

UNIFORM COVER PAGE

COURT: CIRCUIT COURT OF PULASKI COUNTY

Docket/Case Number: 60CV-18-7758

CASE NAME: SHELLY BUONAUITO, ET AL. vs. DICK TRAMMELL, ET. AL.

PLAINTIFF/
PETITIONER: SHELLY BUONAUITO, ET AL.

DEFENDANT/
RESPONDENT: DICK TRAMMELL, ET AL.

TITLE OF PLEADING OR DOCUMENT BEING FILED:

PLAINTIFFS' MOTION AND INCORPORATED BRIEF IN SUPPORT OF ENFORCEMENT OF
COURT'S ORDER, CIVIL CONTEMPT, AND FOR FUNDS TO BE DEPOSITED IN REGISTRY OF
THE COURT FOR REVIEW BY SPECIAL MASTER



In The Matter Of:
Shelly Buonaiuto v.
Keith Gibson

Jared Wiley
April 5, 2021

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Original File 210405 Jared Wiley.prn

Min-U-Script® with Word Index

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION

SHELLY BUONAUTO, et. al. PLAINTIFFS

VS. NO. 60CV-18-7758

KEITH GIBSON, et. al. DEFENDANTS

ORAL DEPOSITION OF
JARED WILEY
APRIL 5, 2021

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Page 3

INDEX

STYLE AND NUMBER. 1

APPEARANCES 2

CAPTION. 4

WITNESS: JARED WILEY

Examination by Mr. Zachary 5

DEPOSITION CONCLUDED 39

COURT REPORTER'S CERTIFICATE 40

EXHIBITS

PLAINTIFFS' MARKED

Exhibit 1 Affidavit (4 Pages) 7

Exhibit 2 Funding Sources (1 Page). 13

Exhibit 3 Reimbursement of Funds (5 Pages) 22

Exhibit 4 Project Status Update (9 Pages). 30

Exhibit 5 Judgment (3 Pages) 33

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Page 2

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Page 4

CAPTION

1

2 ANSWERS AND ORAL DEPOSITION OF JARED WILEY, a

3 witness produced at the request of the Plaintiffs, taken

4 in the above-styled and numbered cause on the 5th day of

5 April, 2021, before Faith Grigsby, Arkansas Supreme

6 Court Certified Court Reporter #686, at 2:01 p.m., at

7 the Arkansas Department of Transportation, 10324

8 Interstate 30, Little Rock, Arkansas, pursuant to the

9 agreement hereinafter set forth.

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Page 5

1 PROCEEDINGS
 2 THEREUPON,
 3 JARED WILEY,
 4 THE WITNESS HEREINBEFORE NAMED,
 5 having been first duly cautioned and
 6 sworn by me to testify to the truth,
 7 the whole truth, and nothing but the
 8 truth, testified on his oath as
 9 follows, to-wit:
 10 EXAMINATION
 11 BY MR. ZACHARY:
 12 Q State your name, please.
 13 A Jared Wiley.
 14 Q And, Mr. Wiley, what do you do for a living?
 15 A I'm the assistant chief engineer for planning here
 16 at the Department.
 17 Q Have you ever had your deposition taken before?
 18 A One time. One time on the phone.
 19 Q When was that?
 20 A A couple years ago, probably.
 21 Q What kind of case was that?
 22 A It was the Clarendon bridge demolition.
 23 Q Well, just a couple ground rules to kind of refresh
 24 a little bit. Today is just a day for me to ask you
 25 some questions. If you don't understand one of my

Page 6

1 questions, please let me know and I'll rephrase. I want
 2 us to be talking apples to apples.
 3 A Sure.
 4 Q You'll see Ms. Faith here is our court reporter
 5 today. She's going to be taking down everything you say
 6 and I say, so to the extent possible, if you can let me
 7 finish my question before you begin answering, and I'll
 8 do likewise, that way we're not talking over each other
 9 and it'll make her job a little bit easier. Okay?
 10 A Sounds good.
 11 Q Then, a lot of times as normal human interactions,
 12 we want to nod our heads answering. It makes it a
 13 little hard for her to get down. So if you can avoid --
 14 even though it's natural -- a nod of the head in
 15 response, or shake your head no, or uh-huh and huh-uh.
 16 So we can avoid that and try to give affirmative
 17 answers. You'd be amazed, one of the hardest things to
 18 read back in a transcript are uh-huhs and huh-uhs.
 19 A I'll see what I can do.
 20 Q So I might remind you and everything. I'm not
 21 doing it to be rude; just so we can get a clear record.
 22 Okay?
 23 A Sure.
 24 Q Mr. Wiley, you did an affidavit in this case on
 25 March 29. Do you recall that affidavit?

