

1 **STUTZ ARTIANO SHINOFF & HOLTZ**
2 *A Professional Corporation*
3 Daniel R. Shinoff, Esq. (State Bar No. 99129)
4 Arthur M. Palkowitz, Esq. (State Bar No. 106141)
5 2488 Historic Decatur Road, Suite 200
6 San Diego, CA 92106-6113
7 Tel: (619) 232-3122
8 Fax: (619) 232-3264

9 Attorneys for Defendant
10 SAN YSIDRO SCHOOL DISTRICT

Exempt from filing fee -
Government Code sections 6103 & 26857

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN DIEGO - CENTRAL BRANCH**

13 EcoBusiness Alliance, LLC,dba
14 Manzana Energy; and Manzana NES
15 SYSD, LLC,

16 Plaintiffs,

17 v.

18 San Ysidro School District, Manuel
19 Paul, Gareth Maden, Raquel Marquez
20 Maden and DOES 1 through 25,
21 inclusive

22 Defendant.

23 AND RELATED CROSS-ACTION

Case No. 37-2012-00095758-CU-BC-CTL

ICJ: Hon. Steven R. Denton
DEPT: C-73

**NOTICE OF EX PARTE
APPLICATION FOR AN ORDER
SHORTENING TIME FOR NOTICE
AND HEARING ON DEFENDANT'S
MOTION FOR A PROTECTIVE
ORDER**

**[FILED CONDITIONALLY UNDER
SEAL]**

HEARING DATE: 04/25/13
HEARING TIME: 8:30 a.m.
COMPLAINT FILED: 04/05/12
TRIAL DATE: 07/12/13

IMAGED FILE

TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:

YOU ARE HEREBY NOTIFIED THAT on April 25, 2013 at 8:30 a.m., in Department C-73 of this Court located at 330 W. Broadway, San Diego, California 92101, defendants San Ysidro School District ("Defendant" or "District") will move the Court for an order shortening time for notice and hearing on District's motion for a protective order that the transcript and video of the third volume of the deposition of Manuel Paul taken on April 17, 2013, not be disseminated or otherwise disclosed to third parties unrelated to the instant litigation.

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The motion will be based upon this notice, memorandum in support, declaration, and the records and files in this action.

DATED: 4/24/13

STUTZ ARTIANO SHINOFF & HOLTZ
A Professional Corporation

By: 

~~Daniel R. Shinoff~~
Arthur M. Palkowitz
Attorneys for Defendant SAN YSIDRO SCHOOL DISTRICT

STUTZ ARTIANO SHINOFF & HOLTZ
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9 Attorneys for Defendant
10 SAN YSIDRO SCHOOL DISTRICT

Exempt from filing fee -
Government Code sections 6103 & 26857

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN DIEGO - CENTRAL BRANCH**

13 EcoBusiness Alliance, LLC,dba
14 Manzana Energy; and Manzana NES
15 SYSD, LLC,

16 Plaintiffs,

17 v.

18 San Ysidro School District, Manuel
19 Paul, Gareth Maden, Raquel Marquez
20 Maden and DOES 1 through 25,
21 inclusive

22 Defendant.

Case No. 37-2012-00095758-CU-BC-CTL

ICJ: Hon. Steven R. Denton
DEPT: C-73

**NOTICE OF DEFENDANT'S
EX PARTE APPLICATION TO FILE
RECORDS UNDER SEAL**

HEARING DATE: 04/25/13
HEARING TIME: 8:30 a.m.
COMPLAINT FILED: 04/05/12
TRIAL DATE: 07/12/13

IMAGED FILE

23 AND RELATED CROSS-ACTION

24 **TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:**

25 YOU ARE HEREBY NOTIFIED that on Thursday, April 25, 2013 at 8:30 a.m. or as soon
26 thereafter as the matter may be heard in Department C-73 of this Court, located at
27 330 West Broadway, San Diego, California 92101, defendant San Ysidro School District
28 ("Defendant" or "District") will move to seal certain records in the above matter.

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This motion will be made on the ground that the records proposed to be sealed, including the third volume of Manuel Paul's Deposition, or in the alternative, pleadings and transcripts seeking a protective order, contain sensitive information which should not be openly disseminated to the public by plaintiffs to gain an advantage in litigation. Disclosure of the records related to the protective order hearing would destroy the value of the protective order by placing the information sought to be protected in the public domain.

The motion will be based upon this notice, the attached memorandum in support declaration, and the records and files in this action.

