that there's four
2 properties on Vilas Hope Road alone that don't have
3 separate lots. And why do they get -- I guess --
4 just hear me out first. why do they -- why are
5 they allowed to have split zoning on their lots and
6 Mr. Willan and Mrs. Willan is not, without creating
7 an issue?

8 MR. GAULT: And once again, I am
9 going to object that you're stating facts that he's
10 not aware of. He said he's not familiar with those
11 other parcels you are referring to. So you can't
12 demand him to answer something yes or no about a
13 parcel he has no knowledge of.

14 MR. WILLAN: I'm not asking him
15 whether he knows.

16 BY MR. WILLAN:

17 Q what I'm saying is that he knows that there are
18 those petitions that are under the ordinance that I
19 asked you about. Right? All them petitions;
20 correct?

21 A You asked Mr. Hilbert about --

22 Q well, I asked you, and Mr. Hilbert sent me copies
23 of them, but you were copied in on it; correct?

24 A But Mr. Hilbert responded to you.

25 Q Absolutely. And we will get to that. But you were

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1 involved in it. And my point is, all those
2 petition listed are split zoning; is that correct?
3 Other than a couple of them. Would that be fair to
4 say that all those petitions that I sent those
5 numbers to you on are split zoning?

6 A I believe Mr. Hilbert responded to you with regards
7 to those.

8 Q And you are the zoning administrator, and you
9 weren't involved in any that?

10 A I do have a staff, and when I am out of the office,
11 they respond to questions.

12 Q My point to this is that I sent you the same e-mail
13 asking you certain questions, and you said -- you
14 came back with your same answer about metes and
15 bounds and all that other stuff. So you were
16 involved in this.

17 I asked you for those petitions, and
18 I told you that it was my belief that those
19 petitions were split zoning on properties; correct?
20 Did I state that in my e-mail?

21 A Yes, you stated that.

22 Q And you told me that it was all metes and bounds
23 and the map system was all screwed up.

24 However, that's not true; is it,
25 Mr. Lane?

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1 A It is true.

2 Q That those petitions don't have split zoning on
3 them? That's what you are telling me today? As
4 you sit here today, you are telling me that those
5 petitions that I referred to in my e-mail have no
6 split zoning on them?

7 A Sir, you need to give specific information on the
8 petitions. There was an e-mail that Mr. Hilbert
9 responded to. He provided you all the information
10 regarding the petitions, and it was left at that.

11 Q And you never looked at any of them petitions?

12 A I don't look at every single thing that goes out by
13 my staff.

14 Q And specific instances when Mr. Willans' involved,
15 you are not involved with running it by corporation
16 counsel or anybody else to make sure that
17 Mr. Willan gets what he has asked for, or that
18 might not be harmful to Dane County? My question
19 is, you are not involved in looking at specific
20 information that is given to Mr. Willan? That's
21 what you are standing here testifying to today?

22 MR. GAULT: No. What he said is he
23 doesn't -- he wasn't involved in that request; that
24 Mr. Hilbert responded to it. You can ask him
25 multiple times. His answer is he doesn't know

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1 because he didn't respond to it.

2 BY MR. WILLAN:

3 Q But my question is that you never looked at -- you
4 are telling me as you sit here today, you have
5 never looked at any of those positions as split
6 zoning? You don't have any knowledge -- as you sit
7 here today, you have no knowledge that those are
8 split zoning in Dane County of any parcels?

9 A Of the petitions that you requested, Mr. Hilbert
10 had responded to it. You know, if your question
11 is, is there any properties in Dane County that
12 have two zoning classifications, yes. Because we
13 have been zoning properties since 1938.

14 Q Thank you. That was what it took to get you to
15 answer that question.

16 So my point is --

17 MR. GAULT: well, you've got to pose
18 the question to answer it, because --

19 (Cross-talk)

20 BY MR. WILLAN:

21 Q I asked the question, and my question is that --
22 why would not my property qualify for split zoning
23 without splitting the lot off like everybody else
24 since 1938? what is in the law that would stop my
25 property from being rezoned partially commercial,

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1 partially residential 3 without having to split the
2 two properties -- splitting the two properties
3 apart?

4 A And I have told you that in an e-mail. I responded
5 very clearly. You have a 2-acre certified survey
6 map lot. That small part parcel is required to
7 have zoning on it throughout.

8 Q I -- could you specifically tell me what ordinance
9 or state law you are referring to that requires --
10 that lists the size of a lot that has split zoning
11 on it?

12 A Well, if you give me four or five minutes, I could
13 probably look through the ordinance. But there is
14 an ordinance that specifically states that the
15 zoning district boundaries must fall within the
16 certified survey map lines.

17 Q Here you go. I --

18 MR. GAULT: Roger, could they do a
19 new certified survey map and split the lots?

20 THE WITNESS: That's -- my e-mail
21 suggested that; to divide the property in half,
22 have one lot being for commercial use and one lot
23 being for whatever residential use Mr. Willan would
24 propose.

25

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1 BY MR. WILLAN:

2 Q But -- okay. Here's another question based upon
3 that. What happens with that is, depending on
4 what's on the lot already; right? Our house is so
5 close to the barn, so now we are going to create
6 some nonconforming issues with my property, making
7 it all; correct?

8 You know, we would create -- we
9 could create problems with nonconforming use
10 because my barn is too close to the house then and
11 side yards? If the lot don't dictate that --
12 right?

13 What I'm looking for is the viable
14 option to get part of it commercial, part of it
15 residential. Nobody's pointed out an ordinance or
16 a state law that says I can't do it based upon its
17 size.

18 And that's my question I keep posing
19 to you, and that's what brings us to this
20 discussion, is that, as zoning administrator, I
21 would think you are here to help the citizens of
22 Dane County obtain zoning. I need to obtain the
23 zoning that I need to get Dane County zoning off my
24 back and to conform to all the things that go along
25 with Dane County zoning. And to me, the simple

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1 solution would be rezone my lot, like I have asked
2 you to, and help me through the process.

3 wouldn't that sound like a viable
4 solution?

5 A That is a very viable solution. And I responded to
6 your questions with regards to how you get
7 commercial -- to have commercial activities and
8 residential activities on your property; dividing
9 the lot in half, one being zoned for commercial and
10 one being zoned for residential purposes.

11 Q But my point is, I don't want to rezone my lot into
12 two separate parcels. I want them zoned into one
13 parcel with split zoning for use, just like four
14 people in my neighborhood get to. And I will get
15 you that list of things that you can go look at.

16 A Uh-huh.

17 Q And give me what we are entitled to as citizens of
18 Dane County, what you are entitled to -- or what
19 you are obligated to do as the zoning administrator
20 of Dane County so you can get off our back about
21 what we are doing on our property.

22 You have taken a lot of interest in
23 our property; haven't you, Mr. Lane?

24 A No, sir. There has been complications on that
25 property. But --

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1 Q You haven't taken no interest?

2 A In what respect?

3 Q Have you brought three stop work order signs out to
4 our property?

5 A No.

6 Q You haven't brought three out there?

7 A Two.

8 Q I disagree. There's three. You brought the first
9 one --

10 MR. GAULT: He answered the
11 question. You don't get to argue with him.

12 BY MR. WILLAN:

13 Q Okay. All right. I will just show you.

14 A Uh-huh.

15 Q Here's one.

16 A That says Russell Bartlett.

17 Q Were you there? Roger Lane, III. Were you there?

18 A That's not my handwriting.

19 Q Doesn't matter. Were you there?

20 A No.

21 Q You didn't come out and put that --

22 A Russell Bartlett placed that one on there.

23 Q It says right there, By Roger Lane, III.

24 A You see the signature underneath that?

25 Q Doesn't matter. You told me that you were out to

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1 my property. And you see we were putting an
2 addition on it. There's three different stop work
3 orders.

4 You haven't been out there three
5 times?

6 A No -- well, actually, yes. Because we had the
7 conversation in 2013 on your property.

8 Q Yeah.

9 A So that would probably make three times.

10 Q And I voluntarily took you around my property; did
11 I not?

12 A Sure.

13 Q No problems back then. And back to my point is,
14 when you recommended ag. 2 zoning back in 2013, did
15 you know that there was split zoning on parcels in
16 Dane County throughout that might work better for a
17 zoning classification for the willans?

18 A Once again, sir, in order to conform to the
19 Dane County Code of Ordinances on a certified
20 survey map lot, in order to have multiple uses on
21 that property, you would need to divide the
22 property in half through a certified survey map,
23 and rezone the commercial area to a commercial
24 zoning classification, and on the second lot,
25 having that rezoned for residential use.

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1 Q Do you have your ordinances with you?

2 A I have a copy.

3 Q Could you take that five minutes you might need to
4 show me where that -- what ordinance that is?

5 A Okay.

6 Q Because it was never listed in the e-mail when you
7 told me that I --

8 A I don't have the complete zoning ordinance. Do you
9 have Chapter 75?

10 Q I don't have Chapter 75.

11 A Because that's land division.

12 Q What I'm talking -- I'm not talking about land
13 division. What I'm talking about -- once again,
14 Mr. Lane --

15 A Well, it's imperative that I have Chapter 75
16 because that says that the --

17 MR. GAULT: Mr. Willan, can I make a
18 suggestion? The rezone of your property either
19 retrospectively or prospectively really isn't
20 relevant to either the County's claims or your
21 defenses in this case. What I would suggest is --
22 I will represent to you that Mr. Lane will, as soon
23 as possible, maybe even by tomorrow, give you an
24 answer citing to the specific ordinance that
25 prohibits what you are wanting to do on a CSM map.