Page 7

1 A I do.
 2 Q What was the purpose of that affidavit?
 3 A The purpose of the affidavit? To explain where we
 4 were on the case and on the funding.
 5 Q And did you write the affidavit?
 6 A I did. Most of the meat of the document is mine.
 7 Of course, we had the normal review.
 8 Q Sure. And would that have been by the lawyers here
 9 at ARDOT?
 10 A Uh-huh.
 11 Q Did the lawyers here at ARDOT make any changes to
 12 the meat of the affidavit that you wrote?
 13 A No.
 14 Q I'm going to mark as Exhibit 1 a copy of your
 15 affidavit. I'm going to ask you a few questions about
 16 it. Flip to the second page, Paragraph 7. You say I am
 17 familiar with this case. How did you become familiar
 18 with this case?
 19 (WHEREUPON, Exhibit Number 1 was marked for
 20 identification and is attached hereto.)
 21 A I don't -- what do you mean?
 22 Q What do you mean when you say I am familiar with
 23 this case?
 24 A I'm aware of what's going on with it. I work here.
 25 It's a big topic. It's our biggest program to date;

Page 8

1 biggest project to date, so, naturally, I'm aware of it
 2 and familiar with it.
 3 Q So it's something you've kept up with on your own?
 4 It's something you've kept up on your own as an employee
 5 of ARDOT? This case.
 6 A Sure. Sure. On my own through work, yeah.
 7 Q How have you gone about keeping up with the case?
 8 Like, what do you do?
 9 A I mean, we -- I read the newspapers. Of course, we
 10 have meetings. We talk through things. We know what's
 11 going on around here with our projects. Now, I'm not
 12 the project manager.
 13 Q Have you reviewed any pleadings filed in this case?
 14 A No.
 15 Q Have you reviewed any court orders filed in this
 16 case?
 17 A Not to my knowledge.
 18 Q That would be like a document signed by a judge.
 19 Have you seen any document like that?
 20 A Not -- I mean, we worked on the -- we heard about
 21 the ruling. We had to put a plan together on how to --
 22 Q I don't mean to interrupt, but I want to be sure I
 23 understand. When you say "the ruling", are you talking
 24 about the Arkansas Supreme Court ruling? Are you
 25 talking about the ruling --

Page 9

1 A When we started -- when we learned that the scope
2 was anything over four lane was being literally taken
3 that way, so that's what I saw.
4 Q Any other steps you've done to become familiar
5 with this case?
6 A I mean, that's a tough question. We work on tons
7 of jobs.
8 Q And I'm not just talking about the jobs. I'm
9 talking about the specific case that we're here on.
10 A Give me some examples.
11 Q Sure. So this is an illegal exaction case, right,
12 that was talking about, hey, Amendment 91 funds
13 shouldn't be used on two specific projects, right? Is
14 that your understanding?
15 A Uh-huh.
16 Q So as far as your familiarity with that specific
17 lawsuit -- maybe that's the word I should use,
18 "lawsuit"; the litigation. Have you done anything to
19 keep up with the litigation?
20 A Like, done anything what? What do you mean?
21 Q Obviously, you know the litigation is still
22 ongoing --
23 A Right.
24 Q -- right? Do you know what the current issues are
25 before the court?

Page 10

1 A No, I don't. I know there was some talk about the
2 matter of payment. Is that what you're referring to?
3 Q Sure. Payment for what?
4 A For the project.
5 Q Are you talking about the reimbursement of
6 Amendment 91 funds?
7 A Right. Right.
8 Q Amendment 91 fund, I guess what we've been calling
9 it shorthand.
10 A Right.
11 Q And it's your understanding that the court has
12 ordered any Amendment 91 funds that were spent on
13 Project CA0602 and CA0608 to be paid back to the
14 Amendment 91 fund, right?
15 A That is my understanding.
16 Q And just so I make sure we're understanding each
17 other, when I say Amendment 91 fund, what do you mean?
18 A The half cent -- the temporary half cent sales tax
19 program.
20 Q The specific account for those funds.
21 A Uh-huh.
22 Q Do you know as you sit here today if the Amendment
23 91 account has been reimbursed funds to the extent that
24 Amendment 91 monies were spent on Project CA0602?
25 A I do not know as we sit here today.