DATED: 4/24/13

STUTZ ARTIANO SHINOFF & HOLTZ
A Professional Corporation

By: 
Daniel R. Shinoff
Arthur M. Palkowitz
Attorneys for Defendant SAN YSIDRO SCHOOL DISTRICT

1 John A. Mayers (CSB# 149149)
Patrick L. Prindle (CSB# 87516)
2 MULVANEY BARRY BEATTY LINN & MAYERS LLP
401 West A Street, 17th Floor
3 San Diego, CA 92101-7994
Telephone: 619-238-1010
4 Facsimile: 619-238-1981

5 Attorneys for Plaintiffs EcoBusiness Alliance,
LLC, dba Manzana Energy; and Manzana NES
6 SYSD, LLC

7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO, CENTRAL DISTRICT

10 EcoBusiness Alliance, LLC, dba
Manzana Energy; and Manzana NES
11 SYSD, LLC,

12 Plaintiffs,

13 v.

14 San Ysidro School District, Manuel
Paul, Gareth Maden, Raquel Marquez
15 Maden and DOES 1 through 25,
inclusive,

16 Defendants.

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19 San Ysidro School District,
20 Cross-Complainant,

21 v.

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23 EcoBusiness Alliance, LLC, dba
Manzana Energy; and Manzana NES
24 SYSD, LLC, and ROES 1 through 50,
inclusive,

25 Cross-Defendants.
26

CASE NO. 37-2012-00095758-CU-BC-CTL

**DECLARATION OF PATRICK L. PRINDLE
IN SUPPORT OF OPPOSITION TO SAN
YSIDRO SCHOOL DISTRICT EX PARTE
MOTION FOR PROTECTIVE ORDER**

**DATE: APRIL 25, 2013
TIME: 8:30 A.M.
PLACE: DEPT. C-73**

“UNLIMITED” – “IMAGED FILE”
Dept.: C-73
Judge: Steven R. Denton
Complaint Filed: 04/05/12
Trial Date: July 12, 2013

27 I, PATRICK L. PRINDLE, hereafter declare, as follows:
28

1 1. I am an attorney licensed to practice before all of the courts of the State of
2 California and associated with the firm of Mulvaney Barry Beatty Linn & Mayers LLP,
3 attorneys for Plaintiff EcoBusiness Alliance, LLC ("Plaintiff") in the above-entitled action.
4 I have personal knowledge of all facts stated herein and, if called as a witness, I could
5 and would competently testify thereto.

6 2. On April 23, 2013, at 5:09 P.M. I received an email from Arthur Palkowitz,
7 advising me that he intended to appear ex parte at 8:30 A.M. on April 25, 2013, that at
8 the ex parte hearing he would "be requesting a protective order of Mr. Paul's deposition
9 transcript." A true and correct copy of the email is attached hereto as Exhibit 1.

10 3. On April 23, 2013, at 5:36 P.M., I responded to the email from Mr.
11 Palkowitz, as follows: "As I recall, you already asked Judge Barton to issue such an
12 Order at the April 5 hearing, and he refused to issue what he characterized as a "gag
13 order." When do you intend to serve a copy of the pleadings you intend to file with the
14 Court? Please do so as soon as possible so that I can respond to your ex parte
15 request, and so that we both can avoid wasting the Court's time." A true and correct
16 copy of the email is attached hereto as Exhibit 2.

17 4. On April 24, 2013, at approximately 9:17 A.M., Mr. Palkowitz contacted me
18 by telephone, again advising me that he intended to appear ex parte at 8:30 A.M. on
19 April 25, 2013, to request that the Court issue a protective order relative to the transcript
20 of Mr. Paul's recent deposition. I requested that he serve a copy of whatever pleadings
21 he was going to file with the Court as soon as possible, because it would be difficult to
22 prepare a concise, cogent opposition if the pleadings were merely handed to me at the
23 time of the hearing. Mr. Palkowitz told me that he intended to serve the ex parte
24 pleadings at the time of the hearing.

25 5. On April 24, 2013, at 10:10 A.M., Mr. Palkowitz sent an email to me
26 attaching the "Notice of Ex Parte Application For An Order Shortening Time For Notice
27

1 And Hearing On Defendant's Motion For A Protective Order" relative to the ex parte
2 hearing set to commence at 8:30 A.M. on April 25, 2013. A true and correct copy of the
3 email is attached hereto as Exhibit 3.

4 6. On April 5, 2013, Mr. Palkowitz appeared before this Court for the purpose
5 of requesting a protective order to bar the deposition of Manuel Paul, Volume 3. Judge
6 Jeffrey B. Barton presided over the hearing. After the Court denied the motion, Mr.
7 Palkowitz requested that the Court restrain and restrict any dissemination of the
8 transcript. Judge Barton, characterizing Mr. Palkowitz's request as a request for a "gag
9 order", stated that he would not issue such an order.

