

1       IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
          IN AND FOR PALM BEACH COUNTY, FLORIDA  
2                    CASE No. 50-2011-000246 XXXX MB  
3

JESS R. SANTAMARIA,  
4  
                          Plaintiff,

5       -vs-

6       ANDREW F. SCHALLER,  
7                    Defendant.



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DEPOSITION OF TANYA MCCONNELL

Wednesday, March 28, 2012

2:00 p.m. - 2:51 p.m.

105 S. Narcissus Avenue

Suite 400

West Palm Beach, Florida 33401

Reported By:  
Pamela J. Sullivan, RPR, FPR, CLR  
Signature Court Reporting, Inc.

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APPEARANCES:

On behalf of the Plaintiff:

DANIEL J. BARSKY, ESQUIRE  
SHUTTS & BOWEN, LLP  
525 Okeechobee Boulevard  
Suite 1100  
West Palm Beach, Florida 33401  
561.835.8500  
jmariani@shutts.com  
dbarsky@shutts.com

On behalf of the Defendant:

CHRISTINA M. KITTERMAN, ESQUIRE  
CMK LAW, P.A.  
530 S. Federal Highway, Suite 201  
Deerfield Beach, Florida 33441  
954.426.9290  
ckitterman@cmk-law.com

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|------------------|--------|-------|----------|---------|
| WITNESS:         | DIRECT | CROSS | REDIRECT | RECROSS |
| TANYA McCONNELL  |        |       |          |         |
| BY MS. KITTERMAN | 4      |       |          |         |
| BY MR. BARSKY    |        | 44    |          |         |

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E X H I B I T S    M A R K E D  
- - -

| DESCRIPTION  | PAGE |
|--|------|
| Defendant's Exhibit No. 1<br>(Town Crier Article Reprint)          | 6    |
| Defendant's Exhibit No. 2<br>(Memo to Webb from Marquis 2.26.08)   | 14   |
| Defendant's Exhibit No. 3<br>(3.6.08 Letter to Owner from Marquis) | 16   |
| Defendant's Exhibit No. 4<br>(Agenda Item Summary # 5-C-1)         | 25   |
| Defendant's Exhibit No. 5<br>(Agenda Item Summary # 6-F-2)         | 30   |

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

- - -

Deposition taken before Pamela J. Sullivan,  
Registered Professional Court Reporter and Notary Public  
in and for the State of Florida at Large, in the above  
cause.

- - -

Thereupon,

TANYA MCCONNELL,

having been first duly sworn or affirmed, was examined  
and testified as follows:

THE WITNESS: I do.

## DIRECT EXAMINATION

BY MS. KITTERMAN:

Q. Good afternoon, Ms. McConnell. My name is  
Christina Kitterman. I'm the attorney for  
Andrew Schaller in this case that was filed against  
Mr. Schaller by Mr. Jess Santamaria. You have been  
called to deposition today because Mr. Santamaria listed  
you as a witness that he potentially would call at  
trial. So I just need to find out what you may know.

A. Okay.

Q. Have you ever had your deposition taken  
before?

A. Yes.

1 Q. Okay. So you know if you have any questions  
2 with regards to my question, let me know and I'll try  
3 and clarify. And answer audibly yes --

4 A. Yes.

5 Q. -- or no. Thank you.

6 A. And wait until you're done.

7 Q. So that we know for the record.

8 Okay. Can you state your full name for the  
9 record, please.

10 A. Tanya McConnell.

11 Q. Can you spell McConnell, please.

12 A. M-c-C-o-n-n-e-l-l.

13 Q. Okay. Do you know Mr. Jess Santamaria?

14 A. Yes.

15 Q. How do you know him?

16 A. He is the commissioner. I work for Palm  
17 Beach County and he is a County Commissioner.

18 Q. And how long have you worked for Palm Beach  
19 County?

20 A. Since 1986.

21 Q. And what is your position at Palm Beach  
22 County currently?

23 A. I'm the Deputy County Engineer.

24 Q. Do you know Mr. Andrew Schaller?

25 A. Yes, we have met.

1 Q. Okay. When did you meet?

2 A. I believe Mr. Schaller came to my office when  
3 he was in pursuit of the paving of Fargo.

4 Q. Fargo Avenue?

5 A. Fargo Avenue.

6 Q. Okay. Were you involved in the Fargo Avenue  
7 project?

8 A. Yes.

9 Q. Okay.

10 MS. KITTERMAN: I want to mark this as  
11 Exhibit 1.

12 (Defendant's Exhibit 1 was marked for  
13 identification.)

14 BY MS. KITTERMAN:

15 Q. If you would just read what I've handed you  
16 as Defendant's Exhibit 1 to yourself and let me know  
17 when you're done.

18 A Okay.

19 Q. Are you done? Have you ever seen this  
20 before?

21 A. No.

22 Q. This Defendant's Exhibit 1 appears to state  
23 that Mr. Schaller himself cost the County over \$250,000  
24 in engineering and audit staff time. Are you  
25 responsible for -- are you working in the engineering

1 department?

2 A. Yes.

3 Q. Does Mr. Schaller as a citizen have the  
4 authority to or the power to direct the engineering  
5 department to spend any money?

6 A. He does not have the authority to direct the  
7 engineering department.

8 MR. BARSKY: Object to the form.

9 BY MS. KITTERMAN:

10 Q. Okay. In your opinion, is Mr. Schaller  
11 personally responsible for costing Palm Beach County  
12 over a thousand hours of engineering time related to  
13 Fargo Avenue?

14 A. The actions of Mr. Schaller has cost the  
15 engineering department time and money. I don't know how  
16 many hours and I don't know how much.

17 Q. Okay. What were the actions of Mr. Schaller  
18 that cost the engineering department time and money?

19 A. Mr. Schaller pursued the paving of  
20 Fargo Avenue for an extended period of time, and staff  
21 had to put time in to responding, addressing, looking  
22 into, et cetera, et cetera, in response to the demands  
23 that Mr. Schaller made of the Board.