Page 11

1 Q You talked about putting a plan together. Tell me
2 about that plan.
3 A So -- well, you know, if we can't use Amendment 91
4 on those two jobs, we have to find a way to make it
5 work, so that's the plan I worked on.
6 Q So you just correct me if I'm wrong. Okay? I kind
7 of see it kind of two different types of funding.
8 There's prospective funding; funding in the future.
9 A Okay.
10 Q And then there's funding that's already happened --
11 A Okay.
12 Q -- on those projects, right?
13 A That's already been expended, you mean?
14 Q Correct.
15 A Yes.
16 Q So for Project CA0602, the 30 Crossing project, the
17 plan prior to the Supreme Court ruling was for Amendment
18 91 funds to be continued to be spent on that project,
19 right?
20 A Correct. And as well as other funding sources.
21 Yes.
22 Q Sure. But the Amendment 91 funds were -- we can
23 get percentages later. But the plan was for that to be
24 one of the funding sources --
25 A Sure.

Page 12

1 Q -- for that project.
2 A Sure.
3 Q Besides Amendment 91 funds, were there any other
4 state funding sources for Project CA0602 at that time,
5 prior to the ruling from the court?
6 A You mean state funding sources?
7 Q Sure. So there's federal funding sources, right?
8 A Sure.
9 Q Where the state gets federal funds for projects,
10 right?
11 A Uh-huh.
12 Q The Amendment 91 funds, or cap funds, are state
13 funds; is that correct?
14 A That's correct. And so, yes, we have -- our
15 federal funds have to be matched with state funds.
16 Q Right. And so my question is, prior to the ruling
17 last fall, on Project CA0602, were there any other state
18 funding sources besides the cap funds for that project?
19 A I'd have to look back and let you know
20 specifically. Typically, yes. Now, if we had federal
21 funds, we have to match it with state funds of some
22 flavor. Yes.
23 Q Got you. Again, you're going to know better than I
24 am, probably, that's why I want to ask you. I'll hand
25 you Exhibit 2, and it talks about funding sources for

Page 13

1 Project CA0602, the I30 Crossing project. Do you see
2 that?
3 (WHEREUPON, Exhibit Number 2 was marked for
4 identification and is attached hereto.)
5 A I do see that.
6 Q And this lists four types of funding sources. Do
7 you see that?
8 A Uh-huh.
9 Q Besides the four funding sources listed on this
10 page, do you know any other type of funding sources for
11 the 30 Crossing project prior to the court's ruling last
12 fall?
13 A Let's see. We had a little bit of earmark funding
14 set aside for this project.
15 Q Is that currently or before you knew that you could
16 no longer use the cap funds?
17 A No. Earmarks were -- that stopped long ago. I
18 mean, it was out there. Like a million dollars or
19 something.
20 Let's see. I don't know of anything else.
21 Q So of the four funding sources on here, the
22 Connecting Arkansas Program funds or the Amendment 91
23 funds, those would be the only state funding sources,
24 right?
25 A Well, like I said before, our federal funds had to

Page 14

1 be matched.
2 Q Sure.
3 A So these other funding pots you show on this -- or
4 that we show in this bag here, they require a match.
5 Q So, for example, let's take the Federal Bridge
6 funds. It says 15 percent.
7 A Right. So what I'm saying is, these -- those
8 federal funding pots have to be matched. We can either
9 match them with cap or state. I'm not sure how it was
10 set up back then.
11 Q So just from looking at this, you're not sure that
12 15 percent. That could be half state funding?
13 A No. No. No, it couldn't be half. Federal-state
14 funding is typically 80 percent federal 20 percent
15 match. So it could be some state funding mixed in with
16 that number there. I don't know. This is not a sheet
17 I've seen before, so I don't know.
18 Q So there could be other state funds, but it would
19 be --
20 A It would be mixed in with these, potentially.
21 Q Got you. When you're saying "these", you're
22 talking the 17-and-a-half percent --
23 A So, yeah, the --
24 Q -- NHPP funds.
25 A NHPP, IRP, or Bridge. Yes.

