

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF ALAMEDA

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4
5 DAVID ADELSON, et al.,
6 Plaintiffs,

7 -vs-

NO. 814461-0

8 PACIFICA FOUNDATION, a
9 California Nonprofit Corporation,
et al.,

10 Defendants.
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15 DEPOSITION OF MARY BERG

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18 Taken before PATRICIA TABOR

19 CSR No. 5739

20 Friday, November 17, 2000

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1 the deposition procedure and things like that.

2 I'll repeat them to make sure you understand
3 them.

4 A. Okay.

5 Q. I represent Pacifica Foundation and some
6 of the foundation directors in this lawsuit
7 brought by a number of people, Mr. Adelson, and
8 you were also one of the named plaintiffs.

9 I'm going to ask you a series of questions and
10 request you give me your best recollection. I
11 don't want you to guess or speculate.

12 If you don't understand a question that I ask
13 or you're confused, ask me to clarify and I'll do
14 my best.

15 If you could let me finish my question before
16 you start your answer, it will make the record
17 look a little clearer.

18 If you can avoid using "uh-huh," "huh-uh" and
19 nods of the head, that will make the court
20 reporter's life much easier.

21 If you need to a break, bathroom break, coffee
22 break, let us know.

23 Similarly, Trish, if you get tired, you let me
24 know, too.

25 At the conclusion of the deposition, the court

1 Q. Did you have any conversations with
2 Mr. Bramson regarding any of the subjects that we
3 discussed earlier that were the complaints you
4 have about Pacifica?

5 A. Over what time period?

6 Q. Well, how many conversations have you had
7 over the last five years with this fellow about
8 these subjects?

9 A. He was a fellow L.A.B. member, and we had
10 quite a few conversations.

11 We had lots of conversations, and many times
12 they would be on this subject, that's why I asked
13 over what time frame.

14 Q. Let me try to narrow it then.

15 Since 19 -- let's talk about 1997.

16 1997 was the year that some changes were made
17 to Pacifica Foundation's national bylaws that have
18 become an issue in this case.

19 Did you have any conversations with Mr. Bramson
20 regarding those changes?

21 A. I'm sure I did. He was coming to L.A.B.
22 meetings, and we were talking. I'm sure I did.

23 Q. As you sit here today, do you recall any?

24 A. I recall that we had many conversations.
25 I have talked with him a fair amount of the time,

1 including in 1997. I can't recall specific
2 conversations, but...

3 Q. Have you had conversations with him
4 subsequently regarding the issues of this lawsuit?

5 A. It's hard for me to answer that.

6 I might answer that I have not had
7 conversations with him, I would say, this year at
8 all.

9 Q. How about 1999?

10 A. In 1999, I think we had -- oh, we had
11 some, but after -- I saw less of him after -- in
12 the last half of the year, I saw less of him for
13 sure.

14 Q. Does he not attend L.A.B. meetings, or is
15 it that you don't attend L.A.B. meetings?

16 Strike that.

17 Why haven't you seen him at the end of 1999 and
18 the year 2000?

19 A. I think he attended meetings less, and I
20 think he may have had personal reasons as well.

21 I have no idea why. I don't think he boycotted
22 them.

23 Q. In your conversations with Mr. Bramson
24 regarding the issue of centralization of control
25 and imposing programming on the local stations,

1 have you had conversations with him about that
2 subject?

3 A. The issues of accountability and control
4 would be more what we talked about.

5 On the L.A.B., we were not talking about
6 programming so much.

7 Q. In terms of accounting and control, you
8 mean accountability of the national board?

9 A. Or the lack of it, the lack of
10 accountability.

11 Q. Your discussions with Mr. Bramson, did
12 they suggest to you that he tended to agree with
13 the opinions you articulated earlier today
14 regarding lack of accountability?

15 A. At the time I felt we were agreed.

16 Q. What time was that that you're referring
17 to?

18 A. Well, the later we get, less
19 conversations.

20 So I suppose -- I suppose in '97 I did see him
21 a fair amount, and we were talking a fair amount.

22 Q. Did he agree with you on the issue of
23 freedom of speech or lack thereof?

24 A. That had not been -- had not come to the
25 forefront as much in 1997 as it did later.

1 Q. How about fiscal irresponsibility; did
2 you discuss those issues with Mr. Bramson?

3 A. I don't think that issue had become --
4 that was a later issue.

5 Q. How about the issue of misleading donors
6 into making donations, did you discuss that with
7 Mr. Bramson?

8 A. No, I don't think so, not at that time.

9 Again, that only is in connection with the
10 misuse of funds that I feel has happened, and the
11 funds, the things that were most egregious
12 happened after that.