24 Q. Okay. Did he prepare the original road  
25 design that was involved with the Ranchettes projects?

1 MR. BARSKY: Object to the form.

2 THE WITNESS: Did Mr. Schaller?

3 BY MS. KITTERMAN:

4 Q. Yes.

5 A. No.

6 Q. Did Mr. Schaller try to get the Fargo Avenue  
7 paving issue resolved prior to the groundbreaking of the  
8 Ranchettes projects?

9 MR. BARSKY: Object to the form.

10 THE WITNESS: Could you ask the question  
11 again, please.

12 MS. KITTERMAN: Can you read it back.

13 (Whereupon, the requested portion of the  
14 record was read aloud by the Court Reporter.)

15 MR. BARSKY: Same objection.

16 THE WITNESS: Mr. Fargo -- I'm sorry,  
17 Mr. Schaller came into the office. I'll just --  
18 Mr. Schaller came into my office when he -- to  
19 request that we add the Fargo project to the other  
20 Ranchettes projects that we were doing.

21 At the time that Mr. Schaller came in, those  
22 projects were either already bid or about to be  
23 bid. He did not approach us when he was petitioned  
24 initially, which would have been a better time; not  
25 that it would have gotten Fargo necessarily done at



1           that time. But I tried to explain to Mr. Schaller  
2           at the time that it was a late request, that the  
3           project was already about to go forward, and that  
4           it, Fargo could be added to the MSTU program but it  
5           certainly would not be a part of the construction  
6           at that time.

7           BY MS. KITTERMAN:

8           Q.     Okay.

9           A.     Does that answer your question?

10          Q.     A little bit.

11                    When was Mr. Schaller petitioned with regard  
12           to Fargo Avenue?

13          A.     I don't have the dates here. But he would  
14           have been as a resident on Rodeo, petitioned with the  
15           other residents.

16          Q.     But that didn't relate to Fargo Avenue?

17          A.     No, but it would have been the time --  
18           correct. We did not petition him on Fargo. Fargo was  
19           not one of the projects that we had been asked to  
20           address.

21                    The MSTU program is a voluntary program. So  
22           residents come to us, ask us to pave their roads. We  
23           give them petitions and send them out to go do the work.  
24           If they get the required number of petitions, then we  
25           move forward with the project.

1                   We have never had -- up until Mr. Schaller  
2                   came in on Fargo, never had a request on Fargo. And  
3                   Mr. Schaller's request on Fargo was not to add it to the  
4                   MSTU program, it was to include it in the Ranchettes  
5                   projects that were about to occur at that time. And  
6                   that is not the process and it was too late at that time  
7                   to consider adding it in.

8                   Q.     Who came up with the design and the paving  
9                   for the Ranchettes projects?

10                  A.     Which engineering firm did the design?

11                  Q.     Yes.

12                  A.     Keshavarz & Associates, K-e-s-h-a-v-a-r-z, I  
13                  believe, or something like that.

14                  Q.     Did you review the engineering design prior  
15                  to getting the projects approved?

16                  A.     I did not review any plans, my staff would  
17                  have.

18                  Q.     Who would have reviewed it?

19                  A.     Engineers in our engineering services  
20                  division.

21                  Q.     Such as?

22                  A.     Such as -- I don't know which particular  
23                  engineer worked on it at the time. We had --  
24                  Charlie Rich is the director. We had at the time  
25                  Michael Marquis, who headed the MSTU program. He was an

1 engineer that would have done some review. I don't know  
2 if he had other staff at engineering services, also.

3 Q. Referenced in Defendant's Exhibit 1 was also  
4 that Mr. Schaller caused the engineering to spend over a  
5 thousand hours on time. Do you know what those thousand  
6 hours would have been?

7 A. When Mr. Schaller --

8 MR. BARSKY: Object to the form.

9 THE WITNESS: When Mr. Schaller approached  
10 the Board -- or even before approaching the Board,  
11 probably when he -- when I gave my no on Fargo, he  
12 headed downtown to my boss and I think to the  
13 commissioner, and started asking questions and so  
14 on and so forth. And we were asked to do  
15 evaluations, take a look at the roadway, et cetera,  
16 et cetera. Yes, time was put into Fargo based on  
17 Mr. Schaller's approach to downtown.

18 BY MS. KITTERMAN:

19 Q. And you said your boss. Who is your boss?

20 A. George Webb.

21 Q. What is his title?

22 A. County Engineer.

23 Q. Do you believe that Mr. Schaller's motivation  
24 for the Fargo Road improvements was to increase the  
25 property value of his home?

1           A.     I frankly neither know nor care.

2           Q.     Looking back now on the Fargo Avenue  
3 situation, can you identify any mistakes that were made  
4 by the County in how it should have been handled  
5 differently?

6           A.     I believe that the County should have stood  
7 by its decision per our procedures that Fargo could not  
8 be considered as part of the Ranchettes projects at that  
9 time. And so all the time spent thereafter.

10          Q.     Okay.

11          A.     We have procedures that are clear. And there  
12 was a means of getting Fargo added to the MSTU program  
13 so it could have been paved eventually by the  
14 procedures.

15          Q.     What was the means?

16          A.     Mr. Schaller could have requested petitions,  
17 we would have given them to him. He could have  
18 approached his neighbors, tried to get over 51 percent  
19 and we would have added it to the program.

20          Q.     Okay. What was the reason that there was  
21 paving into the Fargo right-of-way?

22                   MR. BARSKY: Object to the form.

23                   THE WITNESS: I do not believe that there was  
24 paving into the Fargo right-of-way.

25

1 BY MS. KITTERMAN:

2 Q. There wasn't?

3 MR. BARSKY: Object to the form.

4 THE WITNESS: I believe that the plans showed  
5 paving into the Fargo right-of-way. It was brought  
6 to our attention. We addressed the plans, revised  
7 the plans, and there was no paving that I believe  
8 occurred into the Fargo right-of-way.

