

REPORTER'S RECORD

VOLUME 1 OF 1 VOLUME

CAUSE NO. 4222-A

IN THE ESTATE

* IN THE DISTRICT COURT

*

OF

* STONEWALL COUNTY, TEXAS

*

IDA BALDWIN DENISON,
DECEASED

*

* 39TH JUDICIAL DISTRICT

HEARING

On the 21st day of May, 2002, the following
proceedings came to be heard in the above-entitled and
numbered cause before the Honorable Ira Hart, Senior
Judge, held in Aspermont, Stonewall County, Texas.

Proceedings reported by machine shorthand.

COPY

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P R O C E E D I N G S

MAY 21, 2003

(10:05 A.M.)

THE COURT: Let me say a few things and get them off my chest and then we'll get down to work.

You know, we're fixing to divide this estate. We're going to divide it half and half, split it right down the middle, and we may flip a coin as to who gets which half, I don't know. But there's two ways you can do it. Y'all can do it yourself or you can do it through the court system. It makes no difference to me which way you go. But you know, I want to have a clear conscience and look both of you in the face when we get all through here, so I've got a few things I want to say.

You know how these doctors operate now? They tell you all the downside before they start operating on you. There's about three downsides that you ought to realize. We are going to divide the estate half and half. And this trusteeship is probably not going to last very long. Texas law kind of frowns on one co-tenant being the trustee for another co-tenant, so the trusteeship may not last very long regardless of what happens to the case next week.

So you've got to realize that your mother's estate is going to be divided half and half whether you

1 like it or not and whether you like the half you get, and
2 there's two ways to do it. Y'all can do it or the Court
3 can do it. Now, it makes no difference to me. But if the
4 Court does it, it is going to be expensive. Today, I'm
5 going to start approving some applications for fees,
6 appoint these commissioners. Of course, the commissioners
7 have to be paid. Everybody has to be paid. It's going to
8 be a terribly expensive way to do it.

9 The second thing is, it is going to take time
10 and you can't -- you can't get impatient because if the
11 Court does it, it is going to take time. And you know,
12 all y'all have got is time. You and your lawyers can have
13 this thing out of the way and settled in the next 30 days
14 or you can go through the court system and it could drag
15 on two, three, maybe even four years. Some of them even
16 longer than that. So it's all up to you which way you
17 want to go.

18 And the third thing is, you've got to realize
19 that the estate is going to be divided and that the
20 trusteeship may not stand up much longer; and that one of
21 you is going to get half of it and the other is going to
22 get the other half of it. And you know, you have the
23 power to borrow money and buy each other out or divide it
24 up any way you want to. But if I appoint these trustees
25 or these commissioners, we are going to split it in two

1 equal parts and then give one of you one part and one the
2 other part. And the rest of your lives, you are not going
3 to be happy. You are going to feel like, well, I didn't
4 get what I should have got. But y'all got the opportunity
5 now to get what you want to get. If you don't, well, I'm
6 going to divide it half and half equally and flip a coin
7 as to who gets which half, which is kind of a cruel and
8 sad way to do it. Because as I say, the rest of your
9 life, you may think, "Well, I wish I'd got that place over
10 there. I was really counting on that." Well, you've got
11 the opportunity to do it now. But if you don't do it now,
12 well, we are going -- we are going to spend your money and
13 divide it half and half.

14 I've already talked to some people about
15 appointing some trustees and it is not a big job for the
16 trustees. It's very simple: Just divide this thing in
17 half without knowing who gets what. So you can't blame
18 the trustees. All they've got to do is divide it in two
19 equal parts. They don't have to say who gets what part
20 and they don't even know who is going to get what part.
21 But you got to realize that your mother's estate is going
22 to get divided. You've got to realize that one of you is
23 going to be in charge of one of it, and the other one, the
24 other part. And that's the way it is going to be. It's
25 kind of a cruel system, but I want you to know ahead of

1 time that that's the way it works.

