

BEFORE THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF
INVESTMENT DISPUTES

----- x
 In the Matter of Arbitration between: :
 :
 BRIDGESTONE LICENSING SERVICES, INC. :
 and BRIDGESTONE AMERICAS, INC., :
 :
 Claimants, :
 : Case No.
 and : ARB/16/34
 :
 REPUBLIC OF PANAMA, :
 :
 Respondent. :
 ----- x Volume 6

ORAL HEARING (via video conference)

Wednesday, August 28, 2019

The World Bank Group
Washington, D.C.

The video-conferenced hearing in the
above-entitled matter commenced before:

LORD NICHOLAS PHILLIPS, President of the
Tribunal

MR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator

MR. J. CHRISTOPHER THOMAS, QC, Co-Arbitrator

ALSO PRESENT:

On behalf of ICSID:

MS. CELESTE SALINAS
(in absence of Secretary of the Tribunal)

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C O N T E N T S

	PAGE
PRELIMINARY MATTERS.....	1346
WITNESSES:	
AMBASSADOR EMANUEL GONZALEZ-REVILLA	
Direct examination by Ms. Gehring Flores.....	1351
Cross-examination by Mr. Williams.....	1357
Redirect examination by Ms. Gehring Flores.....	1389
PROCEDURAL DISCUSSION.....	1394

P R O C E E D I N G S

(Start of audio file.)

1
2
3 MR. DEBEVOISE: Mr. President, this is Whitney
4 Debevoise of Arnold & Porter, speaking from Panama. I
5 believe we are ready on our end.

6 PRESIDENT PHILLIPS: Very well. Then let us
7 begin.

8 First of all, perhaps we can have everyone
9 identify themselves.

10 MR. DEBEVOISE: Would you like to hear from
11 Panama?

12 PRESIDENT PHILLIPS: Yes, you may begin.

13 MR. DEBEVOISE: Good afternoon, I guess it is
14 for you, Mr. President, and good morning to others.
15 This is Whitney Debevoise of Arnold & Porter speaking
16 from Panama, and here with me in the room I have the
17 Witness, former Ambassador to the U.S.
18 Gonzalez-Revilla.

19 (Overlapping speakers.)

20 PRESIDENT PHILLIPS: Yes, can we refer to him,
21 although he's recently retired, as Mr. Ambassador, just
22 to make life a bit easier? Is that all right?

1 MR. DEBEVOISE: I think that would be very
2 acceptable. Thank you, Mr. President.

3 PRESIDENT PHILLIPS: Good.

4 MR. DEBEVOISE: Also my partner, Gaela Gehring
5 Flores.

6 PRESIDENT PHILLIPS: Yes.

7 MR. DEBEVOISE: Also representing Panama here
8 today is Mr. Aristides Valdonado, from the Ministry of
9 Economy and Finance. And also here in the room with me
10 is Adolfo Ponté, from the technical team, our host
11 operator. I think he's not in the picture at the
12 moment, but he's been helping us with the technical
13 side. So that is who's here in the room in Panama here
14 today.

15 PRESIDENT PHILLIPS: Good.

16 (Overlapping speakers.)

17 MR. WILLIAMS: I am on my own, and I believe
18 that I have some colleagues who are in ICSID's room in
19 Washington, D.C. Probably it would be best for them to
20 introduce themselves.

21 PRESIDENT PHILLIPS: Thank you.

22 MS. HYMAN: Hello. This is Katie Hyman, and

1 with me we have Ms. Karol Kepchar, Mr. Stephen Kho, and
2 Ms. Adriana Ramírez.

3 PRESIDENT PHILLIPS: Thank you.

4 MS. SILBERMAN: And on the Respondent's side,
5 good morning to you, everyone, or good afternoon. This
6 is Mallory Silberman from Arnold & Porter, and I'm here
7 with my colleagues Katelyn Horne, Brian Vaca, and
8 Michael Rodríguez.

9 PRESIDENT PHILLIPS: Good. Well, does
10 somebody have a card with the appropriate Witness
11 Statement?

12 MS. GEHRING FLORES: We do, Mr. President. I
13 believe--I think we just wanted to check and see if
14 there are any matters of housekeeping that we wanted to
15 discuss before launching into the Witness's testimony.

16 PRESIDENT PHILLIPS: Yes, very well.

17 Has anyone any item of housekeeping to raise?

18 MR. WILLIAMS: Not on the Claimants' side.

19 PRESIDENT PHILLIPS: Thank you.

20 MS. SILBERMAN: For the Respondent,
21 Mr. President--and I apologize if I'm not looking at
22 the right screen--I will look in D.C. at Professor

1 Grigera Naón, but I just wanted to flag that yesterday,
2 in addition to the various document bundles that were
3 submitted, Panama also submitted a request for the
4 Tribunal's attention, basically that the Claimants
5 provide a brief summary of their merits claim.

6 Since we're all gathered here today, we would
7 be happy to discuss that. I'm not sure if the Tribunal
8 has yet had an opportunity to review that, or if the
9 Claimants have had a chance to react. But to the
10 extent that you have any questions, we would be happy
11 to answer them.

12 PRESIDENT PHILLIPS: Yes. Well, let's put
13 that on the back-burner and take it after we have taken
14 the evidence, shall we?

15 MS. SILBERMAN: Fine with us, Mr. President.

16 PRESIDENT PHILLIPS: Good.

17 MS. GEHRING FLORES: And, Mr. President, here
18 in Panama, I just wanted to note that we do have--we
19 did receive the electronic bundle from Claimants for
20 their cross-examination of the Ambassador yesterday. I
21 downloaded that electronic bundle of documents onto
22 this laptop that is to the Ambassador's right. That

1 laptop also has the direct examination bundle
2 downloaded onto it. And it also has a file with the
3 entire core bundle of the case, in case someone wants
4 the Ambassador to look at another document that's not
5 in either of those bundles.

6 I have turned the wi-fi off on that computer,
7 so that computer cannot receive any messages from the
8 outside, and I just wanted to note that for the record
9 and make sure that all attorneys are okay with this
10 set-up.

11 We also have a printout of the
12 cross-examination bundle and direct Bundle as well.

13 PRESIDENT PHILLIPS: Good. Well, it sounds as
14 though we're well-equipped.

15 MS. GEHRING FLORES: I believe we are.

16 PRESIDENT PHILLIPS: All right. Well, if
17 there are no other housekeeping matters, could the
18 witness please have the witness card.

19 Mr. Ambassador, would you please read--

20 (Overlapping speakers.)