9 BY MS. KITTERMAN:

10 Q. Do you know whether they did any work toward  
11 paving into the Fargo right-of-way?

12 MR. BARSKY: Object to the form.

13 THE WITNESS: I believe there might have been  
14 some reworking of rock. It was replaced at the  
15 elevations that existed at the time that we went  
16 in. It was restored to its existing condition.

17 BY MS. KITTERMAN:

18 Q. Okay.

19 A. The elevations.

20 Q. Okay. Have you ever done anything to impede  
21 the progress of resolving the Fargo Avenue situation?

22 A. Not that I'm aware of.

23 Q. Did you tell the engineering staff to leave  
24 Fargo out of the Ranchettes project in an inner office  
25 memo?

1           A.     Did I tell staff to leave Fargo out of the  
2 Ranchettes project?

3           Q.     Yes.

4           A.     It was never a consideration to put Fargo as  
5 part of the Ranchettes project.

6           Q.     Okay.

7                   MS. KITTERMAN: I want to mark this as  
8 Defendant's Exhibit 2.

9                   (Defendant's Exhibit 2 was marked for  
10 identification.)

11 BY MS. KITTERMAN:

12           Q.     If you would take a second to look at that  
13 and tell me if you recognize that document.

14           A.     Okay.

15           Q.     Do you recognize this?

16           A.     Uh-huh. I'm sorry, yes.

17           Q.     The handwriting on this memo, is that your  
18 handwriting?

19           A.     Yes, it is.

20           Q.     Okay. And just for the record, what is the  
21 date of this memo?

22           A.     February 26th, 2008.

23           Q.     And it's to George Webb?

24           A.     Yes.

25           Q.     From Michael Marquis?

1           A.     Yes.

2           Q.     And it came through your office?

3           A.     Yes.

4           Q.     And it appears on Page 3 of the memo --

5           A.     Uh-huh.

6           Q.     -- that you were questioning why something

7           wasn't included in the MSTU before --

8                     MR. BARSKY: Object to the form -- sorry.

9           BY MS. KITTERMAN:

10          Q.     -- then.

11                     MR. BARSKY: Object to the form.

12                     THE WITNESS: Okay.

13          BY MS. KITTERMAN:

14          Q.     Is that correct?

15          A.     That's -- yes, that's what it says. It says

16          why weren't they included before.

17          Q.     Did you ever get an answer?

18          A.     I don't recall.

19          Q.     Okay.

20          A.     I mean, no, I don't recall.

21          Q.     Okay. And the bottom part of memo it says,

22          "In addition to possibly paving Fargo Avenue, should we

23          also consider paving the western half of Rodeo Drive

24          from Fargo Avenue to Frontier Avenue." Do you see that?

25          A.     Uh-huh. Yes.

1 Q. Do you know whether that was completed?

2 MR. BARSKY: Object to the form.

3 BY MS. KITTERMAN:

4 Q. The paving of the western half of  
5 Rodeo Drive.

6 A. I believe that it was.

7 Q. Okay.

8 MS. KITTERMAN: Mark this as Defendant's 3.

9 (Defendant's Exhibit 3 was marked for  
10 identification.)

11 BY MS. KITTERMAN:

12 Q. I'm handing you what has been marked as  
13 Defendant's Exhibit 3. Take a look at it and let me  
14 know if you recognize it.

15 A. Yes.

16 Q. What is this?

17 A. It's a letter to the residents re the paving  
18 of Rodeo from Fargo to Lyons.

19 Q. Okay. And what is the date of this letter?

20 A. March 6th, '08.

21 Q. Is this a petition to the Rodeo Drive  
22 residents?

23 A. Yes.

24 Q. Okay. Why didn't the Fargo Avenue residents  
25 receive a petition at the same time?



1           A.     We --

2                     MR. BARSKY:   Object to the form.

3                     THE WITNESS:  -- were not approached by Fargo  
4                     residents to do paving on Fargo.

5           BY MS. KITTERMAN:

6                     Q.     But according to this it was being considered  
7                     at the same time, according to the February 26th, 2008,  
8                     memo.

9                     A.     According to the February 26th, '08, memo,  
10                    Michael asked if we should consider adding Fargo to the  
11                    projects and I said, no, we had not been -- my note  
12                    above that says, this was not part of the MSTU, no  
13                    petitioning done, question mark.  If so, then leave out  
14                    for now.

15                    So there was no petitioning, it was not on  
16                    our MSTU list, and so I was not adding it to the  
17                    project.

18                    Q.     Okay.  Was there petitioning done for  
19                    Rodeo Drive on the western half prior to the MSTU  
20                    project being approved?

21                    A.     Probably not.  And I'll explain if I may.

22                    Q.     Okay.

23                    A.     I always get these confused, but let me see  
24                    if I can -- so there were roadways petitioned.  We were  
25                    approached by residents on four roadways within the

1 Ranchettes for paving of the roadways. The roadways  
2 run -- let's just call it in two halves each. So they  
3 are split by a main road, north/south road, and then  
4 they run east/west on either side.

5 There were essentially 3 1/2 projects to  
6 start, meaning the four roadways, two parts each. So  
7 one full one, three full ones, and only half of one of  
8 the roadways. When the contract was given to Keshavarz  
9 for the design, Keshavarz designed the wrong remaining  
10 half. So instead of doing one of the halves that was  
11 initially required to be designed, they designed the  
12 half that we had no petitions on. And so it was  
13 excluded from the projects at that time.

14 So what I did was when that was brought to my  
15 attention, I said, well, we have to do the design for  
16 the piece that we had petitioned and were committed to  
17 doing. And since I had a complete set of plans for a  
18 piece of roadway, to go out and petition those owners to  
19 be sure -- to see if they're interested in doing the  
20 project instead of me just wasting that design money and  
21 throwing those plans in the garbage.

22 Q. Is that the process for petitioning for it to  
23 be included with the MSTU?

24 A. It is not the process for petitioning to be  
25 included in the MSTU, but when I brought it to my boss's

1 attention, this time being Bob Weisman, he agreed that  
2 that was the right decision to make, considering that I  
3 had already spent money on the design of a set of plans.