2 Now, we are going to take a short recess
3 before we get down to work. Has everybody had a chance to
4 see the supplemental accounting yet? Did everybody get a
5 copy of the supplemental accounting? We'll take that up
6 when we come back and then we'll take up the application
7 for the fees. I don't have an application for the former
8 guardian yet, do I?

9 MR. ZACHARY: No, Your Honor. I believe that
10 was taken care of by that court order.

11 THE COURT: Okay. And let's see. Have
12 you -- Mr. Ware, have y'all fixed an order on the fine
13 that I imposed last time?

14 MR. ZACHARY: No. I -- I did that, Your
15 Honor. I fixed that up.

16 THE COURT: Did you send it to me?

17 MR. ZACHARY: No, sir. I've got that with
18 me.

19 THE COURT: Okay. All right. Well, let's
20 take about a ten-minute recess and then we'll get down to
21 work.

22 MR. ZACHARY: Okay.

23 (OFF THE RECORD: 10:03 A.M.)

24 (ON THE RECORD: 4:27 P.M.)

25 THE COURT: We were going to continue all of

1 these items, the seven items we had for today. One of
2 those items being the continuation of the temporary
3 injunction order, except Mr. Castro says there needs to be
4 one exception to that, and that is to go ahead and sell
5 these cattle as quick as possible.

6 Do you want to state your position on that,
7 Mr. Castro?

8 MR. CASTRO: Certainly, Your Honor. We have
9 an installment due of about \$68,000, I think, that's due
10 June the 10th. And the -- the cattle need to be sold in
11 order to pay that installment off. And it takes -- it
12 takes actually a minimum of two weeks to round up the
13 cattle and -- and get them in the pens and then get them
14 to -- to the market. So if we wait until June the 3rd
15 to -- to lift the stay with regard to the cattle -- I'm
16 certainly willing to wait on the other issues, Your Honor.

17 THE COURT: Let me ask you this. You're
18 talking about selling all the cattle, all of the estate's
19 cattle?

20 MR. CASTRO: My -- my proposition is to sell
21 all the cattle.

22 THE COURT: Okay. And any of the money that
23 does not go to make the bank payment will be held,
24 restrained? I'll continue the restraining order on -- in
25 other words, it will go to the bank or be held; is that

1 right?

2 MR. CASTRO: Yes, sir. That will be fine,
3 Judge. Whatever your order is.

4 THE COURT: Well, we are going to see
5 whatever we can agree to. What about that? Round up all
6 the cattle and sell them, the money will go to the bank or
7 not -- or it will be restrained.

8 MR. WARE: May we be heard?

9 THE COURT: Yes, sir. Well, yeah. That's
10 their proposition. I haven't ruled yet. I mean, I just
11 wanted to get it out for you to hear.

12 MR. WARE: Your Honor, we would agree to
13 selling the calves.

14 THE COURT: The what?

15 MR. WARE: The calves.

16 THE COURT: Just the calves, but not the
17 cows?

18 MR. WARE: Well, that's customarily the way
19 it is, is you sell the offspring to -- and that's what's
20 been done in the past, we think, to make the bank
21 payments. We would not agree to selling the -- the
22 breeding stock because that would get the ranch.

23 THE COURT: Oh, yeah. Well, yeah. Well, if
24 we are going to divide the ranch up, maybe it ought to be.
25 I don't know about that. But let me ask: the basic

1 question is, is there enough calves to pay the bank off?

2 MR. CASTRO: There's no way for us to know,
3 Your Honor, without rounding them up. And once they're
4 rounded up, we don't want to let them scatter again into
5 these nine sections or so and then have to round them up
6 again to sell at a later date. It is just more efficient
7 to go ahead and get them sold.

8 THE COURT: Well, if y'all want to talk about
9 it, we can take a little recess or whatever -- whatever.
10 You want to talk to your client about whatever you think?

