



In the Matter Of:

JILL MANN

vs

LAS BRISAS PACIFICAS, INC., et al.

WILLIAM KATZ

August 20, 2025

Case No: 24CU015304N

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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

JILL MANN, an individual, )  
 )  
Plaintiff, )  
 )  
VS. )  
 )  
LAS BRISAS PACIFICAS, INC., a )  
California mutual benefit )  
common interest development )  
corporation; and DOES 1-20, )  
inclusive, )  
 )  
Defendants. )  
 )

CASE NO. 24CU015304N



REMOTE DEPOSITION OF WILLIAM KATZ  
San Marcos, California  
Wednesday, August 20, 2025

STENOGRAPHICALLY REPORTED BY:  
HEATHERLYNN GONZALEZ  
CSR #13646

1 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF SAN DIEGO

3  
4 JILL MANN, an individual, )  
5 Plaintiff, )  
6 VS. ) CASE NO. 24CU015304N  
7 LAS BRISAS PACIFICAS, INC., a )  
8 California mutual benefit )  
9 common interest development )  
10 inclusive, )  
11 Defendants. )  
12 )  
13 )

14 REMOTE DEPOSITION OF WILLIAM KATZ, taken on  
15 behalf of plaintiff, with the witness  
16 appearing remotely from San Marcos,  
17 California, commencing at 10:00 a.m. on  
18 Wednesday, August 20, 2025, before  
19 Heatherlynn Gonzalez, CSR No. 13646, a  
20 Certified Shorthand Reporter within and for  
21 the State of California, pursuant to Notice.  
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APPEARANCES OF COUNSEL

FOR THE PLAINTIFF:

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FOR THE DEFENDANTS:

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San Diego, California 92111  
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ALSO PRESENT:

JILL MANN  
PLAINTIFF

ROBYN RICHARDSON-HIBNER  
BOARD PRESIDENT - LAS BRISAS PACIFICAS HOA

SANDRA COMOUCHE  
BOARD TREASURER - LAS BRISAS PACIFICAS HOA

I N D E X

WITNESSES

ALL WITNESSES: PAGE:

WILLIAM KATZ:

Examination by ATTORNEY ALEXANDER 6:8

Examination by ATTORNEY COMBS 111:6

EXHIBITS

NO. : DESCRIPTION: PAGE:

Exh 15 Preliminary Geotechnical Investigation  
for Las Brisas Pacificas, Inc., Unit  
139 Slope Repair, dated July 7, 2023. 20:5

Exh 16 Declaration of Pamela Gildark. 35:20

Exh 17 Document on GeoTek letterhead with  
Subject: As-Graded Report of Slope  
Repair, dated May 23, 2024. 62:6

Exh 18 Photocopy of "The Las Brisas Breeze"  
dated September 2022. 71:1

Exh 19 Document titled "The Las Brisas  
Breeze" dated July 2022. 74:19

Exh 20 Document titled "The Las Brisas  
Breeze" dated May 2022. 77:17

Exh 21 Document titled "The Las Brisas  
Breeze" dated March 2022. 78:14

Exh 22 Document titled "The Las Brisas  
Breeze" dated February 2022. 80:24

Exh 23 Document titled "The Las Brisas  
Breeze" dated September 2021. 82:21

Exh 24 Document titled "The Las Brisas  
Breeze" dated July 2021. 84:13

Exh 25 Document titled "The Las Brisas  
Breeze" dated October 2019. 86:3

1	Exh 26	Document titled "The Las Brisas Breeze" dated July 2019.	
2			87:4
3	Exh 27	Document with heading "The Men's 4th of July BBQ."	
4			88:16
5	Exh 28	Document titled "The Las Brisas Breeze" dated January 2017.	
6			91:8
7	Exh 29	Document titled "The Las Brisas Breeze" dated February 2005.	
8			92:14
9	Exh 30	Document titled "The Las Brisas Breeze" dated September 1998.	
10			95:5
11	Exh 31	Document on Westchester, A Chubb Company letterhead dated 02/24/2025.	
12			97:9
13	Exh 32	Document titled "The Las Brisas Breeze" dated March 1991.	
14			100:13
15	Exh 33	Document on Las Brisas Pacificas, Inc.'s letterhead dated June 13, 2016.	
16			101:23
17	Exh 34	Document on Pablos Landscape Services letterhead.	
18			108:20
19			
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1 Wednesday, August 20, 2025; San Marcos, California

2 10:00 a.m.

3 --o0o--

4 WILLIAM KATZ,

5 having first been administered an

6 oath in accordance with CCP 2094,

7 was examined and testified as follows:

8 EXAMINATION

9 THE REPORTER: My name is Heatherlynn Gonzalez.

10 I am code-compliant, Certified Shorthand Reporter Number  
11 13646.

12 BY ATTORNEY ALEXANDER:

13 Q Good morning, Mr. Katz.

14 A Good morning.

15 Q My name is Vasko Alexander. How are you?

16 A I'm good thank you.

17 Q Okay. As you know, I'm counsel for plaintiff,  
18 Jill Mann, who is here with us today.

19 As an initial matter, are you represented by  
20 counsel here today?

21 A Mr. Combs.

22 ATTORNEY ALEXANDER: Okay. And I know that our  
23 court reporter has taken an attendee list. I see that  
24 Ms. Robyn Hibner is also with us today.

25 Mr. Combs, are you representing Mr. Katz in his

1 individual capacity or as a board member?

2 ATTORNEY COMBS: In his capacity as a board  
3 member.

4 ATTORNEY ALEXANDER: Okay.

5 ATTORNEY COMBS: Former board member.

6 BY ATTORNEY ALEXANDER:

7 Q Okay.

8 Mr. Katz, can you please provide us your current  
9 address?

10 A Current address, 2010 West San Marcos Boulevard,  
11 Unit 166, San Marcos, California 92078.

12 Q Thank you. And is your name William Katz, for  
13 the record?

14 A Correct.

15 Q I'll call you Mr. Katz if that's okay.

16 A Yeah. Or Bill or William. Whatever.

17 Q Have you had your deposition taken before?

18 A Many years ago when I was in retail management.

19 Q What was the context of that deposition?

20 A It was -- well, there was couple different ones.  
21 One was shoplifting and the other one was floating a bad  
22 check.

23 Q Were you a defendant in those?

24 A I was just giving testimony on behalf of the  
25 company to the person that took that action.

1 Q Okay. So the claims were not against you;  
2 correct?

3 A Correct.

4 Q I'm going to go over some ground rules you may  
5 recall from those depositions, but I'm just going to cover  
6 it very quickly here as well.

7 We're doing a good job of hearing each other out  
8 before we provide a response to each other. I'm going to  
9 ask you questions and I ask you to please wait for my  
10 question to be completed before you provide a response.

11 Does that sound fair?

12 A Yes.

13 Q And what we're looking for is verbal responses  
14 just like how you have been doing. The court reporter  
15 cannot capture body language.

16 A Understand.

17 Q So verbal responses -- so that's understood.

18 Are you under the influence of any drugs or  
19 alcohol or anything that might impede your ability to  
20 provide best testimony today?

21 A No.

22 Q Do you take any medications that might impede  
23 your ability to provide your best testimony today?

24 A No.

25 Q Do you understand the difference between an

1 estimate and a guess?

2 A An estimate and a guess? Yes, I believe I  
3 understand that. I know the difference.

4 Q Okay. So what we're looking for is to avoid  
5 guessing today. I don't want any guesses from your  
6 prospective. You can provide me with an estimate if you  
7 don't have a specific response or a specific date, let's  
8 say, but I don't want you to guess.

9 Okay?

10 A Okay.

11 Q And the typical example that we always use is if  
12 you were to look down at your desk, you can provide me  
13 with an estimate of how big that desk is.

14 A Uh-huh. Yes.

15 Q But you'd be guessing how big my desk is;  
16 correct?

17 A Correct.

18 Q So no guessing, only estimates. If you don't  
19 know an answer, you can indicate that you don't know and  
20 that's perfectly acceptable as well, which I'm sure  
21 Mr. Combs has told you as well.

22 A Understand.

23 Q So let's dig into your background a little bit.  
24 What is the highest formal education that you  
25 received?

1 A One year of community college.

2 Q And what year was that?

3 A What year? I'd have to do some thinking back.  
4 I'm 73, that was when I was 18, if you want to do the  
5 math.

6 Q That's okay. You know what? That's back in the  
7 day. What's the highest you received formal training?

8 A Formal training as far as like university or  
9 college? I took many management safety training courses  
10 throughout my career.

11 Q Okay. And what is the most -- well, strike that.  
12 Are you currently employed?

13 A Currently employed, no.

14 Q What is your -- are you retired? What is your  
15 current status?

16 A I am retired.

17 Q And when did you retire?

18 A 2016.

19 Q And what position did you retire from? What was  
20 your occupation?

21 A Retail route sales and training for Frito-Lay.

22 Q And what?

23 A Actually, I misspoke. Wholesale.

24 Q Wholesale for Frito-Lay?

25 A Yes.

1 Q Were you a salesman?

2 A Yes.

3 Q And how long did you hold that position?

4 A 20 years.

5 Q What did you do prior to that?

6 A 28 years of retail grocery clerk management and  
7 training.

8 Q Any other occupations on the side?

9 A No.

10 Q So you were a salesman for 20 years prior to  
11 retirement?

12 A 20 years prior to retirement, yes.

13 Q As part of your education -- formal education,  
14 have you ever received any -- any licenses?

15 A Any licenses?

16 Q Yes.

17 A No.

18 Q Okay. Well, let me ask you directly. Are you a  
19 -- do you have a civil engineer license?

20 A No.

21 Q Do you have a geotechnical license?

22 A No.

23 Q And how long have you lived at your current  
24 address?

25 A Little over nine years. We moved in in March of

1 2016. We owned the property from the fall of 2015.

2 Q All right. So you purchased fall of 2015?

3 A Correct.

4 Q And have you had any involvement with the HOA  
5 board?

6 A Yes.

7 Q What was that involvement?

8 A I've served on several committee members and I've  
9 been on board of directors two times. The first time was  
10 four years. The second time was just about a year.

11 Q And when did you first serve as a member of the  
12 board of directors for four years?

13 A I believe it was 2019. Again, I'd have to do the  
14 math. I wasn't prepared for those dates.

15 Q Okay. Is that your best estimate that you  
16 started with the board of directors in 2019?

17 A No. As I'm counting, I would say '25, '24, no.  
18 2018 would be my best estimate.

19 Q I appreciate that. Was it the beginning of 2018?  
20 Towards the end?

21 A Yes. At the beginning.

22 Q Can you give me a rough month?

23 A January.

24 Q Is that when elections are held, in January?

25 A No. They're held in the fall before the

1 beginning of the year.

2 Q So January 2022 was when you stepped down as the  
3 board of directors member. Is that accurate?

4 A Yes.

5 Q And when was the next time you were on the board  
6 of directors?

7 A It would be 2025.

8 Q So this year, January?

9 A Correct.

10 Q And are you currently on the board of directors?

11 A No.

12 Q When did you step down? What month?

13 A I'm estimating it was May.

14 Q And the first time you were on the board of  
15 directors between 2018 and 2022, what was your title on  
16 the board?

17 A When I first served, I was person-at-large the  
18 first year. The second and third year I was vice  
19 president. The fourth year I was president.

20 Q And how about in 2025 from January to May?

21 A Vice president.

22 Q And you also testified that you were on a number  
23 of committees; correct?

24 A Correct.

25 Q When was the first time that you were on a

1 committee for the board?

2 A 2018.

3 Q Did you have any committee involvement outside of  
4 the years when you were on the board of directors?

5 A I'm sorry. Can you repeat the question?

6 Q Let me rephrase that. Yeah. Were you involved  
7 in any committees at any time period that was outside of  
8 your involvement as the board of directors?

9 A No.

10 Q So between 2018 and 2022, what committees were  
11 you a member of?

12 A I was a member of Pool Committee and chairperson  
13 of the Pool Committee. Back then, far as 2018, that would  
14 be the extent of it, and a board member.

15 Q How about 2019?

16 A 2019, I would still continue on the pool,  
17 security, and maintenance.

18 Q And what were your responsibilities as a  
19 committee member on Maintenance Committee?

20 A Checking out any bad leaks or damage to any  
21 property, contacting appropriate vendors, getting bids for  
22 repairs.

23 Q When you say any property, what property do you  
24 have in mind?

25 A The common area of Las Brisas Pacificas.

1 Q Exclusive to the common areas or did you get  
2 involved --

3 A Excuse me. I'm sorry. Go ahead.

4 Q Exclusive to the common areas or did you get  
5 involved with homeowner's home properties as well?

6 A Exclusive of the common area of Las Brisas. I  
7 think I said it wrong. The -- just the common area of Las  
8 Brisas.

9 Q When you say common areas, what is your common  
10 area? What is your definition of the common area?

11 A Common area is what is controlled by the HOA when  
12 it's the responsibility of the HOA to take care of.

13 Q And what was your understanding of what the HOA  
14 was responsible to take care of?

15 A Common area.

16 Q Okay. Do the slopes -- strike that.  
17 Is -- strike that as well.

18 I'm going to come back to this one.

19 In 2020, what were your -- what committees were  
20 you on?

21 A The same that I had described. The pool,  
22 security, and maintenance.

23 Q Okay. Same for 2021?

24 A 2021, I believe I took on landscaping at that  
25 time also.

1 Q And who did you take that over from?

2 A Pardon me?

3 Q Who was your predecessor in the Landscaping  
4 Committee?

5 A Her name was Ann Phillips.

6 Q How about in 2022? What committees were you on  
7 during that year?

8 A The same as described.

9 Q Pool, security, maintenance, and landscaping?

10 A Correct.

11 Q And what were your duties on Landscaping  
12 Committee?

13 A Meet with the -- our landscape provider. Go  
14 around checking out any problems in the common area, take  
15 -- because the landscape company maintains the landscaping  
16 and irrigation, making sure that that was all functioning  
17 properly.

18 Q Is that exclusively on common areas?

19 A No.

20 Q Where else is the maintenance company -- the  
21 landscaping company --

22 A Well, it's not maintenance. It's maintaining the  
23 landscape and irrigation only. And so the slopes that are  
24 on private property -- the HOA has maintained the  
25 landscaping and the irrigation only to assist the

1 homeowners that they did not have to go that expense.