4 Q. Okay. But Fargo Avenue didn't get the same  
5 consideration?

6 A. Fargo was not wrongly designed. I did not  
7 have a set of plans for Fargo Avenue's design sitting on  
8 a shelf.

9 Q. Did the paving into cross streets make sense  
10 in engineering sense --

11 MR. BARSKY: Object to the form.

12 BY MS. KITTERMAN:

13 Q. -- the way the Ranchettes project was  
14 developed?

15 MR. BARSKY: Object to the form.

16 THE WITNESS: You mean the aprons that went  
17 into the Fargo right-of-way?

18 BY MS. KITTERMAN:

19 Q. Yes.

20 A. Did that make sense?

21 Q. Engineering sense.

22 A. Well, I'm not -- it was designed and  
23 certified by a professional engineer, and that was their  
24 opinion that that should be done. I took it out of the  
25 plans when it was brought to my attention because since

1 we were not paving Fargo and since Fargo was not part of  
2 the projects, I didn't feel that we should extend our  
3 project on to Fargo.

4 There were also issues that I was concerned  
5 about with the ultimate maintenance, since we were not  
6 maintaining Fargo, that we would have pavement there.  
7 We maintain what we pave. Part of the MSTU program is  
8 that we accept responsibility for maintenance once we  
9 have paved the road. And since Fargo was not one of the  
10 roadways being considered for us to accept, I didn't  
11 want to have asphalt there that I would be responsible  
12 for.

13 Q. When did you make that decision?

14 A. I don't remember. When it was brought to my  
15 attention.

16 Q. Who brought it to your attention?

17 A. I believe Mr. Schaller first brought it to  
18 the attention of somebody, who then conveyed it to me or  
19 I heard it. I mean, I'm not sure, I really don't  
20 recall.

21 Q. So the suggestion, at that time at least,  
22 made sense to take out the cross pavements?

23 A. Oh, absolutely. Yes.

24 Q. So since it was changed, was it changed so  
25 that it would make sense not only for the roadways for

1 the maintenance, but also for the drainage?

2 A. No.

3 Q. What was considered for the drainage on  
4 Fargo Avenue?

5 A. Fargo was not part of the project.

6 Q. Was the drainage of Fargo Avenue part of the  
7 project?

8 MR. BARSKY: Object to the form.

9 THE WITNESS: No.

10 BY MS. KITTERMAN:

11 Q. Did the pavement of the Ranchettes projects  
12 create a drainage program?

13 MR. BARSKY: Object to the form.

14 THE WITNESS: No.

15 BY MS. KITTERMAN:

16 Q. No?

17 A. That has been brought up time and time again  
18 and it's been extensively debated. The elevations that  
19 existed at the time prior to construction carried that  
20 drainage in that direction anyway. In other words,  
21 there's always been flooding problems there. Did the  
22 paving of the roadway cause those, no. There had always  
23 been flooding problems there.

24 The only time that the Fargo drainage would  
25 have been included in the Rodeo work is if historically

1 the Fargo drainage drained into Rodeo and Rodeo was  
2 without fault. Then we would have had to design a  
3 system that accepted the Fargo drainage and took it  
4 away. That was not the case. And so, no, Fargo's  
5 drainage was not part of the Rodeo design.

6 Q. Who is in charge of maintaining the Fargo  
7 drainage?

8 MR. BARSKY: Object to form.

9 THE WITNESS: I believe it's privately owned  
10 roadway. So it is the residents' responsibility.

11 BY MS. KITTERMAN:

12 Q. Fargo Avenue is privately owned?

13 A. I need to verify that, but I believe that's  
14 what it said right here, didn't it? Fargo is a private  
15 right-of-way.

16 Q. Do you know that to still be the case today?

17 MR. BARSKY: Object to the form.

18 THE WITNESS: Yes, I believe that is so. The  
19 County has taken on courtesy maintenance, but not  
20 ownership at this time.

21 BY MS. KITTERMAN:

22 Q. So your position is that the County does not  
23 own Fargo Avenue?

24 A. As far as I know. I would have to verify it.  
25 But to my current knowledge, I don't think that we have

1 done anything to take over ownership of the roadway --  
2 of the -- yeah, of the right-of-way itself.

3 Q. In your position, would that be something  
4 that you would know or need to find out?

5 MR. BARSKY: Object to the form.

6 THE WITNESS: Yes. In my position, that is  
7 something that I would need to know, which is why  
8 I'm pretty sure that we've not yet taken over  
9 ownership of the Fargo right-of-way. I sign for  
10 the acceptance of rights of way.

11 BY MS. KITTERMAN:

12 Q. Okay. Did you realize that the road design  
13 would negatively impact the ability of Fargo residents  
14 to maintain the road?

15 MR. BARSKY: Object to the form.

16 THE WITNESS: Could you ask again, please?

17 Sorry.

18 MS. KITTERMAN: Please read back.

19 (Whereupon, the requested portion of the  
20 record was read aloud by the Court Reporter.)

21 THE WITNESS: I don't believe that that is  
22 correct. So no.

23 BY MS. KITTERMAN:

24 Q. You don't believe that is --

25 A. That the design of Rodeo has made it

1           difficult for Fargo residents to maintain the road, no.

2           Q.     No?

3                     Okay. Did you ever tell the Board that  
4           engineering management was responsible for the delay in  
5           Fargo being included in the then-current road paving  
6           program?

7                     MR. BARSKY: Object to the form.

8                     THE WITNESS: Sorry. Again, please.

9                     (Whereupon, the requested portion of the record was  
10           read aloud by the Court Reporter.)

11                    MR. BARSKY: Object again to the form.

12                    THE WITNESS: No, I don't believe that I did.  
13           I know that Mr. Schaller has time and again quoted  
14           me as saying that engineering government costs, it  
15           cost management, caused the delay and cost -- that  
16           would cost \$50,000 or something. But I'm pretty --  
17           I don't remember the exact context, but I'm  
18           relatively sure that was not the intent of my  
19           statement at the time.