11 MR. WARE: Well, we know what we need to do,
12 Your Honor, and that is under our proposal. The breeding
13 stock needs to be retained in order that -- even under our
14 proposal --

15 THE COURT: What do you want me to do about
16 this bank payment that's due the 10th?

17 MR. WARE: Well, Your Honor, our point is
18 John Denison ought to know how many calves are out on the
19 ranch. He's the ranch manager. And he is the executor of
20 the estate and he is the trustee for Bob Denison and the
21 other heirs. The problem is that the calves need to be
22 sold, the breeding stock doesn't. And in the past on the
23 other note payments that have been of equal value, that is
24 what has occurred, to our knowledge, under the
25 representations that John Denison has always made in this

1 court previously; that the calves are what are sold.

2 And --

3 THE COURT: Well, my question is, what if
4 that's not enough to pay the bank?

5 MR. WARE: Well --

6 THE COURT: That will suit me and I'll just
7 say, "Sell the calves," but then the boys will face the
8 consequences if that don't take care of the bank.

9 MR. WARE: Well, Mr. Castro, I think,
10 represents the bank, and I would assume that he could get
11 us a little --

12 THE COURT: Okay.

13 MR. WARE: -- time.

14 THE COURT: What about that?

15 MR. CASTRO: Your Honor, I don't represent
16 the bank in this case. The bank is not involved in this
17 case. And I honestly would like to stop the
18 finger-pointing in this case and saying that he should
19 know every calf that's out there is --

20 THE COURT: Well, he ought to know how many
21 mature cows there are out there.

22 MR. CASTRO: Yes, we know that. That's in
23 the accounting, Your Honor.

24 THE COURT: How many mature cows are out
25 there?

1 MR. CASTRO: It's in the accounting. About
2 112, I think, Your Honor.

3 THE COURT: So 112. So how many calves do
4 you think, 75?

5 MR. CASTRO: There's no way for us to know.

6 THE COURT: How much is the bank note?

7 MR. CASTRO: About 68,000.

8 MR. WARE: That's the payment installment.
9 That's the installment payment.

10 THE COURT: There couldn't possibly be enough
11 calves to make the payment. How much?

12 MR. CASTRO: About 68.

13 THE COURT: Thousand?

14 MR. CASTRO: Yes, sir.

15 THE COURT: There's not going to be enough
16 calves to do it. But if you -- if that's -- if that's
17 what y'all want, I'll just say sell the calves and not the
18 breeding stock and we'll just -- we'll have from the -- a
19 few more days there from the 3rd to the 10th to deal with
20 the bank. The thing is, it's a duplication of expense to
21 round up the calves now and then the breeding stock later
22 on --

23 MR. CASTRO: Yes, Your Honor.

24 THE COURT: -- when we get ready to divide
25 this thing up.

1 MR. WARE: At least that way, one could find
2 out how much -- how many calves there are.

3 THE COURT: Yeah.

4 MR. CASTRO: We are going to find out how
5 many calves there are when they're all rounded up, Your
6 Honor. It's just more efficient to sell everything.
7 There's enough debt to pay off, as you can see in the
8 accounting, that the cattle money is not going to go to
9 waste.

10 THE COURT: If we don't want the bank to end
11 up with everything, it seems to me the thing to do is to
12 sell all the livestock. We're getting desperate, you
13 know?

14 MR. WARE: Your Honor, if we sell the
15 livestock, then whoever ends up with the ranch part of
16 this ranch has to start over again --

17 THE COURT: That's right.

18 MR. WARE: -- and can't borrow again.

19 THE COURT: But they can't even start over if
20 we lose it all.

21 MR. WARE: But they can't anyway because they
22 can't borrow any more money. And under the proposal that
23 we've made, without going into detail --

24 THE COURT: I don't want the details of --

25 MR. WARE: -- of trying to settle this thing,

1 one or the other would keep the ranch part of the ranch
2 and necessarily, the breeding stock as well as the debt.
3 The debt needs to be serviced through the bank.

4 THE COURT: Sure.

5 MR. WARE: And if you keep the breeding
6 stock, you've got the rudiments, the beginnings of
7 starting the ranch over, albeit smaller than before.