Page 15

1 Q There could be some state funds in there --
2 A Sure.
3 Q -- for that 80/20 ratio you're talking about.
4 A It could be, depending on who put this together and
5 how they did it.
6 Q What about Project CA0608? Besides the Amendment
7 91 cap fund, did that project have any other state
8 funding sources?
9 A I don't have the document in front of me. I
10 believe, yes, it had federal-state. Yes.
11 Q It would have similar kind of matching?
12 A Similar. I'd have to look at it and see. But,
13 yeah.
14 Q Fair enough. So at the time you wrote this
15 affidavit you were not aware either/or if the Amendment
16 91 fund had been reimbursed to the extent of 121 million
17 dollars --
18 A Correct.
19 Q -- approximately.
20 A Correct. But, you know, we're ordered to do so,
21 and we -- if we haven't done it, we're --
22 Q Sure. I'm just trying to get your knowledge at the
23 time you wrote this affidavit. That's all. Okay?
24 So let's look at Paragraph 11 of your affidavit.
25 In that paragraph you state, "Amendment 91 funds that

Page 16

1 were going to be used on Projects CA0602 and CA0608 will
2 now be used to fund other projects." Do you see that?
3 A Uh-huh.
4 Q What was the completion date of CA0608?
5 A I don't have that. I don't know when it was.
6 Q But do you understand it's been completed?
7 A Sure. The work is complete. I'm not sure if the
8 contract is finalized. But, yes, the work is
9 substantially complete. Yes.
10 Q When the work substantially completed, does that
11 include you paying things like the contractor?
12 A We pay them -- you know, we pay them all along the
13 way.
14 Q So when the work is completed, they've been fully
15 paid; is that right?
16 A Well, when it's substantially -- I mean, they get
17 paid for milestones they meet, so there may be some
18 things. I'd have to look and see if you want to know
19 for sure if it's fully paid. Is that what you're
20 asking?
21 Q That's not something you looked at in preparation
22 of this affidavit?
23 A What?
24 Q If the Project CA0608 had been completely --
25 A Finalized?

Page 17

1 Q Right.
2 A No. No.
3 Q So when you made this affidavit, you didn't know
4 the amount of Amendment 91 or cap funds that had already
5 been expensed on Project CA0608?
6 A Absolutely. Yeah, absolutely did. Yeah. I have
7 that somewhere.
8 Q How did you go about finding that information?
9 A How did we find it? We go through our accounting
10 system and look -- pull invoices. I think there was
11 some --
12 THE WITNESS: I don't know if y'all -- did
13 y'all see those documents from before?
14 Q (By Mr. Zachary) So that takes me back to my
15 previous question. If you did look at all that stuff,
16 when you wrote this affidavit, did you know if all the
17 cap funds for Project CA0608 had already been expended
18 at the time --
19 A Oh, the cap funds? Yeah. Absolutely. I mean, we
20 weren't spending any more on the job. Yes.
21 Q Let me back up --
22 A That --
23 Q -- because that's not exactly my question. All
24 right? And I know we're kind of doing like we're
25 talking at a coffee bar a little here. You're kind of

Page 18

1 anticipating my question a little bit. Totally natural.
2 But if you can just let me finish my question --
3 A Sure.
4 Q -- and everything.
5 A Sure.
6 Q Okay? So Project CA0608, that's the 630 widening
7 project, right?
8 A It is.
9 Q That work has been completed. The actual widening
10 of the interstate, right?
11 A That's correct.
12 Q The contractor is paid on that project as the work
13 progresses, correct?
14 A Correct.
15 Q My question is, at the time you wrote this
16 affidavit on March 29, 2021, had all of the cap funds
17 that were allotted to Project CA0608 already been
18 expended out of the project paid out?
19 A All the cap funds that we were going to pay had
20 been paid. Yes.
21 Q So at the time that the Supreme Court opinion came
22 out saying, hey, you can't use the cap funds for the
23 I630 project, those funds had already been spent.
24 A Sure. So when that came out, we halted all cap
25 spend on those two projects.