21 THE WITNESS: I just read it?

22 MS. GEHRING FLORES: Yes.

1 AMBASSADOR EMANUEL GONZÁLEZ-REVILLA, RESPONDENT'S

2 WITNESS, CALLED

3 THE WITNESS: I solemnly declare upon my honor
4 and conscience that I shall speak the truth, the whole
5 truth, and nothing but the truth.

6 PRESIDENT PHILLIPS: Thank you very much.

7 THE WITNESS: Thank you, sir.

8 MS. GEHRING FLORES: Thank you, Mr. President.

9 Members of the Tribunal and counsel, I would
10 like to present Mr. Emanuel Gonzalez-Revilla, former
11 Ambassador of the Republic of Panama to the United
12 States.

13 DIRECT EXAMINATION

14 BY MS. GEHRING FLORES:

15 Q. Mr. Ambassador, I will begin by asking you a
16 few questions--

17 A. Sure.

18 Q. --after which opposing counsel will proceed
19 with their cross-examination.

20 You have been provided right now with a binder
21 that are the documents of the direct examination--

22 A. Yes.

1 Q. --which includes your witness statement and
2 the *ayuda memoria* which you referred to in your witness
3 statement.

4 You have also been provided with--or will be
5 provided with a binder of documents for the
6 cross-examination, and those printouts are here. As I
7 mentioned, we have these documents as well on the
8 laptop to your right in electronic form. We also have
9 access to other documents in the record, if someone
10 wishes to show you those.

11 Mr. Ambassador, you submitted the witness
12 statement that's in front of you in your binder. If
13 you want to turn to your witness statement that's dated
14 September 10, 2018.

15 A. Um-hmm.

16 Q. Do you recognize your signature on that
17 statement?

18 A. Yes, I do. That is my signature.

19 Q. And would you like to make any updates or
20 amendments to your statement?

21 A. Just that I'm no longer Ambassador to the U.S.
22 My post--I completed my post on July 1st, so I'm here

1 as a witness and private citizen.

2 Q. Could you please describe your background
3 prior to your appointment as Ambassador, in 2014, to
4 the United States.

5 A. Sure.

6 I come from the private sector. I am
7 basically involved in several ventures. I'm either
8 director or chairman or CEO of at least three public
9 companies. Of course, I took a leave of absence from
10 both of them when I went on my post. And I'm now back
11 on my--on the private sector side now. So the
12 industries that I am involved in are Telecom, energy,
13 in real estate, and several others.

14 Q. In your statement, you discussed the meeting
15 that you had with Bridgestone representatives on
16 March 13, 2015.

17 A. Mm-hmm.

18 Q. Do you understand how that meeting was
19 arranged?

20 A. I understand that there was a request from the
21 Embassy through our--the commercial department, and the
22 question was brought up during one of our staff

1 meetings and we decided to give a courtesy meeting.

2 Q. How did you prepare for the meeting?

3 A. They basically--the staff--briefed me before
4 on what they wanted in the meeting, which basically was
5 I understood that Bridgestone was not happy with the
6 Supreme Court. At the time we basically, you know,
7 knew there was nothing we could do but we decided to
8 give them the courtesy anyway. So, you know, for them
9 to be given a chance to be heard, basically.

10 Q. Before the meeting, did you review the
11 Decision with which Bridgestone was unhappy?

12 A. No, I didn't.

13 Q. Did you study the record in that case?

14 A. No, I didn't.

15 Q. Mr. Ambassador, what do you recall about the
16 meeting of March 13, 2015, with the Bridgestone
17 representatives?

18 A. When the meeting--the basic premise of the
19 meeting (unclear) you know (unclear). Also, we began
20 the meeting by introducing ourselves, which I believe
21 we did on both sides and then we started--they started
22 to talk about the issue at hand.

1 Q. During the meeting, did you state or imply
2 that the Supreme Court Judgment against Bridgestone was
3 procured through corruption?

4 A. Absolutely not. There is no way for me to
5 have actually known if there had been anything corrupt
6 in that ruling, as I did not know who actually the
7 judges were or what the issue was. And I told them--I
8 told them that we couldn't--you know, since it was a
9 Supreme Court ruling, and we are part of the Executive
10 Branch, there was nothing really to do about it, so...

11 Q. So, was corruption--do you recall if
12 corruption was raised at any time during that meeting?

13 A. It might have been--I mean not when it comes
14 specifically to the Supreme Court, but as a
15 template--or basically a pitch that we had, as
16 Ambassador coming in, we basically were actually
17 pushing the President's agenda, and one of the five
18 pillars of his agenda was actually fighting corruption,
19 but not necessarily tied to the Supreme Court. I mean,
20 we talked about, you know, the framework for foreign
21 investment in Panama, basic sanitation and treatment
22 for everyone. We talked about--for, you know, the

1 fight against corruption, especially in the light of
2 what information I found out about the former
3 administration, and I assumed all the pillars but it
4 was basically the pitch that we did at every single
5 meeting so--so I'm assuming that that's probably
6 when--where it came up.

7 Q. And I'm being told by--

8 A. If it did--if it did come up, but I--I don't
9 have a recollection of that specifically.

10 Q. I'm being told by my colleagues that are on
11 the video conference to--that the audio is a bit poor
12 or weak.

13 A. Okay.

14 Q. So, if you could speak up and also slow down.

15 A. Okay, but--sorry.

16 Q. No, you're fine. It's just the audio.

17 So, at the time of the March 13, 2015,
18 meeting, or now--

19 A. Um-hmm.

20 Q. --did you or do you have any knowledge of
21 corruption during the court proceeding against
22 Bridgestone in the Panamanian Supreme Court?

1 A. No, I don't, and I didn't.

2 Q. After the meeting was over--

3 A. Um-hmm.

4 Q. --what was your impression of Bridgestone's
5 purpose for calling the meeting?

6 A. We were actually--you know, we were laughing
7 about it afterwards because--well, they had come to
8 basically ask us to intervene in a ruling of the
9 Supreme Court--you know, Supreme Court--which is
10 basically completely unacceptable. So--so we knew--and
11 we knew what they wanted from the beginning, so--and we
12 basically told them we--there's nothing we can do, you
13 know, the judicial part is independent from the
14 executive branch. So, you know--and we wished them
15 good luck. We told them straight that there was
16 nothing we could do. You know, I don't understand how
17 they could think that we could actually meddle in a
18 Supreme Court ruling. So that was actually a little
19 odd but, you know, nothing out of the ordinary I would
20 say.

21 Q. Thank you, Mr. Ambassador. I have no further
22 questions.

1 A. And you're welcome.

2 CROSS-EXAMINATION

3 BY MR. WILLIAMS:

4 Q. Mr. Ambassador, my name is Justin Williams,
5 and I appear on behalf of the Claimants, and I have--

6 A. Hello.

7 Q. Hello.

8 --I have a few questions for you, but first
9 thank you for making the time to assist everyone in
10 this arbitration today.