8 THE COURT: Do you think that's worth the
9 chance of rounding up the stock twice? That's what it is
10 going to be. They're talking about rounding up by
11 helicopter twice now.

12 MR. WARE: Well, I don't know that -- about
13 the helicopter.

14 THE COURT: Well, they say this time of year,
15 there's too much brush and it's going to be a double
16 expense there if we -- in other words, we can round them
17 all up for the price -- it's going to be twice as much
18 as --

19 MR. WARE: Well, Your Honor, this isn't the
20 first June payment that's had to be met. And since this
21 note was signed by John Denison way back there, several
22 years ago, this is not the first June payment that's been
23 met. Now, whether they've used helicopters in the past or
24 not, I have no idea.

25 MR. CASTRO: It's the first one that has had

1 to be met under this injunction, Your Honor, and that's
2 the problem right now; that if we wait too long -- it may
3 be too long now, but if we wait too long, we may be in
4 default on the note, and I don't think it's worth the
5 risk. Besides, it's just going to save expense. If we
6 don't have any cattle to deal with, it is going to save
7 expense of maintaining the cattle.

8 THE COURT: When would you -- when would you
9 be rounding the cattle up? The bank payment is the 10th?

10 MR. CASTRO: Yes, Your Honor.

11 MR. WARE: I have -- my client has got a
12 suggestion.

13 THE COURT: All right. Try me.

14 MR. WARE: What is the number of the cattle?

15 THE COURT: 112.

16 MR. WARE: Is it 112 or 118?

17 MR. LEGGETT: There's 128.

18 MR. ZACHARY: 128.

19 MR. LEGGETT: 128 adult cattle.

20 MR. WARE: Thank you. Here's what we would
21 propose. That all of the cattle and the calves be rounded
22 up, inventoried, counted. My client would like to
23 actually be able to see them.

24 THE COURT: Well, sure. He's entitled to.

25 MR. WARE: And then my client tells me that

1 he would agree that all of them be sold, if necessary, to
2 offset the -- or to discharge the loan payment.

3 THE COURT: Well, I appreciate that. I
4 appreciate that. Isn't that what you want?

5 MR. CASTRO: Your Honor --

6 THE COURT: Do you have any objection to his
7 being there when the roundup --

8 MR. CASTRO: We do not have any objection to
9 his being there at all to inspect the cattle if he wants
10 to.

11 THE COURT: Sure.

12 MR. CASTRO: But once they're there, they all
13 need to be sold.

14 THE COURT: Now, we're getting somewhere.

15 All right. Now, let's see if we've got an agreement
16 there. As I understand, the proposition is the
17 restraining order continues in effect, except that all
18 cattle will be rounded up, that both brothers will be
19 there for the roundup, that everything will be counted,
20 the bulls and the mature cows, and they will all be sold;
21 is that right?

22 MR. WARE: If necessary.

23 MR. CASTRO: Your Honor --

24 MR. WARE: The -- the numbers will be sold in
25 order to meet the note payment. And obviously, any that

1 aren't sold need to remain.

2 THE COURT: Are these registered cows or
3 registered bulls or what?

4 MR. CASTRO: No, Your Honor.

5 THE COURT: The bulls are not registered?

6 MR. CASTRO: No, Your Honor.

7 THE COURT: Okay.

8 MR. CASTRO: I suggest that they all need to
9 be sold, Your Honor. I can't -- I -- I really can't
10 backtrack on that. I think they all need to be sold. If
11 they are going to be rounded up, they all need to be sold.
12 I think Mr. Zachary wants to be heard.

13 THE COURT: Well, we got -- what's the note
14 payment, 78,000?

15 MR. WARE: 68.

16 THE COURT: 68,000. I just don't see how
17 the -- you say you've got 75 calves. What will those cows
18 bring, 300? It doesn't look like to me you've got enough
19 cows to pay off the note unless you've got some awful good
20 cows. Do you think you've got enough livestock to make
21 the note payment?