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1 But I don't really think it's relevant to the
2 issues in this lawsuit.

3 MR. WILLAN: The relevancy is that
4 we relied upon Mr. Lane to rezone our property back
5 in 2013. And since 2013, Mr. Lane has taken it
6 upon himself to systematically stop us and
7 interfere with our right to enjoy our property for
8 five years. So that's the relevancy of it. If you
9 recommended one thing, and could have done
10 something different, right, and then all of a
11 sudden -- we don't know what his motive is. You
12 know, his motive -- it goes to motive; motive that,
13 oh, we will rezone this this way and we will keep
14 an eye on his property. And that's what I'm
15 saying. That's the relevancy of the continued
16 harassment of the willans.

17 MR. GAULT: The fact of the matter
18 is your land is zoned what it is.

19 MR. WILLAN: Absolutely. But it
20 goes -- the relevancy of it is -- that I'm trying
21 to get out today is that he could have recommended
22 a different zoning strategy for the willans based
23 upon our use. Because what this whole lawsuit
24 boils down to is only one thing, Mr. Gault; is you
25 are telling me I am manufacturing buildings in an

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1 ag. 2 zone; you are telling me I have a duplex in
2 an ag. 2 zone; none of these things are allowed.
3 But everybody fails to miss the solution here.

4 BY MR. WILLAN:

5 Q The solution is, tell us what we need to do,
6 Mr. Lane. Quit citing us and let us -- let us go
7 on. That's the relevancy of this; right?

8 MR. WILLAN: If -- in 2013, if he
9 had zoned my property the way he did, the way that
10 other properties in our neighborhood could be --

11 BY MR. WILLAN:

12 Q And it isn't like we are ag. exclusive. We are an
13 ag. accessory business; is that correct, Mr. Lane?

14 A Excuse me?

15 Q We, IronMan Buildings, is an ag. accessory building
16 as an accessory use to ag. use; correct?

17 A I guess so. You own the business.

18 Q But ag. use means we build barns, chicken coops,
19 little buildings for storage, cattle sheds.

20 So would that be an ag. accessory
21 use?

22 A Sir, I really don't know your specific business, so
23 I -- I believe you would be more able to answer
24 that question than me what your business is.

25 Q Are you familiar with the ag. preservation law

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1 under Wisconsin Statute?

2 A Which part? I guess yes. Sure, yes.

3 Q I guess all of it; right?

4 A Sure, yes.

5 Q I mean, you are the zoning administrator.

6 A Yes.

7 Q Let's not keep beating around the bush on stuff
8 that I know you are intelligent about. And what my
9 issue is, is that under that ag. exclusive thing,
10 they allow you exceptions to have an ag. accessory
11 business in an ag. exclusive zone; correct?

12 A Yes. They are -- within the A-1 exclusive
13 agricultural zoning district, there are provisions
14 for agricultural accessory uses.

15 Q So would you consider that if a business is
16 building barns and chicken coops and milking
17 parlors and those type buildings for the ag. use,
18 that would be an accessory business under the law,
19 under the definition of one in the statute?

20 A I don't believe so. It has to be directly related
21 to agriculture.

22 Q Building buildings for agricultural? It doesn't
23 say it has to be exclusive. What I'm saying,
24 Mr. Lane, is, building ag. buildings is an
25 accessory use for the agricultural industry;

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1 correct?

2 A I would have to say it's a manufacturing process.

3 Q And why would you say that?

4 A Because you are manufacturing buildings.

5 Q We are not manufacturing anything on our property.

6 what we are doing is -- right? We are not

7 manufacturing anything on our property, Mr. Lane.

8 We go out to people's farms, farmyards. We sell

9 them right at their kitchen table. Right? I

10 explained that to you back in 2013, exactly what we

11 did. Our sales guys go there. Right? And then we

12 go on site.

13 A No.

14 Q I didn't explain that to you?

15 A No. You said you had a business, but you didn't

16 explain it in detail.

17 Q Okay. So if I come up with some e-mails that show

18 what I told you my business was, I've laid out my

19 business to you --

20 A Yeah, you build agricultural buildings.

21 Q Absolutely. That's my point. And I'm just getting

22 to the point, is that that would be considered an

23 ag. accessory business?

24 A It is also with ag. accessory uses, you need a

25 conditional use permit in the A-1 exclusive zoning

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1 district.

2 Q Absolutely. But I fall under the exceptions under
3 the state law; correct?

4 A Mr. Willan, the zoning classification that you have
5 on your property is A-2(2). It is not certified as
6 a zoning district in the farmland preservation
7 zoning district. We only have three zoning
8 classifications that are certified for
9 ag. preservation.

10 Q And ag. 1 exclusive is one of them; correct?

11 A A-1 exclusive is one of those.

12 Q Was the Willans' property ag. 1 exclusive prior to
13 2013, when you helped rezone it to ag. 2?

14 A That's correct, out of your specific -- you --

15 Q I'm not asking that.

16 A You know, the lawsuit said that we were to assist
17 you directly in rezoning your property to a zoning
18 district free of charge. And that's what we did.

19 Q But my point is, that ag. 1 exclusive would have
20 qualified me to run my business out of that
21 property without any zoning change; correct?

22 A No.

23 Q You just told me that ag. 1 exclusive fits under
24 the state law ag. 1 exclusive; correct? That we
25 can have accessory businesses in ag. 1 exclusive;

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1 correct?

2 A Mr. willan, you have a substandard parcel back --
3 prior to 2013.

4 Q Once again, it's grandfathered in; isn't it?

5 A There are -- there are limitations to that. And
6 this is very hypothetical information.

7 Q Once again, though, what my point to this whole
8 thing is that ag. 1 exclusive -- I have read the
9 state law so I know what I would have qualified to.
10 And my point is, you changed our zoning to ag. 2 at
11 your recommendation, and that since that time you
12 have continued to come down and harass us about
13 what we are doing on our property. And it doesn't
14 matter whether it's been on our house or been on
15 our barn or been on our land. You keep --

16 MR. GAULT: I'm going to object. I
17 think it's a misstatement of fact. Mr. Lane made a
18 recommendation for a zoning district based on your
19 conversation. You applied for that zoning
20 district, and the County board granted it. That
21 zoning district is what it is. The law is very
22 clear that, although there is certainly no facts
23 here to support that there was any misstatement of
24 fact or law by Mr. Lane, you are the one who is
25 responsible for your zoning. And you made that

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1 decision. So continually asserting that he somehow
2 rezoned your property -- he made a recommendation,
3 you signed the petition, and the County board
4 granted it. I am going to advise him he doesn't
5 have to answer any more questions on this because
6 you are beating a dead horse.

7 MR. WILLAN: All right. We will go
8 on to the next one. Okay. We are going on to the
9 next thing.

10 BY MR. WILLAN:

11 Q Okay. Let's get to our first order of business
12 when it comes to what happened in June of last
13 year, June -- roughly around June 14th or 16th.
14 Somehow you were notified something was going on on
15 our property.

16 Do you have the details of that?

17 A I believe we received an e-mail.

18 Q From who?

19 A I believe Land & Water Resources, one of the
20 inspectors.

21 Q And what did he tell you?

22 A That there was activity going on; that he drove
23 past and saw land-disturbing activities and other
24 activities going on on the property.

25 Q Is that standard operating procedure for

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1 interoffice departments in Dane County to report
2 things that they see when they drive around?

3 A Yes.

4 Q Okay. So what did you do at that point?

5 A Let's see. Basically conducted an inspection from
6 the public right-of-way. Because I asked you if I
7 could go onto your property, and you refused entry
8 on the property. The inspection revealed that a
9 number of storage sheds were being constructed on
10 the property; an area had been graded to support
11 outdoor operation as to the construction of storage
12 sheds; construction material was present for the
13 construction of more storage sheds; constructed
14 storage sheds were placed in a fashion of outdoor
15 display; there were sheds located in the
16 right-of-way; there were signs placed on the sheds
17 identifying IronMan Buildings, a business that
18 constructs storage sheds; an area of approximately
19 8,000 square feet was filled and graded at that
20 intersection of County Highway BB and
21 Vilas Hope Road; the grading was within 5 feet of
22 the property line and within the public
23 right-of-way.

24 Q Okay. Let's go back to the -- your property
25 inspection about the buildings. Under the

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1 Dane County ordinance, can a construction company
2 put construction signs up on their property when
3 they are working on a project?

4 A There are provisions for construction signs.

5 Q Are you familiar with those provisions?

6 A Somewhat.

7 Q Well, would you agree that 2-foot by 4-foot signs
8 that were located on there, one on Vilas Hope Road
9 and one on Cottage Grove Road, fit within the
10 definition of the ordinance --

11 A No.

12 Q -- as a construction sign?

13 why is that?

14 A Under Dane County Code of Ordinance
15 Section 10.73(5), to qualify as a construction
16 sign, a sign shall identify the project and then
17 may include names of contractors, engineers,
18 products being used. The sign that I looked at did
19 not identify the project.