10 7. The Deposition of Manuel Paul, Volume 3, proceeded at 2:26 P.M. on
11 April 17, 2013. The deposition concluded at 3:00 P.M. Exclusive of recesses during the
12 deposition, the deposition lasted approximately 28 minutes. During that 28 minute
13 deposition, Mr. Paul asserted his right against self-incrimination 43 times. A true and
14 correct copy of the unedited (rough) transcript is attached hereto as Exhibit 4.

15
16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct, and that this Declaration was executed this 24th day of
18 April, 2013, at San Diego, California.

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EBA.101.481865.1

Patrick L. Prindle

From: Arthur M. Palkowitz <apalkowitz@stutzartiano.com>
Sent: Tuesday, April 23, 2013 5:09 PM
To: Patrick Prindle
Subject: EcoBusiness- Ex Parte Appearance

Dear Mr. Prindle:

Please be advised we are appearing ex parte on April 25, 2013 at 8:30 am before Judge Denton. At that time we will be requesting a protective order of Mr. Paul's deposition transcript.

Thank you.

Art Palkowitz, Esq.
Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106
Phone (619) 232-3122
Fax (619) 232-3264
apalkowitz@stutzartiano.com



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Please consider the environment before printing this e-mail

Patrick L. Prindle

From: Patrick L. Prindle on behalf of Patrick Prindle
Sent: Tuesday, April 23, 2013 5:36 PM
To: 'Arthur M. Palkowitz'
Subject: RE: EcoBusiness- Ex Parte Appearance

Dear Mr. Palkowitz –

As I recall, you already asked Judge Barton to issue such an Order at the April 5 hearing, and he refused to issue what he characterized as a “gag order.” When do you intend to serve a copy of the pleadings you intend to file with the Court? Please do so as soon as possible so that I can respond to your ex parte request, and so that we both can avoid wasting the Court’s time.

Thank you.

Patrick L. Prindle, Esq.
Mulvaney Barry Beatty Linn & Mayers LLP
401 West A St., 17th Floor
San Diego CA 92101

(619) 238-1010 tel
(619) 238-1981 fax

**Mulvaney
Barry**

**Mulvaney Barry Beatty
Linn & Mayers LLP
Attorneys At Law**

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From: Arthur M. Palkowitz [<mailto:apalkowitz@stutzartiano.com>]
Sent: Tuesday, April 23, 2013 5:09 PM
To: Patrick Prindle
Subject: EcoBusiness- Ex Parte Appearance

Dear Mr. Prindle:

Please be advised we are appearing ex parte on April 25, 2013 at 8:30 am before Judge Denton. At that time we will be requesting a protective order of Mr. Paul's deposition transcript.

Thank you.

Art Palkowitz, Esq.
Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106
Phone (619) 232-3122
Fax (619) 232-3264
apalkowitz@stutzartiano.com



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Please consider the environment before printing this e-mail

Patrick L. Prindle

From: Arthur M. Palkowitz <apalkowitz@stutzartiano.com>
Sent: Wednesday, April 24, 2013 10:10 AM
To: Patrick Prindle
Subject: Ecobusiness v. SYSD
Attachments: SKMBT_C65013042409240.pdf

Dear Mr. Prindle:

Please find attached the Notice of the Ex Parte appearance for tomorrow at 8:30. At that time we will be requesting Mr. Paul transcript and video be sealed.


During our conversation this morning I informed you of our intent. If you are willing to stipulate to sealing the transcript and video please notify me.

Thank you.

Art Palkowitz, Esq.
Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106
Phone (619) 232-3122
Fax (619) 232-3264
apalkowitz@stutzartiano.com

Stutz
Artiano
Shinoff
& Holtz

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4 Arthur M. Palkowitz, Esq. (State Bar No. 106141)
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7 Tel: (619) 232-3122
8 Fax: (619) 232-3264

9 Attorneys for Defendant
10 SAN YSIDRO SCHOOL DISTRICT

Exempt from filing fee -
Government Code sections 6103 & 26857

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN DIEGO - CENTRAL BRANCH**

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15 SYSD, LLC,

16 Plaintiffs,

17 v.

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19 Paul, Gareth Maden, Raquel Marquez
20 Maden and DOES 1 through 25,
21 inclusive

22 Defendant.

23 AND RELATED CROSS-ACTION

Case No. 37-2012-00095758-CU-BC-CTL

ICJ: Hon. Steven R. Denton
DEPT: C-73

**NOTICE OF EX PARTE
APPLICATION FOR AN ORDER
SHORTENING TIME FOR NOTICE
AND HEARING ON DEFENDANT'S
MOTION FOR A PROTECTIVE
ORDER**

**[FILED CONDITIONALLY UNDER
SEAL]**

HEARING DATE: 04/25/13
HEARING TIME: 8:30 a.m.
COMPLAINT FILED: 04/05/12
TRIAL DATE: 07/12/13

IMAGED FILE

TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:

YOU ARE HEREBY NOTIFIED THAT on April 25, 2013 at 8:30 a.m., in Department C-73 of this Court located at 330 W. Broadway, San Diego, California 92101, defendants San Ysidro School District ("Defendant" or "District") will move the Court for an order shortening time for notice and hearing on District's motion for a protective order that the transcript and video of the third volume of the deposition of Manuel Paul taken on April 17, 2013, not be disseminated or otherwise disclosed to third parties unrelated to the instant litigation.