22 MR. CASTRO: I think there's enough livestock
23 if we sell everything, Your Honor, yes.

24 THE COURT: What do you think?

25 MR. BOB DENISON: I haven't been able to see

1 them all.

2 THE COURT: Yeah. All right. Mr. Castro,
3 what arrangements are you going to make now to notify the
4 brother to be there?

5 MR. CASTRO: We'll notify Mr. Wear and let
6 him know when it is going to take place.

7 THE COURT: Okay. Is that fair enough then?

8 MR. WARE: Yes, sir.

9 MR. ZACHARY: Judge -- or could I ask one
10 question?

11 THE COURT: Yes.

12 MR. ZACHARY: What -- is there a -- is there
13 an ability to hold the cows for any period of time at all
14 once they're rounded up?

15 MR. CASTRO: You have to feed them then.

16 MR. ZACHARY: Yeah, I know.

17 THE COURT: Unless they've got some feed.

18 MR. ZACHARY: Yeah. But I mean, is there --
19 is there that ability to do that?

20 MR. WARE: For how long?

21 MR. CASTRO: Yes. There is an ability, but
22 it costs to feed them and to water them, yes.

23 MR. ZACHARY: All right. Here's what I'm
24 thinking, Judge, and this is, just again, simply just a
25 suggestion or a thought; that the cattle be rounded up and

1 try -- and that we -- assuming that we don't settle this
2 thing next Monday, that they be rounded up sometime
3 shortly thereafter, between then and the time of this
4 hearing, and I'm talking within a day or two of the
5 hearing, the June 3rd hearing. And at that time, then we
6 know -- we'll know how many calves are there, how many
7 cows are there. And -- and if this -- if the Court needs
8 to take up, you know, what we need to do at that point,
9 we'll have the cows out there and we can make a
10 determination then as far as what needs to be sold.

11 THE COURT: When is the sale day? What day
12 of the week?

13 MR. ZACHARY: Yeah. And I don't know if that
14 will work timing-wise or not. We're just --

15 MR. CASTRO: It won't work. The sale day is
16 the 8th.

17 THE COURT: 8th is the sale day?

18 MR. CASTRO: Saturday. Yes. It takes quite
19 a bit of manpower in getting them lined up.

20 THE COURT: The trucks and everything.

21 MR. CASTRO: Yes.

22 THE COURT: You don't have enough trucks to
23 haul them, do you?

24 MR. CASTRO: Oh, no.

25 THE COURT: Yeah.

1 MR. CASTRO: Arrange people on horseback.

2 MR. ZACHARY: Well, I mean, how long is that
3 going to take though to -- or how long will it take you to
4 get the cattle rounded up right now if y'all started
5 today? A week? Two weeks? Because we're talking --

6 MR. JOHN DENISON: Mark -- if we started
7 today, I have to check each man's schedule to find out if
8 he could go -- be there. So that's something that I can't
9 answer, but -- until I can check with them. I had a
10 little problem with that last year, getting everybody
11 together, actually putting ten people together.

12 MR. STANTON: How long -- once you contact
13 the guys, once you get you, yourself -- you and your
14 friends out there to help round up the cattle, how long
15 will it take to round them up?

16 MR. JOHN DENISON: We should have them all in
17 the pens, if we use the helicopter, which would be cheaper
18 than -- than -- less expense than gathering from for four
19 or five days. They can do that within a day or a day and
20 a half. They can actually get all the cattle in the lot.

21 THE COURT: What kind of cows are these?

22 MR. JOHN DENISON: They're tiger stripe.
23 Most are tiger stripe. I have some Brangus.

24 THE COURT: Will they bring \$500 a head?

25 MR. JOHN DENISON: Depends on who we sell

1 them. If they're breed -- if we've got breed cows, they
2 can go up even to six and a quarter up to seven depending
3 on the market that day. If they're -- if -- if we sold
4 them as pairs, if we've got a small calf on them, then you
5 don't -- we'll look pretty good with that. The bigger
6 calves, they're doing pretty good right now. They're
7 holding pretty steady, so they should bring pretty good.
8 You know, again, we -- we just need to look and see what
9 we've got.