11 And it's a point that the Respondent's counsel
12 made to you a moment ago, but again to repeat, the
13 audio, I'm afraid, is not very good. So, if you could
14 try to speak slowly and as loudly as you can, I'm sure
15 we would all appreciate it.

16 A. Okay.

17 Q. Thank you.

18 So, you, I think, indicated a moment ago,
19 then, that you served as Ambassador to the U.S. from, I
20 think, August 2014 to June--or the 1st of July 2019;
21 that's right, isn't it?

22 A. Yes, correct.

1 Q. And you were appointed as Ambassador by the
2 then-serving President Varela; is that right?

3 A. Yeah, that is correct.

4 Q. And am I right that in February 2019--so, this
5 year--President Varela also asked you to become a
6 director of the Panama Canal? Is that right?

7 A. Yes. I was nominated, and then I withdrew
8 the--my name from the nomination. Correct.

9 Q. And that's another important post, isn't it,
10 in Panama?

11 A. I guess, yes.

12 Q. And you're a friend and supporter of President
13 Varela, aren't you?

14 A. Yes, I am.

15 Q. Now, he was elected as President, I believe,
16 in May 2014; am I right?

17 A. Yes, I believe so.

18 Q. And am I right that you supported him in his
19 2014 presidential campaign? You were a supporter of
20 his.

21 A. I was--I don't know how you define
22 "supporter," but yes, yes, I was.

1 Q. And one of the key issues, I believe, in
2 President Varela's presidential campaign in 2014 was
3 transparency in government and through the State and
4 anticorruption; that's right, isn't it?

5 A. Yes. I just said that in a--in my previous
6 statement, yes.

7 Q. And the reason--
8 (Overlapping speakers.)

9 Q. And the reason why President Varela ran a
10 campaign which emphasized those two issues was because
11 he believed that the previous administration of
12 President Martinelli was corrupt; that's right, isn't
13 it?

14 A. You know, I cannot speak for himself, but I
15 would assume so, yes.

16 Q. And it's right, isn't it, that the President
17 before Martinelli--that is President TO-HE-HOFT
18 (phonetic)--I'm so sorry, Torrijos--

19 A. Torrijos.

20 Q. --had also been the subject of accusations of
21 corruption; that's right, isn't it?

22 A. I don't know specifically to which charges or

1 implications you are related to, but as I understand
2 it, he was never charged with anything, or anyone from
3 his government, so--so, you know, you know, I don't
4 know exactly what you're referring to.

5 Q. And President Varela--President Varela's
6 administration, when it took power in 2014, brought a
7 number of corruption investigations against former
8 government officials from the previous administration,
9 didn't it?

10 A. Yeah, yes, that's correct.

11 But, actually, it was not President Varela,
12 but it was the Ministerio Público of the--basically the
13 Attorney General's Office.

14 Q. Yes.

15 (Overlapping speakers 00:19:29)

16 Q. The Attorney General's Office of--

17 A. Yes.

18 Q. --serving un--within President Varela's
19 administration.

20 A. Correct. She was appointed--Kenia Porcell was
21 appointed for 10 years, but she does not serve directly
22 for Varela. She's completely independent.

1 Q. And the investigations that were commenced
2 then during the Varela Government included an
3 investigation into the former Supreme Court Justice
4 MON-KA-DOW; is that right?

5 A. Moncada Luna, you mean?

6 Q. Yes.

7 You must ap--I must apologize for my appalling
8 pronunciation of Spanish.

9 (Laughter.)

10 A. No worries.

11 Q. You--I have no excuse other than--all I can do
12 is apologize, so your pronunciation is of course
13 correct--

14 (Overlapping speakers.)

15 Q. --and mine is wrong.

16 A. So, going back to your question, of course, it
17 was a very public--it was a very public investigation.
18 However, bear in mind that the investigation was
19 basically--the body in charge of the investigation of a
20 Supreme Court Justice is the National Assembly,
21 basically Congress, so that was actually not undertaken
22 by the administration of Varela, but by the Congress,

1 which again is also an independent branch of
2 government.

3 Q. And I believe that there was also--

4 A. Again, to remind you also--and I would like to
5 explain also that the assembly at the time was actually
6 the--the governing party had a minority in the
7 assembly, so it was not--it was not even friendly you
8 could say towards--towards the government at the time.

9 Q. And actually--

10 MS. GEHRING FLORES: Mr. Williams, just one
11 moment.

12 And, Mr. President, I just wonder what of
13 these questions are actually within the scope in
14 accordance with Section 19.8.5 of Procedural Order
15 Number 1, which of these questions are within the scope
16 of this witness's witness statement? This Witness did
17 not testify to any of these matters in his witness
18 statement. The Procedural Order is quite clear in
19 stating that the scope of cross-examination "shall be
20 limited to the issues addressed by the witness or
21 expert in his or her direct testimony or report and/or
22 impeachment of the witness, unless for good cause

1 shown, the Tribunal agrees to a broader
2 cross-examination."

3 I've allowed numerous questions on these
4 topics thus far, but the Ambassador did not testify to
5 any of this in his statement, and I believe the inquiry
6 is inappropriate.

7 MR. WILLIAMS: Well, all I would--

8 PRESIDENT PHILLIPS: Mr. Williams?

9 MR. WILLIAMS: Yeah, sorry.

10 PRESIDENT PHILLIPS: No, no, no, what's your
11 response to that?

12 MR. WILLIAMS: My response is twofold:
13 Number 1, that these questions are simply directed to
14 the context in which the meeting in March 2014--sorry,
15 2015, occurred, Number 1; and, Number 2, I only have
16 one more question before turning to the meeting itself.

17 PRESIDENT PHILLIPS: Ask it.

18 BY MR. WILLIAMS:

19 Q. And that other question is this,
20 Mr. Ambassador, which is that I believe that there was
21 also an investigation into another former Supreme Court
22 Justice, Benavides; is that correct?

1 A. I think that--I don't know if actual
2 investigation was started. As I understand it, and this
3 is just basically from the media, is there was some
4 charges that he was a pedophile, and he basically
5 resigned before--before any investigation could begin.
6 And then, of course, the case--that turned over when he
7 became a private citizen, the case was turned over to
8 the Attorney General's Office, and they couldn't find
9 enough evidence to charge him with anything. So, after
10 the fact, you stating that an actual investigation took
11 place, I don't think that's actually correct.