2 Q So during your time as a board member and as well  
3 as your involvement in the committees, is it your  
4 testimony today that the HOA does not provide any repair  
5 on private slopes in Las Brisas?

6 A That's correct.

7 Q Have you ever performed any work on any private  
8 slope at Las Brisas?

9 A No.

10 Q Have you ever performed any work at Lot 139 in  
11 the Las Brisas community?

12 A If your question involves helping spread out some  
13 plastic so the rain did not get on that property, then  
14 yes, I've performed work on that property by helping a  
15 board member at the time and the landscape maintenance  
16 company spread out plastic.

17 Q And when you say spread out plastic, what do you  
18 mean by that?

19 A A large plastic covering up where the slope had  
20 damage because it was predicted for rain; so we wanted to  
21 keep -- we were told to keep the rain off that area.

22 Q And what year was that?

23 A That would be the onset of this. What was it?  
24 2023? I'm guessing -- estimating. I don't have it in  
25 front of me.

1 Q And who told you to put a cover on the slope on  
2 Lot 139 in 2023?

3 A Nobody told me. Somebody else was told and I was  
4 asked if I could help.

5 Q And who asked you to help?

6 A Paul Elsesser.

7 Q And what was Paul Elsesser's involvement at the  
8 time?

9 A He was a board member at the time.

10 Q Was that before -- and by this, I mean you  
11 spreading out the plastic -- could I call it a plastic  
12 tarp? Is that fair?

13 A Sure.

14 Q When you were spreading out the plastic tarp that  
15 Paul Elsesser asked you to help with, were you performing  
16 that duty as a -- or were you performing that task within  
17 your capacity as a board member or as a private member of  
18 the community?

19 A Private member of the community. Being a good  
20 neighbor.

21 Q So you were being a good neighbor to help out;  
22 correct?

23 A Correct.

24 Q Not within your capacity as a board member?

25 A Correct.

1 Q Okay. Now, you're aware that this lawsuit arises  
2 from the failure of Slope 139; correct?

3 A Yes.

4 Q Do you have an understanding of when that slope  
5 failure took place, roughly?

6 A Yes.

7 Q And when was that slope failure?

8 A I believe you have the dates in front of you. I  
9 do not have the dates in front of me. I think it was --  
10 was it 2022 or 2023?

11 Q Is it fair to say if I make the representation it  
12 was in April of 2023, would you agree with that  
13 representation?

14 A To the best of my memory at this time without  
15 having documents in front of me, yes.

16 ATTORNEY ALEXANDER: So why don't we do this,  
17 then: Let's mark next in order Exhibit 15.

18 Q And Mr. Katz, did you receive the email with  
19 exhibits?

20 A Yes. Several of them. Which one would you like  
21 me to open?

22 Q So Exhibit 15 is going to be the GeoTek report  
23 dated 2023, July 7th?

24 A Again, these aren't numbered, but I do see  
25 GeoTek.

1 Q I'm going to give you the file names and we're  
2 going to mark them as we go along.

3 Okay?

4 A Okay.

5 (Exhibit 15 was marked for identification.)

6 BY ATTORNEY ALEXANDER:

7 Q Have you seen this document before, Mr. Katz?

8 A I have.

9 ATTORNEY COMBS: I'm sorry, Counsel. I have two  
10 GeoTek reports. Is this the one from July 7th or from May  
11 24th?

12 ATTORNEY ALEXANDER: I sent you July 7th. You  
13 must have missed it. Exhibit 15 is going to be the July  
14 7th initial report from --

15 ATTORNEY COMBS: Got it. Thank you.

16 ATTORNEY ALEXANDER: Yeah.

17 Q And Mr. Katz, you just testified that you have  
18 seen this document before; correct?

19 A Correct.

20 Q Why don't you take a minute to kind of refresh  
21 yourself on this document. Let me know when you've had a  
22 chance to kind of briefly review it.

23 A There's a lot here; so I don't know what you want  
24 me to remind myself of because it's impossible for me, of  
25 course, to read all this at this time.

1 Q That's fair. When was the first time that you  
2 saw this report?

3 A At the beginning of 2025 when I rejoined the  
4 board.

5 Q Prior to that time, were you involved in any  
6 discussions with GeoTek related to the slope falling?

7 A No.

8 Q I'm going to ask to you turn to Section 2.2 which  
9 is on Page 4 of this report. It's entitled Historic  
10 Summary.

11 Do you see that?

12 A All right. I see it.

13 Q And the relevant date is actually on the next  
14 page.

15 A Okay.

16 Q The report states: On April 28, 2023, a crack in  
17 the middle of the hillside was observed when the HOA  
18 contracted the landscape maintenance company.

19 Do you see that?

20 A Yes, I do.

21 Q Does that refresh your recollection of when the  
22 slope failure occurred?

23 A Yes.

24 Q Safe to say April of 2023?

25 A Yes.

1 Q So when you were spreading out the tarp -- the  
2 plastic tarp that we're discussing, did that take place  
3 before or after April 28 of 2023?

4 A After.

5 Q And why were you spreading out that tarp?

6 A Because I was asked to assist.

7 Q And you were asked to assist by Paul Elsesser;  
8 correct?

9 A Correct.

10 Q What did he say to you?

11 A I'm sorry?

12 Q What did he say to you?

13 A He asked me --

14 Q What was his reason?

15 A He asked me -- he didn't give me a reason. He  
16 asked me if I could come spread out the tarp.

17 Q You did not question why?

18 A The discussion came up about potential rain.  
19 Protecting the soil from the potential rain.

20 Q And how big was the tarp that you were spreading  
21 out, approximately?

22 A I could not give you a guess or an estimate  
23 accept for very, very large.

24 Q Did it cover the entire slope?

25 A No.

1 Q As a rough percentage of the slope, how much did  
2 it cover?

3 A Rough percentage of it, I guess, at 50 to 75  
4 percent.

5 Q And did it cover -- well, you said, "Guess." I  
6 have to clarify that.

7 Are you guessing or estimating?

8 A Estimating.

9 Q Thank you.

10 Did that plastic tarp cover the portion of the  
11 slope that had failed? In other words, there was a crack  
12 there; correct?

13 A Correct. The answer to your question is yes.

14 Q It did cover it; correct?

15 A Yes.

16 Q Okay. Who else was there when -- when you were  
17 spreading out the plastic cover?

18 A Paul Elsesser and a worker from Green Horizons  
19 Landscape, and I do not know his name.

20 Q So when you were spreading out this cover, was  
21 there any conversation to the purpose behind it?

22 A Just to protect the slope from the potential  
23 rain.

24 Q Why was -- why were other individual members  
25 there? Strike that.

1           You testified -- and this was -- you offered to  
2 help as a neighbor; correct?

3           A     I offered -- I don't know that I offered to help.  
4 I was called and requested to help, and I said yes.

5           Q     But not in your capacity as a board member or --  
6 or involved with the HOA; correct?

7           A     Correct.

8           Q     So you went on -- was this private slope or HOA  
9 slope?

10          A     Private slope.

11          Q     So you went on a private slope, not having been  
12 asked by the homeowner to perform work on that slope; is  
13 that correct?

14          A     No.

15          Q     How is that not correct?

16          A     Paul Elsesser had conversations with the  
17 homeowner of what was going on. He did it, from what I  
18 understand, for each and every step of the procedure; so  
19 he had her permission to go onto her property to do  
20 whatever was needed.

21          Q     So did you confirm who was the homeowner of Slope  
22 139 at the time?

23          A     Jill Mann.

24          Q     Did you confirm with Ms. Mann that you were  
25 allowed to go on her property to perform this work?

1 A I did not.

2 Q Why not?

3 A Because I was being asked by a board member to  
4 assist him in doing something, slash friend, and that's  
5 what I did.

6 Q You and Paul Elsesser are friends?

7 A Correct.

8 Q Are you good friends?

9 A Yes.

10 Q If he were to ask you to do anything other than  
11 cover slopes with tarp and go on people's private slopes,  
12 would you follow that request no matter what?

13 ATTORNEY COMBS: Objection. Vague and ambiguous.  
14 Don't answer that.

15 ATTORNEY ALEXANDER: No. No. No.

16 Q Are you going to follow the instruction of your  
17 counsel, here?

18 A Yes.

19 ATTORNEY ALEXANDER: Counsel, you cannot instruct  
20 him not to answer on vague and ambiguous. Unless you're  
21 --

22 ATTORNEY COMBS: Answer if you can understand  
23 this question, Mr. Katz. Go ahead.

24 THE WITNESS: I would never do anything in my  
25 entire life -- private, common -- in the world that didn't

1 seem logical or helpful to someone.

2 BY ATTORNEY ALEXANDER:

3 Q Okay. So in your mind, this seemed logical and  
4 helpful; correct?

5 A Correct.

6 Q In what way?

7 A There was damage to the slope that I was told  
8 needed to be protected from future damage to protect any  
9 people or property.

10 Q And that was based on representations by  
11 Paul Elsesser in his capacity as a board president; is  
12 that correct?

13 A No. Just a board member and his contact with the  
14 GeoTek.

15 Q So your understanding is that GeoTek made a  
16 recommendation to the board which was conveyed to you via  
17 Paul Elsesser to cover the slope; is that correct?

18 A Correct.

19 Q Do you have an understanding as to what caused  
20 the slope failure?

21 A I have an understanding, yes.

22 Q And what is that understanding?

23 A The -- from the GeoTek report, that it was caused  
24 by the massive rain that we had the prior two years.

25 Q And when you say the GeoTek report, are you

1 referring to what we just marked as Exhibit 15?

2 A I believe so. Yes.

3 Q Can you take a look at that exhibit again and  
4 confirm whether your testimony is still accurate?

5 A I cannot confirm that this is the report that I'm  
6 talking about. I'm not finding the section, and unless  
7 you can direct me to their professional opinion of the  
8 cause of the failure -- if you can point me to that, I'll  
9 be happy to read it.

10 Q I just want to confirm where your recollection is  
11 first, or testimony so far. Your testimony is that your  
12 understanding of what caused the slope failure, based off  
13 of the GeoTek report, is excessive rain.

14 Is that accurate?

15 A A GeoTek report. I do not know if it's this  
16 GeoTek report.

17 Q Okay. Can I turn your attention to Section  
18 5.1.2. It's on Page 5 of the report.

19 A Section 5.1, you said, and 5.2?

20 Q It's 5.1.2.

21 A Okay. Got it.

22 Q On Page 5?

23 A Yes.

24 Q The header is called General?

25 A Correct.

1 Q Second paragraph, please read that and let me  
2 know if that's what you had in mind.

3 A No. This isn't exactly what I had in mind. It  
4 sounds like it's more of a recap of what they found after  
5 their testing that I was not involved in.

6 Q Okay. There is a sentence that reads in that  
7 paragraph: It should be noted that the rain season of  
8 2022 and 2023 was approximately 170 to 180 percent of a  
9 normal season. In similar conditions, upon repair of a  
10 slope, perched groundwater is often observed in the  
11 backscarp of the failure.

12 Do you see that?

13 A I do see that.

14 Q Does that refresh your recollection as to what  
15 made you believe that a GeoTek report concluded it was  
16 rain water?

17 A The one sentence that talks about the 170 percent  
18 to 180 percent; correct. The sentence says the perched  
19 groundwater is often observed in the backscarp of the  
20 failure.

21 I have no idea what that even means.

22 Q So that sentence of 170 to 180 percent of normal,  
23 is that what, in your mind, is the cause of the slope  
24 failure at 139?

25 A I'm not an expert that I think I can opionate

1 on that. But -- I take my "but" back. I don't think I'm  
2 a professional enough to state that.

3 Q Well, you testified that it's your belief that  
4 the failure was caused by rain water and you believe it  
5 was -- and you developed that rudimentary understanding  
6 based off of a GeoTek report.

7 That was your testimony; correct?

8 A Okay. Correct.

9 Q Does that sentence related to the 170 or 180  
10 percent of normal rain water refresh your recollection  
11 where this was the report by GeoTek that assisted you in  
12 formulating that opinion?

13 A I saw that written, and yes, that's where I  
14 formed my opinion from the technicality of the report,  
15 besides my common sense of what was happening in  
16 California at the time.

17 Q Okay. And what was happening in California at  
18 the time?

19 A Increased rain. Abnormal rain. Wet conditions  
20 that the State of California wasn't used to.

21 Q You're not a meteorologist, are you?

22 A Pardon me?

23 Q Strike that.

24 Other than a GeoTek report -- and you're not sure  
25 if it was this one, Exhibit 15 -- but other than a GeoTek

1 report and other than the common sense that you just  
2 described, has anyone else provided you with an  
3 explanation as to why this slope at 139 failed?

4 ATTORNEY COMBS: Objection to the extent it calls  
5 for expert opinion.

6 BY ATTORNEY ALEXANDER:

7 Q Question stands, Mr. Katz.

8 ATTORNEY COMBS: Mr. Katz, you can respond, but  
9 don't disclose anything that was discussed with our  
10 expert.

11 BY ATTORNEY ALEXANDER:

12 Q Or your attorney.

13 A The answer to the question is no.

14 Q And prior to you spreading out the plastic tarp  
15 on the slope at 139, had you been on Slope 139 prior to  
16 that?

17 A I had been there the day that it was -- no. The  
18 board was notified and Paul got the telephone call and he  
19 went over there and asked me to join him because of my  
20 experience in the community.

21 Q So is it your testimony that the first time you  
22 were on Slope 139 was after it had failed?

23 A Correct.

24 Q Okay. Do you know if the HOA had performed any  
25 maintenance on Slope 139 prior to the failure of the

1 slope?

2 A Well, I think if you -- the definition of  
3 maintenance, you're talking about maintaining the  
4 landscape and irrigation, yes, the HOA has done that.

5 Q Okay. And when you -- when you include  
6 irrigation in your definition of maintenance, what do you  
7 mean by irrigation?