10 THE COURT: All right. As I understand it,
11 y'all are agreeable to sell all the cattle, you be
12 present, right? And all the money will either be applied
13 on the note or held? Is that the agreement?

14 MR. STANTON: And John will be present where?
15 When they're rounded up, you mean?

16 THE COURT: Yes, sir, when they're
17 inventoried.

18 MR. STANTON: Yes.

19 MR. CASTRO: Yes.

20 THE COURT: Isn't that what you want?

21 MR. BOB DENISON: Yeah, but like John says,
22 there may be some that it may not be appropriate at this
23 time to go to sale with.

24 THE COURT: Well, now, that's where you and
25 Mr. Castro -- I mean, are we going to cut part of them

1 back or -- y'all want to cut enough back?

2 MR. BOB DENISON: I don't have the idea that
3 he has. I don't know -- I just don't know what those
4 cattle are going to bring, you know? If we are going to
5 have a lot --

6 MR. JOHN DENISON: Your Honor, I don't know
7 what appropriate meant, whether to go with them or not,
8 either we go with them or we don't.

9 THE COURT: Yeah. We've got to get it worked
10 out. Nobody knows what they're going to bring and nobody
11 knows how many to cut back.

12 MR. BOB DENISON: Until we see them.

13 THE COURT: Well, when we see them, we won't
14 know what they're going to bring.

15 MR. BOB DENISON: We'll have a pretty good
16 idea.

17 THE COURT: We know now there's about 200
18 head out there, don't we?

19 MR. BOB DENISON: Approximately.
20 Approximately.

21 MR. WARE: Well, we don't know that.

22 THE COURT: We don't know there's 200 head?

23 MR. WARE: (Moving head side to side)

24 THE COURT: Well, what do we -- do we have an
25 agreement or do you want me to come back tomorrow and

1 thrash it out or what? I thought at one time, the
2 agreement was that we round up all the cattle and
3 inventory them and sell them and apply it on the note or
4 hold the money. Now, is that --

5 MR. WARE: That's what I stood up and said at
6 the urging of my client. What he's concerned about, Your
7 Honor, is that some of these young ones may be -- I mean,
8 some of them may be real young. They're all going to be
9 different sizes. If the bulls have been turned out with
10 these cows all year long, they're all going to be
11 different sizes. And so that's what he meant when he said
12 some of those calves, it may not be appropriate to sell
13 right now.

14 THE COURT: Of course, you can go to the
15 auction and PO them, can you not?

16 MR. WARE: Yeah.

17 MR. CASTRO: The small calves, Your Honor,
18 the small calves are sold all the time with the mother
19 cows and that's what they call pairs.

20 THE COURT: Yeah, but the owner can PO them
21 at the auction.

22 MR. CASTRO: Well, sure. They're free to go
23 do that if they want to.

24 THE COURT: Well, no, they don't -- they
25 don't -- he doesn't have the authority to PO them. He has

1 the authority to go. Well, do we have an agreement there
2 or --

3 MR. WARE: Your Honor, my client says that he
4 will agree to go ahead and sell as many cattle as it takes
5 to pay off the note payment, the installment payment.

6 THE COURT: Well, I guess we'll have to come
7 back in the morning. I don't -- you can't work that way,
8 can you?

9 MR. CASTRO: Well, there's no way we can
10 know, Your Honor. As you well know, we can't know what
11 they're to sell for at the market.

12 MR. WARE: Maybe we're saying the same thing,
13 Isaac. I'm saying --

14 MR. CASTRO: It's not the same thing unless
15 you're saying that you will agree to sell them all because
16 that's what we're asking for.

17 THE COURT: He wants to sell them all and
18 he's agreeable to hold the money.

19 MR. WARE: Okay.

20 THE COURT: Okay. All right. Now, do you
21 want to be present when they're rounded up or at the
22 auction or where? When they're rounded up?