12 Q. I think we can agree that the investigation,
13 such as it was, ended when he resigned as a Supreme
14 Court Judge.

15 A. I--I mean, I don't have any proof an actual
16 investigation had started, so I don't know how you
17 can--you know, how can you actually assure that that's
18 a fact, so I'm just--I'm just saying what I know to be
19 correct.

20 Q. Understood. Thank you.

21 Okay. Well, as promised, let me turn, then,
22 to the meeting with Bridgestone in 2015, and apologies

1 if I'm going over ground that you covered earlier with
2 Respondent's counsel. I'm afraid I didn't hear very
3 well your answers, so I do apologize if you're having
4 to repeat yourself.

5 To start, then, the meeting was first
6 requested by Akin Gump on behalf of Bridgestone on
7 23 December 2014, and you'll see the e-mail in the
8 bundle that you have in front of you. It should be
9 at--if you go to the hard-copy bundle--that may be
10 easiest; I don't know--and that is--

11 A. Which tab?

12 Q. That is at Tab 11.

13 A. Um-hmm.

14 Q. And you should--it should be a document marked
15 at the top right R-0032. And--

16 A. Um-hmm.

17 Q. --if you turn to the second page of that
18 document, it has the e-mail sent on 23 December 2014.

19 A. Um-hmm.

20 Q. And you'll see there that that is an e-mail
21 from Mr. McNamara [*sic*, Ms.] from Akin Gump to Roy
22 Galan to the Embassy, the Panamanian Embassy. And in

1 the first paragraph, second sentence, Mr. McNamara
2 [*sic*, Ms.] says: "We are writing on behalf of our
3 client to request a meeting with Ambassador
4 Gonzalez-Revilla regarding a trademark issue that
5 Bridgestone is facing in Panama."

6 Do you see that?

7 A. Um-hmm--yeah, I do.

8 Q. And it looks as if there was no response to
9 that e-mail, and so if you could go to the beginning of
10 that tab, the first e-mail in that chain, which is a
11 follow-up e-mail from--

12 A. Um-hmm.

13 Q. Do you see that? It's an e-mail from
14 Mr. Lightfoot.

15 A. Yes, on January 12th.

16 Q. And Mr. Lightfoot is from a consultancy firm
17 called "Jones Group International," and Mr. Lightfoot
18 was e-mailing Juan Heilbron, and--

19 A. Um-hmm.

20 Q. --and he was essentially saying that he would
21 be grateful if a meeting with yourself could be
22 arranged with a few partners from Akin Gump to discuss

1 a commercial matter relating to Bridgestone/Firestone.

2 You see that in the first paragraph.

3 A. Yes, correct.

4 Q. And Mr. Heilbron was--am I right?--he was the
5 Embassy's commercial attaché.

6 A. Correct.

7 Q. And did you--

8 A. That's correct.

9 Q. Did you see either of those e-mails at the
10 time in 2014-2015?

11 A. No, I did not.

12 Q. And could you turn, then, to Tab 12 in the
13 same bundle, which is the next tab, and this is a note
14 headed "Factual Background," and it was attached to
15 Mr. Lightfoot's e-mail, the one that we were looking at
16 a moment ago, and it sets out some of the factual
17 background to the request for a meeting with yourself.

18 A. Um-hmm.

19 Q. And you'll see there on the first page,
20 fourth paragraph, where they--the central point, I
21 believe, was this: They say: "We believe that the
22 Supreme Court's ruling is based on factual

1 mischaracterizations and a misapplication of Panamanian
2 law, in particular the Decision penalizes Bridgestone
3 simply for utilizing mechanisms provided under
4 Panamanian law for challenging potential trademark
5 infringements."

6 Do you see that?

7 A. Yes.

8 Q. And again, you had not seen that note in 2015;
9 is that right?

10 A. No, I did not, sir.

11 You have to understand that, first of all, I
12 have to clarify something, that the e-mail that was
13 sent to Roy Galan on December twenty--what was
14 it?--the 23rd, did not have a response because Mr. Roy
15 Galan no longer worked at the Embassy, so Juan Carlos
16 Heilbron actually replaced Roy Galan as Commercial
17 Attaché.

18 And then, secondly, I think you need to
19 understand where we were at those times, which was
20 basically we were three weeks before the Summit of the
21 Americas being held here in Panama, and basically a
22 hundred percent of our time was basically at that time

1 being dedicated to make sure that the summit was
2 successful. So, you know, I did not read those e-mails
3 for the factual background that you mentioned just
4 because I was basically given a brief, you know a
5 normal brief from my staff on what the situation was.

6 Q. So, before the meeting occurred on 13 March,
7 you were given an oral briefing by your staff.

8 A. Which is basically what we do on a weekly
9 basis. We basically had a staff meeting--have a staff
10 meeting--or had a staff meeting on Mondays, and we
11 covered all the pending issues and meeting requests and
12 so forth, and at that time when he brought up this
13 meeting, and we said "sure, let's give them the
14 meeting." But he explained, you know, briefly what the
15 case was. They were like, you know, "There is nothing
16 we can do, but we'll meet them. We'll meet with them."

17 So, you know, there was really no point in me
18 actually going and reviewing all the documentation
19 because again there's nothing we can do when it relates
20 to the Supreme Court.

21 Q. And in that briefing, when it was explained to
22 you what the case was in Panama, it was explained to

1 you, I assume, that Bridgestone's concern was that this
2 decision would penalize Bridgestone simply for
3 utilizing mechanisms provided under Panamanian law for
4 challenging potential trademark infringements; is that
5 right?

6 A. I--I don't think that we covered that. We
7 basically covered the fact that they were not happy
8 with the ruling from the Supreme Court, and they wanted
9 to talk to us about it. And basically what we did
10 discuss at that meeting for sure was that what--you
11 know, there's really nothing we could do to actually
12 change a ruling from the Supreme Court. So, you know,
13 Juan Carlos Heilbron is not a lawyer either, so I don't
14 think we got into what the claims were and so forth,
15 and just the fact that we knew that there's nothing we
16 could do.

17 And again, you know, we were trying to promote
18 investment. Bridgestone--you know, it's a very large
19 company, and we wanted them to feel that they were
20 being heard. But other than that, there is not more
21 than--you know, a whole lot more that we could do.

22 Q. And you've explained that the first e-mail,

1 the 23 December e-mail, probably was never received
2 because Mr. Galan had left at that time and, therefore,
3 there was no one reading that e-mail account and,
4 therefore, I think you're saying that probably the
5 first time anyone in the Embassy was aware of this
6 request was from the 12 January 2015 e-mail--

7 A. Yes, correct, correct.

8 Q. And I'm right, aren't I, that at the beginning
9 of February 2015, former President Martinelli was
10 charged with corruption and that there was an
11 investigation that was commenced by the Supreme Court
12 and, therefore, that was something you were aware of at
13 the time, I assume?