20 Q The project -- was it evident that the project was
21 the little buildings that the signs were attached
22 to?

23 A I don't know. Because the sign didn't have any --
24 did not identify the project.

25 Q But how does the sign -- the project was the

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1 building itself. A construction sign is a
2 construction sign. It listed IronMan Buildings.
3 It didn't list any buildings for sale; correct?

4 A Well, it was on-site advertising sign.

5 Q It was a cons- -- yeah, what I'm asking you is, can
6 a construction company put up a sign on their
7 property while they are constructing buildings?

8 A They generally -- a contractor usually goes to a
9 site, and then it's not their property --

10 Q Once again --

11 A -- it is another person's property that they are
12 constructing --

13 Q But Mr. Lane --

14 A -- and then they identify the -- what the project
15 is.

16 Q Mr. Lane, though, Tom and Julia Willan own the
17 property. Just because they own a construction
18 site, a construction company called IronMan
19 Buildings, doesn't disqualify them under the
20 ordinance to build -- have their crews come in and
21 build buildings for them.

22 MR. GAULT: Is that a question?

23 BY MR. WILLAN:

24 Q Yeah, is there anything in the ordinance that
25 disqualifies the Willans from owning a piece of

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1 property and having their construction crews from
2 the company that they own come in and build
3 buildings on their property?

4 A I would say no.

5 Q So if they hire the construction crew to come build
6 them, would it be logical to allow construction
7 signs on the property identifying the construction
8 company that is building them?

9 A Once again --

10 Q I'm not asking -- answer the question. I'm asking
11 you a question, a specific question. Is it -- why
12 is it different for the willans' construction
13 company than Findorff or any of the construction
14 companies out there with construction signs up? It
15 doesn't matter. A construction sign is a
16 construction sign, right, Mr. Lane?

17 A That is incorrect. There is -- there is a lot of
18 classifications for signs.

19 Q And once again, we are talking --

20 A There is specific --

21 Q -- specifically about a construction sign,
22 Mr. Lane. That's what I'm talking about. You are
23 beating around the bush here. And I'm just asking
24 you to please answer the question. Not somebody
25 else's construction sign. The willans'

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1 construction sign, is what the willans'
2 construction sign was. And their company was
3 building buildings; correct?

4 A They were manufacturing buildings on-site.

5 Q Once again, what proof do you have that anybody was
6 manufacturing anything? You have to construct --
7 how -- how do buildings get built on people's
8 sites, Mr. Lane? Is that manufactured or is that
9 construction?

10 A I will answer that question, Mr. willan. When on
11 Tuesday, May 31st, 2016 at 2:45 you sent out an
12 e-mail to me that specifically states, we are now
13 building movable buildings -- we are now building
14 movable mini storage buildings that we are
15 marketing.

16 Q Were we marketing them on the property? Did I say
17 we were marketing them on the property? Does my
18 e-mail specifically state I was marketing them on
19 the property?

20 A No. It just says marketing around.

21 Q Marketing around, but not marketing on the
22 property. Because that would be a violation of the
23 ordinance if I was marketing them on the property;
24 wouldn't that be correct?

25 A Correct.

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1 Q Okay. So I know what the law says. So I wasn't --
2 I didn't say I was marketing them on the property.
3 I was marketing them, but I was making buildings
4 for my own personal use.

5 Is that allowed under the ordinance?

6 A Once again, Mr. Willan, I received an e-mail, we
7 are now building movable mini storage buildings
8 that we are marketing.

9 Q Does it say --

10 A I conducted an inspection on June 16th, and the
11 inspection revealed a number of storage sheds being
12 constructed on the property; that an area was
13 graded to support outdoor operation of the
14 construction of storage sheds; construction
15 material was present on the --

16 Q Is this all just your opinion, sir? Is this all
17 your opinion? This is just all opinion; right?
18 Just because -- open land does not mean what --

19 Do you have any proof what I was
20 doing with that land?

21 A Sir, I observe, record, and report, and that's what
22 I observed.

23 Q Absolutely. You -- but it's just opinion. You
24 didn't actually know what we were doing with the
25 grading of our property; correct?

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1 A I -- I guess so.

2 Q Well, it's obvious that you didn't know because we
3 weren't doing that. And we talk about my e-mail,
4 back to -- my e-mail says I was constructing. It
5 didn't say I was manufacturing buildings for sale
6 off my property; did it?

7 A No. It said constructing.

8 Q Constructing. So there's a different between
9 manufacturing -- manufacturing is a word consists
10 of something that's done in a factory or done in a
11 certain sense; correct?

12 A Not necessarily.

13 Q Well, you tell me your definition of manufacturing
14 then, sir.

15 A I would have to refer to a dictionary for
16 manufacturing.

17 Q Well, once again, you have used the word
18 manufacturing in your lawsuit and your letter to
19 me, sir. But I am telling you, we weren't
20 manufacturing anything. We were constructing
21 buildings for our own personal use.

22 Is that allowed under the law, under
23 Dane County ordinance?

24 A I didn't use "manufacturing" in my letter. I used
25 were being constructed on the property.

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1 Q well, your lawsuit says "manufacturing."

2 MR. GAULT: That was my language.

3 BY MR. WILLAN:

4 Q well, I'm just saying it doesn't matter. And my
5 point is, right, that you are manufacturing --

6 A It does matter. You are --

7 Q what you are saying is that I am manufacturing -- I
8 graded -- what you are insinuating, sir, is that
9 we've created a factory on our property; we graded
10 all this land. That's what your letter insinuates
11 here, but there is no actual proof that we have
12 done any of those things. You said we
13 manufactured -- manufacturing means something like
14 a General Motors, Ford plant that's manufacturing
15 something. And I don't need a dictionary to do
16 that. I learned that when I was a young kid in
17 school.

18 And we weren't manufacturing
19 anything for marketing off our property. And
20 that's my point that I'm trying to get at. I'm
21 trying to get these things narrowed down because
22 you want to claim one thing. The ordinance says I
23 can have construction signs on my property, but
24 Roger Lane says I can't because he wants to
25 interpret words that don't exist.

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1 MR. GAULT: Mr. Willan, Mr. Lane has
2 testified what he observed. Whether it's
3 manufacturing or whether it's construction really
4 doesn't matter. It's for the judge to decide. And
5 I don't think this is the forum to make your
6 argument on what you think it is. He's told you
7 what he saw and what he interpreted it to be.

8 BY MR. WILLAN:

9 Q But I'm asking, what proof do you have that we were
10 doing any of those things? Right? What proof do
11 you have that that property was used for that,
12 other than your personal observation?

13 A Sir, I observed, once again --

14 Q Once again -- I understand. You don't have to
15 repeat it. You observed X, Y, or Z, but there's no
16 proof.

17 Do you have any witnesses that will
18 come forward that we sold any of those buildings
19 to?

20 A I made an observation, I took pictures --

21 Q Do you have any witnesses --

22 A -- and I reported it.

23 Q I'm asking you one question. Do you have any
24 witnesses that are going to come forward that are
25 going to say we sold them buildings, marketed them

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1 buildings to them?

2 A I have no idea, sir.

3 Q Do you have any witnesses that are going to come
4 and say that our land that we are excavating off
5 was used to manufacture buildings other than your
6 observation?

7 A The observations were very clear --

8 Q Once again --

9 A -- there were multiple buildings on the property
10 that were recently manufactured there.

11 Q Yep.

12 A There were --

13 Q Absolutely. I've --

14 (Cross-talk)

15 THE REPORTER: Wait. I'm sorry.

16 One at a time.

17 THE WITNESS: There was a building
18 under construction.

19 MR. GAULT: And again, I'm going to
20 object to the question. Asked and answered
21 multiple times.

22 MR. WILLAN: Okay. That's fine.

23 BY MR. WILLAN:

24 Q Are the buildings still on the property, sir?

25 A I really don't have any idea.

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1 Q You don't have any idea? Let me ask you this. On
2 120 square feet, is the zoning permit required for
3 a little building?

4 A No.

5 Q So there's no requirement for the willans to get a
6 permit from Dane County zoning on little buildings;
7 correct?

8 A If the buildings are under 120 square feet in size,
9 no.

10 Q So do you have any proof that any of those
11 buildings were over 120 square foot?

12 A The site plan you submitted on April 14th, 2017
13 showed multiple accessory buildings on the property
14 with the dimensions.

15 Q Okay. Let me ask you this. Would this be a
16 depiction of our property; correct? Not current
17 one, but --

18 A I can observe -- it appears --

19 Q Yep.

20 A -- what it looks like to be your sign. And yeah, I
21 would have to say that's a picture of your
22 property.

23 Q Okay. So there's three buildings right out there,
24 right, that continue to be out there? Correct?

25 A Yeah, there's two buildings and one under

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1 construction.

2 Q Absolutely. Absolutely. So the buildings are
3 still out there; correct? would you agree that
4 they are still out there?

5 A I don't have any knowledge of that --

6 Q Okay.

7 A -- because there is no date stamp on that.

8 Q Okay. That's fine. That -- that's --

9 A I would have to say I guess so.

10 Q Yep. Okay. So I guess my next question is, is
11 there any Dane County ordinance that says I can
12 build 20 buildings or 40 buildings as long as I
13 don't go over the square foot of my deal, as long
14 as I stay under 120 square feet?