20                    Mr. Schaller tends to twist and misinterpret  
21           things that we say. So I would certainly want to  
22           review the entire conversation with the Board at  
23           the time.

24           BY MS. KITTERMAN:

25                    Q.     Do you recall what your intent was?



1 A. No.

2 Q. Okay.

3 A. But all I remember is that I kept hearing it  
4 over and over and over again from Mr. Schaller and being  
5 frustrated that he continued to not get it quite right.

6 Q. Did you go back and look to verify whether or  
7 not he got it right?

8 A. Nope.

9 Q. Why did Mr. Webb tell the Board in July of  
10 2008 that you would determine the assessment benefiting  
11 properties to pave Fargo, only to change your position  
12 in subsequent meetings?

13 MR. BARSKY: Object to the form.

14 THE WITNESS: That's a question for Mr. Webb.

15 BY MS. KITTERMAN:

16 Q. Was it ever your position that it was  
17 Mr. Schaller's duty to determine how people would be  
18 assessed for a Fargo Avenue improvement?

19 A. No, it would not be his duty to determine who  
20 would be assessed.

21 MS. KITTERMAN: I'm going to mark this as  
22 Defendant's Exhibit 5 (sic).

23 (Discussion held off the record.)

24 (Defendant's Exhibit 4 was marked for  
25 identification.)

1 THE WITNESS: Thank you.

2 BY MS. KITTERMAN:

3 Q. If you would take a second and look at that  
4 and let me know if you recognize this document.

5 A. Okay.

6 Q. Do you recognize this document?

7 A. Actually, no, not really.

8 Q. Do you --

9 A. I've probably seen it, but it doesn't, you  
10 know, trigger.

11 Q. Okay. In this summary, it states that  
12 Mr. Schaller has never specifically discussed with the  
13 Board who should be assessed for the improvement to  
14 Fargo.

15 Again, is it Mr. Schaller's duty to tell the  
16 Board who should be assessed for an improvement to  
17 Fargo?

18 MR. BARSKY: Object to the form.

19 THE WITNESS: It is not Mr. Schaller's duty  
20 to tell the Board who should be assessed, no.

21 BY MS. KITTERMAN:

22 Q. Okay. And is it County policy that general  
23 public dictate the assessment process?

24 MR. BARSKY: Object to the form.

25 THE WITNESS: On who should be assessed, no.

1 BY MS. KITTERMAN:

2 Q. If you look at Page 5.

3 A. Oh, no, further in here.

4 Q. Don't worry, it's highlighted in here.

5 A. Okay.

6 Q. If you look at the bottom.

7 A. Okay.

8 Q. Okay. According to this section, it appears  
9 that the engineering department was stating that the  
10 drainage improvements in the Fargo right-of-way should  
11 have been included in the Ranchette project to address  
12 the water flowing from the east west roads into Fargo.  
13 Those improvements are required and will be installed if  
14 funding exists in the current Ranchette assessment to  
15 pay for these drainage modifications without increasing  
16 the current assessment.

17 Do you know why that didn't happen?

18 A. My boss and I disagreed on this issue.

19 Q. Okay. Tell me about that.

20 A. I stated earlier and I still stand by, did we  
21 adversely impact the drainage on Fargo with the Rodeo  
22 project, and the answer is no.

23 Q. Okay. Whose position was it that the  
24 drainage improvement should have been done?

25 A. Mr. Webb's.

1 Q. And you don't agree with that?

2 A. No.

3 Q. Okay.

4 A. I agree that more could have been done by my  
5 designers, but -- as far as making swales deeper and  
6 stuff, but did we contribute to a drainage issue on  
7 Fargo and did we create the flooding that occurs that  
8 Mr. Schaller has taken pictures of over and over again,  
9 no.

10 Q. It's your position that that floodage has  
11 always been there?

12 A. That there has always been flooding there,  
13 yes, which could get gradually worse because that  
14 roadway is not maintained. So any potholes, et cetera,  
15 et cetera. But I mean, yes, flooding, yes.

16 Q. And you said it's the residents' duty to  
17 maintain --

18 A. Fargo is a private right-of-way.

19 Q. Do you know whether the engineering  
20 department to this date has resolved what a benefiting  
21 property would be to be assessed for a Fargo Avenue  
22 improvement?

23 A. I believe it would be brought back to the  
24 Board, but the current recommendation would be that only  
25 Fargo residents.

1 Q. Residents that live on Fargo Avenue?

2 A. Yes.

3 Q. Okay. And that's engineering's position?

4 A. No, that was conveyed to me as the current  
5 thinking downtown.

6 Q. Who was that conveyed to you by?

7 A. I believe that I saw an e-mail from  
8 Mr. Weisman to that effect.

9 Q. Do you know when that was?

10 A. Relatively recently.

11 Q. Do you know who was responsible for not  
12 including Fargo in the original Ranchette projects?

13 MR. BARSKY: Object to the form.

14 THE WITNESS: We had no petitions or requests  
15 from any residents of Fargo.

16 BY MS. KITTERMAN:

17 Q. So if you had a petition or request from a  
18 resident of Fargo, it would have been included?

19 A. It would have been on our MSTU list,  
20 certainly.

21 Q. Okay.

22 MR. BARSKY: Object to the form.

23 THE WITNESS: Sorry. If they got 51 percent  
24 response from their neighbors --

25

1 BY MS. KITTERMAN:

2 Q. Okay.

3 A. -- it would have made our list.

4 Q. Did I do this one? No.

5 (Defendant's Exhibit 5 was marked for  
6 identification.)

7 THE WITNESS: What page?

8 BY MS. KITTERMAN:

9 Q. Page --

10 A. Okay. I got it, prior Board direction. No?

11 Q. No. Sorry.

12 A. Okay. Discussion.

13 Q. Wait. I just want to, for the record, state  
14 this is a June 2nd, 2009, agenda item summary, appears  
15 from the engineering and public works submitted for the  
16 County Engineer. Am I stating that accurately?