13 Q. In this lawsuit, Mr. Bramson was
14 originally a defendant; did you know that?

15 A. Well, I heard all that the other day, if
16 not before.

17 Q. Did you authorize Mr. Bramson to be sued
18 in this proceeding?

19 A. Did I personally authorize him to be
20 sued?

21 Q. Right.

22 A. I'm not quite sure what is meant by that.

23 If I'm a plaintiff -- I don't quite know what's
24 meant by that. He's on the suit.

25 Q. You're a plaintiff; right?

1 A. I'm a plaintiff.

2 Q. You sued some defendants?

3 A. Yes.

4 Q. Did you know you were suing Mr. Bramson?

5 A. Uh, yes.

6 Q. Did you authorize that; it was okay with
7 you?

8 A. I didn't object.

9 I can answer it the other way around. I don't
10 know how I could have authorized it. I'm not sure
11 what that means.

12 Q. At some point in time, Mr. Bramson was no
13 longer a defendant because in an amended complaint
14 his name was left off.

15 Did you know that occurred?

16 A. Yes, I did.

17 Q. Did you authorize him to be removed as a
18 defendant in the lawsuit?

19 Let's skip the word "authorize."

20 A. I'm not sure what is meant by that.

21 Q. Did you know he was going to be dropped
22 as a defendant?

23 A. Yes.

24 Q. Why did you allow him to be dropped as a
25 defendant?

1 A. Why did I not object, is that what you're
2 asking?

3 Q. Why did you not object?

4 A. Because I felt that he had done things,
5 that he had made some moves that seemed -- he had
6 made some very what I would call courageous moves
7 in trying to uphold some of the things that I
8 believe in as well.

9 Since he had done this, I didn't object to his
10 being dropped.

11 Q. In essence, he had come around and
12 supported the position of the plaintiffs in this
13 litigation?

14 MR. PYLE: Is that a question?

15 MR. RAPAPORT: Yes.

16 MR. PYLE: Do you agree with that?

17 THE WITNESS: Well, whether he supported the
18 plaintiffs, there are several -- he supported the
19 position --

20 MR. RAPAPORT: Q. That's what happened; did he
21 become supportive of the plaintiffs' position in
22 this litigation?

23 A. He supported the general objections of
24 which this lawsuit is one. There are others. He
25 supported the objection to the moves Pacifica has

1 been making.

2 Q. Which moves?

3 A. That I had mentioned before in the
4 direction of lack of diversity, driving away
5 diversity, lack of accountability, fiscal
6 irresponsibility, violation of the mission.

7 All of these things are felt by many, and he
8 evidenced support for the same outrage that many
9 of us had felt.

10 Q. So there was no point in having him as a
11 defendant since he actually supported what the
12 plaintiffs wanted?

13 A. Among others, yes.

14 Q. Is that true of Aaron Kriegel; that he
15 was dropped from the lawsuit for the reason that
16 he supported the plaintiffs' position in this
17 case?

18 MR. PYLE: I'll object to what you're assuming.

19 You're assuming that's why he was dropped from
20 the lawsuit, and that hasn't been established.

21 I'll object to that.

22 MR. RAPAPORT: I'll step back.

23 Q. Aaron Kriegel was originally a defendant;
24 right?

25 A. Yes.

1 Q. He was dropped; right?

2 A. Yes.

3 Q. Why?

4 A. In statements that he made that I had
5 heard about, he seemed to have begun to have a
6 growing disagreement with the direction Pacifica
7 was taking. And, to that extent, I didn't object
8 to his being taken off the lawsuit if he was not
9 in pursuit of the things to which I object.

10 If he's not trying to further those aims, then
11 I have no objection if he is not on the lawsuit.

12 Q. Sure.

13 In essence, he was supportive of the very
14 issues that we discussed that the plaintiffs
15 objected to about Pacifica Foundation?

16 A. Yeah, he began to object to the policies
17 of Pacifica as he became acquainted with them.

18 Q. In essence, his views became aligned with
19 the plaintiffs in this lawsuit?

20 A. Among others.

21 Q. Is it true that Mr. Rob Robinson's views
22 became aligned with those of the plaintiffs in
23 this lawsuit?

24 A. They appeared to be, yes.

25 Q. Is that why he was dropped as a defendant

1 in this lawsuit?

2 A. Yes, again, many conversations were held
3 with him, not by plaintiffs necessarily, but by
4 others. Those were communicated to me, so that
5 was my belief.

6 Q. Are there others on the board that you
7 believe share the views of Bramson, Kriegel and
8 Robinson that are aligned with the plaintiffs in
9 this lawsuit regarding improprieties by Pacifica
10 Foundation and the other directors?

11 A. People presently on the board you mean,
12 whether they are named as defendants or not?

13 Q. Correct, like Mr. Moran.

14 A. I think so.

15 Q. How about Ms. Cagan?

16 A. To my knowledge, as far as I know, yes.

17 Q. Any others?

18 A. Beth Lyons I believe.

19 Again, I have not talked with these people.
20 This is just what I understand from what I have
21 read or been told.

22 Q. Who has told you about the views of
23 Mr. Moran; that he is aligned with the viewpoint
24 of the plaintiffs in this lawsuit?