1 The motion will be based upon this notice, memorandum in support, declaration, and the
2 records and files in this action.

3 DATED: 4/24/13

STUTZ ARTIANO SHINOFF & HOLTZ
A Professional Corporation

4
5
6 By: 

~~Daniel R. Shinoff~~
Arthur M. Palkowitz
Attorneys for Defendant SAN YSIDRO SCHOOL
DISTRICT

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STUTZ ARTIANO SHINOFF & HOLTZ
A Professional Corporation

1 APPEARANCES:

2 For the Plaintiffs:

3 LAW OFFICES OF MULVANEY, BARRY, BEATTY,
4 LINN & MAYERS
5 BY: PATRICK L. PRINDLE, ESQ.
6 401 West A Street, 17th Floor
7 San Diego, California 92101
8 619.238.1010

9 For the Defendants:

10 LAW OFFICES OF STUTZ, ARTIANO, SHINOFF & HOLTZ
11 BY: GIL ABED, ESQ.
12 2488 Historic Decatur Road, Suite 200
13 San Diego, California 92106
14 619.232.3122.

15 For the witness, Manuel H. Paul:

16 LAW OFFICES OF JAMES M. V. FITZPATRICK
17 BY: JAMES M. V. FITZPATRICK, ESQ.
18 101 West Broadway, Suite 1950
19 San Diego, CA 92101
20 619.234.3422

21 Videotape Operator:

22 Peterson Reporting, Video & Litigation Services
23 Gary Gottschalk, Videographer
24 530 B Street, Suite 350
25 San Diego, CA 92101
(800) 649-6353

Also Present:

Buzz Fink
Art Castanares

1		I N D E X	
2			
3	WITNESS: Manuel H. Paul		
4			
5	EXAMINATION		PAGE
6	By Mr. Prindle		
7			
8		E X H I B I T S	
9	EXHIBIT		MARKED
10	175		
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NON-CERTIFIED ROUGH DRAFT

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1 THE VIDEOGRAPHER: Time on the record is 2:26.

2 Today's date is Wednesday, April 17, 2013.

3 My name is Gary Gottschalk, contracted by
4 Peterson Reporting, Video & Litigation Services.

5 The court reporter today is Judy Reiersen, also
6 with Peterson Reporting, located at 530 B Street,
7 Suite 350, San Diego, California 92101.

8 This begins Volume III of the videotaped
9 deposition of Manuel H. Paul, testifying in the matter of
10 EcoBusiness Alliance versus San Ysidro School District,
11 in the Superior Court of the California, County of
12 San Diego, Case No. 37-2012-102890-CU-NP-CTL, taken today
13 at the offices of Peterson Reporting, 530 B Street,
14 San Diego.

15 The video and audio recordings will take place
16 at all times during this deposition unless all counsel
17 agree to go off the record.

18 The beginning and end of each videotape will be
19 announced.

20 Will counsel please identify yourselves and
21 state whom you represent?

22 MR. PRINDLE: Sure. My name is Pat Prindle. I
23 represent the plaintiffs, EcoBusiness Alliance and
24 Manzana NES SYSD.

25 MR. ABED: Good afternoon. Gil Abed

1 representing the San Ysidro School District.

2 MR. FITZPATRICK: Jim Fitzpatrick on behalf of
3 Mr. Paul.

4 THE VIDEOGRAPHER: The court reporter will now
5 swear in or affirm the deponent.

6 (Witness Sworn.)

7 THE VIDEOGRAPHER: Counsel may proceed.

8 MR. PRINDLE: Sure.

9

10 MANUEL H. PAUL,
11 having been first duly sworn, testified as follows:

12

13 EXAMINATION

14

15 BY MR. PRINDLE:

16 Q Good afternoon, Mr. Paul.

17 I know you're familiar with what a deposition's
18 all about because we've been here a couple times in the
19 past. Nonetheless, I'll ask you, let me know if there's
20 any physical reason that you know of why you can't go
21 forward with your deposition today.

22 A No.

23 Q There's no -- you're not under the influence of
24 any medications or anything like that would affect your
25 ability to recall events?

1 A No.

2 Q Okay. As I recall the last time we were here
3 for your deposition was on August 31, 2012. The
4 deposition didn't last very long.