17 A. Yes, submitted by the County Engineer.

18 Q. Yes. Okay. Do you have any input on these  
19 suggestions or agenda items?

20 A. Most Board items are generated by my staff or  
21 I. George generated these.

22 Q. So other than the two that we've shown here  
23 today, you're saying that your staff usually creates  
24 them?

25 A. Yes, my staff usually creates Board items.

1 Q. Okay. But not these two?

2 A. Not these two.

3 Q. Okay. Why is that?

4 A. I'm sure that there was input from my staff,  
5 but these were signed directly by George. I initial all  
6 of those that come out of the department that head  
7 downtown. So when they're signed by George alone, they  
8 didn't go by my desk.

9 Q. Do you know why these particularly wouldn't  
10 have gone by your desk?

11 A. George took Fargo on as his own.

12 Q. Why?

13 A. I don't know. Ask George.

14 Q. Have you ever heard why?

15 A. No.

16 Q. Do you have any opinion of why?

17 A. George and I disagreed a lot on Fargo.

18 Q. What was the disagreements?

19 A. We have a procedure, and the procedures are  
20 in place to be fair to all of our residents, not just to  
21 favor one. And so I am left when all this is done to  
22 explain to -- when we reinstate the program, anybody  
23 that comes in and figures that if they make enough of a  
24 stink, they'll get their project, I have to have  
25 something to stand behind as a basis for the ones that

1 don't meet our requirements. That's why requirements  
2 are in place.

3 So I strongly believe that there's a  
4 procedure. It's not that Fargo could never get paved,  
5 there was a procedure to get Fargo paved. And I just  
6 felt it should be followed so that my staff knows  
7 what their -- it's laid out in a writing what their  
8 program is, how they do it. So we had some interesting  
9 conversations.

10 Q. But that procedure wasn't followed with  
11 regard to Rodeo Drive?

12 A. And that was the one -- that is an exception  
13 and we have to be able to address exceptions. Our  
14 primary goal here is the taxpayer dollar. And so  
15 instead of throwing out a perfectly good set of plans,  
16 we asked the people that would be impacted by wanting to  
17 spend money on getting their road paved.

18 You raised your eyebrows at there being an  
19 exception. Fargo was not an exception. There are other  
20 roads in the Ranchettes that were not being paved.  
21 There was nothing special about Fargo. We had no money  
22 already invested in it, and it could have joined the  
23 program like the other roadways had.

24 Q. So the exception was created only because  
25 there was a mistake made in engineering so those on



1 Rodeo Drive benefited from that mistake?

2 A. They could have said no.

3 MR. BARSKY: Object to the form.

4 BY MS. KITTERMAN:

5 Q. It's a simple question. They benefited from  
6 the mistake?

7 MR. BARSKY: Object to the form.

8 THE WITNESS: They were given the option to  
9 benefit and they chose it, yes.

10 BY MS. KITTERMAN:

11 Q. Okay. Page 7.

12 A. I don't have page numbers.

13 Q. I know, I counted them.

14 A. Oh. The top?

15 Q. Yes.

16 A. Okay. Discussion?

17 Q. Yes. Okay. The discussion states  
18 that the -- asks whether or not the recently completed  
19 County road paving project impacted the Fargo Avenue  
20 drainage; is that correct?

21 MR. BARSKY: Object to the form.

22 THE WITNESS: Yes.

23 BY MS. KITTERMAN:

24 Q. And then it states the recently completed  
25 project has, in fact, improved the drainage situation on

1 Fargo Avenue. Would you agree with that statement?

2 MR. BARSKY: Object to the form.

3 THE WITNESS: Not necessarily. I don't know.

4 I know that we did not adversely impact the  
5 drainage, and that was my concern.

6 BY MS. KITTERMAN:

7 Q. How do you know that it did not adversely  
8 impact the drainage?

9 A. Because I had staff do the surveys, I had  
10 staff do the elevations. I had staff come to my office  
11 and show me existing before and after elevations. We  
12 did profiles, et cetera, and the indications were that  
13 we were not adversely impacting the drainage.

14 Q. Was your staff involved in the audit, the  
15 internal audit?

16 MR. BARSKY: Object to the form.

17 THE WITNESS: Yes.

18 BY MS. KITTERMAN:

19 Q. And didn't that internal audit come to no  
20 conclusion?

21 A. The internal --

22 MR. BARSKY: Object to the form.

23 THE WITNESS: -- audit did not address  
24 drainage because they're not engineers.

25

1 BY MS. KITTERMAN:

2 Q. Okay. So how many hours did your staff spend  
3 on that?

4 A. I don't know.

5 Q. Okay. Do you know who the project manager  
6 was for the Ranchettes projects?

7 A. Michael Marquis.

8 Q. Is he still employed with the County?

9 A. No, he is not.

10 Q. Why not?

11 A. I terminated him.

12 Q. Why did you terminate him?

13 A. He had issues -- a problem following clear  
14 direction.

15 Q. What was that problem?

16 A. He didn't follow direction properly. So when  
17 asked to do something, he didn't -- he either didn't  
18 understand it or he didn't do it. He was making errors  
19 in the letters that he was sending out to the public and  
20 stuff like that.

21 Q. Okay. Are there other projects like  
22 Fargo Avenue, like Pinto Rodeo, Yearling and El Paso,  
23 where decisions were made which may have been improper  
24 or overruled by a higher authority?

25 MR. BARSKY: Object to the form.

1                   THE WITNESS: I don't believe that our  
2                   decisions on this project were improper. And as  
3                   far as overruled, also, no, none that come to mind.