14 A. I don't remember exactly what the dates were,
15 but yes, there was a process of--that
16 started--investigations started against Martinelli at
17 the Supreme Court level because he could not be judged
18 by--or investigated by regular channels, since at the
19 time he was--he had parliamentary immunity because he
20 was a member of PARLACEN, which is basically a Central
21 American Congress--as I recall, yes.

22 Q. And it was also at that time, in

1 February 2015, that the former President of the Supreme
2 Court pleaded guilty to the criminal charges of
3 corruption that we were looking at earlier, and you'll
4 find that--it's on the record--it's at Tab 10, there is
5 a press report from Reuters about him pleading guilty
6 to charges of corruption.

7 Were you aware of that at the time in
8 February 2015?

9 A. Yeah, I mean, this is at the end of February,
10 as it says here, February 23rd, so this was a very
11 public case. Of course, that was the first time that a
12 Supreme Court justice has ever been charged and
13 convicted of any crimes in Panama. So yes, it was a
14 very big deal, and it was very public.

15 And he was--yes.

16 Q. And it was only a few days later, so that
17 report of the conviction came through on--or the
18 Reuters report we looked at was 23 February; and then
19 on 3 March 2015, Mr. Heilbron from the Embassy then
20 responded to Mr. Lightfoot's request for a meeting, and
21 you'll find that at Tab 5 of the bundle. And
22 Mr. Heilbron's e-mail to Mr. Lightfoot says: "Thanks

1 for reaching out, and I apologize for the very delayed
2 response. Ambassador Gonzalez-Revilla would be able to
3 sit down with some of the partners from Akin Gump to
4 discuss the matters pertaining to the
5 Bridgestone/Firestone case."

6 And then he says: "Please let me know if they
7 would still be willing to meet and what dates would
8 work for them."

9 A. Um-hmm.

10 Q. It looks, then, as if it was you who took the
11 decision to accept the request for the meeting; would
12 that be right?

13 A. I mean, every meeting that I had--they're
14 meeting with me, of course, I had to agree to meet, but
15 I--it was them who brought up during the staff meeting
16 as, you know, so of course, you know, they're not
17 telling me, you know, my staff will not be setting
18 meetings up unless actually I agreed to meet with the
19 individual or individuals, so yes, I--I was the one
20 that accepted the meeting.

21 Q. And so your agreement, then, to have the
22 meeting was made just a few days after the guilty plea

1 by the President of the Supreme Court, and less than a
2 month after President Martinelli was charged, so that
3 was the context in which you agreed to go ahead with
4 the Bridgestone meeting; that's right, isn't it?

5 A. I mean, I don't know about the date, but, you
6 know, those things had nothing to do with me accepting
7 the meeting.

8 You know, I don't know where you're going with
9 this, but I did not--if you're saying that I'm saying
10 that I took the meeting or accepted the meeting because
11 of what I read in the papers and what the rulings were,
12 that is not correct. So, it had nothing to do with
13 accepting the meeting. As far as I recall, it had
14 nothing to do with any--with Moncada or anybody else.
15 It had to do with basically giving Bridgestone a chance
16 to say what it had to say. And that's it.

17 So, you know, I don't think that you can
18 assume that because of the dates of it's happening, you
19 know, we actually decided to give a meeting to
20 Bridgestone; so no, that is not correct, sir.

21 Q. Now, the meeting with Bridgestone was held on
22 the 13th of March. That was held at the Embassy;

1 right?

2 A. Yes, correct.

3 Q. And it was attended, I believe, on the Panama
4 side by yourself and the Deputy Chief of Mission, Karla
5 Gonzalez, and the Commercial Attaché, Mr. Heilbron. So
6 this was a reasonably senior group of individuals from
7 the Embassy; that's right, isn't it?

8 A. It was Karla--Karla was the DCM at the time
9 and commercial counselor. She was batting for both,
10 and then Juan Carlos Heilbron, who I believe, had only
11 been with the Embassy for maybe three months or two
12 months or something like that, so...

13 Q. But --

14 (Overlapping speakers.)

15 A. But it was standard for us to meet when we met
16 with a foreign--you know, a large multinational
17 corporation to have that kind of staff level at those
18 meetings, so there was nothing unusual about that.

19 Q. But they were--I'm right, aren't I, that, you
20 know, this is a reasonably senior group of people. It
21 was yourself as the Ambassador and then the Deputy
22 Chief of Mission and the Commercial Attaché. I mean,

1 those are people of seniority--

2 A. When you have nine people on your staff and
3 pretty much everyone that goes to the meetings are
4 senior people in--you know, we don't have--we're not
5 like the U.K. Embassy or the U.S. Embassy that have
6 300,000 people in our embassies. I had--at the time, I
7 think I had a staff of nine. We were completely
8 understaffed.

9 So I don't know what you are implying with
10 that, but--you know, but that was standard. I mean,
11 every time a major corporation came, my Commercial
12 Attaché and my DCM came. And even--you know, to all
13 meetings because that's the staff we had. I didn't
14 have any other staff that I would say who could come to
15 those meetings--you know, lower-level staff, if you
16 will, because, for example, Juan Carlos Heilbron didn't
17 have anyone reporting to him, so--so, again, you know,
18 I don't know what you mean by "senior people,"
19 specifically when, you know, it's not like we had a
20 whole ton of people that we could, you know, bring into
21 the meeting, so...

22 Q. And the attendees at the meeting on the

1 Bridgestone side were Mr. Steven Akey of Bridgestone
2 America, Mr. Lightfoot from the Jones Group, Steve Kho,
3 and Charlie Johnson from Akin Gump; that's correct,
4 isn't it?

5 A. I would assume so. I mean, I wouldn't
6 remember who attended the meeting. I know there were
7 representatives from Bridgestone. I didn't remember
8 that there were even lawyers at the meeting. But, you
9 know, going back to documents that I've been shown and
10 then looking at the aide memoire, that those are the
11 names that are--you know, some of the names that are
12 there, so I would assume yes. But I couldn't tell you,
13 you know, one way or another who exactly was at that
14 meeting.

15 Q. Do you remember--

16 A. Except for my staff--

17 (Overlapping speakers 00:40:31)

18 Q. Do you even remember how many people were at
19 the meeting?

20 A. From our side, three; and from Bridgestone, I
21 believe there were three or four. But I don't remember
22 specifically the number of people in that meeting.