8 A The repair of sprinkler pipes and sprinkler  
9 heads.

10 Q Does that include drainage systems?

11 A No.

12 Q And how do you know that it does not include  
13 drainage systems?

14 A I just know from my experience that we've never  
15 done that.

16 Q So it's your testimony today that you -- that the  
17 HOA has never performed any maintenance of the drainage  
18 system in Slope 139. Is that accurate?

19 A If you're using the word maintenance, which would  
20 be maintaining something existing, no, the HOA has never  
21 maintained any irrigation system that was on that property  
22 prior to them maintaining it.

23 Q Do you know if the HOA had installed any  
24 irrigation system prior to the slope failure at 139 on  
25 that slope, at Slope 139?

1 A Yes.

2 Q And what installation was that?

3 A A French drain.

4 Q And how did you become aware that there was a  
5 French drain installed there?

6 A I was involved in it intimately. The homeowner  
7 had notified the board when I was on the board that her  
8 wall was staying wet and that she had mud seeping over,  
9 was there anything we could do to help her out.

10 Bill Capella, the current president at the time,  
11 had gone over there to look at it, and then he asked  
12 myself and Sandra Comouche, who was also a board member,  
13 to come and also look at it. And that was it.

14 Q When was this?

15 A I'm guessing 2018. 2019, probably. 2019.

16 Q Again, you used the word, "Guess"?

17 A Okay. I'm estimating 2019. I don't have the  
18 facts in front of me; so then --

19 Q So your prior -- let me ask you this: Did you go  
20 on Slope 139 in 2018 or 2019 to investigate?

21 A With the homeowner's permission, yes.

22 Q So your prior testimony that you've never been on  
23 the slope of 139 prior to the slope failure is not  
24 accurate; is that right?

25 A That would be correct, because I thought we were

1 talking about the incident that this lawsuit pertains to.  
2 But yes, prior to that, when she had talked to us, I had  
3 not been on her slope, I was on her patio.

4 Q And you said it was the prior homeowner; correct?

5 A Correct.

6 Q Give me her name again?

7 A Pam Gildark.

8 Q Pam Gildark. And you were on the board of  
9 directors at that time; correct?

10 A Correct.

11 Q Were you on the Maintenance Committee at that  
12 time?

13 A No.

14 Q Were you on the Pool Committee?

15 A Yes.

16 Q How about the Security Committee?

17 A Second year, yes.

18 Q So in your mind, this was in 2019?

19 A I'm sorry?

20 Q Does this line of questioning refresh your  
21 recollection whether it was 2018 or 2019? You said it was  
22 the second year; so that was 2019 based off of your prior  
23 testimony.

24 A Correct.

25 Q Okay. So in 2019, you went on Pam Gildark's

1 property, which is currently -- you know, 139, and you did  
2 what related to those French drains?

3 A With her permission, the first visit was on her  
4 patio looking at what she was complaining of. And I had  
5 met the two foremen over at the -- I think it was the  
6 condos that were built next door to us that had a lot of  
7 grading done. And I asked them to give me a referral to a  
8 geologist or whoever did their grading and etcetera,  
9 etcetera, because I had no idea of anything. Before the  
10 board would make any type of decision, we needed expert  
11 opinion. And that's when -- that was my first contact  
12 with GeoTek.

13 Q And how did you find out that there's any issue  
14 on Slope 139?

15 A Any issue at what time? Back then or --

16 Q Oh, fair. Okay. In 2019.

17 A A phone.

18 Q When you first went on to the property?

19 A A phone call from Pam to Bill Capella.

20 Q So how did you personally find out about this?

21 A Bill Capella, being the president of the board,  
22 notified the rest of the board members that he received  
23 that call.

24 Q Was that call memorialized in any sort of  
25 memorandum, email, anything in writing?

1 A That phone call, no.

2 Q And what was the board's response when  
3 Pam Gildark called the board and said, "Hey, I have an  
4 issue with my slope"?

5 A As I said, Bill Capella went over there for a  
6 visual review then notified the remainder of the board.  
7 And myself and Sandra Comouche went over with him to look  
8 at it again.

9 Q And what month of 2019 did you go to look at it  
10 again?

11 A I do not know.

12 Q Was it towards the beginning of the year? The  
13 end? The middle?

14 A I couldn't tell you. Our weather in California  
15 is usually pretty nice so it's not like we have seasons  
16 that I could remember, you know, different clothes that I  
17 might be able to tell you fall, spring, winter, or summer.

18 ATTORNEY ALEXANDER: I'm going to mark next in  
19 order 16, a document titled Declaration of Pamela Gildark.

20 (Exhibit 16 was marked for identification.)

21 THE WITNESS: Okay.

22 BY ATTORNEY ALEXANDER:

23 Q And let me know when you have that in front of  
24 you. It's --

25 A I have it in front of me.

1 Q Have you seen this document before?

2 A Yes.

3 Q And when did you first see this document?

4 A Yesterday, when Mr. Combs sent it to me.

5 Q Did you have an opportunity to review it?

6 A I did.

7 Q Ms. Gildark testifies that, at Paragraph 4: In  
8 2019, I had an issue with the retaining wall staying wet.  
9 Since the HOA maintains the slope and I did not know what  
10 else to do, I informed the HOA president at the time  
11 Bill Capella that the retaining wall was staying wet.  
12 Bill Capella came to my property to perform a visual  
13 inspection of the area.

14 Do you see that language?

15 A I do.

16 Q Is that language consistent with your testimony?

17 A Yes.

18 Q The next paragraph, Paragraph 5, Ms. Gildark  
19 testifies: Shortly after Bill Capella's visual  
20 inspection, Bill Katz along with a third-party vendor came  
21 out to my property to also perform a third-party  
22 inspection. I did not know what company or who Bill Katz  
23 brought with him, and I do not know of the conversation  
24 that took place between them. I was not involved with the  
25 HOA and the third-party vendor that the HOA brought out to

1 perform visual inspections, nor was I involved in the  
2 decision-making process of how the HOA would address the  
3 wet retaining wall.

4 Do you see that language?

5 A I do.

6 Q Is that consistent with your recollection of how  
7 the event took place?

8 A No.

9 Q How is it inconsistent?

10 A I already testified that after Bill did his  
11 initial inspection, he notified the board and we did  
12 another visit to that slope -- myself, Bill Capella, and  
13 Sandra Comouche -- and at that time we called GeoTek and  
14 two gentlemen from the GeoTek office came out as a  
15 courtesy to give us their opinion of the condition of the  
16 slope.

17 Once they gave us the condition of the slope,  
18 that's when the board had further discussions of what they  
19 were going to do.

20 Q Okay. So at Paragraph 5 when Ms. Gildark is  
21 talking about a third-party vendor, is that GeoTek?

22 A No. I would not -- excuse me. I'm -- I have no  
23 way of knowing what third-party vendor she's talking  
24 about. We had several there looking at it.

25 Q Okay. Other than GeoTek, who else was out there

1 looking at it?

2 A Green Horizons and then the vendor that we hired  
3 to do the French drain.

4 Q And who was that vendor?

5 A I do not remember his name at this time. I'd  
6 have to look at documents.

7 Q Is that vendor reflected in any meeting minutes  
8 for the HOA -- strike that.

9 Let's go with GeoTek first. Did GeoTek prepare a  
10 report for the HOA related to the issue that Pam Gildark  
11 raised to the HOA's attention?

12 A No.

13 Q Did Green Horizons prepare a report related to  
14 that issue?

15 A No.

16 Q And this mysterious third-party vendor, did they  
17 prepare a report related to the issue raised by  
18 Ms. Gildark?

19 A I do not understand what you mean by a report.  
20 It would have to be an expert giving us a report of what  
21 they were seeing. Or are you talking about a quote of  
22 repair or installation?

23 Q Well, let's break it down. Was there any email  
24 exchange between the HOA when you were a board member at  
25 the time and this -- I'll call it the mysterious vendor?

1           A    I would assume that we received an email with his  
2   quote of what it would cost to do the installation of the  
3   French drain.

4           Q    Was there a contract entered into between the HOA  
5   and this mysterious vendor?

6           A    That would seem logical to me that we did do  
7   that; so I would answer that as yes.

8           Q    Did the HOA pay this mysterious vendor for the  
9   work performed?

10          A    Yes.

11          Q    And how much was it?

12          A    I don't remember exactly.  Again, I'd have to see  
13   documentation to refresh my memory.

14          Q    And who would be in possession of those documents  
15   to the best of your knowledge?

16          A    Compass Management.

17          Q    And who is Compass Management?

18          A    Our current management company for the HOA.

19          Q    Was Compass Management the management company for  
20   the HOA in 2018?

21          A    No.

22          Q    How about 2019?

23          A    No.

24          Q    Who was the management company for the HOA when  
25   this French drain installation took place?

1 A Webb Management.

2 Q When did Compass Management get called?

3 A I'm estimating in 2023, to the best of my memory.

4 I was --

5 Q So --

6 A I was not a current board member at the time.

7 Q That was my next question. I appreciate that.

8 Are you aware of any issues being raised by  
9 Compass Management with respect to Webb Management not  
10 handing over records to compass?

11 A No.

12 Q How do you know that the mysterious third-party  
13 vendor was paid by the HOA?

14 A Because I was the lead in the project.

15 Q What do you mean by lead?

16 A I'm the one that got the estimates of what it  
17 would cost us if we were going to help out the resident  
18 and do a installation on her property to save her money.  
19 I received the quotes and brought them to the board when  
20 the board met and voted on which vendor they were going to  
21 use. And then when the bill came in to the HOA, it was  
22 then paid.

23 Q But you don't recall who the company was?

24 A I'm sorry?

25 Q You do not recall who the company was?

1 A I do not.

2 Q How did you find that company?

3 A You don't want me to use the word "guess"; so I'm  
4 estimating that it came from a referral from a neighbor.

5 Q Going back to Exhibit 16, the next Paragraph 6,  
6 Ms. Gildark testifies that: Bill Katz told me that the  
7 drainage was blocked.

8 Do you see that?

9 A Do you have a question about it.

10 Q Do you see that language?

11 A I do.

12 Q Did you, in fact, tell Ms. Gildark that the  
13 drainage was blocked?

14 A Looking at the weep holes on her wall on her  
15 patio side, you could see the gravel rock coming through  
16 them and blocking those holes that was originally  
17 installed, I'm assuming, by the original builder of the  
18 community. And common sense would tell you if rocks are  
19 in the way of the hole, it's blocked.

20 Q So you did tell her that the drainage was  
21 blocked; correct?

22 A I told her that her current drainage in the weep  
23 holes as she could see standing there with me had rocks in  
24 it; so the assumption would be water could not flow  
25 through there.

1 Q And did you do anything to investigate that  
2 assumption on your part?

3 A No.

4 Q The next paragraph -- well, strike that.

5 Did you discuss -- and Mr. Katz, I'm going to ask  
6 you to put your phone down, please.

7 A Sure. That's where the document was. That's the  
8 only reason I had the phone up.

9 Q I apologize, then. If that's where the document  
10 was, I apologize.

11 A Yes.

12 Q Okay. It seemed like you were texting.

13 A No. Wasn't texting at all. You want to see my  
14 phone?

15 Q No, that's okay.

16 A You can see my phone.

17 Q I trust. I trust.

18 ATTORNEY COMBS: He's playing Clash of Clans.

19 BY ATTORNEY ALEXANDER:

20 Q Did you discuss this apparent drain blockage with  
21 anyone other than Ms. Gildark?

22 A Yes.

23 Q And who did you discuss that with?

24 A Other board members.

25 Q Who are those board members?

1           A    Bill Capella, Sandra Comouche, Mike Stoya  
2           (phonetic).

3           Q    And what did you tell Bill Capella with respect  
4           to this apparent --

5           A    That her weep hole --

6           Q    -- blockage of the drain?

7           A    That her weep holes in the wall were blocked by  
8           what I was estimating was original material that the  
9           original builder had put back there.

10          Q    And what was Mr. Capella's response?

11          A    Pardon me?

12          Q    What was Mr. Capella's response?

13          A    Thank you.

14          Q    That's all he said was thank you for letting me  
15          know?

16          A    Correct.  And then we discussed the -- as far as  
17          what we were going to do moving forward.

18          Q    And what did you discuss you were going to do  
19          moving forward?

20          A    We discussed the decision of is the HOA going to  
21          help out a resident financially to pay for the repair or  
22          if we were just going to walk away.

23          Q    And what decision did you land on?

24          A    The decision we made was to be good neighbors and  
25          to be able to help her out and get quotes for the repair.

1 Q Did Ms. Gildark pay for those quotes?

2 A She did not. We did not pay for them either.

3 Q Was she forwarded the vendors contacts so she  
4 could make arrangements for her own repairs to this?

5 A I don't understand that question.

6 Q Did the HOA represent to Ms. Gildark that -- that  
7 the HOA's going to help her find a vendor, but it's not  
8 going to be paying for the vendor?

9 A That is incorrect. Not true.

10 Q Okay. How is it incorrect?

11 A We did not notify her that we were going to help  
12 her find anything because the board had decided that they  
13 were going to take it on, and if they were paying for it  
14 then it was the board's decision on what vendor to use.

15 Q So the board made the decision to pay for these  
16 repair; correct?

17 A Correct.

18 Q And is that reflected in the meeting minutes?

19 A I'm sure -- I would -- I'm sure it is.

20 ATTORNEY ALEXANDER: I will represent to you --  
21 and this is going to be a question, I suppose, for the HOA  
22 PMQ -- but, Mr. Combs, I'll represent also that the  
23 meeting minutes from 2019 are missing from the HOA's  
24 production; so we can meet and confer on that separately.

25 ATTORNEY COMBS: Okay. That's the first I've

1 heard of that. I mean, we produced 2,900 almost 3,400  
2 documents, unlike Ms. Mann that produced nothing.

3 But we'll get to that later. But I'll look for  
4 those 2019 board minutes.

5 ATTORNEY ALEXANDER: And the representation that  
6 Ms. Mann has not produced anything is inaccurate. She has  
7 produced documents.

8 ATTORNEY COMBS: No, she hasn't. But we'll talk  
9 about that later.

10 ATTORNEY ALEXANDER: Okay.

11 Q Now, Mr. Katz, that was the board's decision to  
12 fix and repair the drainage at Slope 139 -- correct? -- in  
13 2019?