Page 19

1 Q My question is, at the time the opinion came out,
2 were there any -- let's just go, like, the day before
3 the opinion, right? At that point you think you can
4 still use them, right?
5 A Sure.
6 Q At that point, were there plans for the cap funds
7 to -- were there any cap funds left to be spent on
8 Project CA0608?
9 A You're saying above what we ended up expending?
10 Q Well, I'm trying to get if the project had been
11 completely paid for yet or not.
12 A Well, I don't know if it's completely paid for
13 today. That's what I'm telling you. It may not be
14 final. I don't have that in front of me.
15 Q But you don't know whatever portion cap funds went
16 to pay for Project CA0608, you don't know if those had
17 already been 100 percent paid out or not? The cap
18 funds.
19 A So the amount that we had budgeted or had
20 thought --
21 Q Sure.
22 A -- we were going to expend?
23 Q Let's start there.
24 A I don't know. I don't know that. I just know what
25 we spent to date. It's not something that was a concern

Page 20

1 to me at that point.
2 Q One of the things that was your concern after the
3 court opinion came down, you wanted to ensure that no
4 more Amendment 91 funds would be spent on the I630 --
5 A Right.
6 Q -- project, right? What about the I30 Crossing
7 project, right? One of the things we looked at -- like,
8 that says 64 percent. I'm sure that could be a decimal
9 with it or whatever.
10 A Yeah.
11 Q Obviously, 64 percent of that budget hasn't been
12 spent yet, because that project is not complete, right?
13 A Correct.
14 Q What's the current budget for the I30 Crossing
15 project?
16 A The current budget?
17 Q Uh-huh.
18 A I'm not sure what the current contract is signed
19 for, but the budget is 631.7, total.
20 Q It's still 631.7 million dollar project?
21 A Yeah. Are you getting at the additional money --
22 Q Sure. I'm going to get there. As we sit here
23 today, the budget is still 631.7?
24 A Yes.
25 Q And I think we can probably agree, over half of

Page 21

1 that, at least, was to come from Amendment 91 funds,
2 originally, right?
3 A Yes.
4 Q And so, after you hear about the court opinion
5 saying you can't use the half cent sales tax funds
6 anymore, you and -- I guess, is it just you that comes
7 up with a plan or is it you and a multitude of people?
8 A No. We got a lot of staff that worked on that.
9 Q Who were the ones -- give me, like, the top tier
10 people.
11 A Top tier? What does that mean?
12 Q Sure. Like, who has the final say over the plan?
13 A Final say over the plan? I guess, ultimately, the
14 Highway Commission.
15 Q Did you prepare any documents when you were helping
16 develop this plan?
17 A I did not.
18 Q Did you review any documents that detailed the plan
19 for reimbursement?
20 A Yes.
21 Q What kind of documents did you see?
22 A Well, we put something together. Naturally, if
23 you're going to have to shift funding to make it whole,
24 so we have a document that shows how much cap money we
25 had on each project prior to the ruling and then how

Page 22

1 much we had going forward, just showing that amount.
2 Q And that's something you reviewed?
3 A Sure.
4 Q I take it, you don't recall any figures from that
5 document.
6 A Like what figures?
7 Q Well, how much cap fund money there was before for
8 each project versus afterwards. Is that what you said?
9 A Are you talking about, like, each individual
10 project?
11 Q Sure. Or the two projects in this case.
12 A No, I don't remember the specifics. I don't
13 remember. It's been a while.
14 Q This was a document that's been provided to me by
15 the Arkansas Department of Transportation. Have you
16 seen this document before?
17 (WHEREUPON, Exhibit Number 3 was marked for
18 identification and is attached hereto.)
19 A Yes, I have.
20 Q Did you help prepare this document?
21 A This is the one I worked on and reviewed. Well,
22 yes, this is -- the front cover. Yes.
23 Q You call that a front cover, so that makes me think
24 there's other pages to it.
25 A There are other pages. This is -- yeah. Yeah.

Page 23

1 Q The first page you called the cover, does this
2 cover go with those underlying documents or --
3 A Yes.
4 Q -- do any different documents go with it?
5 A Well, there are -- you know, I have one that I use
6 that we developed to show as we worked on each step on
7 the funding program, you know, we have to show the
8 public how we're using our money, so we have one that
9 tracks it through the step. Yes.
10 Q And you see the top says Amendment 91 funds
11 remaining to reimburse for CA0602.
12 A Uh-huh.
13 Q Do you see that? And that's got an 83 million
14 dollars number.
15 A Uh-huh.
16 Q Is it your understanding that that's how much funds
17 had been spent on Project --
18 A Yes.
19 Q -- CA0602?
20 A That's my understanding at the time this was
21 prepared. Yes.
22 Q Then the next line, the Amendment 91 funds
23 remaining to be reimbursed for CA0608, the 630 Crossing.
24 A Yes.
25 Q And that's got a 37 million dollar number next to