5 Since that time, have you discussed this case,
6 the facts of this case with anyone other than your
7 attorneys or folks that work for your attorneys or on
8 your attorneys' behalf?

9 A On advice of my attorney, I assert my Fifth
10 Amendment privilege and respectfully decline to answer.

11 Q Do you recall that since your last deposition on
12 August 31st you met with Loreto Romero on at least two
13 occasions?

14 A On the advice of my attorney, I assert my Fifth
15 Amendment privilege and respectfully decline to answer.

16 Q Can you recall that two of those meetings took
17 place at your house?

18 MR. ABED: Object as assumes facts, calls for
19 speculation.

20 A On the advice of my attorney, I assert my Fifth
21 Amendment privilege and respectfully decline to answer.

22 BY MR. PRINDLE:

23 Q Can you tell us what you discussed with
24 Mr. Loreto Romero during the first of those two meetings
25 at your house?

1 MR. ABED: The question assumes facts that are
2 not in evidence and calls for speculation on those assume
3 facts.

4 A On the advice of my attorney, I assert my Fifth
5 Amendment privilege and respectfully decline to answer.

6 BY MR. PRINDLE:

7 Q Could you tell us, please, what was discussed
8 with Mr. Loreto Romero on the second one of those
9 meetings that took place at your house?

10 MR. ABED: The question assumes facts that are
11 not in evidence and calls for speculation on those
12 assumed facts.

13 A On the advice of my attorney, I assert my Fifth
14 Amendment privilege and respectfully decline to answer.

15 BY MR. PRINDLE:

16 Q Do you recall that during both of those meetings
17 you discussed Mr. Castanares in this case, this lawsuit?

18 MR. ABED: The question assumes facts that are
19 not in evidence and calls for speculation on those
20 assumed facts.

21 A On the advice of my attorney, I assert my Fifth
22 Amendment privilege and respectfully decline to answer.

23 BY MR. PRINDLE:

24 Q Do you recall during those conversations when
25 you spoke with Mr. Castanares from time to time you would

1 switch from speaking in English to speaking in Spanish?

2 MR. ABED: The question assumes facts that are
3 not in evidence and calls for speculation on those
4 assumed facts.

5 A On the advice of my attorney, I assert my Fifth
6 Amendment privilege and respectfully decline to answer.

7 BY MR. PRINDLE:

8 Q You told us during the first session of your
9 deposition that you made a recommendation to the
10 San Ysidro School District board that the contract with
11 EcoBusiness Alliance be terminated.

12 what was that recommendation based upon?

13 MR. ABED: Objection; asked and answered in
14 previous deposition.

15 A On the advice of my attorney, I assert my Fifth
16 Amendment privilege and respectfully decline to answer.

17 BY MR. PRINDLE:

18 Q You recall meeting with Dena Whittington
19 approximately on the Friday before the October 27, 2011,
20 school board meeting and telling her to add an item to
21 the agenda for the October 27th meeting that involved
22 terminating the contract with EcoBusiness Alliance?

23 MR. ABED: Objection. Assumes facts not in
24 evidence. Compound as stated. Calls for speculation.

25 A On the advice of my attorney, I assert my Fifth

2 BY MR. PRINDLE:

3 Q Do you recall meeting with Raquel Marquez Maden
4 approximately one week before the October 27, 2011,
5 meeting and discussing with her that you intended to
6 recommend to the board that it terminate the contract
7 with EcoBusiness Alliance?

8 MR. ABED: Objection. Assumes facts not in
9 evidence. It calls for speculation under those assumed
10 facts.

11 A On the advice of my attorney, I assert my Fifth
12 Amendment privilege and respectfully decline to answer.

13 BY MR. PRINDLE:

14 Q Do you recall telling Ms. Marquez Maden during
15 that meeting that took place approximately one week
16 before the October 27, 2011, meeting that you had someone
17 else lined up and ready to step in and take over the
18 solar power services agreement contract after EcoBusiness
19 Alliance was terminated?

20 MR. ABED: Objection. Assumes facts not in
21 evidence and calls for speculation under those assumed
22 facts.

23 A On the advice of my attorney, I assert my Fifth
24 Amendment privilege and respectfully decline to answer.

25 BY MR. PRINDLE:

1 Q who was the other contractor that you had lined

2 up that was going to step in and take over that contract
3 after it was terminated with EcoBusiness Alliance?

4 MR. ABED: Objection. Assumes facts not in
5 evidence and argumentative as phrased.

6 A On the advice of my attorney, I assert my Fifth
7 Amendment privilege and respectfully decline to answer.

8 (Exhibit 175 was marked.)