4                   BY MS. KITTERMAN:

5                   Q.     Okay. Were you involved in a decision on the  
6                   Coconut Road project?

7                   A.     Very likely.

8                   Q.     Do you know whether that was overruled?

9                   A.     First, I'd have to refresh my memory on which  
10                  one was Coconut. Nope. You're not going to give me --

11                  MR. BARSKY: If you don't know, you don't  
12                  know.

13                  THE WITNESS: -- anything more on Coconut?

14                  BY MS. KITTERMAN:

15                  Q.     Yeah, if you don't know, you don't know.

16                  A.     Okay. I mean, I'm pretty sure I was  
17                  involved. If it's the one I'm thinking of, then I could  
18                  address it, but I would need to confirm that that's the  
19                  one.

20                  Q.     Okay.

21                  A.     Off of Lake Worth Road to the south? South  
22                  of Lake Worth Road off of Lake Worth Road?

23                  Q.     I don't know.

24                  A.     Okay. I can't help you then.

25                  Q.     Does any other road other than Fargo have

1 four or more other streets that drain onto it?

2 MR. BARSKY: Object to the form.

3 THE WITNESS: I don't know offhand,  
4 certainly.

5 BY MS. KITTERMAN:

6 Q. What about in the Ranchettes?

7 MR. BARSKY: Object to the form.

8 THE WITNESS: Don't know.

9 BY MS. KITTERMAN:

10 Q. Did the internal audit contain an independent  
11 engineering or construction firm to do the evaluation of  
12 Fargo Avenue?

13 A. Not that I'm aware of. I don't know. I  
14 don't remember.

15 Q. Okay.

16 A. I don't know.

17 Q. Are you familiar with a lawsuit that was  
18 filed by Mr. Santamaria against Mr. Schaller?

19 A. I am familiar with the fact that  
20 Mr. Santamaria filed a lawsuit against Mr. Schaller.

21 Q. What is your understanding of that lawsuit?

22 A. That Mr. Santamaria filed a lawsuit against  
23 Mr. Schaller for slander.

24 Q. Do you know what the slander was based on?

25 A. Not for a fact.

1 Q. What do you think?

2 A. I believe that Mr. Schaller did a  
3 dissertation on ethics violations that he thought  
4 Mr. Santamaria had carried out.

5 Q. Okay. The dissertation you're referring to,  
6 would that be the request for inquiry that Mr. Schaller  
7 produced?

8 A. If that was the format.

9 Q. Okay. Did you ever see the request for  
10 inquiry that Mr. Schaller produced?

11 A. I might have seen it in passing.

12 Q. Do you know who would have shown it to you?

13 A. No.

14 Q. And when you saw it in passing, did you read  
15 any part of it?

16 A. I'm going to assume that, yes, I probably did  
17 glance through it.

18 Q. Does anything stand out in your mind?

19 A. Absolutely nothing.

20 Q. Are you aware that part of the request for  
21 inquiry included a felony judgment for a Jesus R.  
22 Santamaria?

23 A. For a -- pardon me?

24 Q. For Jesus R. Santamaria.

25 A. No.

1 Q. Do you know who Jesus R. Santamaria is?

2 A. No.

3 Q. Have you ever known Mr. Santamaria as Jesus?

4 A. No.

5 Q. Have you ever heard anybody call

6 Mr. Santamaria, Jesus?

7 A. No.

8 Q. What is your opinion of Mr. Santamaria?

9 A. (Laughing.)

10 MR. BARSKY: Object to the form.

11 MS. KITTERMAN: What is wrong with the form?

12 THE WITNESS: Interesting question.

13 MR. BARSKY: You have to comply with the

14 rules of evidence if you're going to ask that

15 question.

16 MS. KITTERMAN: What is that?

17 MR. BARSKY: I'm not going to educate you on

18 the various rules of evidence.

19 MS. KITTERMAN: Well, you have to tell -- I

20 mean, earlier, you wanted to tell me what a

21 relevancy objection was and you could make it on

22 the record because you want to read this at trial.

23 So if there is a problem with the form, let me know

24 so I can correct it.

25 MR. BARSKY: 401, 405 and 80621, I think they

1 are.

2 MS. KITTERMAN: Are you telling me evidence  
3 rules of Federal court?

4 MR. BARSKY: No. I dropped the 90-point off  
5 the front of it.

6 MS. KITTERMAN: Yeah, exactly. So what is  
7 your objection, Dan?

8 MR. BARSKY: My objection is that you haven't  
9 complied with those rules and the State law in the  
10 state of Florida that pertains to asking witnesses  
11 about their opinion testimony.

12 MS. KITTERMAN: Okay. So I'll have the same  
13 objection when you ask her about the opinion.

14 MR. BARSKY: You have every time, except I've  
15 complied with the rule.

16 MS. KITTERMAN: How is that?

17 MR. BARSKY: It's not my job to tell you.

18 BY MS. KITTERMAN:

19 Q. What is your opinion of Mr. Santamaria?

20 MR. BARSKY: Object to the form.

21 THE WITNESS: Mr. Santamaria is a  
22 County Commissioner for the organization that I  
23 work for. As such, I respect him in that role. I  
24 don't know him personally.

25



1 BY MS. KITTERMAN:

2 Q. Okay. After you had a chance to glance  
3 through the request for inquiry or hear about it, did  
4 your opinion of Mr. Santamaria change?

5 A. No.

6 Q. Okay. Have you ever conducted a background  
7 search on Mr. Santamaria?

8 A. No.

9 Q. Do you -- have you ever conducted a  
10 background search on any County Commissioner?

11 A. No.

12 Q. Are you aware of anyone who conducts  
13 background searches on any individual running for  
14 County Commissioner?

15 A. No.

16 Q. Do you know of any facts that Mr. Schaller  
17 knew that a felony record listed for Jesus R. Santamaria  
18 did not belong to Mr. Santamaria?

19 A. No.

20 Q. Do you know any facts to show that  
21 Mr. Schaller purposely did not look further into whether  
22 or not a felony judgment related to Mr. Santamaria?

23 A. No.

24 Q. Have you ever heard any other individual  
25 state that Mr. Schaller knew that the felony record did

1 not belong to Mr. Santamaria?

2 A. Could you repeat that, please?

3 MS. KITTERMAN: Would you repeat that.

4 (Whereupon, the requested portion of the  
5 record was read aloud by the Court Reporter.)