15 A Yes.

16 Q What ordinance?

17 A Under the A-2 zoning district, you are only allowed
18 to have the maximum building coverage of 10 percent
19 on your property.

20 Q Correct. But that doesn't list individual
21 buildings. If I wanted 20 buildings, 20 buildings,
22 9-by-9s, 81 square feet -- right? Ten buildings
23 equal 810 square feet, correct, if they are 81
24 square feet? Right? Well, 81 square feet per
25 building; right? So if I had 20 buildings out

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1 there, I could have that on my property; correct?

2 A That's correct.

3 Q So my next question, what's the big fuss that you
4 are making about the buildings that are on our
5 property?

6 A Once again, Mr. Willan, on June 16th -- right? I
7 mean, we are not out there every day, and we were
8 out there a year ago.

9 Q Absolutely.

10 A And we said, Remove all the buildings from your
11 property?

12 Q You did originally in your first e-mail, Mr. Lane,
13 that told me I had to get rid of them. And I told
14 you basically to -- that I wasn't going to do that.
15 I did get rid of two of them because they didn't
16 match, but -- so you did tell me I had to get rid
17 of them in an e-mail. And you go back on that, and
18 I don't -- I can dig for it, but we need to get
19 moving on here to some other things.

20 A Okay.

21 Q Okay. When you came out there and put the stop
22 work order sign, what happened next? Did the
23 Willans pull the buildings back and get the signs
24 down?

25 A Correct.

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1 Q So at that point they were no longer in supposed
2 violations of what you believe was going on;
3 correct?

4 A Correct.

5 Q That would have been the same day you brought the
6 stop work order; correct?

7 A Once again, when I placed the stop work order
8 there, right, I wrote a letter. The inspection
9 revealed a number of storage sheds being
10 constructed on the property --

11 Q Yep.

12 A -- an area graded for an outdoor operation for the
13 construction of storage sheds, construction
14 materials present.

15 Q I get all that. You already read that, sir. What
16 I'm asking you is, that immediately, I pulled the
17 buildings back out of the right-of-way, I took the
18 signs down on that very same day, and sent you
19 pictures of that being done; correct?

20 A Yeah.

21 Q So I guess my point is that -- here is that the
22 violation -- right? Because every violation is a
23 single violation every day, correct, under the
24 ordinance?

25 A That's correct.

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1 Q You guys are asking for between 200 and a thousand
2 dollars a day for every day I am not in violation.

3 A Uh-huh.

4 Q So at what point am I in violation, I guess is my
5 question to you? What are you considering my
6 violation is, Mr. Lane? If I --

7 A Once again, on June 16th, there was a violation --

8 Q Once again, we are not talking about that. Am I
9 still in violation of the little building law?
10 Right? That's what we're talking about here. Am I
11 still in violation of manufacturing buildings on
12 my -- and at what point did that end?

13 A That activity ceased shortly after June 16th.

14 Q Absolutely. That's my point. But you are asking
15 for damages of \$200 to a thousand dollars a day;
16 correct?

17 MR. GAULT: I will stipulate we are
18 not asking for forfeitures on that particular
19 violation, but we are also seeking injunctive
20 relief. There's two-part components to our
21 lawsuit. And Mr. Lane doesn't make the
22 determination of what goes in the lawsuit. There's
23 two components as prospective injunctive relief and
24 forfeitures for an ongoing violation. I will
25 stipulate that there is no ongoing violation of the

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1 small storage sheds since June 16th, and we are not
2 seeking monetary forfeitures for that.

3 MR. WILLAN: And the signs?

4 MR. GAULT: And the signs. And the
5 signs aren't in the lawsuit, I don't believe.

6 MR. WILLAN: Absolutely, they are.
7 You posted that, you have signs on the buildings, I
8 believe, that --

9 MR. GAULT: The allegation of
10 illegal signs was not listed in the complaint.

11 MR. WILLAN: What it does for me,
12 Mr. Gault, is it muddles [sic] all the water here.
13 Right? Let's get down to exactly what specific --
14 specific zoning violations we are dealing with.
15 Right? You could have took that out of the lawsuit
16 when you refiled the first amended complaint and we
17 could have been done with it; correct?

18 MR. GAULT: I could have. But based
19 on my experience of how these things happen, once
20 the lawsuit is over, sometimes the illegal uses
21 crop up again if we don't have a prospective
22 injunction prohibiting it. So it was my decision
23 to include that in the lawsuit, because there had
24 been a violation, so that the judge issued an order
25 saying, You can't go back to doing that particular

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1 activity once the lawsuit is done.

2 Again, I am willing to stipulate we
3 are not seeking forfeitures for the storage sheds,
4 small buildings, whatever you want to call them, as
5 of right now because, apparently, that violation
6 was cured back in June of 2016.

7 MR. WILLAN: All right. That --
8 good enough on that.

9 BY MR. WILLAN:

10 Q So let's go to our next set of questions on -- next
11 set of questions regarding putting a deck on
12 without a permit. What -- on September 28th,
13 something took place -- of 2016, something took
14 place that caused you to sign a stop work order
15 against me and place it on my property? That's a
16 question.

17 A What was the question?

18 Q On Sep- -- was there an issue on my property on
19 September 28th, 2016 regarding a deck going on our
20 property?

21 A Correct.

22 Q Okay. What was the issue there?

23 A There was an addition to an accessory building
24 without a zoning permit.

25 Q Okay. And how did you come to find out about that

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1 or what --

2 A Once again, we received an e-mail from Land & Water
3 Resources, and they described that there was
4 construction activity once again being conducted on
5 4407 vilas Hope Road.

6 Q Okay. And what happened next then?

7 A Zoning inspector Russell Bartlett was assigned the
8 task of inspecting the potential violation.

9 Q And at any time did anybody from your office
10 contact Mr. Willan to ask him what was going on
11 with his property?

12 A No, sir. We --

13 Q That's good enough. I just asked you the question.
14 So prior to that, had you been told
15 to stay off Mr. Willan's property without a search
16 warrant?

17 A I had been told by you on June 16th -- or
18 June 10th, 2016.

19 Q So if you hadn't talked to anybody on
20 September 28th, how could somebody from your
21 department come on our property without a search
22 warrant?

23 A I wasn't aware of that, sir.

24 Q You weren't aware of what?

25 A That the -- at the time Inspector Bartlett posted a

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1 stop work order on the property.

2 Q Okay. You signed the stop work order; correct?

3 A No, sir.

4 Q That's not by Roger W. Lane, III?

5 A Okay. That is not my writing. That is
6 Russell Bartlett's writing. And Russell Bartlett's
7 signature is on that stop work order.

8 Q So what you are telling me is that somebody has
9 proxy to use your signature on official stop work
10 order sign?

11 A Sir, that is not my signature.

12 Q I didn't ask you that.

13 A That is my name that --

14 Q What I'm asking you is if you have given proxy to
15 one of your zoning enforcement compliance officers
16 to put your signature on stop work orders?

17 A I wasn't aware that he placed my name on the stop
18 work order.

19 Q Were you aware somewhere about four or five days
20 later?

21 A Yeah. There's a picture.

22 Q Okay.

23 A I really didn't take a very close look at it.

24 Q What, if anything, did you do at that point after
25 you realized that, Hey, Mr. Willan told us not to

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1 come onto his property, we didn't obtain a search
2 warrant, and one of your employees came onto
3 Mr. Willan's property, trespassed upon the
4 property? Did you do anything?

5 A No.

6 Q How come?

7 A I have -- I have no idea, sir.

8 Q Well, do you think that's a total disregard of a
9 person's property?

10 A Mr. Willan, a violation -- a --

11 Q I didn't ask that. I'm asking you if that's a
12 total disregard to an order that Mr. Willan gave
13 you to stay off his property without a search
14 warrant?

15 A There is -- in the Dane County Code of Ordinance,
16 if a violation is present, a stop work order shall
17 be posted --

18 Q I agree.

19 A -- on the site.

20 Q I agree about all that, sir. But what I'm asking
21 you is, when you are specifically told -- right?
22 And we've got Supreme Court precedence, too, that
23 you need a search warrant to come on that property,
24 to come look at it if you have been told not to
25 come on the property. And I am just telling you

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1 that.

2 So what you are saying is that your
3 zoning administrator enforcement officer guy,
4 Russell Bartlett, who is now retired, illegally
5 trespassed onto that property without a search
6 warrant?

7 MR. GAULT: No, he didn't say that.
8 And he answered your question that he didn't do
9 anything when he found it out. That's his answer.

10 BY MR. WILLAN:

11 Q Is it standard operating procedure just to walk on
12 people's property without notifying them first?

13 A We have -- we go up to property; go to the door;
14 see if anyone's there.

15 Q Does -- do you know whether Mr. Bartlett did this?

16 A Don't know.

17 Q Are there any copious notes in the file from
18 Mr. Bartlett explaining exactly what he did?

19 A I don't believe so.

20 Q So did you get an e-mail from Mr. Willan stating
21 that he was repairing water damage to the bottom of
22 his barn and that the foundation walls were
23 existing?

24 A I -- I don't know.

25 Q So after that happened, what was decided by your

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1 department? Was it to amend the lawsuit complaint
2 to include that in -- that alleged violation into
3 the complaint?