9 BY MR. PRINDLE:

10 Q Mr. Paul, I'm going to hand you what we marked
11 as Exhibit 175.

12 MR. PRINDLE: And I only have that copy and this
13 one so I don't have a copy for you.

14 MR. FITZPATRICK: That's all right.

15 BY MR. PRINDLE:

16 Q It's a letter dated February 6, 2013, from me to
17 Mr. Shinoff.

18 Have you ever seen that letter before?

19 A On the advice of my attorney, I assert my Fifth
20 Amendment privilege and respectfully decline to answer.

21 (Exhibit 176 was marked.)

22 BY MR. PRINDLE:

23 Q Next I'm going to hand you a three-page
24 document. It's been marked Exhibit 176. It is a letter
25 dated November 11, 2010, to Marie Mendoza.

NON-CERTIFIED ROUGH DRAFT

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♀

1 I'll give you an opportunity to look at that
2 exhibit and then I have a couple questions.

3 A On the advice of my attorney, I assert my Fifth
4 Amendment privilege and respectfully decline to answer.

5 Q I haven't asked any questions yet so -- you
6 choose not to review that Exhibit 176 so that you can
7 answer the questions?

8 A On advice of my attorney, I assert my Fifth
9 Amendment privilege and respectfully decline to answer.

10 (Exhibit 177 was marked.)

11 BY MR. PRINDLE:

12 Q Mr. Paul, next I'm going to hand you what we
13 marked as 177. It's an e-mail from Mr. Castanares to
14 you, dated March 25, 2011, at 2:12 p.m.

15 Have you ever seen that letter before, that
16 e-mail?

17 A On the advice of my attorney, I assert my Fifth
18 Amendment privilege and respectfully decline to answer.

19 Q Next, sir, I'm going to hand you what was
20 previously marked as Exhibit 10 to this deposition.

21 Exhibit 10 is an e-mail from Mr. Castanares to
22 you, dated February 9, 2011, at 3:46 p.m.

23 You recall having seen this e-mail in the past,
24 do you not?

25 A On the advice of my attorney, I assert my Fifth

1 Amendment privilege and respectfully decline to answer.

2 (Exhibit 178 was marked.)

3 BY MR. PRINDLE:

4 Q Next, sir, I'm going to hand you what we marked
5 as Exhibit 178.

6 Exhibit 178 is a copy of an e-mail from
7 Mr. Castanares to Ms. Whittington, copied to you, dated
8 March 30, 2011, at 2:41.

9 Do you recall ever having seen that e-mail
10 before?

11 A On the advice of my attorney, I assert my Fifth
12 Amendment privilege and respectfully decline to answer.

13 (Exhibit 179 was marked).

14 BY MR. PRINDLE:

15 Q Next, sir, I'm going to hand you what we marked
16 as Exhibit 179.

17 Exhibit 179 is an e-mail from Mr. Castanares to
18 you and Ms. Whittington dated March 30, 2011, at
19 2:57 p.m.

20 Have you seen that e-mail in the past?

21 A On the advice of my attorney, I assert my Fifth
22 Amendment privilege and respectfully decline to answer.

23 (Exhibit 180 was marked.)

24 BY MR. PRINDLE:

25 Q Next, sir, I'm going to hand you what we marked

1 as Exhibit 180.

2 Exhibit 180 as an e-mail from you to

3 Art Castanares and Ms. Whittington, dated March 30, 2011,
Page 13

4 at 3:45 p.m.

5 Do you recall ever having seen this exhibit --
6 this e-mail before?

7 A On the advice of my attorney, I assert my Fifth
8 Amendment privilege and respectfully decline to answer.

9 (Discussion off the record.)

10 THE VIDEOGRAPHER: Time off the record is 2:39.

11 (Discussion off the record.)

12 THE VIDEOGRAPHER: All right. Time back on the
13 record is 2:40. You may proceed.

14 MR. PRINDLE: Thank you.

15 (Exhibit 181 was marked.)

16 BY MR. PRINDLE:

17 Q Mr. Paul, I'm going to hand you what we marked
18 as Exhibit 181.

19 181 is a one-page e-mail from you to
20 Mr. Castanares, dated March 31, 2011. Appears to have
21 been sent at 4:24 p.m.

22 Do you recall ever having seen this document
23 before?

24 A On the advice of my attorney, I assert my Fifth
25 Amendment privilege and respectfully decline to answer.

NON-CERTIFIED ROUGH DRAFT

14

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1 Q The first sentence in that e-mail says, "I
2 agree."

3 Can you tell us what you meant by that?

4 A On the advice of my attorney, I assert my Fifth
5 Amendment privilege and respectfully decline to answer.

6 Q The second sentence of that e-mail says, "Let's,
7 apostrophe S, "put the changes as an amendment to the
8 contract not a, quote, change order, quote, and let's
9 resubmit to the board and get new signatures."