Page 24

1 it.
2 A Yes.
3 Q And is it your understanding that that's the amount
4 of Amendment 91 funds that were spent on the 630
5 project?
6 A That is my understanding at the time this was
7 prepared. Yes.
8 Q And the total of those two numbers, do you see
9 below there, that 121? Do you see that?
10 A I do see that.
11 Q That's your understanding the amount that the
12 Department of Transportation consented to reimburse in
13 the Amendment 91 fund, right?
14 A Yeah, as long as this is the latest version. Yes,
15 it is. Yeah.
16 Q So now my next question, we're going to get into
17 how the Department comes up with \$121,109,391.84. Okay?
18 A Okay.
19 Q I'm assuming that's something you worked on --
20 A Sure.
21 Q -- right? So those funds can't be reimbursed from
22 Project CA0602 and 0608 because that's money that's
23 already been spent and paid to third parties, right?
24 A Say it again.
25 Q Sure. So when you're going and looking back, hey,

Page 25

1 how are we going to repay this money, right, that money
2 is money that's already been spent on 602 and 608,
3 right?
4 A Yes.
5 Q So 608, the work is complete, right, so you can't
6 go back to that project and say, "Hey, we need that
7 money back --"
8 A Sure.
9 Q "-- to reimburse," right? You got to find other
10 sources; is that correct?
11 A Yes. Yes.
12 Q And the same would be true on 0602, to the extent
13 the money has been paid.
14 A Uh-huh.
15 Q So in finding those funding sources, is that
16 something you did by yourself or was that a number of
17 people or departments? Who all worked on that?
18 A Well, it's a number of people. You know, like
19 anything of this scope, you got several people working
20 on it.
21 Q Who were some of those people? Or who were those
22 people?
23 A Let's see. We'd have our CFO, Patrick Patton,
24 working on that. Division Head of Program Management,
25 Jessie Jones. That's two of the key people. And they

Page 26

1 had staff under them working on it, as well.
2 Q And it would be you, as well.
3 A Sure.
4 Q So you guys are going to, at some point, come up
5 with eight projects on this list. Do you see that?
6 A Uh-huh.
7 Q Did you help come up with that list of projects?
8 A Let's see. I was involved in it. Yes.
9 Q Why were those eight projects picked?
10 A I don't know why these eight projects in particular
11 were picked. We had to pick projects that would help us
12 make that 121 whole.
13 Q Right. And when you say make it whole, you're
14 talking about reimbursing the Amendment 91 fund, right?
15 A Right.
16 Q So Project CA0605 -- I think if I'm right -- that's
17 widening a portion of Highway 67; is that correct?
18 A That's correct.
19 Q That project has been completed, hasn't it?
20 A Uh-huh.
21 Q The same thing for 0101, right?
22 A Uh-huh.
23 Q So I've got that 0605 was completed on or around
24 April 2019; is that correct?
25 A That sounds about -- that's plausible. Yeah.

Page 27

1 Q Makes sense based on your recollection?
2 A Yeah.
3 Q For CA0101, I've got that that project was
4 completed in June of 2018. Does that sound about right
5 to you?
6 A Don't know about that one.
7 Q But you know it's been completed.
8 A Yeah.
9 Q The same thing for CA0906. That project has been
10 completed, right?
11 A Yes. Yes.
12 Q The same thing for CA0907. That project has been
13 completed.
14 A Yes. Yes.
15 Q And I know CA0703 has been completed, as well,
16 right?
17 A I think so.
18 Q What about CA0702? Is that project complete?
19 A I think so. Yes.
20 Q Then, the CAs stand for Connecting Arkansas
21 Program.
22 A Uh-huh.
23 Q So these are projects -- the ones on this Exhibit 3
24 that start with CA, those were already receiving
25 Amendment 91 funds, right?