25 A. Well, Mr. Moran has come before the staff

1 many times and has talked and -- I have known
2 Mr. Moran for quite a long time now, since maybe
3 1996.

4 Q. By the way, how old a man is Mr. Moran?

5 A. That I couldn't tell.

6 Q. Does he look Hunter's age, or is he a
7 little longer in the tooth like myself?

8 A. You're asking the worst person. He's
9 older than he was.

10 Q. We're all are.

11 MR. PYLE: And he's getting older every day.

12 THE WITNESS: He is. I'm not going to take
13 that back for anything.

14 He's -- I don't know -- he's not really young,
15 and he's not really old. So he's somewhere in the
16 middle.

17 I don't want to say what the middle is. I have
18 a vested interest in what the middle is.

19 MR. RAPAPORT: Q. Fair enough. I'll withdraw
20 the question.

21 A. Thank you.

22 Q. You said Mr. Moran has came before the
23 staff and made statements that suggested to you
24 his viewpoints were aligned with the plaintiffs?

25 A. There were motions he tried to put

1 through at the board meeting regarding fiscal
2 matters.

3 He was supportive of opening the books, which
4 have been very closed and so forth.

5 I can't recall all of the things. I can't
6 recall all of the motions that he tried to put
7 forth, but I was aware of them.

8 He discussed them with the staff, and he would
9 come to L.A.B. meetings and discuss them there,
10 too, and to public meetings.

11 Q. Do you remember anything he said in any
12 L.A.B. or public meetings besides advising you of
13 the motions he put forth regarding fiscal meetings
14 that suggested to you that he was aligned with the
15 plaintiffs' viewpoint regarding this lawsuit?

16 A. Well, the motions he tried to put forth
17 would have themselves -- he acted and spoke in
18 opposition to the trend that Pacifica is taking.

19 I think I can put it that way.

20 Aligned with the lawsuit, I don't think I can
21 answer necessarily what about the lawsuit, but he
22 takes, as I have heard, a general direction that's
23 aligned with what I think, and is opposed to what
24 Pacifica is doing and the direction, the middle
25 road direction it's going.

1 Q. Is it Ms. Cagan?

2 A. Cagan, Leslie Cagan.

3 Q. Miss Cagan, have you ever heard her say
4 anything that has confirmed your view that her
5 opinions were more closely aligned with those that
6 you expressed earlier on as to what was wrong with
7 Pacifica?

8 A. Again, I didn't talk with her personally
9 now, but Tomas Moran I do.

10 Q. Let me ask you a different question since
11 you didn't talk to her.

12 What is it that makes you believe that
13 Ms. Cagan's opinions are more closely aligned with
14 those of the plaintiffs in the lawsuit than, let's
15 say, Dr. Berry?

16 A. Things --

17 MR. PYLE: Boy, that's a softball if ever I
18 heard one.

19 THE WITNESS: Things that I've heard.

20 I will not make a wise-ass answer. No, I will
21 not.

22 Things I've read that she has said.

23 MR. RAPAPORT: Q. Like what?

24 A. Things, comments that she's made at board
25 meetings that were reported to me or that I've

1 read in transcripts when they were available, and
2 various things I've read that she said.

3 I guess that's what I mean or reports from
4 others, which is the same thing.

5 Q. Let me ask about the reports from others.

6 A. That's what I read.

7 Q. You read reports from others regarding
8 Ms. Cagan's viewpoint?

9 A. Yes, people who talked with her at board
10 meetings and so forth.

11 Q. Who made those reports?

12 A. I'm on various E-mail lists, and I see
13 them there.

14 I don't remember -- people who went to the
15 board meetings, and that's different for different
16 board meetings. I don't recall which person went
17 to which meeting in Washington.

18 I was not able to go to any, so I simply rely
19 on what those that did go come back to say or what
20 they write about.

21 Q. Do you recall any person talking to you
22 and saying, "I talked to Leslie Cagan, and she
23 said," and then they gave you information that led
24 you to believe that her interests were more
25 aligned with those of the plaintiffs in this

1 lawsuit than, let's say, Dr. Berry's?

2 A. I don't recall specifically any, I don't.

3 Q. Do you recall any statements by
4 Mr. Robinson that -- strike that.

5 MR. RAPAPORT: Off the record.

6 (Break taken, 11:44 - 11:53.)

7 MR. RAPAPORT: Q. Mr. Bramson helped the
8 plaintiffs in this lawsuit by providing a
9 declaration; didn't he?

10 Are you aware of that?

11 A. He made a declaration, and I presume it
12 helps.

13 Q. He hoped it helped -- let me strike that.
14 Have you talked to him about providing
15 assistance to the plaintiffs in this litigation?

16 A. No.

17 Q. Are you aware of anybody, aside from your
18 attorney, who might have done so?

19 A. No.

20 Q. During the time you were a member of the
21 KPFA L.A.B., can you describe to me how candidates
22 for the national board were selected by the
23 L.A.B.?

24 A. I'm remembering over the time.

25 Q. Let say 1994 to 1997.