10 Can you tell us all what you meant by that
11 sentence?

12 A On the advice of my attorney, I assert my Fifth
13 Amendment privilege and respectfully decline to answer.

14 (Exhibit 182 was marked.)

15 BY MR. PRINDLE:

16 Q Next, Mr. Paul, I am going to hand you what
17 we've marked as Exhibit 182.

18 Exhibit 182 is a one-page e-mail from
19 Marie Mendoza, dated March 31, 2011, at 6:38 p.m., was
20 sent to Ms. Whittington, Mr. Castanares, and yourself.

21 Do you recall ever having seen that document
22 before?

23 A On the advice of my attorney, I assert my Fifth
24 Amendment privilege and respectfully decline to answer.

25 (Exhibit 183 was marked.)

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1 BY MR. PRINDLE:

2 Q Next I'm going to hand you what we've marked as
3 Exhibit 183.

4 183 is a one-page e-mail from Mr. Castanares to
Page 15

5 Marie Mendoza, Dena Whittington, and yourself, dated
6 March 31, 2011, at 8:54 p.m.

7 Do you recall ever having seen this document
8 before?

9 A On the advice of my attorney, I assert my Fifth
10 Amendment privilege and respectfully decline to answer.

11 (Exhibit 184 was marked.)

12 BY MR. PRINDLE:

13 Q Next, sir, I've handed you what we've marked as
14 Exhibit 184.

15 Exhibit 184 contains two pages. The first page
16 is a copy of an e-mail from Mr. Castanares to
17 Marie Mendoza, Dena Whittington, and you, dated April 1,
18 2011, at 4:54 p.m.

19 Do you recall ever having seen that e-mail
20 before?

21 A On the advice of my attorney, I assert my Fifth
22 Amendment privilege and respectfully decline to answer.

23 Q Now, the first page of Exhibit 184 references an
24 attached letter, a copy of which is the second page to
25 that exhibit.

NON-CERTIFIED ROUGH DRAFT

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1 So I will direct your attention to the second
2 page of Exhibit 184. It's a letter dated January 8,
3 2010, to Mr. Castanares from Mr. Silva.

4 Do you recall ever having seen that letter

5 before?

6 A On the advice of my attorney, I assert my Fifth
7 Amendment privilege and respectfully decline to answer.

8 (Exhibit 185 was marked.)

9 BY MR. PRINDLE:

10 Q Next, sir, I will hand you what we've marked as
11 Exhibit 185.

12 Exhibit 185 is a one-page e-mail from
13 Ms. Mendoza to Mr. Castanares, Ms. Whittington, and
14 yourself, dated April 3, 2011, at 4:56 p.m.

15 I'll ask you, have you ever seen a copy of that
16 letter?

17 A On the advice my attorney, I assert my Fifth
18 five privilege and respectfully decline to answer.

19 (Exhibit 186 was marked.)

20 BY MR. PRINDLE:

21 Q Next, sir, I've handed you what we's marked as
22 Exhibit 186.

23 186 is a one-page e-mail from Mr. Castanares to
24 Ms. Mendoza, Ms. Whittington, and you, dated April 3,
25 2011, at 8:46 p.m.

NON-CERTIFIED ROUGH DRAFT

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1 And I'll ask you, have you ever seen a copy of
2 that e-mail before?

3 A On the advice of my attorney, I assert my Fifth
4 Amendment privilege and respectfully decline to answer.

5 (Exhibit 187 was marked.)

6 BY MR. PRINDLE:

7 Q Next I'm going to hand you what we marked as
8 187.

9 Exhibit 187 is a one-page document from -- it's
10 an e-mail from Mr. Castanares to Ms. Whittington and
11 copied to you. It's dated November 3, 2011, at 5:59 p.m.

12 I'll ask you, have you ever seen that document
13 before?

14 A On the advice of my attorney, I assert my Fifth
15 Amendment privilege and respectfully decline to answer.

16 (Exhibit 188 was marked.)

17 BY MR. PRINDLE:

18 Q Next, Mr. Paul, I'm going to hand you what we've
19 marked as 187.

20 187 is a copy of Defendant San Ysidro School
21 District's answer to Plaintiff's first amended complaint
22 for breach of contract and for specific performance.

23 (Discussion off the record.)

24 MR. PRINDLE: 188, excuse me.

25 BY MR. PRINDLE:

NON-CERTIFIED ROUGH DRAFT

18

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1 Q I'm going to hand you what we marked as 188, a
2 copy of the answer filed on behalf of San Ysidro School
3 District to the first amended complaint in this case.

4 Ask you if you've ever had an opportunity to see
5 that document before.

6 A On the advice of my attorney, I assert my Fifth
7 Amendment privilege and respectfully decline to answer.

8 MR. PRINDLE: why don't we take a short break.

9 THE VIDEOGRAPHER: Time off the record now is
10 2:48.

11 (Recess.)