14 A I would say that's an inaccurate decision -- or  
15 sorry. Statement. It was the board's decision that we  
16 would pay for and have installed a French drain that we  
17 were told would correct her problem. And we would do the  
18 expense of it being nice neighbors and helping out the  
19 resident.

20 ATTORNEY COMBS: And, Counsel, just let me state  
21 that I'm looking at our document production, and all the  
22 minutes from 2019 are in there. I'm looking at them right  
23 now. Every month.

24 ATTORNEY ALEXANDER: I'm going to have to meet  
25 and confer on that.

1           ATTORNEY COMBS: They're right there. I'll send  
2 you the link now. We've already produced them. They're  
3 sitting there. I'm looking at them right now.

4           ATTORNEY ALEXANDER: Is that the online link that  
5 you guys provided?

6           ATTORNEY COMBS: Pardon?

7           ATTORNEY ALEXANDER: Is that the same link that  
8 you guys previously provided for document production?

9           ATTORNEY COMBS: In the very first production,  
10 these 2019 minutes were included.

11           ATTORNEY ALEXANDER: Okay.

12           Q Mr. Katz, going back -- obviously, counsel and I  
13 went on a little bit of a tangent on a meet and confer.  
14 But going back to the decision for the board to pay for  
15 this French drain, that was a private slope at the time;  
16 correct?

17           A Private slope at the time. Correct.

18           Q Why was the board repairing a private slope?

19           A The resident called up the board and asked if  
20 there was anything that the HOA could do to help her out.  
21 The board at that time, trying to be good neighbors and  
22 keep our community nice and everybody healthy and happy,  
23 decided to help her out.

24           Q And ultimately the board approved the  
25 installation of a French drain on Slope 139; correct?

1 A Correct.

2 Q And whose recommendation was the installation of  
3 a French drain made?

4 A Can you repeat that, please.

5 Q Sure. Who made the recommendation to the board  
6 to install a French drain on Slope 139?

7 A The verbal recommendation from the GeoTek people  
8 that came over as a courtesy to us, because of our -- they  
9 did not charge us or do a report because, in my opinion,  
10 the referral came from a very large home builder and they  
11 came over as courtesy and gave us their opinion. Nothing  
12 was in writing or a report.

13 Q So it's your testimony that GeoTek made the  
14 recommendation to the HOA board to install a French drain  
15 at Slope 139 in 2019. Is that accurate?

16 A No. What they had said was that there was  
17 nothing that they could see, that there was a problem with  
18 the slope or the stability of the slope. That if we  
19 wanted to stop the mud from the -- topical groundwater mud  
20 coming over her wall, we could install a French drain that  
21 would catch that water.

22 Q And that's what you did; isn't that right?

23 A Correct.

24 Q So why would the HOA be at all interested in as  
25 to what's happening on a private slope at the Las Brisas

1 community?

2 A As I said before, because this is a good  
3 community. And most of our board of directors have the  
4 whole community on their mind to help people out to the  
5 best that they can. At that time, that was the decision  
6 to help her out.

7 Q So that decision-making process when you were  
8 involved in the board to select the French drain, is that  
9 reflected in the meeting minutes of the Las Brisas HOA?

10 A I would assume it was, yes.

11 Q Is it fair to say that the board adopted GeoTek's  
12 recommendation with respect to installing a French drain?

13 A Adopted -- I couldn't tell you. There was no  
14 formal written thing for the board to adopt or accept.  
15 And it was a verbal thing that was said to us. So there's  
16 no proof of anything other than what I'm saying.

17 Q Was there at any point an outreach to -- to -- to  
18 another geotechnical engineer to get a second opinion with  
19 respect to the installation of a French drain at Slope  
20 139?

21 A No.

22 Q Did anybody on the board on that time frame in  
23 2019 have -- strike that.

24 Was anyone on the board in 2019 a licensed  
25 geotechnical engineer or --

1 A No.

2 Q How about a civil engineer?

3 A No.

4 Q Did Green Horizons express an opinion of the  
5 installation of a French drain at Lot 139?

6 A No.

7 Q And this mysterious vendor, how did they come  
8 about with installing a French drain at Lot 139?

9 A I don't understand that question.

10 Q Did the board instruct this mysterious vendor to  
11 install a French drain at 139?

12 A We received a quote from that vendor on what it  
13 would cost to do it. We accepted his contract; so he  
14 proceeded to do the work.

15 Q What did the quote include?

16 A Installing a French drain.

17 Q How did this mysterious vendor come about quoting  
18 a French drain installation?

19 A As I testified before, I'm assuming we got an --  
20 a recommendation from a neighbor of another landscape  
21 person -- company that does that type of work. And we  
22 called him up and asked him to give us a quote.

23 Q To give you a quote including a French drain; is  
24 that correct?

25 A Not including, to install a French drain.

1 Q So it was the board that requested a quote from  
2 this mysterious vendor to install a French drain?  
3 Specifically, a French drain; correct?

4 A Correct.

5 Q When the quote came back, did the mysterious  
6 vendor indicate that a French drain is not an appropriate  
7 drain to install at Slope 139?

8 A No.

9 Q Was that mysterious vendor a licensed civil  
10 engineer?

11 A I would assume a landscape contractor would not  
12 be a civil engineer, but I couldn't tell you for sure.

13 Q So this was a landscaping contractor that was not  
14 a civil engineer; correct?

15 A To the best of my knowledge, but I couldn't know  
16 for sure. I don't have any of his paperwork or contracts  
17 or licenses in front of me.

18 Q To your recollection, did they possess a  
19 geotechnical engineer license?

20 A I have no idea. No way to check that.

21 Q You were the -- as you described yourself, the --  
22 in charge of this project. Is that -- is that accurate?

23 A I was the lead in the project, yes.

24 Q You were the lead of the project. Okay.

25 A Yes.

1 Q When you were vetting vendors for the  
2 installation of the French drain, did you ask them: Hey,  
3 do you have a civil engineer license?

4 A I did not.

5 Q Did you ask them if they have a geotechnical  
6 engineer license?

7 A I did not.

8 Q What was your main criteria in selecting a vendor  
9 for this French drain?

10 A Criteria as far as why I was requesting those  
11 quotes?

12 Q Criteria as to what made you decide to go with  
13 that vendor or decide to go with that vendor?

14 A His references and price.

15 Q What about his price made you decide to go with  
16 this mysterious vendor?

17 A To the best of my recollection, that it was fair  
18 and from the references we received from prior customers,  
19 that he had fair pricing and did good work.

20 Q Did you ask any other potential vendors for  
21 quotes to install a French drain?

22 A Yes.

23 Q And who were they?

24 A Green Horizon.

25 Q So you only asked Green Horizons and this

1 mysterious vendor; is that correct?

2 A Correct.

3 Q Was Green Horizons quote higher or lower than  
4 this mysterious vendor?

5 A I do not remember.

6 Q Ms. Gildark at Exhibit 16 continues at Paragraph  
7 9?

8 A Can I pick up my phone?

9 Q Please.

10 A Okay. Where do you want me to go?

11 Q Paragraph 9, please, at Page 2.

12 A Paragraph 9?

13 Q Yes.

14 A Okay.

15 Q She testifies: One day, soon after the HOA  
16 completed its investigation, I came home from work to find  
17 my yard was full of dirt with a trench behind the wall.  
18 Every day I came home from work, I could see the progress  
19 was being made from pipes put behind the wall to the dirt  
20 being put back behind the wall and then drainage caps put  
21 in.

22 After the new drainage was in, Bill Katz came and  
23 showed me the two drainage holes that the water from the  
24 new drainage system would be coming out of. There was one  
25 drainage hole on each side of the yard, which were the

1 drainage holes closest to my neighbor's yards. The new  
2 drainage was not hooked up to any of the other drainage  
3 holes and the retaining wall. This seemed to have worked  
4 because the retaining wall dried out and did not stay wet  
5 all the time; so I thought the issue was resolved.

6 Is there any part of this testimony that you  
7 disagree with?

8 A Yes.

9 Q Which part?

10 A Well, the first part when she says one day soon  
11 after the HOA completed the investigation, I came home  
12 from work to find my yard was full of dirt. We gave her  
13 prior knowledge that, when the board decided that they  
14 would help her out, with her permission, that we would  
15 have a French drain installed. With her permission,  
16 that's when we started getting the quotes. Once we made  
17 the decision on which vendor we were going with, we  
18 informed her of the date that the work was going to start.

19 Q Is there a written record of those notifications?

20 A I would assume they were -- a written record of  
21 us telling her that? No, probably not.

22 Q So this notification was oral? Is that what your  
23 testimony is?

24 A Correct.

25 Q Going back to Paragraph 7 of Ms. Gildark's --

1           A     Can we discuss -- you asked me about 9. Do you  
2     want me to tell you anything else I disagree with  
3     Paragraph 9 before we move on?

4           Q     Yeah. Please do.

5           A     So she said: Bill Katz came to show me the two  
6     drainage holes that the water from the new drainage system  
7     would be coming out of.

8                     Those were existing weep holes in her wall that  
9     the new pipes directed the water to go through those  
10    holes. She states: There was one drainage hole on each  
11    side of the yard which were the drainage holes closest to  
12    my neighbor's yard. I'm assuming from that statement that  
13    she had -- it's a very large width yard, the way -- it's  
14    like a pie-shaped yard. It gets wider toward the back --  
15    you know, one on each side, but I don't remember if there  
16    was -- I thought I remembered there was two on one side  
17    that the water directed because that was off of her patio  
18    because we didn't want to put water on her patio.

19                    And the statement: The new drainage was not  
20    blocked -- was not hooked up to any other drainage holes,  
21    I'm assuming she means that the water was directed just to  
22    two exit holes and not the existing builder's ancient weep  
23    holes.

24           Q     And how did you come about with your  
25    understanding that there was any building involvement in

1 this?

2 A It would be the natural assumption when I went on  
3 her patio with her permission that there were several  
4 holes in the retaining wall, that they were installed by  
5 the original builder because --

6 Q At the time --

7 A Go ahead.

8 Q At the time, did you pull any plans regarding or  
9 relating to Lot 139 from the County Recorder to ascertain  
10 whether or not the as-built conditions are what you were  
11 observing?

12 A No.

13 Q Did you direct anyone to perform that task?

14 A No.

15 Q Did anyone at the board direct anyone else to  
16 perform that task?

17 A No.

18 Q And why not?

19 A I'm not an expert to tell you why not, other than  
20 the fact of the recommendations to remove some surface  
21 mud, we could have that device installed.

22 Q Who made that --

23 A It had nothing do with the stability of the  
24 slope.

25 Q -- recommendation -- who made the recommendations

1 to remove surface mud from the slope?

2 A Not to remove surface mud, to catch surface mud  
3 that was going off her wall. That was the recommendation  
4 that the French drain would take care of that.

5 Q And was that GeoTek's recommendation?

6 A Yes, the verbal recommendation. And, actually,  
7 the verbal opinion that we could do that if we desired,  
8 but it was not -- you know, there was no stability problem  
9 that it was going to solve.

10 BY ATTORNEY ALEXANDER:

11 Q Let's go back to Paragraph 7 of Exhibit 16.

12 THE REPORTER: Counsel, could we take a break at  
13 your earliest convenience?

14 ATTORNEY ALEXANDER: We could take a 15-minute  
15 break.

16 THE REPORTER: Thank you.

17 (A brief break.)

18 BY ATTORNEY ALEXANDER:

19 Q Mr. Katz, we're back on the record. You  
20 understand you're still under oath?

21 A Correct.

22 Q I earlier indicated that I missed one of my  
23 admonitions. If you need a break at any point, let me  
24 know. We'll take, like, a five-minute. My only request  
25 is that you answer whatever question is pending and then

1 we can take a break.

2 A Sure.

3 Q All right.

4 So we were talking about Exhibit 16, Paragraph 7.

5 A Okay.

6 Q Ms. Gildark states: I remember Bill Katz and  
7 another person digging behind the retaining wall to find  
8 the drainage system. They dug all the way down to the  
9 drainage hole and told me I was having issues because the  
10 builder had never put drainage behind the retaining wall.

11 Do you see that language?

12 A I do.

13 Q Why were you digging behind the retaining wall?

14 A Honestly, I do not remember that I was involved  
15 in the digging. I would assume, because it's been a long  
16 time, that when we were having the French drain installed,  
17 the person installing the French drain would be digging  
18 holes to install the French drain and to make sure that  
19 there was nothing else in -- behind that wall to interfere  
20 with the new drain. And I'm -- I would assume we already  
21 knew that she had a drainage problem because we could see  
22 that the rocks were coming out onto her patio that were in  
23 her drainage holes; so I would assume when he dug and  
24 found nothing there, that he probably called me and asked  
25 me to take a look at it.

1 Q Do you recall taking a look at it?

2 A I do recall seeing the hole that he was digging  
3 to install the French drain. I do not recall in  
4 particular that I was looking to see that there was  
5 nothing there.

6 Q All right. When was the last time you that you  
7 observed the installation of the French drain?

8 A When was the last time?

9 Q Yes.

10 A At the completion of the installation.

11 Q And roughly when was the completion of the  
12 installation?

13 A I believe you said it was in 2019. I don't  
14 remember. I have no documentation to verify anything; so  
15 I don't remember for sure.

16 Q Did any of the other board members express a  
17 concern to you that the installation of the French drain  
18 could impact the slope's stability at 139?

19 A No.

20 Q Was everyone in agreement, in other words, that  
21 the French drain at 139 should be installed by the HOA?

22 A Yes.

23 Q Were there any other instances besides the  
24 installation of the French drain at 139 where the HOA had  
25 repaired a slope at the Las Brisas community that was a

1 private slope?

2 A Again, I don't believe the installation of a  
3 French drain is a repair.

4 In answer to your question, we've never repaired  
5 any private property slopes to my knowledge.

6 Q So what, in your mind, was the purpose of the  
7 installation of the French drain?

8 A Be a nice neighbor and nice HOA to one of our  
9 residents.

10 Q So the French drain had no purpose other than to  
11 establish that you guys are nice neighbors? Is that  
12 accurate?

13 A No. It had -- the purpose was to get the surface  
14 -- capture the surface water so it did not go over her  
15 wall.