1 I mean, it was a very brief meeting of, you
2 know, thousands of meetings that I had. So, you know,
3 I don't recall the exact amount of people that go to
4 every single meeting. So I cannot tell you exactly how
5 many people went.

6 Q. And if we turn, then, to Tab 13 of the
7 bundle--

8 A. Tab--which number, sir?

9 Q. 13, one-three, please.

10 And that should be referenced R-0035, and you
11 should have--

12 A. Okay, yeah I have it.

13 (Overlapping speakers 00:41:28)

14 Q. --I believe--

15 A. Yes.

16 Q. --an English translation, and then underneath
17 it, the Spanish language original.

18 Do you have that?

19 A. Yes, I do.

20 Q. And this note was prepared--well, do you
21 remember who prepared this note?

22 A. I would assume that it was Juan Carlos

1 Heilbron because he was the lower--the less senior
2 person at the--at the--I believe, Embassy from our
3 side, so I would assume it was Juan Carlos Heilbron.

4 And then he probably reviewed it with Karla,
5 who was the DCM.

6 Q. And the note includes a reference on the top
7 right.

8 Do you see that?

9 It says "AM 15031."

10 Do you see that?

11 A. Yes.

12 Q. And I'm assuming that what that stands for is
13 "AM" stands for "Ayuda Memoria."

14 A. Um-hmm.

15 Q. And I expect "15" is the year; is that--

16 A. Yes.

17 Q. --would that be right?

18 And then 031, I'm assuming, indicates that
19 this is the 31st ayuda memoria of 2015.

20 Would that be right?

21 A. Yes--probably, yes, yes.

22 Q. So, this would be a formal record, then, of

1 the Embassy.

2 A. This is basically a standard way of proceeding
3 where every time after a meeting, you know, we would do
4 a--basically a small, you know, brief aide mémoire of
5 the meeting to put in a file for future reference in
6 case we needed it.

7 Q. But the fact that it's given a specific number
8 would suggest that it is a formal document. It's not
9 an informal record. It's a formal record; would that
10 be correct?

11 A. It goes in the file, of course.

12 Q. I'm sorry, I didn't hear that. I'm sorry.

13 A. I said yes, I mean we include it with every
14 single aide mémoire. It goes--you know, we number it,
15 and then it goes into a part of the specific meeting.

16 Q. And the note does not mention that Mr. Akey
17 attended the meeting, does it? Do you see that? In
18 terms of the attendees there, it does not mention
19 Mr. Akey.

20 A. Um-hmm.

21 Q. But we know that Mr. Akey was there, and
22 Mr. Akey has produced a witness statement that I'm sure

1 that you've read, which is at Tab 2 of the Bundle. You
2 may not need to turn to it, if you've read it recently.

3 A. Yeah, I can go there.

4 Q. But you can see at Tab 2 that Mr. Akey has
5 produced a witness statement, and he has set out there
6 his recollection of what happened at the meeting, but
7 you'll see that the aide mémoire does not mention
8 Mr. Akey being there.

9 Do you see that?

10 A. Yes, I do.

11 Q. And the note also does not mention that
12 Mr. Johnson attended, Mr. Charlie Johnson from Akin
13 Gump. It doesn't mention that either, does it?

14 (Pause.)

15 Do you agree that the note, the aide mémoire,
16 does not mention that Charlie Johnson was an attendee
17 at that meeting?

18 A. Yes. I don't see his name here either, yes.

19 Q. And do you see at the end of the list of
20 attendees it also says that Mr. McNamara [*sic*, Ms.]
21 from Akin Gump did attend that meeting?

22 Do you see that?

1 A. Yes, I do.

2 Q. But--but the--the Witness Statements from the
3 other attendees, Mr. Akey and Mr. Lightfoot, which are
4 at Tabs 2 and 3 of your bundle, confirm that he [*sic*,
5 she] did not attend this meeting; that's right, isn't
6 it?

7 A. I guess, yes.

8 Q. So, it's fair to say that this note is
9 inaccurate, isn't it?

10 A. It's inaccurate to the point of the attendees.
11 Again, you know, we had several meetings where people
12 don't bring business cards or people don't recollect.
13 I don't know exactly why their names are not here. I
14 understand that Yujin McNamara had been corresponding
15 with Juan Carlos directly, so maybe that's why he got
16 confused. But to the effect of what's stated on the
17 core and the main issue of what was discussed in the
18 meeting, the aide mémoire is completely accurate.

19 Q. You said earlier during the questions you were
20 asked by counsel for the Respondent, you said that--you
21 said you were unclear whether the question of
22 corruption came up at all but that if it did come up,

1 then it would have been a discussion of corruption from
2 the previous regime. That's effectively what you said
3 to counsel for the Respondents a little while ago,
4 isn't it?

5 A. That's not what I said. What I said it was if
6 the issue of corruption had come up, it would have come
7 up in the basically template pitch that we were
8 basically giving about the new administration, and
9 basically, as it pertained to the five pillars of the
10 Varela administration going forward; and that's
11 something that we repeated to Congress, that we
12 repeated with private-sector meetings, et cetera, et
13 cetera, et cetera. So that's what I'm saying, that
14 that was basically the boilerplate pitch that we would
15 give.

16 So maybe it would have come up. If it did
17 come up, I have no recollection of that. It would have
18 been under those--under that circumstance, but I don't
19 recall that corruption being brought up in the meeting.

20 Q. So, you have no recollection whether
21 corruption was or was not brought up.

22 A. Not specifically, no.

1 Q. And if you could turn, then, please, to
2 Mr. Akey's witness statement--and you will find
3 that--we looked at it before--it's at Tab 2.

4 A. Tab 2?

5 Q. Tab 2. And paragraph 8.

6 A. Um-hmm.

7 Q. And at paragraph 8, Mr. Akey sets out what he
8 recalls was said at the meeting, at paragraph 8. He
9 says: "However, I could see that the Ambassador had
10 been well briefed and already knew about the case. He
11 interrupted Steve"--and "Steve" is Mr. Kho, who had
12 been providing a summary of the issues in the Supreme
13 Court case. So, Mr. Akey says: "He interrupted Steve
14 after only a short time, since, so it appeared, he did
15 not need to hear any more because he knew the facts
16 already. The Ambassador said that the Supreme Court
17 Judgment was the result of corruption. The specific
18 words he used were 'You know what this is; right? It's
19 corruption.'"

20 Now, we've looked at the context of this
21 meeting, and you, yourself, said that it was a big deal
22 that the former President then was subject to

1 investigation for corruption, that the former--a former
2 justice of the Panamanian Supreme Court for the first
3 time ever then had pleaded guilty to corruption. You
4 mentioned that you were a supporter of President Varela
5 who was concerned and had been elected on a platform to
6 address what was said to be corruption from the
7 previous regime.