Page 28

1 A Yes. Some -- yes.
2 Q The BB0804 -- does BB have an acronym it stands
3 for?
4 A It's the Interstate Rehabilitation Program
5 projects. Yes.
6 Q Is BB0804 completed?
7 A I believe so. I believe all these are completed.
8 Q And so BB0803 would be completed, as well, right?
9 A I believe so. I could check but, yes, I believe
10 so.
11 Q So if a project has already been completed -- some
12 of these completed years ago -- how is the Department
13 taking funding from those projects to reimburse the
14 Amendment 91 fund?
15 A Well, we would have to get our physical -- our CFO
16 to answer that question.
17 Q That's not something you can answer?
18 A Well, I mean, it's --
19 Q It's okay if it's not. I mean --
20 A I can -- I mean, I can give you the gist of how it
21 would work, but I don't -- he would be the one to
22 describe the mechanics of it.
23 Q Why don't you just tell me best you can the gist of
24 it.
25 A So these projects that you mentioned, these top

Page 29

1 ones are cap projects, right? But what you don't see in
2 this sheet is, this money wasn't cap money, of course,
3 so it's another source of funding like you show here.
4 So this work is eligible for Amendment 91 funds.
5 Q Sure.
6 A As are the BB0804 and 803 jobs.
7 Q Because it's improving or constructing a four
8 lane --
9 A Right.
10 Q -- roadway.
11 A Right. So, you know, it's the same thing any of us
12 would do if we were handed something like this, you
13 know. It's -- the money is expended, yes, out of both
14 accounts. We just -- I'm not sure the mechanics of it,
15 but, you know, it's like taking money out of the left
16 pocket and putting it in the right. It's the same
17 situation.
18 Q So we're wanting to make the Amendment 91 fund
19 whole --
20 A Uh-huh.
21 Q -- right? And the hole we're trying to fill is the
22 improper usage of funds on CA0602 and CA0608, right?
23 A That's correct.
24 Q So if you take money from the left hand and put it
25 in the right hand on these eight projects, how are you

Page 30

1 filling the hole, then, from CA0602 and CA0608?
2 A You're also putting the money back in the other
3 pocket.
4 Q When you say "other pocket", what do you mean?
5 A Well, if you're switching pockets with money, then
6 you're not just dumping one here. You're putting money
7 in -- it's a wash.
8 Q So let's go down project by project here. So
9 CA0605, which was completed -- I have -- April 2019.
10 CA0605 is the Vandenberg Boulevard Highway 5 widening,
11 right?
12 (WHEREUPON, Exhibit Number 4 was marked for
13 identification and is attached hereto.)
14 A Yes.
15 Q And you see, that began January 2017 and it was
16 completed April 2019.
17 A Okay.
18 Q Okay? So that project is complete, right? It was
19 actually completed even before Project CA0608, isn't it?
20 A Yeah. Sure.
21 Q So if that project has been complete now for almost
22 three years, why is there still funding left on
23 completed projects?
24 A I'm not following your question.
25 Q Sure. So from looking at this, there's 28.6

Page 31

1 million dollars that the Department of Transportation is
2 pulling off Project CA0605 and going to transfer to the
3 Amendment 91 account, right?
4 A So to speak, yeah.
5 Q Well, they either are or they aren't, right? Are
6 they transferring the money to the Amendment 91 fund
7 account?
8 A Well, I don't know if the mechanism is that it
9 transfers and transfers back or if we handle it with a
10 journal entry. That's why I said, you need to talk to
11 our CFO about how we're going to handle that.
12 Q So as you sit here today, you don't know if there
13 has been an addition or deposit for \$121,109.391.84 into
14 the Amendment 91 fund.
15 A That's what I told you earlier. I don't know if
16 they handled that or not.
17 Q Who would be the person to ask?
18 A CFO.
19 Q Because you've been keeping up with this case and
20 you understand that the court has ordered the Amendment
21 91 fund to be reimbursed in that amount, right?
22 A Right.
23 Q When the court says "reimbursed" -- or when you're
24 looking to reimburse the account -- forget about the
25 court. When you're looking to reimburse the account,

Page 32

1 what does that mean?
2 A Are you asking me --
3 Q Right.
4 A -- the definition of reimburse?
5 Q Sure.
6 A Well, I don't have a dictionary in front of me to
7 answer.
8 Q It means adding funds to the account, doesn't it?
9 A I would imagine so. Yes. Well, you know, or
10 making it whole -- making it right.
11 Q So I can't tell based on your affidavit or what
12 you're telling me here now if the intention is to
13 actually reimburse the account or to just make a
14 different journal entry.
15 A I'm not following you.
16 Q Sure.
17 A Are you saying -- will you ask it a different way.
18 Q Sure. So when you heard that the half cent sales
19 tax could no longer be spent on CA0602 and CA0608, you
20 and the CFO and Jessie Jones came up with a plan, right,
21 because you want to comply with the court orders --
22 A Sure.
23 Q -- right?
24 A Sure.
25 Q And the court order says that the fund is to be