16 Q And can you describe to me what the French drain  
17 looked like?

18 A To the best of my recollection, it was a  
19 permeable pipe set into the dirt with draining going to  
20 the surface to capture the topical surface water that was  
21 going over her wall.

22 Q As you sit here today, do you believe that the  
23 installation of the French drain was appropriate?

24 A Well, reading her document that you provided and  
25 she said that her wall dried out and it seemed to work,

1 then I would answer that question that, yes, it was  
2 appropriate to capture that surface water that she  
3 originally complained to the HOA about.

4 Q Did you take into consideration that the French  
5 drain could be introducing water into the slope  
6 destabilizing it?

7 A I'm sorry. Could you repeat that? Somebody  
8 coughed.

9 Q Did you take into consideration the installation  
10 of the French drain to capture water in the slope and  
11 reintroduce it to the slope might destabilize it?

12 A I do not --

13 ATTORNEY COMBS: Objection.

14 Hold on, Bill.

15 Vague and ambiguous and unintelligible.

16 Go ahead and answer if you can understand his  
17 question.

18 THE WITNESS: I'm not an expert to even say that.  
19 But the water wasn't reintroduced to the slope. It was  
20 taken away from the slope.

21 BY ATTORNEY ALEXANDER:

22 Q And how do you know that?

23 A I saw it.

24 Q How -- when did you see it?

25 A When the French drain was tested.

1 Q How was the French drain tested?

2 A Pouring water into the drain caps.

3 Q Who poured the water into the drain caps?

4 A Possibly me or the vendor that was installing.

5 Q But neither you or the vendor are licensed  
6 geotechnical engineers; correct?

7 A That's correct.

8 Q Do you have any experience, you personally, with  
9 installing any drains on a slope?

10 A No.

11 Q Did this mysterious vendor -- did they have  
12 experience installing French drains in this type of slope?

13 A Can you repeat that, please.

14 Q Yeah.

15 ATTORNEY ALEXANDER: Madam Court Reporter, can  
16 you read the question back, please.

17 (The last question was read.)

18 THE WITNESS: I can't answer the question about  
19 that type of slope. It's only logical to me that we would  
20 receive quotes from a vendor with experience of installing  
21 what we were asking them to install by the references and  
22 seeing other work that they had done. It would be  
23 illogical for us to hire a weed puller to install a drain.

24 BY ATTORNEY ALEXANDER:

25 Q As you silt here today, do you recall any other

1 instances where the HOA performed repairs on the slopes of  
2 Las Brisas that are private slopes?

3 A No. And, again, that wasn't a repair.

4 ATTORNEY ALEXANDER: I'm going to mark next in  
5 order, 17, which is the May 23rd, 2024 GeoTek report.

6 (Exhibit 17 was marked for identification.)

7 BY ATTORNEY ALEXANDER:

8 Q Let me know when you have that in front of you,  
9 sir.

10 A I'm looking. You said May 24th?

11 Q Correct. Well, May 23rd, 2024.

12 A Correct. I have it.

13 Q Have you seen this document before?

14 A I couldn't tell you for sure. I know I saw  
15 something from GeoTek, but I don't know exactly if this  
16 was the document.

17 Q What else have you seen from GeoTek, other than  
18 the prior Exhibit 15?

19 A Some sort of report. Being that I was not on the  
20 board at that time, I was not seeing everything that was  
21 coming from them. So I'm not sure if the one that I saw  
22 was either one of these that you're producing.

23 Q Okay. So you were receiving communications that  
24 includes GeoTek reports when you were not on the board.

25 Is that accurate?

1           A    No.  Untrue.  That's what I just said.  I was not  
2   on the board, and I did not receive all the information.  
3   I saw one document from GeoTek once I went back onto the  
4   board.

5           Q    I see.  So when you went back onto the board, did  
6   you perform any investigation with respect to what  
7   happened at Slope 139?

8           A    No.

9           Q    How did you come about with seeing a past GeoTek  
10  report when you went back on the board?

11          A    What do you mean by past GeoTek reports?

12          Q    Well, you just testified that you saw a GeoTek  
13  report when you went back on the board.

14          A    Okay.

15          Q    That GeoTek report must have naturally occurred  
16  in the past; correct?

17          A    Okay.  Yes.

18          Q    How did you come about seeing that report when  
19  you went back on the board?

20          A    It was shared by other board members to me.

21          Q    And in what context?

22          A    I don't know what you mean, what context.

23          Q    Why would the other board members share the  
24  report with you?

25          A    So I would have the information of what was

1 transpiring in the community.

2 Q To bring you up to speed. Is that accurate?

3 A Correct.

4 Q At the time that you saw this other GeoTek  
5 report, did you have a discussion with anyone related to  
6 it?

7 A No.

8 Q And to be clear, this other GeoTek report is not  
9 Exhibit 15 or Exhibit 17.

10 Is that accurate?

11 A No.

12 Q That's not accurate?

13 A That is not accurate. I told you that I could  
14 not tell you if the one I saw is either one of these  
15 because I don't have that document in front of me to  
16 compare it to this document.

17 Q Okay. So there may be another GeoTek report that  
18 we're not aware of?

19 A I did not say that at all. I just said that the  
20 document that was given to me may be one of these  
21 documents, but that I don't have it in front of me so  
22 there's no way for me to verify that it's the one I saw.

23 Q Who sent you that document? Do you recall?

24 A Pardon me?

25 Q Who sent you that GeoTek report that you have in

1 mind?

2 A I don't remember right now. Couldn't tell you if  
3 it came from the you know -- which board member.

4 Q Approximately what month of this year did you  
5 review that report?

6 A Approximately -- best estimate is January.

7 Q When you first came back on the board?

8 A Correct.

9 Q Let's take a look at Exhibit 17. Let me know  
10 when you've had an opportunity to briefly review and to  
11 familiarize yourself with the --

12 A Which document? I just have names. I don't have  
13 numbers.

14 Q I see. It's the May 23rd GeoTek report.

15 A Yes, I have that open. I'm there.

16 Q That's Exhibit 17.

17 A Okay.

18 Q Let me know when you've had an opportunity to  
19 review it.

20 A Review it?

21 Q Yeah?

22 A This entire document? Are we meeting in two  
23 weeks or what? You know, how can I review this entire  
24 document? Would you like to ask me some --

25 Q Endeavor to familiarize yourself with it, please.

1           A    I can see the titles.  If you want me to read it,  
2   I don't have the time for that.  If you'd like to ask me  
3   any specific questions in regards to this report, I'm  
4   happy to answer them to the best of my knowledge.

5           Q    Well --

6           A    I wasn't involved with GeoTek during that time.

7           Q    I would like you to review this document, take a  
8   couple of minutes, and let me know if it refreshes your  
9   recollection of whether or not this document is the one  
10   you had previously reviewed in approximately January of  
11   2025.

12          A    I can tell you it won't do me any good.  I do not  
13   remember what the report looked or the date of that prior  
14   report; so I can look at this for an hour and it's still  
15   not going to tell me that the document I have seen is this  
16   one.

17          Q    Let's go to Page 3 of this report in Exhibit 17.

18          A    Okay.

19          Q    Do you see Paragraph 3:  Conclusions and  
20   Recommendations?

21          A    Correct.

22          Q    And it's the bottom paragraph starts with:  Based  
23   in conversations.

24                Do you see that?

25          A    I do.

1 Q The report provides: Based in conversations with  
2 the Homeowners Association Board, the existing drain pipe  
3 was installed and directly connected to area drains along  
4 the top of the existing retaining wall. The intent of the  
5 drains was said to collect surface water shedding from the  
6 slope face and transporting it away to reduce the  
7 potential for the surface water to flow over the existing  
8 retaining wall.

9 However, as the system is currently constructed,  
10 with perforated drain pipe, surface water that is  
11 collected in the area drains is being introduced into the  
12 subsurface directly behind the existing retaining wall.

13 Do you see that language?

14 A I do.

15 Q When you came back onto the board and you  
16 reviewed GeoTek reports, do you recall reviewing this  
17 language in this record?

18 A I do not.

19 Q Have you had a discussion with anyone other than  
20 your attorney related to this language in this report?

21 A I don't know that I had even a conversation with  
22 the HOA attorney about this language in this report.

23 Q Does this language come as a surprise to you as  
24 you sit here today?

25 A Surprise, no. I would have to reread it to

1 absorb it to see if it totally makes sense to me. But not  
2 surprised.

3 Q Is it fair to say that this GeoTek report is  
4 critical of the pipe that the HOA -- of the drain that the  
5 HOA installed in 2019?

6 A Critical? I'm not an expert to form that  
7 opinion.

8 Q Is it fair to say that the installation of the  
9 2019 drain based on this report at least added water back  
10 into the slope?

11 A The one statement in here saying that it  
12 introduced it into the subsurface would say that. But  
13 that -- like I said, I'm not an expert to even know what  
14 the subsurface is. I know there was existing drainage  
15 done by the builder, that the French drain was done to  
16 assist and get the surface water off, but that's the  
17 extent of my knowledge.

18 Q But you testified earlier that you observed the  
19 French drain not introducing water into -- not  
20 reintroducing water back into the slope; correct?

21 A I stated that I saw when we tested the French  
22 drain that the water flowed clear through it.

23 Q You did not perform an investigation on whether  
24 or not the perforated drain pipe, which is identified in  
25 this GeoTek report, Exhibit 17 -- collected area --

1 collected in the area drains and was being reintroduced in  
2 the subsurface?

3 A I missed that question. What do you want me to  
4 answer?

5 Q I'll rephrase it.

6 Did you hire anyone to perform an investigation  
7 at the time when the French drain was installed in order  
8 to determine whether or not water that was collected from  
9 the surface by the French drain was reintroduced into the  
10 subsurface of the slope?

11 A No.

12 Q Did anyone in the HOA make a recommendation to  
13 perform that investigation?

14 A Not to my knowledge.

15 Q Did Sandra Comouche at any point question the  
16 installation of the French drain?

17 A I wouldn't know. I'm not privy to every single  
18 conversation she has in her life.

19 Q That you have observed?

20 A Did she question what about the French drain?

21 Q The fact that the French drain is being installed  
22 in a private slope by the HOA.

23 A We already determined that, that -- that we were  
24 going to do that to help out the neighbor. She was well  
25 aware of it being a board member because we discussed it

1 and voted on it.

2 Q How about Robyn Hibner? Was she on the board at  
3 that time?

4 A She was not on the board at that time.

5 Q Was she involved in any committee at the time?

6 A No.

7 Q How was that French drain install paid for?

8 A From HOA funds.

9 Q And out of what account?

10 A Couldn't tell you. I wasn't the treasurer.

11 Q You made the recommendation for the invoice  
12 related to the French drain to be installed to be paid;  
13 correct?

14 A Correct.

15 Q Did anybody on the board object to paying those  
16 invoices?

17 A Why would they object to something that they  
18 voted to have done?

19 Q My question stands.

20 A I'm sorry. No.

21 Q Was there a final report prepared by this  
22 mysterious vendor related to the French drains?

23 A Not that I'm aware of.

24 ATTORNEY ALEXANDER: Going to mark next in order  
25 Exhibit 18.

1 (Exhibit 18 was marked for identification.)

2 ATTORNEY ALEXANDER: And this is going to be a  
3 document titled 2022.09, which is a Las Brisas newsletter  
4 from September 2022.

5 THE WITNESS: I have it.

6 BY ATTORNEY ALEXANDER:

7 Q Let me know when you have it opened.

8 A I have it open.

9 Q Thank you. You will see at the bottom right-hand  
10 corner of the document there's a number that's LBF010270.

11 Do you see that?

12 A Yes.

13 Q That's called a Bates number. And it helps us  
14 with keeping track of -- of documents.

15 So this document was produced by Las Brisas in  
16 response to our document production request.

17 ATTORNEY ALEXANDER: And for the record, the  
18 Bates range of the document is LBF 10270 to LBF 10282.  
19 And I will ask you to turn to LBF 10275.

20 A Okay.

21 Q Now, you were on the board in September of 2022;  
22 correct?

23 A Yes, I believe so.

24 Q And we're looking at the special announcement.  
25 And right underneath, we have Landscape Committee.

1 Do you see that?

2 A I do.

3 Q This was prepared by Ken Berchiolli, but you were  
4 on the board. There's a discussion in the newsletter  
5 related to slope repair and plant replacement program.

6 Do you see that?

7 A I do.

8 Q What is the slope repair that the board was  
9 contemplating at that time?

10 A Well, I think I probably have my dates wrong.  
11 Because if Kent was the Landscape Chair Committee person,  
12 I was not on the board at the time because I never served  
13 on a board with Kent being the landscape chairperson. So  
14 evidently I was not on the board if he did this report.

15 Q Were there any slope repairs on private slopes in  
16 2022 by the HOA?

17 A I couldn't tell you. And -- well, actually, I  
18 can tell you because no, we don't do repairs other than  
19 simple sprinkler pipe and sprinkler heads.

20 Q In addition to installing French drains; correct?

21 A That was a one-off.

22 Q So as you sit here today, you're not aware of any  
23 other instances where the HOA has performed slope repairs  
24 on private slopes; is that correct?

25 A That's correct.

1 Q That same document provides that there were  
2 broken sprinkler lines, states: We're experiencing many  
3 broken sprinkler lines due to the age of our sprinkler  
4 system and the fact that some lines are exposed to the  
5 heat. It's important to not open new areas of the slope  
6 when there's a break in the line.

7 Do you see that language?

8 A I do.

9 Q From your experience with the board, does the HOA  
10 dictate how private slope owners should handle their  
11 slopes?

12 A Concerning what? I don't understand that  
13 question.

14 Q Well, the instruction here is that it's important  
15 not to have open areas on your slope.

16 Have you had any other instances where the HOA  
17 has instructed a private slope owner how to manage their  
18 own slope?

19 A Well, being that it's already been established  
20 that the HOA took care of the landscaping and the  
21 irrigation on the slopes, I don't see where the HOA would  
22 be instructing a homeowner to do anything on their slope  
23 when they were not doing it.