4 A We conducted an inspection; we posted a stop work
5 order; we provided the inspection report to
6 corporation counsel.

7 Q And what was the recommendation by your department?

8 A Once again, we provided the information to
9 corporation counsel.

10 Q You don't recommend -- well, I don't know. He
11 probably shouldn't have come on the lot, but, you
12 know -- you didn't make any recommendations one way
13 or the other?

14 A We determined that there was construction activity
15 being performed by an addition to an accessory
16 building without a zoning permit.

17 Q Okay. Let me ask you this. Under ordinance, what
18 is the standard of proof for anything you allege on
19 a zoning violation? Is there a standard of proof,
20 such as preponderance of the evidence, that
21 something is going on, or beyond a reasonable
22 doubt, or do you just get to willy-nilly pick and
23 choose what ordinances you are going to enforce,
24 when you are going to enforce them based upon
25 opinion instead of fact?

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1 MR. GAULT: I am going to object.
2 You ask a question of law. They make the referral
3 to my office, and I make the determination as to
4 whether or not we can meet the burden of proof to
5 sustain a complaint. They made a referral with
6 pictures of what was clearly an apparent violation,
7 and I made the decision to amend the complaint.

8 MR. WILLAN: Here's my point to
9 that. Right? Is that if somebody is violating
10 something, right, there has to be an investigation
11 done. What you are telling me is that the only
12 investigation is whatever he says with a couple
13 pictures is what you can -- you can sue a person in
14 Dane County based upon an opinion and an illegal
15 trespass.

16 MR. GAULT: I can look at digital
17 pictures and see when somebody is building a
18 loading dock onto an accessory building.

19 MR. WILLAN: Not a loading dock.
20 Once again --

21 MR. GAULT: Well, I'm telling you
22 what my characterization is.

23 MR. WILLAN: Once again, what
24 investigation was done? He wasn't even involved in
25 it, according to him.

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1 MR. GAULT: He told you what
2 investigation was done.

3 MR. WILLAN: He took a picture of
4 it. They illegally trespassed on my property. And
5 I want that evidence thrown out for any evidence
6 that was obtained on my --

7 MR. GAULT: You can file a motion
8 with the judge.

9 MR. WILLAN: I'm going to file a
10 motion on the judge.

11 BY MR. WILLAN:

12 Q But I'm just saying is that you stand here and you
13 go through your little ordinance and you pick and
14 choose what you are going to do; right? You told
15 me just in an e-mail just the other day that
16 maintenance issues are not Dane County zoning
17 problems. Correct? Remember sending me an e-mail
18 the other day when we talked about our roof on our
19 silo?

20 A That's correct.

21 Q Okay.

22 A If you are maintaining a --

23 Q Yep.

24 A -- you know, repairing a roof that does not extend
25 past the footprint or does not change the volume of

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1 the -- that's maintenance.

2 Q Okay. So right here, would you say this here is
3 where the supposed loading dock is? Correct?

4 MR. GAULT: That was my
5 characterization.

6 BY MR. WILLAN:

7 Q Well, I mean -- so -- I'm just saying is -- right,
8 would you say --

9 MS. WILLAN: That was there
10 underneath.

11 BY MR. WILLAN:

12 Q -- that those walls are the existing footprint of
13 our barn, those foundation walls sticking out;
14 correct?

15 A I -- if you say so, yeah.

16 Q Once again, I'm asking you a question. Right? A
17 part of the foundation wall. And what I'm saying
18 to you is that when you came and cited me for this,
19 I sent an e-mail off to you stating that I was
20 repairing my barn from leaking inside; the walls
21 had crumbled up. And this is clearly a maintenance
22 issue.

23 That's my point that I'm trying to
24 make here, is that I had water leaking in my barn,
25 and all I did was repair it. Your ordinance

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1 doesn't specifically say anything about repair;
2 does it?

3 The question, does your ordinance
4 state anything specifically about repairing an
5 existing structure?

6 A Yes.

7 Q Repairing, the word repairing?

8 A Uh-huh.

9 Q I don't believe it does. You want to look it up.
10 It says altering or adding to.

11 A It says if you are maintaining something, you do
12 not need a zoning permit, or if you are extending
13 past or adding to, you need a -- you know, you
14 added a roof over it and a deck.

15 Q Maintaining my existing foundation and repairing to
16 get the water from pouring into my barn. Is that a
17 logical explanation to what I did?

18 A If it was put back in the same way, yes.

19 Q Once again, does your ordinance specifically say
20 that all the maintenance and repairs you do on your
21 building have to be put back to the exact way that
22 Mr. Lane says?

23 A It states if you add to, you need a zoning permit.

24 Q I never added to, though.

25 MR. GAULT: That's a question of

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1 fact that the judge can decide.

2 MR. WILLAN: Absolutely. But what
3 I'm trying to get to is, he talks out of two sides
4 of his -- because, in one instance, he tells me
5 maintenance issues like my silo that caved in.
6 Right? Right? Caved in. It's a maintenance
7 issue. You don't need a zoning permit. States
8 right in the e-mail that maintenance is not an
9 issue.

10 MR. GAULT: I think the question of
11 fact that the judge has to decide --

12 MR. WILLAN: Once taking --

13 MR. GAULT: -- is whether taking a
14 cement pad that may have been there and putting a
15 roof and enclosure around it is an addition. And
16 that's something the judge is going to have to
17 decide.

18 MR. WILLAN: My point that I'm
19 asking him, is that a logical explanation as to
20 what took place on my property? Right? He is
21 saying X; I'm saying Y. Is that a logical
22 explanation of what took place?

23 THE WITNESS: No.

24 BY MR. WILLAN:

25 Q That I repaired my building. Right? Those

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1 existing foundation walls are all crumbling out
2 there. Right? Those existing foundation walls
3 were crumbling down. Right? And I stopped the
4 water from going into my barn. Maintenance issue,
5 repair. Doesn't say how I have to accomplish it;
6 does it? As long as I accomplish the maintenance
7 on my barn, which is ultimately stop the water.
8 And that's the question I'm asking. That's not a
9 logical explanation? But your explanation of
10 adding to and altering and -- without a permit is
11 supreme law? That's what you are saying?

12 A No, it's not.

13 Q It appears you are.

14 A What I'm saying is that zoning inspector Russell
15 Bartlett received a complaint. He conducted an
16 inspection. He observed that an accessory building
17 was being added to at 4407 Vilas Hope Road. He
18 issued a stop work order. He --

19 Q And he -- yep.

20 A -- took some pictures. He --

21 Q We went all through --

22 A And then he sent that information to corporation
23 counsel.

24 Q He went on the property; correct?

25 A I believe so. To post the stop work order.

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1 Q Absolutely. And you weren't with him?

2 A No.

3 Q So if any witnesses testify that you were there,
4 they would be lying?

5 MR. GAULT: He's answered the
6 question.

7 MR. WILLAN: I'm just asking him.
8 Right? I'm just asking him if he wants to rethink
9 that answer. So that's fine.

10 BY MR. WILLAN:

11 Q But you were told and your department was told to
12 stay off my property without a search warrant;
13 correct? Correct? Correct?

14 A When -- on June 16th, you refused entry on your
15 property.

16 Q Absolutely. And I sent you an e-mail that told you
17 to stay off my property. And within a couple of
18 days of that -- and I will get that e-mail out and
19 send it to you as part of this case. But I sent
20 you an e-mail that if you want to come on my
21 property, you set up an appointment -- you contact
22 me, set up an appointment, and we will talk about
23 it; correct?

24 A If you say so.

25 Q Okay. I do say so.

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1 Next thing is, did you ever contact
2 me regarding this addition or alteration or
3 whatever you want to call it?

4 A We sent -- because there was a pending lawsuit, we
5 sent it up to corporation counsel.

6 Q Okay. Fair enough.

7 On October 10th, the complaint says
8 something about somebody from Dane County Sheriff's
9 Department observed that we were still -- notified
10 you that we were still working on the property; is
11 that true?

12 A From the sheriff's department?

13 Q Somebody from the sheriff's department observed us
14 on October 10th -- let me find your amended
15 complaint. Item Number 19, I believe.

16 MR. GAULT: That's what Paragraph 18
17 of the amended complaint says?

18 BY MR. WILLAN:

19 Q So it says somebody notified Dane County zoning;
20 correct?

21 MR. GAULT: It says, "Dane County
22 Sheriff's Office reported to the Dane County Zoning
23 Division that the defendants were continuing work
24 on the deck on the accessory building in violation
25 of the stop work order."

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1 BY MR. WILLAN:

2 Q So is that correct?

3 A I would have to say it's correct.

4 Q So who notified you?

5 A Well, I wasn't aware that the Dane County Sheriff's
6 Department, but I'm sure -- if it's written in
7 there, I'm sure zoning Inspector Bartlett received
8 that concern from the sheriff's department and
9 reported it to corporation counsel.

10 Q So is any of those notes in your file?

11 A I don't believe so. I don't know. I would have to
12 go through the entire file.

13 Q Go ahead then. See if you can find something
14 referring to that.

15 A You know this is not the complete file. This is
16 the complete file that --

17 MR. GAULT: Mr. Willan, I will tell
18 you it's very likely Mr. Bartlett sent me an e-mail
19 stating that, and that's probably the record of it
20 that exists.