12 THE VIDEOGRAPHER: Okay. we are back on the
13 record. Time is 2:51. You may proceed.

14 BY MR. PRINDLE:

15 Q Mr. Paul, are you still an employee of the
16 San Ysidro School District?

17 A On the advice of my attorney, I assert my Fifth
18 Amendment privilege and respectfully decline to answer.

19 Q Have you entered a contract with the San Ysidro
20 School District with respect to termination of your
21 position as superintendent of that district?

22 A On the advice of my attorney, I assert my Fifth
23 Amendment privilege and respectfully decline to answer.

24 Q What information, if any, do you have -- did you
25 have in 2011 concerning the finances of EcoBusiness

NON-CERTIFIED ROUGH DRAFT

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1 Alliance?

2 A On the advice of my attorney, I assert my Fifth
3 Amendment privilege and respectfully decline to answer.

4 Q Did Nick Inzunza ever tell you that it was his
5 understanding that EcoBusiness Alliance could not obtain
6 financing?

7 A On the advice of my attorney, I assert my Fifth
8 Amendment privilege and respectfully decline to answer.

9 Q Did you ever discuss the installation of a solar
10 power generation system with any other contractor?

11 A On the advice of my attorney, I assert my Fifth
12 Amendment privilege and respectfully decline to answer.

13 Q Did you discuss with representatives from -- did
14 you ever discuss with Gareth Maden anything that had to
15 do with the finances or financing available to
16 EcoBusiness Alliance?

17 A On the advice of my attorney, I assert my Fifth
18 Amendment privilege and respectfully decline to answer.

19 Q Do you have any information whatsoever as you
20 sit here today concerning the availability of financing
21 to EcoBusiness Alliance with respect to construction of
22 the solar power system for the San Ysidro School
23 District?

24 A On the advice of my attorney, I assert my Fifth
25 Amendment privilege and respectfully decline to answer.

NON-CERTIFIED ROUGH DRAFT

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1 Q It's true, is it not, that prior to the time you
2 made your recommendation to the board that the solar
3 power service agreement with EcoBusiness Alliance be
4 terminated that you had no staff report to support that
5 recommendation?

6 MR. ABED: Assumes facts that are not in

7 evidence and calls for speculation on those assumed.
8 It's argumentative as phrased.

9 A On the advice of my attorney, I assert my Fifth
10 Amendment privilege and respectfully decline to answer.

11 MR. PRINDLE: I don't think I have any further
12 questions. Well, wait. I have one question.

13 BY MR. PRINDLE:

14 Q It's been represented in pleadings filed with
15 the court on behalf of the San Ysidro School District
16 that you are the, quote, key witness, quote, with respect
17 to their position in this case.

18 what information do you have concerning any
19 breach of the solar power services agreement by
20 EcoBusiness Alliance?

21 MR. ABED: Argumentative as phrased.

22 A On the advice of my attorney, I assert my Fifth
23 Amendment privilege and respectfully decline to answer.

24 MR. PRINDLE: One minute.

25 THE VIDEOGRAPHER: Time off the record is 2:55.

NON-CERTIFIED ROUGH DRAFT

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1 (Recess.)

2 THE VIDEOGRAPHER: Here we are. Time back on
3 the record is 2:57. You may proceed.

4 BY MR. PRINDLE:

5 Q Have you ever met with a con -- with any
6 representatives from a construction firm by the name of
7 EcoPacific?

8 A On the advice of my attorney, I assert my Fifth
9 Amendment privilege and respectfully decline to answer.

10 Q Did you ever discuss with representatives from
11 EcoPacific the inclusion of a solar power generation
12 system in any schools that they were building for the
13 San Ysidro School District?

14 MR. ABED: Assumes facts not in evidence and
15 calls for speculation on those assumed facts.
16 Argumentative as phrased.

17 A On the advice of my attorney, I assert my Fifth
18 Amendment privilege and respectfully decline to answer.

19 BY MR. PRINDLE:

20 Q Do you have any plans to be out of the County of
21 San Diego during the month of July 2013?

22 A On the advice of my attorney, I assert my Fifth
23 Amendment privilege and respectfully decline to answer.

24 MR. PRINDLE: I have no further questions at
25 this time.

NON-CERTIFIED ROUGH DRAFT

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1 THE VIDEOGRAPHER: This ends the videotaped
2 deposition of Manuel Paul, Volume No. III, Media No. 1.
3 Today's date is Wednesday, April 17, 2013. Time is
4 3:00 o'clock. We are off the record.

5 (whereupon the deposition adjourned at
6 3:00 p.m.)

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Manuel Paul v3 rough.txt
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