Page 33

1 reimbursed, right? So how did your plan go about
 2 complying with the court order?
 3 (WHEREUPON, Exhibit Number 5 was marked for
 4 identification and is attached hereto.)
 5 A For the 121?
 6 Q Uh-huh.
 7 A I mean, I think you're -- I don't understand what
 8 you're asking me exactly. I mean, if you're -- are you
 9 saying -- are you asking me if we plan to take 121
 10 million out of our operating account and put it in the
 11 Amendment 91 account? Is that what you're asking me?
 12 Q Let me ask you a different way. Are you planning
 13 on putting 121 million dollars in the Amendment 91 fund?
 14 A We're planning on complying with the order.
 15 Q That's not my question. The question is, do you
 16 plan on putting 121 million dollars in the Amendment 91
 17 fund?
 18 A If we did do that -- and we need to talk to the
 19 CFO. But if we did do that, we'd immediately pull it
 20 back out and make the other account right, because we're
 21 taking money from one pocket and putting it in the
 22 other, and reverse.
 23 Q That's a decision ARDOT is making.
 24 A That's making it right. Yeah.
 25 Q Because the eight projects you have here listed,

Page 34

1 those are all completed, right?
 2 A Yes.
 3 Q That's money that's already been paid out.
 4 A Yes, as has this money.
 5 Q Sure. So this isn't the only way to accomplish
 6 reimbursing the account. It's just one of the ways that
 7 ARDOT has come up with, right?
 8 A I guess there could be a lot of ways, you know, to
 9 accomplish it.
 10 Q You could get eight current projects, right?
 11 A Eight current? No. How would that work?
 12 Q You could take funding from eight current projects,
 13 right?
 14 A No. We don't have just funding laying around. Our
 15 programs are reimbursable. Our federal funds are
 16 reimbursable. We don't have that money in a bank
 17 account somewhere.
 18 Q Just like you don't have the \$28,601,975.26 in a
 19 bank account for Project CA0605, right?
 20 A Well, we've expended that money.
 21 Q Yeah. But it's not in any ARDOT bank account,
 22 right?
 23 A Right.
 24 Q Wasn't at the time this was prepared, was it?
 25 A In a bank account?

Page 35

1 Q Sure.
 2 A For -- no. It's expended.
 3 Q Sure. It's been paid out to third parties, right?
 4 The same thing for all these projects listed, right?
 5 A That's correct.
 6 Q So how will the I30 Crossing be funded from
 7 different revenue sources without the cap funds? How
 8 does that process work?
 9 A That's -- how does it work?
 10 Q Uh-huh.
 11 A We use federal and state funds.
 12 Q What federal and state funds?
 13 A What federal and -- what do you mean by what --
 14 Q You said you use federal and state funds. What
 15 kind of federal and state funds?
 16 A Federal Highway -- a portion is funded through the
 17 Federal Highway Administration and that little million
 18 dollar earmark I told you. That earmark is still there,
 19 or it was.
 20 Q A one million dollar earmark on a 631 million
 21 dollar project?
 22 A Yeah. Well, you asked how it was going to be
 23 funded.
 24 Q Sure.
 25 A That's not regularly portioned funding.

Page 36

1 Q Sure. Is it going to use any gas tax?
 2 A The -- well, we have to match our federal funding,
 3 so, sure. Our primary source of revenue is from gas
 4 tax. Yes.
 5 Q Are there any current Connecting Arkansas projects
 6 still going?
 7 A Sure. I don't know how many, but sure there are.
 8 Q But there are a number still going, right?
 9 A There are.
 10 MR. ZACHARY: Let's take a break real
 11 quick.
 12 (WHEREUPON, after a break was taken, the
 13 proceedings resumed as follows, to wit:)
 14 Q (By Mr. Zachary) I'm looking at Exhibit 4. This
 15 is a printout from the ARDOT Connecting Arkansas Program
 16 website. Do you recognize that?
 17 A I do.
 18 Q So looking at Exhibit 3, CA0605, Vandenberg
 19 Boulevard-Highway 5 widening south, the amount is
 20 \$28,601,975.26
 21 A Okay.
 22 Q On Exhibit 4, that project was completed April 19,
 23 right?
 24 A That's what you said. Yeah. That's what it's
 25 showing on the sheet. Yeah.