6 BY MS. KITTERMAN:

7 Q. That Mr. Schaller knew that the felony record  
8 was not related to Mr. Santamaria.

9 A. No.

10 Q. Are you aware of whether Mr. Santamaria went  
11 through any ethics inquiries as a result of the request  
12 for inquiry?

13 A. No.

14 Q. Okay.

15 A. I believe that there was an investigation  
16 into the charges made and he was cleared.

17 Q. Okay. Do you know what agencies?

18 A. I think it was our ethics commission.

19 Q. Palm Beach Ethics Commission?

20 A. Uh-huh. Yes.

21 Q. Do you know what specific inquiries within  
22 the request for inquiry, the Palm Beach Ethics  
23 Commission addressed?

24 A. No.

25 Q. Do you know whether the Palm Beach Ethics

1 Commission addressed whether or not the felony record  
2 related to Mr. Santamaria?

3 A. No.

4 Q. Are you familiar with the Inspector General?

5 A. Yes.

6 Q. Do you know whether the Inspector General did  
7 an inquiry into the request for inquiry?

8 A. No, I don't know. I mean, it might have been  
9 them or the Ethics Commission. I don't know who looked  
10 into it. I did not get very involved in it. It was not  
11 consequential to me.

12 Q. Do you know of any entity that investigated  
13 Mr. Santamaria because of a felony record judgment?

14 A. No.

15 Q. Have you talked to anybody about the lawsuit,  
16 this lawsuit?

17 A. No, other than there's a lawsuit and I've  
18 been subpoenaed.

19 Q. Who did you talk to?

20 A. My husband, my coworkers, my secretary, my  
21 boss.

22 Q. And do you understand that you were  
23 subpoenaed because Mr. Santamaria listed you as a  
24 witness?

25 A. I understand that.

1 Q. Okay. Did you ever talk to Mr. Santamaria  
2 about this lawsuit?

3 A. No.

4 Q. Did you ever talk to Mr. Santamaria about a  
5 felony judgment?

6 A. No.

7 Q. Do you know whether Mr. Schaller ever  
8 retracted the portion of the request for inquiry and  
9 stated that the felony judgment did not relate to  
10 Mr. Santamaria?

11 A. No.

12 Q. Do you have any information that could be  
13 related to this case that you would testify about with  
14 regard to the felony judgment?

15 A. No, ma'am.

16 Q. Do you know anyone else that may have  
17 information about this case that relates to a felony  
18 judgment?

19 A. No.

20 MS. KITTERMAN: Okay. That's it. Thank you.

21 MR. BARSKY: I have a few questions for you.

22 It won't take too long, I promise.

23 CROSS EXAMINATION

24 BY MR. BARSKY:

25 Q. Do you live in Palm Beach County?

1 A. Yes.

2 Q. How long have you lived in Palm Beach County?

3 A. Since 1986.

4 Q. Are you aware of the general reputation of  
5 Jess Santamaria in the Palm Beach County community?

6 MS. KITTERMAN: Object to form.

7 MR. BARSKY: What is the basis for the  
8 objection?

9 MS. KITTERMAN: You can look it up in the  
10 evidence rules.

11 BY MR. BARSKY:

12 Q. Go ahead.

13 A. Yes.

14 Q. And what is that reputation?

15 MS. KITTERMAN: Object to the form.

16 THE WITNESS: I believe he has a reputation  
17 as a respected businessman, especially in the  
18 western area of the County.

19 BY MR. BARSKY:

20 Q. What is the basis for that belief?

21 A. I don't know. I mean -- my belief?

22 Q. Yes.

23 A. I've just heard that said. I live in  
24 Royal Palm, actually. So I know the impacts that he's  
25 had out there.

1 Q. How long have you lived in Royal Palm for?

2 A. Since maybe '95. '95, '96.

3 Q. Are you aware of any specific instances of  
4 conduct by Jess Santamaria that demonstrate his  
5 character?

6 MS. KITTERMAN: Object to form.

7 THE WITNESS: No.

8 BY MR. BARSKY:

9 Q. Does Mr. Santamaria have a reputation in the  
10 community as an honest man?

11 MS. KITTERMAN: Object to form.

12 THE WITNESS: I don't know.

13 BY MR. BARSKY:

14 Q. Does he have a reputation in the community as  
15 an honorable man?

16 MS. KITTERMAN: Object to form.

17 THE WITNESS: Yes.

18 BY MR. BARSKY:

19 Q. Does he have a reputation in the community as  
20 a charitable man?

21 MS. KITTERMAN: Object to form.

22 THE WITNESS: But I don't know on that  
23 actually.

24 BY MR. BARSKY:

25 Q. You don't know if he does?

1           A.     No.

2           Q.     Does he have a reputation in the community as  
3 a law-abiding man?

4                   MS. KITTERMAN: Object to form.

5                   THE WITNESS: Yes.

6                   MR. BARSKY: I have nothing further.

7                   MS. KITTERMAN: You're done.

8                   (Deposition concluded at 2:51 p.m.)

9                                   - - -

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CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, the undersigned authority, certify that  
TANYA MCCONNELL personally appeared before me and was  
duly sworn.

Dated this 29th day of March, 2012.

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Pamela J. Sullivan, RPR, FPR, CLR  
Notary Public - State of Florida  
My Commission Expires: June 10, 2014  
My Commission No.: DD 993731

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C E R T I F I C A T E

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I, Pamela J. Sullivan, Registered Professional Court Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that the aforementioned witness was by me first duly sworn to testify the whole truth; that I was authorized to and did report said deposition in stenotype; and that the foregoing pages are a true and correct transcription of my shorthand notes of said deposition.

I further certify that said deposition was taken at the time and place hereinabove set forth and that the taking of said deposition was commenced and completed as hereinabove set out.

I further certify that I am not attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel of party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

Dated this 29th day of March, 2012.

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Pamela J. Sullivan, RPR, FPR, CLR