24 Q And what do you mean by the HOA was taking care  
25 of the irrigation?

1           A     That the HOA made sure the timers worked, that  
2     the ground got watered, and that if there was a sprinkler  
3     head that was broken or a pipe that leaked, they repaired  
4     it. They weed the slopes and planted plants as needed.

5           Q     And why is the HOA performing this work and not  
6     the homeowners?

7           A     I couldn't tell you, because that was established  
8     some 30 to 33 years ago.

9           Q     Okay. So that's -- let's jump into the time  
10    machine here.

11                   Remind me just very quickly, what year did you  
12    purchase again?

13           A     I purchased in 2016.

14           Q     2016?

15           A     Sorry. I purchased in 2015. Moved in in 2016.

16           Q     Okay.

17                   ATTORNEY ALEXANDER: Let's mark next in order  
18    Exhibit 19.

19                           (Exhibit 19 was marked for identification.)

20                   ATTORNEY ALEXANDER: And that's going to be a  
21    July 2022 Las Brisas newsletter. It's Bates stamped  
22    LBF 10295 through 10306.

23                   THE WITNESS: What was the number?

24                   BY ATTORNEY ALEXANDER:

25           Q     Yeah. It's 2022.07 is the exhibit.

1           A    Okay.  I have February.  Let's go three, four,  
2 five -- oh, seven, you said?

3           Q    Okay.

4           A    So July of 2022.

5           Q    Correct.  And we're going to go one by one  
6 through there, just so you know.  It's Bates No. 10299.

7           A    Okay.

8           Q    We have slope repair and plant replacement.  
9                Do you see that language?

10          A    I do.

11          Q    Two plant replacement slopes were completed  
12 during the previous month.

13                Do you see that language?

14          A    I do.

15          Q    Do you have any knowledge what the slope repair  
16 was?

17          A    I think it's just a poor choice of words.

18          Q    How is it a poor choice of words?

19          A    Because plants, I don't consider a repair.

20          Q    So why would the HOA be issuing this newsletter  
21 using the language "slope repair"?

22          A    Because it wasn't written by the HOA.  It was  
23 written by the volunteer committee chair and nobody  
24 proofread to change a word or question a word.

25          Q    The next sentence is:  Broken sprinkler valve

1 July 2022 causing damage.

2 Do you see that?

3 A I do.

4 Q Are you aware of any broken sprinkler valves in  
5 the community on private slopes that caused damage to  
6 other private slopes other than 139?

7 A Well, I can't answer that question because you  
8 included, you know, 139 and that was not caused by  
9 sprinkler valve damage.

10 Q So what was that caused by?

11 A As far as what we've already established in this  
12 deposition from the GeoTek report, it was because of the  
13 rain -- the abnormal amount of rain.

14 Q Oh, I see. I see. So you're referring to GeoTek  
15 report dated July 7th, 2023; correct?

16 A Correct. Your question to me included 139. And  
17 that did not have a valve. If you'd like me to address  
18 your question without including 193, again, poor choice of  
19 words. Erosion caused by water running down a hill  
20 damages the dirt, but is easily repaired with a rake.  
21 It's not a repair of any type of damage to the slope.  
22 Water runs down.

23 Q Okay. So just to confirm, it's your opinion that  
24 the water -- strike that.

25 It's your opinion that rain caused the damage to

1 Slope 139 and you're basing that opinion off of Exhibit  
2 15, which is the July 7th, 2023 GeoTek report.

3 Is that accurate?

4 A No. I'm basing that opinion on that I knew that  
5 there was no major valve failure on 139 that could have  
6 caused any damage. There was no changes in the community  
7 at that time, and based on living through the experience  
8 of torrential rains, that would be logical to me as is  
9 happening all around different areas. We see it all the  
10 time when there's torrential rain, there's property  
11 damage.

12 Q Was there any property damage at any other Las  
13 Brisas lot as a result of this torrential rain?

14 A No. Not that I'm aware of.

15 ATTORNEY ALEXANDER: Let's mark next in order  
16 Exhibit 20.

17 (Exhibit 20 was marked for identification.)

18 BY ATTORNEY ALEXANDER:

19 Q And that's going to be the Las Brisas Breeze, May  
20 2022.

21 A Okay.

22 ATTORNEY ALEXANDER: And for the record, it's  
23 LBF 10317 through 10325.

24 THE WITNESS: Okay.

25 BY ATTORNEY ALEXANDER:

1 Q And I'll direct your attention to 10319, please.

2 A All right.

3 Q We have bullet point Number 2 that reads: Slope  
4 repair and plant replacement continued with Units 108,  
5 109, and 157. Additional planting will be done on Unit 73  
6 and Unit 111.

7 Do you see that language?

8 A I do.

9 Q As you sit here today, do you know what slope  
10 repair means within the context of this report?

11 A Again, poor choice of words.

12 ATTORNEY ALEXANDER: Next in order is going to be  
13 Exhibit 21, and that's Las Brisas Breeze, March 2022.

14 (Exhibit 21 was marked for identification.)

15 THE WITNESS: Okay.

16 ATTORNEY ALEXANDER: And it's, for the record,  
17 Bates number LBF 10343 through 10355.

18 THE WITNESS: Okay.

19 BY ATTORNEY ALEXANDER:

20 Q And I'll direct your attention to 10345, please.

21 A Okay.

22 Q Second to last paragraph on that page reads:  
23 Your legal title of ownership will show the size of your  
24 property. In many cases, over 30 years ago, the developer  
25 decided for ease of maintenance, uniformity of appearance,

1 and ease of installing sprinkler slopes and -- and easily  
2 installing sprinklers slopes were declared common area,  
3 even though many are included in the legal title.

4 Do you see that language?

5 A I do.

6 Q Do you disagree with that?

7 A I do.

8 Q In what way?

9 A Because the statement of slopes were declared  
10 common area I believe is an untrue statement. There's no  
11 documentation to that fact.

12 Q Has the HOA always treated private slopes as a  
13 common area?

14 A No.

15 Q At what point did the HOA not treat the private  
16 slopes as a common area?

17 A To the best of my knowledge, for the last 30  
18 years.

19 Q I want you to turn -- same exhibit. Let's go to  
20 10348, and there's a financial report discussing reserve  
21 accounts.

22 Do you see that starts at the bottom?

23 A Discussing reserve accounts? Which number? Oh,  
24 yes. Reserve accounts. I have it.

25 Q And it's Point 2.

1 A Okay.

2 Q \$2,276 was spent from reserve account 3210,  
3 Landscape/slopes. \$2080 was spent on irrigation systems  
4 and 4,778.28 was spent on pool, spa/aquatic facilities.

5 Do you see that language?

6 A I do.

7 Q Do you know why reserve account 3210 was used for  
8 landscaping slopes?

9 A I do not know.

10 Q Who would have that knowledge --

11 A I would assume the treasurer and the board  
12 members of that time.

13 Q So that was Sandra Comouche?

14 A Correct.

15 Q Based on this --

16 A Correct. And -- and --

17 Q And what?

18 A I was just going to say that using reserve funds  
19 that are allocated for replanting or irrigation repairs --  
20 again, there's not repairs of the slope. It's planting of  
21 the slope and irrigation repair. And it's legitimate to  
22 use your reserve funds that are allocated for that.

23 ATTORNEY ALEXANDER: Let's mark in order 22.

24 (Exhibit 22 was marked for identification.)

25 ATTORNEY ALEXANDER: That's going to be the Las

1 Brisas Breeze dated February of 2022.

2 THE WITNESS: Okay.

3 ATTORNEY ALEXANDER: Bates number LBF 10356  
4 through 10365.

5 Q And I will direct your attention to 10357.

6 A Okay.

7 Q And again, we have an accounting of the reserve  
8 accounts at the bottom.

9 Do you see that?

10 A Yes.

11 Q And the language there under Subparagraph 2 is  
12 1,197 was spent from reserve account, 3,210 landscape,  
13 slash, slopes, and step one of master plan for slope  
14 repairs, slash, planned rejuvenation.

15 Do you see that?

16 A I do.

17 Q Now, who was the chairperson who prepared this  
18 report? Can you tell from this document?

19 A Paul Elsesser.

20 Q But he used that same language "slope repairs";  
21 correct?

22 A That language is written there. Correct.

23 Q What slope repairs was he contemplating at that  
24 time? Do you know?

25 A I would assume that he did his finance report

1 from the report of the committee chairperson that chose  
2 the wrong word, and he just unconsciously used the same  
3 word. Because as far as I know -- and I was a potential  
4 member of that committee at that time -- that there were  
5 no report -- repairs done other than replacing plants.  
6 Again, poor choice of words. It was repeat -- I'm  
7 assuming repeated from the landscape report, which if  
8 you'd like we can go through this document and see if that  
9 was there.

10 Q And --

11 A And it was probably from a prior month because  
12 the charges come after they're done.

13 Q So one board after the next is using this poor  
14 choice of words is your speculation; correct?

15 A One board -- no. I saw one Volunteer Committee  
16 chair use it, and now you've pointed out to where a  
17 Volunteer Finance Committee chair has used it.

18 Q Okay.

19 ATTORNEY ALEXANDER: Let's mark next in order  
20 Exhibit 23.

21 (Exhibit 23 was marked for identification.)

22 ATTORNEY ALEXANDER: This is Las Brisas Breeze,  
23 September of 2021. And it's Bates stamped LBF 10413  
24 through 10422.

25 THE WITNESS: Okay.

1 BY ATTORNEY ALEXANDER:

2 Q And I will direct your attention to 10417,  
3 please.

4 And I'm looking at the first full paragraph on  
5 that page. Let me know when you're there.

6 A Okay. I'm there.

7 Q Okay. The report is: We continue to have issues  
8 with the red apple dying all over the community. There  
9 has been some concern because of the dying that we have  
10 had increased erosion. We hired a geologist to evaluate  
11 all of the slopes to make sure it was not any danger. The  
12 report was very good. He saw no signs of any possibility  
13 of the loss of integrity of the slopes. Preeminently, in  
14 case the report was bad, Eric reached out to the director  
15 at Green Horizons to give us a proposal to renovate the  
16 slopes. Eric asked him to just give us a proposal for  
17 one. The pricing of that one slope for complete  
18 renovations is 20,000. We have approximately 13 slopes  
19 over our entire 9 acres of property. Some larger than the  
20 one evaluated and some smaller. Using that approximation,  
21 the total would be well over \$260,000.

22 Do you see that language?

23 A I do.

24 Q When this report states that we have  
25 approximately 13 slopes, what do you think that means?

1 A That whoever wrote this report is  
2 unknowledgeable.

3 Q So this is another unknowledgeable member?

4 A Correct. Can we go up and see who wrote this  
5 report?

6 Q Yes.

7 A Oh, it was me. Okay. Interesting. All I can  
8 assume is from what I reported that -- I'm at a loss. I  
9 have no idea why it says that. Because I know and I've  
10 known for many years that we have a lot more than 13  
11 slopes in the community.

12 ATTORNEY ALEXANDER: Next Exhibit 24.

13 (Exhibit 24 was marked for identification.)

14 THE WITNESS: What's the date?

15 BY ATTORNEY ALEXANDER:

16 Q Yeah. This is The Las Brisas Breeze, July 2021.

17 A Okay. Got it.

18 ATTORNEY ALEXANDER: Okay. It's LBF10- -- well,  
19 10441 through 10452.

20 THE WITNESS: Got it.

21 BY ATTORNEY ALEXANDER:

22 Q And I'll direct your attention, please, to 10445.  
23 I'm looking at -- I can't call them full paragraphs. But  
24 it's the first full paragraph -- number 4 from the top.  
25 It reads: The committee recommends to the board discuss

1 removing the red apple ground cover and replacing it with  
2 one that has deeper root structure, perhaps low growing  
3 acacia where necessary at the top of the slope behind 113  
4 to 123 and 77 through 78 [sic] to reduce erosion that  
5 could cause structural damage to the walls and patios of  
6 those units.

7 Do you see that language?

8 A I do.

9 Q Why do you think the HOA's concerned about slope  
10 erosion on private slopes?

11 A Because the HOA maintains this landscaping. And  
12 if there's erosion, that would affect the landscaping.

13 Q So actions that the HOA is taking on private  
14 slopes is affecting erosion on the slopes; is that  
15 correct?

16 A It was a potential erosion problem because the  
17 red apple was dying, that it was proposed to plant  
18 something else to avoid the erosion that may occur.

19 Q So the HOA was concerned with private slope  
20 erosion; correct?

21 A Well, I think whoever wrote this report was  
22 reporting to the HOA or to the board that that was their  
23 volunteer, unexpert opinion of what they might do to  
24 correct the problem. If it -- to avoid the potential  
25 problem that may occur.

1           ATTORNEY ALEXANDER: We're going to mark next in  
2 order 25. That's Las Brisas Breeze October 2019.

3                   (Exhibit 25 was marked for identification.)

4           ATTORNEY ALEXANDER: And it is LBF 10697 through  
5 10711.

6           Q    Let me know when you --

7           A    I have it. I have it.

8           Q    And I'll direct your attention to 10698, please.  
9 Document reads: During August, there was 1,950 expended  
10 from reserves for retaining wall repairs. And during  
11 September, there was 820 expended for geotechnical review  
12 and \$7,785 for slope repairing on the west side.

13           ATTORNEY COMBS: Slope replanting.

14           ATTORNEY ALEXANDER: I'm sorry.

15           Q    Slope replanting on the west side.

16           ATTORNEY ALEXANDER: Thank you for that  
17 correction.

18           Q    Total reserve spend for the two months was  
19 10,555.

20                   Do you see that language?

21           A    I do.

22           Q    What retaining walls is this referring to, to  
23 your knowledge?

24           A    I don't know.

25           Q    And do you know what the geotechnical review

1 expenditure is related to?

2 A I do not.

3 ATTORNEY ALEXANDER: Mark next in order 26.

4 (Exhibit 26 was marked for identification.)

5 ATTORNEY ALEXANDER: And that's Las Brisas  
6 Breeze, July 2019. Bates No. 10741 to 10755.

7 THE WITNESS: I have it.

8 BY ATTORNEY ALEXANDER:

9 Q Direct your attention to 10745.

10 Let me know when you're there.

11 A I am there.

12 Q It's the landscape garden report.

13 A Okay.

14 Q Paragraph 4. Document reads: We're also working  
15 on other ways to finish the slope on the west side -- the  
16 gopher habitat. Also, many areas around the community are  
17 suffering from the fungus in the ground cover, and this  
18 condition has left several bare patches. Please be  
19 patient as we work with Green Horizons to come up with  
20 viable solutions for these projects.