21 MR. WILLAN: But once again,
22 Mr. Lane is the zoning administrator, the head man
23 in charge of Mr. Bartlett; correct?

24 BY MR. WILLAN:

25 Q You are in charge of all the --

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1 A Yeah, I am responsible for -- yeah, I am
2 responsible for --

3 Q Absolutely.

4 A -- the supervision of zoning inspectors.

5 Q You are also in charge of enforcement under 1025;
6 correct?

7 A That's part of the administrative duties.

8 Q That's your job, though, right, to be in charge of
9 enforcement? It states right under, I believe, 1
10 your job is enforcement; correct?

11 A That's one of the responsibilities, yes.

12 Q So if you are in charge of enforcing, it would
13 require you to be involved in the enforcement to
14 perform your duty; correct?

15 A Not necessarily.

16 Q So you just -- you are required by ordinance to be
17 the enforcement guy, the head enforcement guy, but
18 you don't have to do -- anybody else can do
19 whatever? Is that what you are telling us today?

20 A I have currently four inspectors that have regions
21 that conduct inspections and enforce zoning
22 regulations.

23 Q So you are not involved? They just go directly to
24 corporation counsel? They bypass you and just
25 totally disregard -- right? They bypass you --

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1 whatever happens in your office -- Mr. Lane, is
2 what you are telling me that you are not involved
3 in? That is what your testimony is here today?

4 A I did not say that, sir.

5 Q You are referring to that, that you have no
6 knowledge of this stuff, but it would have to be
7 that your office must run willy-nilly, where people
8 get to do whatever they want if you have no
9 knowledge of this. You are the enforcement guy.

10 And what you sit here telling me
11 today is that Mr. Bartlett might have sent an
12 e-mail that you had no knowledge of to corporation
13 counsel to add to the complaint that we are
14 continuing to work on a property?

15 A That's correct.

16 Q So you had no knowledge of that?

17 A I don't believe so. I don't remember it.

18 Q Is there any place in Dane County ordinance zoning
19 where the sheriff's department is to monitor the
20 properties?

21 A I don't know. Probably not.

22 Q Okay. Why would it be that a sheriff's department
23 from Dane County would be observing and monitoring
24 the Willans' property for the zoning department?

25 A You would have to ask the sheriff's department.

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1 Q well, you would have to -- have to have some
2 knowledge of this since you are the zoning
3 administrator, the chief guy enforcement. And if
4 they are calling up the zoning, what you are
5 standing here -- sitting here telling us is that
6 you have no knowledge of anything that Dane County
7 Sheriff's Department does. You tell me there is no
8 ordinance -- first, that there's no ordinance;
9 correct?

10 A Uh-huh.

11 Q Right? And you tell me on the other side of it
12 that you have no knowledge or no reason why a
13 sheriff's department would be monitoring a person's
14 property that is in a lawsuit with Dane County
15 zoning.

16 A Correct.

17 Q Unbelievable. Unbelievable. So I will get to the
18 sheriff's department. But you have no knowledge of
19 that? You don't have them looking for us, looking
20 after our property specifically? You haven't
21 notified the sheriff's department, you know,
22 regarding that?

23 A No.

24 Q So next line of questions, we are going to the
25 ultimate here, the alleged duplex deal. The

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1 story addition was being constructed above the
2 garage. I issued a stop work order, posted it on
3 the property, and then sent a letter of violation.

4 Q As soon as you found out, was there any time you
5 contacted Mr. Willan by e-mail, phone to ask him
6 what the hell is going on?

7 A Sir, we had conversations at the property when I
8 posted the stop work order.

9 Q That's not my question. I'm asking you, the minute
10 you found out, did you try to contact Mr. Willan to
11 ask him what the hell was going on with his
12 property again?

13 A Mr. Willan, the minute that I knew that something
14 was happening, you were right in front of me. And
15 I stated that in order to construct this second
16 story addition, you needed a zoning permit. I
17 provided you a zoning permit application. And
18 there's a picture of it with the -- with the
19 application in your hand.

20 Q Absolutely. But what you told me was that on --
21 you must have received an e-mail from Jason Tuggle
22 on March 23rd.

23 well, my point is, on March 23rd,
24 did you bother to call Mr. Willan or contact him by
25 e-mail and say, Hey, Mr. Willan, it's been reported

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1 somebody put an addition on your house; you are
2 required to get a zoning permit; what is going on
3 there? I'm just asking you a question. It's
4 either yes or no. You either did it or you didn't.

5 A No.

6 Q You didn't do it?

7 A No.

8 Q You know, would the logical thing be to, if you are
9 investigating something, if somebody has made an
10 allegation, that you call up the horse's mouth and
11 ask him, what is going on?

12 A We don't have phone numbers for everybody.

13 Q Mr. Lane --

14 A We go out to the jobsite --

15 Q Mr. Lane --

16 A -- and conduct an inspection.

17 Q Absolutely.

18 A That is the common -- we receive complaints. We
19 conduct inspections. We report the information.

20 Q Yeah, but in this specific case, you have
21 Mr. Willan's e-mail address; you have Mr. Willan's
22 phone number; you have contacted him on the phone
23 before. And that's my point, is that this is not
24 the usual situation. This is an ongoing issue with
25 you running out here with your little orange signs,

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1 planting them in my yard.

2 And my point is, if you are
3 investigating something as the enforcement --
4 zoning enforcement administrator for the County of
5 Dane, a true investigator would have called up and
6 asked the questions. And to stand here and say you
7 don't have my contact information, that's not true;
8 is it?

9 MR. GAULT: Mr. Willan, he has
10 testified he didn't contact you before --

11 BY MR. WILLAN:

12 Q But I'm asking him, do you have my contact
13 information?

14 A Probably somewhere.

15 Q Okay. But you didn't contact him; did you?

16 A No. I paid a site visit.

17 Q Yep. And then what happened next was, we had to
18 get the roof on; correct? It was going to rain for
19 three days. Remember that discussion?

20 A You were talking very irrationally. I provided you
21 the information. You removed the stop work order.
22 There were various rants. And I left.

23 Q Absolutely. Then what happened next was I sent you
24 an e-mail the same day; is that correct?

25 A If you say so, yeah.

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1 Q You don't remember that?

2 MS. WILLAN: My God. Oh, my God.

3 THE WITNESS: You know, I mean, this
4 is -- this is an ongoing project. You know -- I
5 mean, I don't sit in the office and wait for one
6 e-mail.

7 (Cross-talk)

8 BY MR. WILLAN:

9 Q Nobody is asking you whether you did. What I'm
10 saying is, I sent you an e-mail with a copy of the
11 building permit; correct?

12 A Yes.

13 Q Do you remember reading that e-mail?

14 A Yeah.

15 Q And seeing the building permit and the attachments
16 that went along with it, Mr. Lane?

17 A There were -- yes, there was an e-mail.

18 Q Yep, that's -- absolutely.

19 A There was an e-mail with a -- a building permit.

20 Q Yep, absolutely. And I told -- explained the
21 story. And at any time from that point that that
22 e-mail went out until April 13th, when we went to
23 court, did you ever notify the willans -- have any
24 discussion with the willans about coming to get a
25 zoning permit again?

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1 A Yes. I provide -- you know --

2 Q At the site inspection -- I'm saying after that
3 e-mail, Mr. Lane -- listen to the question. After
4 the e-mail that I gave you on March 24th in the
5 afternoon where I called you a terrorist and a few
6 other words and told you to rescind your stop work
7 order, did you try to contact the willans about a
8 zoning permit again before you filed a lawsuit?

9 A No.

10 Q Okay. So the willans may not have had any
11 knowledge about this lawsuit; correct? Possibly
12 the willans would have no knowledge that you filed
13 a lawsuit if their attorney didn't tell them that?
14 That's a question. If their attorney didn't tell
15 them about a lawsuit that you had filed, they would
16 have no knowledge at that point; right?

17 A Sir, I do not file lawsuits. That's for
18 corporation counsel.

19 Q I didn't say you filed a lawsuit. What I'm saying,
20 Mr. Lane, if -- if Mr. Willan and Mrs. Willans'
21 attorney did not inform them that you had filed a
22 lawsuit, they would have no knowledge of what took
23 place from the point they sent that e-mail off
24 until the 13th of April, when they were summoned to
25 court? Would that be a logical conclusion?

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1 MR. GAULT: It asks for total
2 speculation by him. He doesn't know.

3 MR. WILLAN: He doesn't know
4 whether -- he's never contacted me from that point.

5 MR. GAULT: He told you he never
6 contacted you after March 24th.

7 MR. WILLAN: Okay.

8 MR. GAULT: And you've asked the
9 question over and over and over again, and he
10 answered the question.

11 MR. WILLAN: Because I'm getting to
12 the point is that -- the relevance of that is
13 Mr. Willan had no knowledge.

14 MR. GAULT: It's not our problem
15 your attorney didn't tell you.

16 MR. WILLAN: Once again, you are
17 part of that big boy's club, though.

18 MR. GAULT: I wish I was a part of
19 some club. I provided due notice immediately to
20 your attorney. And he's -- you're -- you're
21 responsible for what he does, so don't blame us.

22 MR. WILLAN: I am not responsible
23 for anything. Right? I didn't get noticed. And
24 that's the point I'm trying to make, is that I
25 didn't get noticed -- notified by Dane County about

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1 any temporary restraining order. So it doesn't
2 matter. Right?