8 So, in light of that and in light of what
9 Mr. Kho said, it's not surprising that your immediate
10 reaction would have been, "Well, this sounds like
11 corruption." That's what--

12 (Overlapping speakers 00:50:09)

13 A. No, I did not say that, sir. I did not say
14 that. How would I be able to say that if I didn't even
15 know the specifics of the case or who the judges were
16 in the specific case?

17 I mean, you know, I don't know how you can
18 basically without even knowing me say that it is
19 expected that I would have said that. I mean, I
20 really--I really don't know--I believe that's not what
21 happened, and I would have never said that--ever.

22 Q. But you don't need to know the specific names

1 of the parties, and you don't need to know the names of
2 the judges in order for it to be possible to form the
3 view that a judgment makes no sense and must have been
4 the result of corruption; that's right, isn't it?

5 A. For me to know that a judgment makes no sense,
6 I would have to know the specifics of actually the
7 case, the actual case, which I didn't. So, I'm sorry,
8 but I--I--I did not have enough information at the time
9 or even today to be able to be able to assert that the
10 ruling was corrupted, so--

11 Q. So--

12 (Overlapping speakers.)

13 A. --I don't think it's fair to say that because
14 of what happened at the time, you know I blurted out
15 these things that I didn't, but I--

16 Q. Mr. Kho--

17 (Overlapping speakers.)

18 A. I didn't have--

19 Q. --in the meeting--

20 (Overlapping speakers.)

21 Q. Mr. Kho, in the meeting, had
22 explained--provided an overview of Bridgestone's

1 concern, hadn't he? I mean, that was the point of the
2 meeting--

3 A. I don't remember exactly what Mr. Kho said,
4 sir. What I remember--basically, what I do remember is
5 they were upset about the specific ruling from the
6 Supreme Court, and they wanted us to basically get
7 involved in meddling with the Supreme Court Judgment
8 when we told them we could not do that, so that to me
9 specifically was very surprising.

10 So, you know, this--I don't know--I don't know
11 if they thought that Panama would work that way. To
12 me, that's shocking, if you ask me. Again, you know,
13 the rulings of the Supreme Court are final.

14 As I understand, they were never--there hadn't
15 been any order of investigations or claims or anything
16 against any other Supreme Court Justice, so I don't
17 think you can assert that because Moncada Luna was
18 convicted of corruption, you know, the whole judicial
19 system is corrupt.

20 So, again, it has nothing to do with that. As
21 I told you before, we were very busy with the Summit of
22 the Americas. Bridgestone was an important company,

1 and we just wanted to give them a chance to basically
2 say what they had to say, and so they didn't feel that
3 we were basically brushing them off.

4 So, we did the meeting, and they expressed
5 their concerns, and we immediately told them there was
6 nothing we could do about it, and that was the end of
7 it. We never heard back from them. I don't believe we
8 communicated with them afterwards. I don't believe
9 they communicated with us after that, so that was the
10 end of the meeting because I think they thought that
11 the fact that there was nothing we could do nothing
12 about it, and we told them, and it's in the aide
13 mémoire.

14 Q. Mr. President, I have no further questions.

15 PRESIDENT PHILLIPS: Thank you.

16 Any re-examination?

17 MS. GEHRING FLORES: Yes.

18 REDIRECT EXAMINATION

19 BY MS. GEHRING FLORES:

20 Q. Just briefly, Mr. Ambassador, if you could
21 turn to Tab 11--

22 A. Um-hmm.

1 Q. --in your cross binders--

2 A. Um-hmm.

3 Q. --if anything, it's a clarification because I
4 believe that counsel for Bridgestone stated on Page 2
5 the e-mail that's dated, so if you look at Page 2 of
6 that document--

7 A. Um-hmm.

8 MS. GEHRING FLORES: And, sorry, for the
9 record, this is Exhibit R-32.

10 BY MS. GEHRING FLORES:

11 Q. On Page 2 of that document appears the e-mail
12 from Yujin McNamara dated December 23rd, 2014, to Roy
13 Galan, I believe that counsel for Bridgestone stated
14 that this e-mail was sent on behalf of a variety of
15 Bridgestone corporations, including Bridgestone
16 Americas, but I just want you to read the first half of
17 that--just read the first sentence of that e-mail that
18 says "We represent."

19 A. Okay.

20 "We represent Bridgestone Corporation and
21 Bridgestone Brands, Bridgestone Licensing Services,
22 collectively 'Bridgestone' who collectively owned the

1 BRIDGESTONE and FIRESTONE trademark in the United
2 States and around the world. We are writing on behalf
3 of our client to request a meeting with Ambassador
4 Gonzalez-Revilla regarding a trademark issue that
5 Bridgestone is facing in Panama."

6 Q. That's--that's good.

7 Do you see "Bridgestone Americas" mentioned in
8 that first sentence, Mr. Ambassador?

9 A. No, I don't.

10 Q. Thank you.

11 And if you turn to Tab 12, which is R-0033.
12 This I believe is the background memo that Bridgestone
13 or Akin Gump prepared on behalf of Bridgestone--

14 A. Um-hmm.

15 Q. --and I believe it was represented to you that
16 these documents were somehow sent on behalf of or
17 included Bridgestone Americas.

18 Could you now read just the first sentence of
19 that background memo, please.

20 A. "Bridgestone Corporation, Bridgestone Brands,
21 and Bridgestone Licensing Services own the BRIDGESTONE
22 and FIRESTONE trademarks in the United States and

1 around the world."

2 Q. Thank you.

3 Is "Bridgestone Americas" mentioned there?

4 A. I do not see it mentioned there.

5 Q. Thank you.

6 Counsel for Claimants also asked you about a
7 particular paragraph in Mr. Akey's--(sound
8 interference)--witness statement which can be found at
9 Tab 2 of your cross binder.

10 A. Um-hmm.

11 Q. And he read most, if not all, of that
12 paragraph.

13 The first line of that paragraph states:
14 "However, I can see that the Ambassador had been well
15 briefed and already knew about the case."

16 Could you give me your thoughts on that
17 sentence?

18 A. I mean, I don't know what he refers to "well
19 briefed." I mean, I was briefly briefed as to the
20 scope of what they were complaining about, but I did
21 not know the specifics of the case, so I don't know how
22 Mr. Akey could, you know, basically infer that I had

1 complete knowledge of the details of the case, which is
2 what he seems to be saying here.

3 So, I don't know how complete brief or well
4 briefed would be, you know, basically two minute, you
5 know, discussion on the staff meeting, so...