21 Do you see that language?

22 A I do.

23 Q Is there a gopher problem with Las Brisas?

24 A There's gophers anywhere there's open ground and  
25 landscaping. I've experienced it in many different places

1 that I've lived over the 73 years of my life. So I  
2 wouldn't consider a gopher problem at Las Brisas. I know  
3 at the time, because Rose was dealing with the  
4 exterminator at that time, but there were areas that the  
5 gophers were more active and they were actively trying to  
6 control the situation.

7 Q At that time, was the west side one of those more  
8 active areas where the gopher activity was being  
9 addressed?

10 A I would assume from what she said that is a  
11 correct statement.

12 Q Do you know if Lot 139 is on the west side of Las  
13 Brisas community?

14 A Yes, it is.

15 ATTORNEY ALEXANDER: I'll mark next in order 27.

16 (Exhibit 27 was marked for identification.)

17 ATTORNEY ALEXANDER: And that is LBF 10919  
18 through 10929.

19 Give me one second on the date.

20 A I have it.

21 Q You have it? Okay.

22 A I do.

23 Q I'll direct your attention to the second page,  
24 which is 10920?

25 A Okay.

1 Q This is a Finance Committee report by Ann  
2 Allison, chairperson?

3 A Okay.

4 Q There were \$40,127 of reserve money used in May  
5 to fund major repairs for slopes, fences, and mainly the  
6 pool.

7 Do you see that language?

8 A No. Where are you reading that?

9 Q It's about halfway into the page.

10 A Yes. 40,127. Okay.

11 Q Yeah. Of reserve money used in May to fund major  
12 repairs for slopes.

13 That's the range I'm interested in.

14 A Slopes, fences, and mainly the pool.

15 Q But there were major repairs for slopes; correct?

16 A No. Major repairs for slopes, fences, and mainly  
17 the pool.

18 Q But there were repairs to the slopes.

19 Would you concede that?

20 A I see the word, but I see that the \$40,000 was to  
21 fund major repairs to the slopes, the fences, and the --  
22 mainly the pool. And my understanding of the English  
23 language, that means that the majority of that money was  
24 spent on the pool.

25 Q But some of it --

1           A    And if we're talking about repairs in choice of  
2 words about the planting, we're repairing by replanting  
3 plants.

4           Q    That's not what it says here.  It says repairs of  
5 slopes.

6           A    That's my opinion, because if the HOA takes care  
7 of the landscaping and the repair and maintenance of the  
8 irrigation, when you repair something that you're  
9 maintaining, you're repairing the plants.  They're not  
10 repairing my car because it's parked on the slope.

11          Q    So another poor choice of words by another  
12 chairperson; correct?

13          A    Sure.

14                ATTORNEY ALEXANDER:  Let's take a ten-minute  
15 break.

16                THE REPORTER:  And just a reminder, I cannot  
17 write you when you speak over each other because Zoom will  
18 always cut one of you out.

19                ATTORNEY ALEXANDER:  Off the record for a  
20 ten-minute break.

21                        (A brief break.)

22 BY ATTORNEY ALEXANDER:

23          Q    Mr. Katz, you understand you're still under oath;  
24 correct?

25          A    Yes.

1 Q All right. I'm going to mark --

2 A Excuse me one minute.

3 (Brief discussion off the record.)

4 THE WITNESS: I'm back.

5 ATTORNEY ALEXANDER: I'd like to mark next in  
6 order Exhibit 28, which is Las Brisas Breeze, January  
7 2017.

8 (Exhibit 28 was marked for identification.)

9 ATTORNEY ALEXANDER: And it's Bates numbered  
10 LBF 11132 through 11147?

11 A Yes, I have it.

12 Q And I'll direct your attention to 11141, please.

13 A 11141, you said.

14 Q Yeah. It's 141.

15 A All right.

16 Q About a third down paragraph reads: Members are  
17 reminded that we, parenthesis, or residents, should not  
18 make requests to Luis directly. All requests should be  
19 directed through Kent. The Landscape Committee is  
20 responsible for the slopes for maintenance or problems.

21 Do you see that language?

22 A I do.

23 Q Do you know who Luis is, by any chance?

24 A It's Luis. And he's the employee from Green  
25 Horizons that works in Las Brisas Pacificas.

1 Q Do you have any idea what is meant by landscape  
2 committee is responsible for the slopes for maintenance or  
3 problems?

4 A From my recollection we had residents that would  
5 try and pull Luis off his scheduled tasks to do things for  
6 them, maybe on their private property, maybe not on their  
7 private property, and then he would be behind in his  
8 schedule. And so it was telling all the residents that  
9 they can't talk directly to Luis, to address the  
10 committee. And then the committee would take care of  
11 whatever needed to be done.

12 ATTORNEY ALEXANDER: Mark next in order Exhibit  
13 29.

14 (Exhibit 29 was marked for identification.)

15 THE WITNESS: Is that 2005?

16 BY ATTORNEY ALEXANDER:

17 Q That's correct. Las Brisas Breeze, February  
18 2005.

19 A Okay.

20 ATTORNEY ALEXANDER: It's LBF 12645 through  
21 12643.

22 THE WITNESS: Okay.

23 BY ATTORNEY ALEXANDER:

24 Q I'll direct your attention to 12639, please.

25 A Okay.

1 Q It's a -- one of the bold language there. It  
2 starts with: Green Horizons has submitted proposals of  
3 repair and cost of rain damage slopes, which were costly.  
4 It was decided to wait until after the rainy season was  
5 over to make these repairs.

6 Do you see that language?

7 A I do.

8 Q Is that, in your mind, another instance where  
9 "slope repairs" is a poor choice of words?

10 A I couldn't know. I wasn't involved or even  
11 living in the community at that time. But being that  
12 we've already discussed what erosion can do as far as  
13 plants, I would assume that, yes, repairing would be  
14 because they maintain the plants. And if erosion has  
15 caused, something with the plants, they'd want to replace  
16 the plants.

17 Q That's an assumption though; right? That's not  
18 what the language says?

19 A It's a landscape company. It's not a  
20 geotechnical company. It's not a soil construction  
21 company, or whatever you might call it. So my assumption  
22 would be it would have to be about landscaping, because I  
23 wouldn't talk to my doctor about my car or vice versa.  
24 And they're a landscape company; so I'm assuming they  
25 would be talking about landscaping because that's what

1 they do.

2 Q But earlier you testified that you talked to  
3 Green Horizons for installation of a French drain;  
4 correct?

5 A That's correct.

6 Q So you would talk to an unlicensed company to  
7 install French drains; correct?

8 A I didn't say anything about unlicensed. I said  
9 that they take care of the irrigation and then they take  
10 care of the plants. You know, I wasn't involved in the  
11 slope repair. But from what I know, you have to have  
12 specialty knowledge and education to know how to repair,  
13 you know, slope failures, etcetera, etcetera. And Green  
14 Horizons wasn't even talked to about that because that's  
15 not their area of expertise.

16 So when you're talking to a landscape company as  
17 well as a mechanic or a doctor or whatever, you find that  
18 person -- an attorney, I'm not going to come to you and  
19 ask you about my medical procedures. I'm going to go to  
20 the expert in that field.

21 So they're an expert in the field of landscape,  
22 and that's why I think it's a poor choice of words.  
23 Because you don't repair plants, you replace plants.

24 Q So another instance of poor choice of words this  
25 time in 2005 by Don Allen, the chairman; correct?

1           A    In my opinion, because as I said, they're a  
2    landscape company.  So what would they be repairing?

3           ATTORNEY ALEXANDER:  We're going to mark next in  
4    order, Exhibit 30.

5                   (Exhibit 30 was marked for identification.)

6           ATTORNEY ALEXANDER:  Which is the Las Brisas  
7    Breeze, September of 1998.  And that's Bates number  
8    LBF 13349 through 13361.

9           THE WITNESS:  I have it.

10   BY ATTORNEY ALEXANDER:

11           Q    Let me know --

12           A    I have it.  Did you hear me?  I have it.

13           Q    I did, thank you.  I would turn your attention to  
14    the second to the last page, which is 13360.

15                   Let me know when you're there.

16           A    I am here.

17           Q    You see where it says:  Schedule of events and  
18    services?

19           A    Scheduled events and services.  Yes.

20           Q    Go up two paragraphs.  It says:  Common areas,  
21    underlined.

22                   Do you see that?

23           A    I do.

24           Q    It reads:  Common areas in Las Brisas are owned  
25    by individual property owners.  However, due to insurance

1 stipulations -- strike that.

2           However, due to insurance stipulations,  
3 homeowners are not permitted to plant anything, nor to  
4 attempt to maintain these areas. They are maintained by  
5 the gardeners by contract with the homeowners association.  
6 Certain homes on the north slope of Las Brisas are not  
7 covered by the maintenance and insurance provisions.

8           Do you see that language?

9           A    I do.

10          Q    You were not living in the community at that  
11 time; correct?

12          A    Correct.

13          Q    Do you have an understanding that there was  
14 insurance restrictions as to a homeowner's ability to  
15 maintain their own private slopes at Las Brisas?

16          A    I could not make an opinion of that because I  
17 have no idea.

18          Q    By the way, were you involved with making any  
19 decisions related to the HOA's insurance while you were on  
20 the board?

21          A    No.

22          Q    Did you ever vote on changing the coverage of the  
23 HOA's insurance?

24          A    Not to my recollection.

25          Q    At the time when you were on the board, is it

1 your opinion that the HOA was properly insured for its  
2 actions?

3 A Yes.

4 Q And where would I obtain copies of the insurance  
5 policies in place?

6 A I would assume from our management company.

7 ATTORNEY ALEXANDER: We're going to mark next in  
8 order Exhibit 31.

9 (Exhibit 31 was marked for identification.)

10 THE WITNESS: Is that the 1991 one from March?

11 BY ATTORNEY ALEXANDER:

12 Q No, it's not. I'm going to jump here and there.  
13 This is -- let's see. This was the 2025 Chubb denial  
14 letter?

15 A Okay.

16 Q Let me know when you have that open.

17 A I have it.

18 Q Page 205 -- well, first off -- first off, have  
19 you seen this document?

20 A No.

21 Q Were you on the board when -- when this document  
22 was served on Las Brisas?

23 A Yes.

24 Q It's dated February 24th, 2025; correct?

25 A Correct.

1 Q This is the first time you're seeing this  
2 document?

3 A Yes.

4 Q I'll turn your attention to Page 2 of 5.

5 A Okay.

6 Q At the very bottom, we have Section 2, Liability.  
7 Do you see that?

8 A I do.

9 Q Okay. Here's where it reads: Section 2, dash,  
10 liability is subject to the following exclusions or  
11 endorsements.

12 And it continues: Section 2 liability, comma, B,  
13 exclusions.

14 And we'll turn the page. We have subsection M.  
15 Do you see that?

16 A I'm looking for -- N, did you say?

17 Q M, on the next page. Do you --

18 A N? I do not see an N on the next page.

19 Q Page --

20 A Page 3 of 5?

21 Q Yes.

22 A 3 of 5, I see Part C, part F, I do not see --

23 Q Oh, it's right above Part C.

24 A Okay. So back on the previous thing, it was K.  
25 It wasn't M, I see. And then so I would assume that the

1 next page, Number 1 goes with K. I still do not see an M.  
2 Oh, I'm sorry. I'm sorry. I do. Way at the bottom of  
3 that paragraph. A small little m. My mistake.

4 Q That's okay. Let's focus on K6. Okay? Which is  
5 right above the bolded M?

6 A I see it.

7 Q Okay. It reads: That particular part of any  
8 property that must be restored, repaired, or replaced  
9 because "your work" was incorrectly performed on it.

10 Do you see that language?

11 A I do see that language.

12 Q Followed by the quote from M, which is: Damage  
13 to your work. Property damage to "your work" arising out  
14 of it or any part of it and included in the  
15 "products-completed operations hazard."?

16 A Yes, I see that language.

17 Q Were you aware that Chubb denied coverage for  
18 this claim arising out of the work that the HOA performed  
19 on Slope 139 as of the time of this correspondence?

20 A I was aware that there was ongoing discussions  
21 and that there was something they needed to investigate  
22 further on the coverage. I wasn't aware that there was  
23 any -- I'm not an insurance expert. I'm not an attorney  
24 to interpret these words. I know what denial means.

25 So according to that, it seems like there was

1 something maybe denied. But I was -- all I was aware of,  
2 it was an ongoing discussion.

3 Q Have you discussed this correspondence -- or  
4 strike that.

5 This is the first time you've seen it; correct?

6 A Correct.

7 Q Do you know if anybody else has -- other than  
8 your attorney, of course, if anyone else in the board has  
9 reviewed this correspondence?

10 A I would not have any idea.

11 ATTORNEY ALEXANDER: I will mark next in order,  
12 Exhibit 32.

13 (Exhibit 32 was marked for identification.)

14 ATTORNEY ALEXANDER: And that is going to be back  
15 to the Las Brisas Breeze and it's March 1991.

16 THE WITNESS: I have it.

17 ATTORNEY ALEXANDER: Bates number LBF 14184  
18 through 14191.

19 THE WITNESS: Okay.

20 BY ATTORNEY ALEXANDER:

21 Q And I'll direct you to the second page of that  
22 document, which is 14185.

23 A Okay.

24 Q We have a report from the Landscape Committee  
25 chairman who, at the time was Chet Randall. He writes:

1 It rained. Oh, boy, did it rain. And did the wind blow.  
2 The obvious result of the storm was the saving of a few  
3 cycles of the irrigation system and the nice clean sparkle  
4 of our landscape. Of most import was that our banks and  
5 slopes held through the deluge. Some might say we were  
6 lucky -- newly planted hillsides of heavy clay and no  
7 washouts? Amazing. Not really. Not really. Just simple  
8 foresight and hard-headed planning by our association.