3 MR. GAULT: They posted a stop work
4 order, and you took it down.

5 (Cross-talk)

6 MR. WILLAN: Once again, he didn't
7 post it; he laid it on the ground.

8 MR. GAULT: All right. All right.

9 BY MR. WILLAN:

10 Q Did you lay it on the ground?

11 MR. GAULT: All right. I'm going to
12 tell him he doesn't have to answer any more of this
13 line of questions. He's told you he didn't contact
14 you after March 24th. It's not his fault you
15 didn't find out from your attorney what was going
16 on.

17 MR. WILLAN: I didn't say that.

18 MR. GAULT: He answered your
19 question.

20 MR. WILLAN: Okay. Okay. Okay.

21 BY MR. WILLAN:

22 Q So we come up to March -- April 13th, there was a
23 hearing held; correct?

24 A That's correct.

25 Q Were you part of that?

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1 A No.

2 Q You didn't provide any information regarding that
3 hearing?

4 A I provided the information of my inspection report
5 to Corporation Counsel Dave Gault.

6 Q Okay. So after the temporary restraining order
7 went in, were you around on the 14th when I -- when
8 we submitted our application to zoning? Were you
9 involved in any of the -- on the 14th, we submitted
10 our application to Hans because you were on
11 vacation. Correct?

12 A That's correct.

13 Q Were you involved while you were on vacation with
14 any portion of looking at that application?

15 A No. I was in the middle of the desert.

16 Q Okay. So you came back on that following Monday,
17 the 17th?

18 A Yes.

19 Q Okay. At that point in time, did we contact you
20 about the zoning permit, getting the zoning permit
21 for our property?

22 A There may have been an e-mail exchange.

23 Q Okay. And about -- you guys classified this as a
24 duplex; correct? You classified this as a duplex
25 in that e-mail; correct?

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1 A When I reviewed the application, I determined it to
2 be a two-family dwelling unit.

3 Q You classified it as a duplex; correct? That's the
4 only thing you have to go on, is the word duplex.

5 A I would have to say -- let's see what it says. A
6 duplex family dwelling. That is correct.

7 Q Designed for; correct?

8 A Yes, being designed.

9 Q So in the Dane County ordinance, are there any
10 design standards in there to distinguish between a
11 one- to two-family dwelling or a multiple dwelling
12 to classify that? Are there standards in there,
13 what I'm saying, for design standards?

14 A There is a definition.

15 Q But there is no specific design standards; are
16 there?

17 A No.

18 Q So the following day, on the 18th, Mr. Willan sent
19 you design standards from the State of Wisconsin
20 101.60 and SPS 320; correct?

21 A Yes.

22 Q So he pointed out that the design standards in this
23 State statute -- since the Dane County ordinance
24 didn't have any design standards, that the design
25 standards under State law doesn't qualify as a

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1 two-family dwelling; correct?

2 A I enforce the zoning ordinance.

3 Q Absolutely. But what I'm asking you is if I
4 pointed out to you that your denial of my zoning
5 permit was because you are saying that we designed
6 it for a two-family dwelling, but your ordinance
7 has no design standards. What I did next was send
8 you the design standards for a two-family dwelling
9 under state law because we had to use something for
10 a guide other than just your opinion; correct?

11 A That's correct.

12 Q So would it be logical at the beginning of 1001
13 where it says we resort to -- if it is not -- if
14 it's somewhat ambiguous, we will resort to state
15 statute; right? To case law; is that correct? All
16 those things are in the beginning of 1001; correct?

17 A Uh-huh, uh-huh.

18 Q So since we had an ambiguous situation here denying
19 us a zoning permit, I sent you specific design
20 standards that showed you that our addition would
21 not qualify as a duplex under state law; correct --
22 a two-family dwelling under state law?

23 A That was your interpretation, yes.

24 Q That's the only interpretation that we can have
25 because it's what the state law requires of us.

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1 Right? If the State law says you have to put in
2 two doors to be a two-family dwelling, and mine
3 only has one, how can it be a two-family dwelling?

4 A It would be an illegal dwelling.

5 Q Am I allowed to have a dwelling on my property
6 and -- connected to my property that I can use for
7 my own personal use?

8 A Sure. You have one now.

9 Q And the new square foot I put over top of my garage
10 is still my own personal dwelling; isn't it?

11 A It was designed --

12 Q Once again --

13 A -- to be occupied.

14 Q -- it was not designed -- this is where you're --
15 you're getting confused here because you tell me
16 that there is no design standards under ordinance.
17 You have agreed to that. You have agreed that I
18 sent you the design standards the State of
19 Wisconsin requires, and those design standards do
20 not make it a two-family dwelling, but yet
21 Roger Lane, ultimate usurper of law --

22 MR. GAULT: All right. I'm going to
23 object now that you've asked him the question. He
24 has told you he interpreted it as designed as a
25 dwelling. You may not like his answer, but you

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1 don't get to argue with him, and you don't get to
2 make demeaning statements. And I'm telling you
3 now, on the record, if those continue, we are going
4 to terminate this, and all these depositions will
5 be done. Ask questions to get answers. Don't
6 demean people and make fun of people.

7 MR. WILLAN: I'm not trying to
8 demean somebody. But he has been so evasive to my
9 questions, Oh, I don't know; I don't -- I don't
10 understand; or all that stuff, Mr. Gault. And it's
11 not fair, because, once again, he is a very
12 intelligent man. And I know that and I give him
13 credit for that. But I -- I just don't get how he
14 can stand here and -- and just not answer questions
15 truthfully and --

16 MR. GAULT: well, now you are
17 accusing him of lying.

18 MR. WILLAN: I'm not accusing him of
19 lying. But when he stands there and says, well, I
20 don't remember, or, that's not what it means -- you
21 know, what I'm saying is that the Dane County
22 ordinance does not have standards for a duplex.
23 Correct? Right? It does not have design
24 standards, so we have to rely on something other
25 than somebody's opinion.

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1 MR. GAULT: He answered your
2 question.

3 MS. WILLAN: Okay.

4 MR. GAULT: You may not like it. He
5 answered your question.

6 MR. WILLAN: Okay. We will move on.

7 BY MR. WILLAN:

8 Q So the next thing is that I sent you another e-mail
9 with a redesign, correct, with a staircase that was
10 enclosed with a -- a -- with a direct door right up
11 the staircase -- up the staircase so it was all
12 connected and it wouldn't be an outside entrance or
13 exit door; correct?

14 A You sent me an e-mail with a revised drawing, yes.

15 Q Okay. What was wrong with that -- what was wrong
16 with that revision?

17 A Once again, when I reviewed the second story
18 addition, there was a bathroom, a kitchen, a living
19 room, and an area for sleeping. It looked to me
20 exactly like a one-bedroom apartment --

21 Q But --

22 A -- or a separate dwelling unit.

23 Q But it is -- can I use that for my own personal
24 use?

25 A If you would like to. But it's designed as a --

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1 another living unit.

2 Q It was never designed that way. Why wasn't it
3 designed that way, Mr. Lane? Because I designed
4 it. I never designed it to have people moving in.
5 And that's the point that I keep trying to make to
6 you, but you keep saying it's designed for that.
7 And I designed it. The person that designed it
8 knows what he designed it for; for his own personal
9 use. And I get it.

10 A Uh-huh.

11 Q But have you ever seen -- at zoning, you look at
12 all brand-new plans. Have you seen staircases
13 going in to basements that are exterior, just
14 staircases on the outside going down into the
15 basements?

16 A Every once in a while, yes.

17 Q Okay. Have you ever classified them as duplexes?

18 A No.

19 Q So have you seen a staircase in a garage -- right?
20 Because this is a newfangled thing where they put
21 the staircases going down into the basements from
22 the garage, straight down, and -- that aren't in
23 the interior of the house; correct? Have you seen
24 that design?

25 A Once in a while.

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1 Q Once in a while?

2 A Not very popular.

3 Q Does that make it a duplex?

4 A No.

5 Q So how can you issue permits, zoning permits, to
6 other people that have outside entrances to their
7 basement but -- and you don't classify that as a
8 duplex, but when it comes to the willans, you
9 classify that as a duplex because I have an
10 exterior staircase that I was going to put a
11 doorway in my garage directly up to it? How can
12 you classify it that way?

13 A I classify that because it has a separate bathroom,
14 a separate kitchen, a living area, and a space for
15 sleeping purposes, sir.

16 Q So since that time, though, has that sleeping room
17 been turned into attic space now? Hasn't it?

18 A I have seen plans that you submitted to the
19 sanitarian.

20 Q Okay. And did you get that approval that I am all
21 approved at the sanitarian?

22 A Yep, uh-huh.

23 Q So there is no issue there; correct?

24 A No.

25 Q So what I'm saying is, if I had ten kitchens on my

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1 property or 20 bathrooms for my own personal use,
2 and I choose to do that, how does that qualify as a
3 duplex?

4 A If you have 20 bathrooms and 20 kitchens, that
5 wouldn't be a duplex.

6 Q But if I have two -- two kitchens and have agreed
7 to tell you that we are going to use it for our own
8 personal use, and if we want to turn it into a
9 duplex, we will go get the proper zoning, but yet
10 you won't accept that --

11 A Sir, I reviewed the application material. I looked
12 at this; it has a bathroom, a separate kitchen, a
13 living space, a sleeping space, and it's not
14 intrically-connected [sic] with the other dwelling
15 unit.