23 MR. BOB DENISON: When they're rounded up.

24 THE COURT: All right. And you and your
25 lawyer will have a right to be present or your cowboy or

1 whoever you want to be there. You'll notify his --
2 Mr. Ware.

3 MR. CASTRO: I will, Your Honor.

4 THE COURT: Then we'll round up all the
5 livestock and we'll have to pay the helicopter pilot out
6 of that and the truckers and the auction barns.

7 MR. CASTRO: Yes, Your Honor.

8 THE COURT: And apply -- so you can spend the
9 money to pay the bank, the helicopter pilot, and whatever
10 cowboys you have, and the truckers. The rest of the money
11 will be under the restraining order, if there's any left.
12 Is that agreeable now? Is that the way you understand it?

13 MR. WARE: That's right, Your Honor.

14 THE COURT: Okay. Can y'all agree to that?

15 MR. ZACHARY: Yes.

16 THE COURT: You agree?

17 MR. LEGGETT: Yes, Your Honor.

18 THE COURT: You agree?

19 MR. CASTRO: Yes, Your Honor.

20 THE COURT: All right. And you notify
21 Mr. Ware now so the brother can be there.

22 MR. CASTRO: I will, Your Honor.

23 THE COURT: Again, is there anything else we
24 need to do then before the 3rd?

25 MR. ZACHARY: Judge, I've got one other

1 matter. It involves the accounting -- the accounting
2 order that you entered last week. You asked me to prepare
3 an order on that.

4 THE COURT: Yeah.

5 MR. ZACHARY: And I've got an order. Now,
6 this morning, Isaac had presented to me a supplemental
7 accounting that appears to meet the requirements that you
8 had submitted.

9 THE COURT: Okay. So my \$500 a day is not
10 necessary?

11 MR. ZACHARY: That's right, but I do have an
12 order if the Court deems it appropriate to -- to sign an
13 order.

14 THE COURT: Well, the only -- y'all haven't
15 seen the order? We'll just wait until the 3rd to do that,
16 I guess.

17 MR. ZACHARY: Okay.

18 THE COURT: Just hold it in your file and
19 we'll take it up on the 3rd.

20 MR. WARE: What about the other order?

21 THE COURT: What?

22 MR. ZACHARY: That is the order.

23 THE COURT: Yeah. I appreciate you doing it.
24 You know, judges don't fix orders, they just talk. So I
25 appreciate your typing it up.

1 Anything else we need to do before the 3rd?
2 Let me say again, and I appreciate y'all making some
3 headway today. The court reporter and I have been glad to
4 be here. You know, everybody in this room is going to
5 hate to see y'all lose this place. And I hope when y'all
6 go to mediation, you'll use some common sense, because if
7 you don't, everything is going to go down the drain. So
8 just remember that this mediation may be your last hope.
9 So be reasonable with each other when you get there.

10 Court is adjourned. See you on the 3rd.

11 (COURT ADJOURNED AT 4:48 P.M.)
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1 STATE OF TEXAS)

2 COUNTY OF TAYLOR)

3

4 I, Tammy Harris, Certified Shorthand Reporter in
5 and for the State of Texas, do hereby certify that the
6 above and foregoing pages contain a true and correct
7 transcription of all portions of evidence and other
8 proceedings requested in writing by counsel for the
9 parties to be included in this volume of the Reporter's
10 Record, in the above-styled and numbered cause, all of
11 which occurred in open court or in chambers and were
12 reported by me.

13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the exhibits,
15 if any, admitted by the respective parties.

16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$265.40 and was
18 paid by Ms. Jackie Keenan.

19 WITNESS MY OFFICIAL HAND this the 9th day of
20 October, 2003.

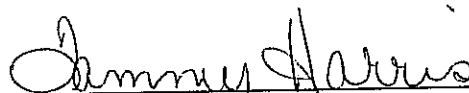
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