9 Do you see that language?

10 A I do.

11 Q Were you aware that in 1991 there was a storm  
12 experienced by the Las Brisas community?

13 A No, I was not.

14 ATTORNEY COMBS: Sorry, Counsel. What was the  
15 Bates stamp number for that?

16 ATTORNEY ALEXANDER: 14184. And the language is  
17 at 185.

18 Does that answer the question you asked?

19 Mr. Combs, does that satisfy your question?

20 ATTORNEY COMBS: Yeah. Sorry. Thank you.

21 ATTORNEY ALEXANDER: Okay.

22 And I will mark next in order as Exhibit 33.

23 (Exhibit 33 was marked for identification.)

24 ATTORNEY ALEXANDER: Which is a 2016 --  
25 06-13-2016 document.

1 Do you see that?

2 A 2016?

3 Q Yes.

4 A Of Unit 166?

5 Q Correct.

6 A I'm not finding it.

7 ATTORNEY COMBS: I don't have it either.

8 ATTORNEY ALEXANDER: Let's take a five-minute  
9 break. I'll send it over to you. Okay?

10 THE WITNESS: Okay.

11 ATTORNEY ALEXANDER: Let's go off the record for  
12 five minutes.

13 (A brief break.)

14 BY ATTORNEY ALEXANDER:

15 Q Mr. Katz, you understand you're still under oath;  
16 correct?

17 A Correct.

18 ATTORNEY ALEXANDER: Mark next in order Exhibit  
19 33 which is a June 13th, 2016 letter directed to you and  
20 Jo Katz?

21 A Yes.

22 Q Who is Jo Katz?

23 A My wife.

24 Q It's a Notice of Outcome of Hearing.

25 Do you see that?

1 A I do.

2 Q And there are two paragraphs numbered one and  
3 two. The first one reads: The board is denying your  
4 request for a variance to build a vinyl fence which would  
5 encroach into the Association's common area, noting that  
6 the proposed construction of this fence would be a  
7 violation of the Association's CC&Rs.

8 Do you see that language?

9 A I do.

10 Q And the second paragraph is: The board is  
11 denying your request to build a five foot vinyl fence on  
12 top of the existing garden wall, nothing that the finish  
13 height of the fence would be noncompliant with the  
14 Association's architectural guidelines.

15 Do you see that?

16 A I do.

17 Q Where was this vinyl fence located on your  
18 property -- or where did you want to install that vinyl  
19 fence?

20 A Well, initially we wanted to build it at the back  
21 of the property. You have to have some context to know  
22 what this means. Prior to my purchase of this property,  
23 the chain-link fence behind this property had clear view  
24 to an old stable area, an old plow. I used to call it my  
25 Deliverance lot, if you happen to know that movie. You

1 maybe too young.

2 Q I'm not.

3 A Okay. So I called that my Deliverance lot.

4 So I researched Las Brisas Pacificas. I found  
5 Ken Berchiolli's name as president. I called him up, told  
6 him we were thinking about buying 166, and that we're  
7 thinking about getting a dog, and that our view of this  
8 property, you know, didn't look nice. Would I be allowed  
9 to do a fence once I bought the property.

10 And, again, this is just verbal; so there's no  
11 record of it. But he told me that: Yes, we'll take care  
12 of you. Welcome to the neighborhood, etcetera, etcetera.

13 We purchased the property. The first time I  
14 applied to do this fence, I was turned down. I offered  
15 different variances on putting a gate. He was concerned  
16 about Luis being able to get between the two properties.  
17 I said I'd put a gate on each side with no locks on it so  
18 Luis could do his thing and etcetera, etcetera. I had the  
19 entire board in my backyard discussing this, and Kent was  
20 very obstinate: No, you can't do it. No, you can't do  
21 it.

22 I was not aware of any rules or regulations. I  
23 had just moved into the community. I hadn't read  
24 anything. I was not on the board. Just a homeowner, just  
25 purchased the property, trying to do something.

1           So then I -- in recourse to him -- well, I don't  
2 know if that's the proper word. But I said the retaining  
3 wall is my wall; so I can put the vinyl fence on that,  
4 then. And he said, well, that will kill the plants  
5 behind. And I said but you're not giving me any choice.  
6 And he pulled out some rule that said, you know, five foot  
7 high. So on my two-foot fence, I could do a three-foot  
8 vinyl fence which wasn't practical for vision or anything;  
9 so we didn't proceed.

10           Q    So when you say a retaining wall -- and I  
11 appreciate that explanation.

12                    When you say "retaining wall," what do you mean  
13 by that? Is it up against the patio or how does that  
14 work?

15           A    We have an area probably six or seven feet deep  
16 behind our property that there's a retaining wall, you  
17 know, up against, you know, dividing it from our patio  
18 like every -- most every other home in the community.

19           Q    Is it the same type of retaining wall that  
20 Ms. Mann has on 139?

21           A    Not the same size, but yes, the same type.

22           Q    And what is on the other side of your unit's  
23 retaining wall?

24           A    Dirt and plants.

25           Q    Is it a slope?

1           A     Slight slope.  You wouldn't -- if you're  
2     comparing it to 139, you wouldn't consider it a slope.  It  
3     has an incline, but it isn't, you know, as big.  You know,  
4     it's only six- or seven-feet deep.

5           Q     Okay.  You don't know how many degrees it might  
6     be?

7           A     No, I do not.

8           Q     Who owns that slope?

9           A     I do.

10          Q     But the HOA was directing you not to install a  
11     fence on your own property; correct?

12          A     Correct.

13          Q     Is there irrigation on that slope?

14          A     Yes.

15          Q     Do you pay for that irrigation?

16          A     Some of it.

17          Q     How much of it?

18          A     I'd say the majority of it, because in the  
19     conversations that I had with the board at that time and  
20     the red apple that was on that back slope at that time  
21     that was looking bad and the previous homeowner had built  
22     a cactus garden on said slope, and my right-side slope  
23     that is definitely my property, she had five, large,  
24     30-foot-high pine trees that were dropping needles all  
25     over the place that we needed to pay to have removed --

1 but anyhow, in the whole scope of that, when he was  
2 turning me down on the fence, I asked if we could do our  
3 own landscaping and our own irrigation and that they could  
4 turn off the HOA irrigation except for the junipers on the  
5 backside of the slope. And I had got permission to do  
6 that. So we planted our own plants. We put gold rock on  
7 that small little slope, and we irrigated with a drip  
8 system that we paid for. We paid to have it installed and  
9 we paid for that water.

10 Q Who did you ask permission from?

11 A The board.

12 Q Why did you have to ask the permission from the  
13 board if it's your slope?

14 A Because I was a new resident and I didn't know  
15 how everything worked, and they were the governing body of  
16 the community.

17 Q So you listened to what the governing body of the  
18 community told you to do; correct?

19 A Yes.

20 Q And you listened to the governing body of the  
21 community with respect to what you were not allowed to do;  
22 correct?

23 A Yes.

24 Q And you had to ask permission on how to use your  
25 own slope from the HOA; correct?

1           A    I didn't know I needed to ask permission to do my  
2   own slope.  My assumption at the time was they were  
3   maintaining that area.  And because we didn't like their  
4   plants that they were not keeping up very well, that it  
5   looked bad, and the previous homeowner had put a -- one  
6   huge agave there that has six different strands, and some  
7   other wood and a cactus garden that looked really bad --  
8   we are buying a home, and we wanted to fix it up.

9           So not knowing how everything works in the  
10   community, I just asked if we could improve it spending  
11   our own money and our own irrigation and I received  
12   approval.

13          Q    But you obeyed the board for not installing a  
14   fence where you wanted on our own private property;  
15   correct?

16          A    I did.

17          ATTORNEY ALEXANDER:  I'm going to mark next in  
18   order Exhibit 34, which is the actual cost for a French  
19   drain in 2019.  And that's Bates number LBF 14480.

20                   (Exhibit 34 was marked for identification.)

21   BY ATTORNEY ALEXANDER:

22          Q    And let me know when you have that open.

23          A    You said 9,110?  No.

24          Q    Give me one second.

25          A    Hold on.

1 Q Did I misspeak?

2 A I've got it. Yes. 14480. I have it.

3 Q Yes. Okay. So it's dated February 6th, 2019.

4 And it's -- the top of the document says Pablo's landscape  
5 services.

6 Do you see that?

7 A I do.

8 Q Does this document refresh your recollections as  
9 to who installed the French drain at 139?

10 A Yes. And so at the beginning, when you asked me  
11 about this, how come you didn't tell me you had this  
12 document and reminded me of his name back then? Are we  
13 playing games or we're just trying to get something done  
14 here? You had the document. You knew the name of the  
15 landscape company. You could have refreshed my memory  
16 back then.

17 ATTORNEY ALEXANDER: Move to strike as  
18 nonresponsive.

19 Q Mr. Katz, does this refresh your recollection as  
20 to who the company was that installed --

21 A Yes.

22 Q -- the French drain?

23 A Yes.

24 Q And who was it?

25 A Pablo's Landscape Services.

1 Q And we established the date of the document is  
2 February 6th, 2019; correct?

3 A Yes.

4 Q Does this refresh your recollection as to whether  
5 the French drain was installed by the HOA at Unit 139?

6 A Well, it's an estimate date. I don't see an  
7 install date. I see when we received the estimate. But I  
8 don't know when the actual work was done from this  
9 document.

10 Q Does this refresh your recollection approximately  
11 how long after the estimate was provided -- how long after  
12 the actual installation was?

13 A This is just an estimate; so it doesn't tell me  
14 that we accepted it or when it was done. I've gotten many  
15 estimates over the years for different things in the  
16 community that have never been done.

17 Q Is your testimony today, though, that this work  
18 was done by Pablo Landscape Service?

19 A That is correct.

20 Q Does this document refresh your recollection  
21 whether or not there was any additional work beyond this  
22 estimate that was performed at 139?

23 A This document does not guide -- lead me to that  
24 assumption at all, no.

25 ATTORNEY ALEXANDER: Those are the questions that

1 I have for you for today. I appreciate your time and I  
2 don't know if Mr. Combs has any additional questions.

3 THE WITNESS: Okay. Thank you.

4 ATTORNEY COMBS: I do have a few follow-up  
5 questions, Mr. Katz.

6 EXAMINATION

7 BY ATTORNEY COMBS:

8 Q Previously, when you looked at a Breeze  
9 publication where it stated that common areas are -- some  
10 common areas are owned by the owners -- maybe I'm  
11 paraphrasing.

12 Do you recall that?

13 A Yes, I do.

14 Q Is it possible for the common area to be owned by  
15 an owner?

16 A No.

17 Q So if somebody wrote that, common areas are owned  
18 by the owner, that person would be ignorant as to the  
19 nature of property ownership at Las Brisas; is that true?

20 A That's correct, yes.

21 Q Are their common area slopes at Las Brisas?

22 A Yes.

23 Q How many, approximately?

24 A It -- the general common area of the slope is,  
25 like, one slope, very small that runs from the pool area

1 to the end of our property on the north side; so it's not  
2 labeled like the lots are labeled. So it starts and  
3 finishes, but it's very large. There are a few other side  
4 slopes that may be HOA, but we'd have to look at deeds to  
5 clarify that.

6 Q Do you believe it would be the association's  
7 responsibility to make repairs to the common area slopes?

8 A To common area slopes, yes.

9 Q Now, I want to draw your attention to the  
10 insurance denial.

11 A Okay.

12 Q That was -- if you can pull it up. It was called  
13 Chubb Denial?

14 A Right.

15 Q 2025.02.

16 And when you have that, go ahead and go to Page  
17 4.

18 A Okay. Sorry.

19 Q That's okay.

20 A That's weird. It's like I'm not even finding it  
21 here. I had it open this entire time. Hold on. Let me  
22 just research -- wow.

23 ATTORNEY COMBS: Am I allowed to share a screen?  
24 Looks like I am.

25 THE WITNESS: Okay. I got it back. I found it.

1 BY ATTORNEY COMBS:

2 Q Okay.

3 A Hold on. I'm on that document.

4 Where do you want me to go?

5 Q Page 4, and you'll see "Conclusion"?

6 A Conclusion. Yes. I'm there.

7 Q Okay. Go ahead and read that first paragraph.

8 A No coverage is afforded to the extent that the  
9 demand does not allege an occurrence resulting in bodily  
10 injury, property damage, and/or personal and advertising  
11 injury as defined in the commercial general liability  
12 coverage form. The general liability coverage does not  
13 apply to damages for the repair, replacement, enhancement,  
14 restoration, or maintenance of property owned, rented, or  
15 occupied by the insured.

16 Q Okay. Does that clarify for you in any way the  
17 basis for Chubb's denial of the claim? And if you don't  
18 understand, that's fine.

19 A Yes. I do not understand.

20 Q Okay.

21 ATTORNEY COMBS: Very good. That's all of the  
22 questions I have.

23 THE REPORTER: And Mr. Combs, did you want to  
24 purchase a copy?

25 ATTORNEY COMBS: Yes, please.

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(At the hour of 1:10 p.m. the  
proceedings were concluded.)

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I declare, under Penalty of Perjury, that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_.

\_\_\_\_\_

WILLIAM KATZ

C E R T I F I C A T E

I, HEATHERLYNN GONZALEZ, CSR #13646, a  
Certified Shorthand Reporter within and for the State of  
California, do hereby declare:

That pursuant to 2093(b) CCP, I administered  
the oath to the deponent;

That the foregoing deposition was taken  
before me at the time and place set forth and was taken  
down by me stenographically and thereafter transcribed  
into typewriting under my direction and supervision;

That the foregoing deposition is a full, true  
and correct transcript of my shorthand notes so taken.

I further declare that I am neither counsel  
for nor related to any of the parties to said action nor  
in any way interested in the outcome thereof.

I declare under penalty of perjury this  
8th day of September 2025 that the foregoing is true and  
correct.



HEATHERLYNN GONZALEZ

CSR No. 13646

1 ERRATA PAGE

2

3 I, \_\_\_\_\_, make the following  
4 (Print Name)  
5 changes to my testimony taken in the matter of

6 \_\_\_\_\_,

7 taken on \_\_\_\_\_ :  
8 (Date)

9	Page	Line	Change
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
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Exhibits	\$			
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