

1 Thereupon,  
2 the following proceedings began at 9:04 a.m.:

3 THE COURT REPORTER: Would you please  
4 raise your right hand.

5 Do you swear or affirm the testimony you  
6 will give in this case will be the truth, the  
7 whole truth, and nothing but the truth?

8 THE WITNESS: I do.

9 Thereupon,

10 DAVID MARCUS,  
11 having been first duly sworn or affirmed, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. REGAN:

15 Q. Good morning. Could you please state your  
16 full name for the record, please?

17 A. David Marcus, M-a-r-c-u-s.

18 Q. And, Mr. Marcus, are you appearing today as  
19 the corporate representative for Deer Meadows  
20 Homeowners' Association?

21 A. I am.

22 Q. All right. Could you tell me briefly what's  
23 your employment background?

24 A. Currently I'm a field adjuster for Security  
25 First Insurance, working for an IA firm called

1 Pacesetter Claims.

2 Q. How long have you done that?

3 A. With Pacesetter, for three months.

4 Q. All right. What did you do before that?

5 A. IA claims for another -- Peoples Trust  
6 Insurance Company.

7 Q. And how long did you do that?

8 A. Three years, approximately. Just short of  
9 three.

10 Q. And where was that located?

11 A. I worked out of my house, but most of the  
12 claims tend to be in northeast Florida.

13 Q. Okay. And how about before Peoples Trust?

14 A. Well, through this time I actually work as a  
15 contract lawyer for Cella Lange & Cella, a firm out of  
16 Walnut Creek, California. I'm a current member of the  
17 California Bar.

18 Q. What's the name of the firm again, sir?

19 A. Cella Lange & Cella, C-e-l-l-a, L-a-n-g-e,  
20 and C-e-l-l-a.

21 Q. Okay. And how long have you been an  
22 attorney?

23 A. Thirty-seven years.

24 Q. All right. What kind of law did you  
25 practice?

1           A.    Transactional real estate for about half of  
2 that time and then criminal defense for the balance.

3           Q.    Certainly two different areas of law.

4           A.    Okay.  Are you still practicing law?

5           A.    Yes.

6           Q.    And how long have you lived in Florida?

7           A.    Just at three years.

8           Q.    Are you a member of the Florida Bar?

9           A.    I am not.

10          Q.    Have you ever had your deposition taken  
11 before?

12          A.    Yes.

13          Q.    How many times?

14          A.    I was trying to remember that.  I think  
15 four, but I'm not positive on that.  And it's been  
16 over that entire 30 some-odd year span.

17          Q.    I'm sure you've taken depositions as well?

18          A.    I have.

19          Q.    Okay.  What kind of depositions did you give  
20 testimony in?

21          A.    They were all civil.  And the two that I  
22 remember for sure were related to construction defect  
23 matters.

24          Q.    Were those matters in which you were a party  
25 or --

1           A.     One I was a party and one I was an expert  
2 witness, because I'm also a licensed general  
3 contractor in California.

4           Q.     And how long have you been a licensed  
5 general contractor?

6           A.     Since 1976.  So I'd have to do the -- 41  
7 years, I guess.

8           Q.     Okay.  All right.  What kind of construction  
9 work did you do?  Were you ever actually doing  
10 construction work?

11          A.     Single family stick build mostly.  Did some  
12 multi-family at one time, but that was mostly  
13 build-out stuff.

14          Q.     Okay.  Well, since you're an attorney,  
15 you've given depositions and taken depositions, I'm  
16 sure you know the protocol of how we'll proceed here  
17 today.  But I would ask -- and you're doing a great  
18 job so far of letting me finish my question before you  
19 answer so our court reporter can get everything down  
20 correctly.  Okay?

21          A.     All right.

22          Q.     And the association's attorney, Mr. Pickles  
23 here, may object to a question I have from time to  
24 time.  And if he does so, please let him get his  
25 objection on the record before you answer and then go