16 Q But can it -- when I made revisions to connect it
17 to the garage, just like what you testified to here
18 today, that doesn't qualify as personal use, just
19 like the other people that you have seen in the
20 county? That you've testified here today that
21 there is other people in the county, and you have
22 seen -- that's what you testified here today, that
23 you have seen other uses just like this; right?
24 And have you seen basements with kitchens and
25 bathrooms down there for family members? Have you

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1 ever seen that?

2 A All in the same --

3 Q Down in the basement.

4 A Yeah, in the basement there are --

5 Q -- kitchens --

6 A -- separate kitchens --

7 MR. GAULT: You can't both talk at
8 the same time. You are driving her crazy.

9 THE WITNESS: Sorry.

10 MR. GAULT: I apologize.

11 BY MR. WILLAN:

12 Q That's my point, is that you are treating us
13 differently than the other people in Dane County
14 because you sat here and testified that you have
15 seen this stuff in other parts of Dane County.

16 Did you go put an enforcement action
17 out on those people's property?

18 A Well, you specifically stated they were in the
19 basement. This is on a second story addition above
20 a garage.

21 Q Does it matter if it --

22 A Yeah, it does. I mean, one is in the basement and
23 one is, you know, above, on your roof. How is that
24 not different?

25 Q Have you seen people -- have you ever seen a duplex

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1 in the basement of a house? Have you ever seen a
2 duplex in the basement of a house, Mr. Lane?

3 A No.

4 Q Have you seen living space in the basement of the
5 house that would potentially qualify as a duplex?

6 A No.

7 Q Let's see. I have a few more questions, and then
8 we will be done here. We will get to Hans.

9 Is there any specific Dane County
10 ordinance that prohibits an outside staircase up to
11 your personal residence in a portion of your
12 personal residence?

13 A Not unless it's within the setback.

14 Q Is there any specific ordinance that says your
15 staircase has to go up into a second story addition
16 from the main house?

17 A No.

18 Q Did you check with Mr. Viken about what we were
19 doing with the property?

20 A Yes.

21 Q And what did he tell you?

22 A He said he thought you were adding a bonus room,
23 just a large open space on the second story.

24 Q And -- but he did get a set of plans, though,
25 correct? Did you ask him that? Did he get a set

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1 of plans?

2 A At the time of the building permit?

3 Q Yeah.

4 A Yes. He told me no.

5 Q He told me he didn't get a set of plans? That's
6 what he told you?

7 A Mr. Viken told me he issued a building permit with
8 no building plans.

9 Q Did he also tell you that he told us that we didn't
10 need a zoning permit?

11 A Yes.

12 Q Being that he told us specifically we didn't need a
13 zoning permit, you know, this is just basically,
14 you know -- I guess -- Mr. Viken, did he tell you
15 he has never heard of anything regarding the
16 footprint of a house being -- that somebody from
17 Dane County told him that -- that if you are not
18 extending the footprint of the house, that you
19 don't need a zoning permit?

20 A No.

21 Q He never told you that?

22 A No.

23 Q So -- I was shocked by that answer and the other
24 answer that -- that you understood that he told us
25 we didn't need a zoning permit, and that, you know,

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1 that was the reason why we didn't apply for a
2 zoning permit?

3 A well, he issued the building permit without a
4 zoning permit, so --

5 Q Does that happen?

6 A I'm sure --

7 Q Does that happen in Dane County?

8 A I'm sure it probably happens.

9 Q Have you had other enforcements like this?

10 A Every once in a while.

11 Q Okay. Do you think it's odd that you have had
12 three enforcements with your department alone in
13 six months and you can go ten years without ever
14 going anywhere near anybody's property?

15 A Yeah.

16 Q So what -- what would you recommend for the
17 solution? What is the solution to this duplex
18 thing? I know you said to rezone to RH-3, but you
19 won't help. You testified earlier that we can't
20 split zone it. So that's not an option.

21 If I put a staircase inside my
22 house, I don't know, is that an option?

23 A It could be, yes.

24 Q Is a staircase inside the garage an option?

25 A Having the stairway that goes directly into the

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1 living space of the existing dwelling, yes.

2 Q In the garage going upstairs?

3 A From the living space to the second floor living
4 space, it would be intrically-connected.

5 Q How then could it be that a person can have a
6 staircase in their garage going to their living
7 space in a basement, but the Willans can't have a
8 staircase in their garage going up to the living
9 space?

10 MR. GAULT: Is that a hypothetical
11 that you are posing?

12 MR. WILLAN: No.

13 MR. GAULT: I want to ask you a
14 question because I want to make sure I understand
15 your hypothetical. Does the hypothetical you are
16 posing state that there is no interior entrance to
17 the basement; that the only entrance to the
18 basement is through the garage?

19 MR. WILLAN: Correct.

20 THE WITNESS: We would call that a
21 duplex. If there is --

22 MS. WILLAN: (Sotto voce)

23 THE REPORTER: If you need to say
24 something, too, I need you to say it out loud.

25 MS. WILLAN: Oh, sorry.

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1 BY MR. WILLAN:

2 Q what I'm saying is that Mr. Viken came over to our
3 house, right, and told us that he has issued
4 building permits for -- where people put their
5 staircases in their garage now going down to their
6 finished basements instead of right in the middle.
7 Because what happens is, the staircase takes up a
8 lot of room in the house. Correct? I would loose
9 200 square feet or 150 square feet of upstairs and
10 downstairs square feet, is why this isn't logical
11 for me.

12 But what Mr. Viken said was that he
13 has issued permits. And if you are issuing zoning
14 permits and looking at plans, that those plans show
15 nothing but a staircase in the garage going down to
16 finished basements.

17 A They have additional stairways that are inside the
18 living room -- the living -- first-floor living
19 space that goes down into the basement as well.

20 Q That's not what Mr. Viken told us. what he told us
21 is that he has issued building permits -- and we
22 will get Mr. Viken to come testify to this, but --
23 which specific ones. But what I'm saying is that
24 he has issued building permits specifically for
25 brand-new houses that have been built with a

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1 staircase in the garage with no other staircases
2 inside the dwelling of the house other than in the
3 garage going down to finished off basements.

4 MR. GAULT: That's a statement of
5 fact.

6 MR. WILLAN: Right.

7 MR. GAULT: That's an assertion of
8 fact.

9 MR. WILLAN: Okay.

10 THE WITNESS: You know, if you say
11 so, if -- if Mr. Viken said that to you, I don't
12 know because I wasn't there. Mr. Viken was there
13 and you were there, so that's what you are saying.
14 I don't know what you want me to say.

15 MR. WILLAN: I don't want you to say
16 anything else. This has been a rough one. So I
17 guess we will go. We will get Hans over here next,
18 and we will go with him. And we can be done with
19 you, Mr. Lane. I appreciate you, and I apologize
20 for any upsetting remarks or anything. Ultimately,
21 I want you to know, Mr. Lane, that I am still
22 looking for a solution to this. I think that we
23 can find one. I really do. And my intent isn't to
24 sue anybody. It's not to seek damages. I just
25 want to be left alone so I can go back to my life

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1 the way it used to be before I met you.

2 THE WITNESS: I totally agree.

3 And --

4 MR. WILLAN: And you can, too.

5 THE WITNESS: I totally agree.

6 There is much better things than to sit here and
7 argue about items. We could find a solution to
8 this.

9 MR. WILLAN: Absolutely.

10 MR. GAULT: Are you done?

11 MR. WILLAN: I'm done.

12 MR. GAULT: Can we agree to go off
13 the record?

14 MR. WILLAN: Yes.

15 THE VIDEOGRAPHER: Going off the
16 record at 10:29. End of deposition. Media 1 of 1.
17 Microphones are off.

18 (Adjourned at 10:29 in the forenoon.)

19

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25

1 STATE OF WISCONSIN)
2 DANE COUNTY) SS

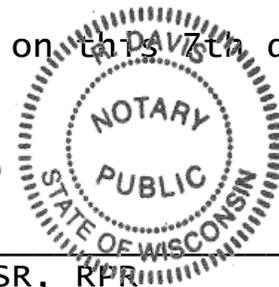
3 I, Rachel M. Davis, Certified Shorthand
4 Reporter, Registered Professional Reporter, and
5 Notary Public in and for the State of Wisconsin, do
6 hereby certify that the foregoing deposition was
7 recorded by me and reduced to writing under my personal
8 direction.

9 I further certify that said deposition was
10 taken before me at Verbatim Reporting, Limited, Two East
11 Mifflin Street, Suite 102, Madison, Wisconsin 53703, on
12 the 1st day of June, 2017, commencing at 8:35 and
13 concluding at 10:29 in the forenoon.

14 I further certify that I am not a relative or
15 employee or attorney or counsel of any of the parties,
16 or a relative or employee of such attorney or counsel,
17 or financially interested directly or indirectly in this
18 action.

19 Dated at Madison, Wisconsin, on this 1st day
20 of June, 2017.

R Davis



21
22 _____
23 Rachel M. Davis, CSR, RPR
24 Notary Public
25 In and for the State of Wisconsin

My commission expires July 08, 2018.

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