6 Q. Was Mr. Akey present for any of your
7 preparation for the meetings?

8 A. No, of course not.

9 Q. Thank you, Mr. Ambassador.

10 MS. GEHRING FLORES: No further questions.

11 PRESIDENT PHILLIPS: Do either of my
12 colleagues have questions?

13 ARBITRATOR GRIGERA NAÓN: Nothing on my side,
14 Mr. President.

15 ARBITRATOR THOMAS: None from me, either.

16 PRESIDENT PHILLIPS: And I have no question
17 either.

18 So, it just remains to thank you,
19 Mr. Ambassador, for your assistance, and hope that you
20 enjoyed a very good holiday in Africa when we were
21 having our original session.

22 THE WITNESS: I'm so sorry, Mr. President,

1 that I couldn't be with you at the time, but there was
2 no connection at the top of Kilimanjaro, so...

3 PRESIDENT PHILLIPS: Well, if you got there,
4 you have my admiration.

5 (Laughter.)

6 THE WITNESS: Well, thank you very much. It's
7 been a pleasure to be here with you, and thank you for
8 your time.

9 PRESIDENT PHILLIPS: Thank you.

10 (Witness steps down.)

11 PROCEDURAL DISCUSSION

12 PRESIDENT PHILLIPS: Now, can we revert to the
13 matter that was raised in relation to Panama's request
14 sent by e-mail, which I have not yet discussed with my
15 colleagues. The first thing I would ask Mr. Williams,
16 are you in a position to deal with this at all at this
17 point?

18 MR. WILLIAMS: I will do my best,
19 Mr. President, yes.

20 PRESIDENT PHILLIPS: Yes.

21 What they were saying is that they would like
22 some clarification.

1 I think in short what they're after is to know
2 what, if any, of your originally pleaded case you will
3 not be pursuing in your written submissions, to save
4 some paper in the process replying or in tilting at
5 windmills.

6 MR. WILLIAMS: Yes. And I think in particular
7 they identify at Footnote 5 the two areas where they
8 have identified a concern as to lack of clarity, and
9 those two areas, I believe, then, are, Number 1, that
10 the res judicata point--

11 PRESIDENT PHILLIPS: Yes.

12 MR. WILLIAMS: --which was discussed, I think,
13 on a couple of occasions at the last hearing, and the
14 position I had tried to make clear, but to confirm is
15 that the res judicata point is no longer pursued by the
16 Claimants.

17 PRESIDENT PHILLIPS: That had been my
18 understanding, but I'm grateful to have it confirmed,
19 and I suspect the Respondent will be as well.

20 The other, I think the Section 217 point, that
21 the Supreme Court should not have been applying that
22 section, and I think--again, they were seeking

1 clarification as to whether that was being pursued as
2 one of the elements of denial of justice.

3 MR. WILLIAMS: That is maintained as an
4 element of the denial of justice, yes.

5 PRESIDENT PHILLIPS: In that case, that's
6 helpful.

7 MS. SILBERMAN: Mr. President, if I might
8 clarify, one of the motivations behind the request is
9 certainly to try to get a sense of what the Claimants
10 have abandoned, but we also would like to understand
11 the claim in its affirmative formulation. Typically,
12 this takes place in a PowerPoint presentation. The
13 Claimants didn't provide any such presentation during
14 the earlier session that we had, so really we would
15 just like to make sure that we understand what the
16 elements of the Claimants' merits theory is.

17 We know, of course, what the measure is, we
18 understand the cause of action, but what we're not
19 entirely clear on is how to connect the dots, so if the
20 Claimants could provide that information to us just in
21 even bullet-point form, it would greatly improve
22 efficiency and ensure that both Parties are saying the

1 same thing in their Post-Hearing Submissions.

2 PRESIDENT PHILLIPS: Do you have any comment
3 to make in relation to that?

4 MR. WILLIAMS: Well, I do, and really my
5 comment is this, that we had really endeavored to be as
6 focused as we could be in our oral closing and opening
7 at the last hearing, and we produced a demonstrative
8 that the Tribunal may or may not remember, which is
9 C-003 in order to provide as much clarity as we could
10 and to make it as simple as we could for everyone as to
11 precisely then what the Claimants' case is. And,
12 therefore, the--our case is, as outlined in our oral
13 opening and oral closing by reference, then, to
14 Demonstrative C-003.

15 Now--of course, if the Tribunal considers it
16 would be helpful, of course we will produce a written
17 document that will set out again what the Claimants'
18 case is, but it will, I fear, simply largely--or it
19 will be a repetition, then, of what was said in the
20 oral opening, oral closing, and in Demonstrative C-003.

21 PRESIDENT PHILLIPS: Thank you.

22 (Overlapping speakers.)

1 MS. SILBERMAN: Mr. President, may I clarify?

2 PRESIDENT PHILLIPS: Yes.

3 MS. SILBERMAN: Of course, we have seen these
4 demonstratives, and we sat through the opening and
5 closing. The problem that we encountered especially
6 when we reviewed the transcripts was that there was a
7 lot of chatter, and there were different
8 denial-of-justice terms of art that were thrown out.

9 For example, during the closing, there was
10 discussion of the "undue delay" line of jurisprudence.
11 We're not sure where that falls in, if that is a theory
12 that the Claimants are advancing; if it is, it would be
13 an entirely new claim. What we would like is an
14 explanation of not just, as it says in these
15 demonstratives, what the Supreme Court majority
16 decision said, what the dissenting opinion stated. We
17 want to know what the theory about those elements
18 actually is. That's what we're having trouble
19 understanding.

20 And it really shouldn't take the Claimants too
21 long to put this together. This is their merits
22 theory, and they can't validly say they are entitled to

1 hide the ball on this. This is their claim. Panama,
2 as Respondent, is entitled to know what it's responding
3 to, and we are having trouble in determining what
4 precisely is the Claimants' theory now.

5 So, to the extent that Claimants could provide
6 a brief summary, that would be very useful for us.

7 PRESIDENT PHILLIPS: Yes, thank you.

8 Well, I and my colleagues have heard what you
9 said, we have heard what Mr. Williams has said. We
10 will discuss your request and give a ruling on it as
11 soon as we can, which should be quite soon.

12 MS. SILBERMAN: Thank you very much.

13 PRESIDENT PHILLIPS: All right. Is there any
14 other business? No?

15 Well, I will close this session to thank you
16 all very much.

17 MR. DEBEVOISE: Thank you, Mr. President.

18 MS. GEHRING FLORES: Thank you, Mr. President.

19 MS. KEPCHAR: Thank you, Mr. President.

20 (End of audio file.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.



DAVID A. KASDAN