

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

RONALD KITCHEN,	)	
	)	
Plaintiff,	)	
	)	Case No. 10 C 4093
v.	)	
	)	The Hon. John J. Tharp, Jr.
JON BURGE, et al.,	)	
	)	Magistrate Judge Maria Valdez
Defendants.	)	

**PLAINTIFF'S MOTION TO COMPEL THE DEPOSITION OF RICHARD M. DALEY**

Plaintiff Ronald Kitchen, by his undersigned attorneys, respectfully moves this Court for entry of an order compelling former Chicago Mayor Richard M. Daley to appear for a deposition in this case. In support, Plaintiff states:

1. Plaintiff's counsel have been attempting for several months to reach agreement with counsel for the City of Chicago for the deposition of former Chicago Mayor Richard M. Daley.<sup>1</sup> Those efforts have reached an impasse. Because Daley is undeniably an important witness whom Plaintiff is entitled to question regarding his actions in Mr. Kitchen's criminal prosecution and his lengthy personal knowledge of, and involvement in, the conspiracy surrounding Burge's racially motivated torture (of which Plaintiff's case is an important part), Plaintiff brings this motion to compel his testimony.

**Procedural History and Local Rule 37.2 Certification**

2. The undersigned counsel have had a series of Local Rule 37.2 conversations regarding the Daley deposition with Terrence Burns, the City's principal lawyer, both in this case

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<sup>1</sup> The City's counsel in this litigation are also representing Mr. Daley individually in connection with his possible testimony as a witness in this matter.

and, previously, in the *Tillman v. Burge* case, which presented many of the same issues.<sup>2</sup> In the present case, our discussions with Mr. Burns occurred following two notices that were served for Mr. Daley's deposition (the first sought Mr. Daley's appearance for deposition testimony on October 15 of last year; the second notice was for a November 8, 2012 deposition). The notices for the Daley deposition are attached as Ex. B and Ex. C.

3. Among other things, the City has requested Plaintiff to provide an outline of the areas as to which we seek to question to Mr. Daley. Although that request was a highly unusual one, Plaintiff accommodated the City lawyers with a summary of the areas we expect to cover, including, among other things:

- a. Mr. Daley's role as Mayor in the 1990s in the review and assessment of the Goldston and Sanders Reports regarding Burge's systematic use of torture against African American citizens and the complicity of police command personnel in that systematic abuse.
- b. Mr. Daley's professional relationships with Leroy Martin and Gayle Shines, both of whom are defendants in this case and are alleged to have contributed to Plaintiff's injuries by taking specific steps to cover up Burge's systematic misconduct.
- c. Daley's role in the decision to seek Burge's separation from the Chicago Police Department and his involvement, if any, in the Burge separation proceedings.
- d. Daley's public comments on some of the matters listed above, including his public statements belittling and minimizing the findings in the OPS Goldston and Sanders Reports.

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<sup>2</sup> The Plaintiff also moved to compel Mr. Daley's testimony in the *Tillman* case (see *Tillman v. Burge*, No 10 C 4551, Doc. No. 235, attached as Ex. A), but the *Tillman* case settled before that motion was decided.

- e. Daley's decision, as State's Attorney, to seek the death penalty in Plaintiff's case.
- f. Daley's public statements in 2006 following the release of the Report of the Special Prosecutor investigating criminal wrongdoing by Burge and his men.
- g. Daley's knowledge and participation in the ongoing conspiracy to torture and cover up the Burge torture scandal.

See 11/20/12 email from Taylor to Burns, Ex. D hereto.

4. After providing this information, we spoke with Mr. Burns on December 14 and again (after Mr. Burns had consulted with Mr. Daley) on January 7. We assured Mr. Burns that the questioning of Daley would be limited to the Burge torture conspiracy and that we would not venture into other areas (such as the recent indictment of Mr. Daley's nephew). We told Mr. Burns that, if it would avoid motion practice, we would be willing to agree to limit the questioning to a total of five hours and not to publicly disclose the videotape of the deposition until trial or after settlement. We invited Mr. Burns to tell us whether there were *any* areas within our outline that he would deem appropriate to cover with Mr. Daley in a deposition. He did not do so. In sum, despite Plaintiff's reasonable attempts to accommodate Mr. Daley, the City categorically refuses to make him available to testify at a deposition on any subject connected to Plaintiff's wrongful prosecution or his role in the Burge torture scandal.

5. Accordingly, Plaintiff certifies, in compliance with Local Rule 37.2 that, despite good faith efforts to reach an accord, the parties are unable to agree as to whether Mr. Daley must be produced for deposition in this case. See 1/10/13 email from Taylor to Burns, Ex. E hereto.

**Daley's Deposition May Reasonably Lead to the Discovery of  
Admissible Evidence and Therefore Must Be Allowed**

6. Plaintiff does not dispute the general rule that officials elected to important public office should not ordinarily be required to sit for depositions regarding matters in which they have not had direct or personal involvement. *See generally Hobley v. Burge*, No. 03 C 3678, 2007 WL 551569 (N.D. Ill. Feb. 22, 2007). But, as *Hobley* recognized—in a decision that ordered then-Mayor Daley to testify in another Burge torture case—that general rule must give way where the party seeking the deposition can show that the official's deposition would serve a useful purpose because it could lead to admissible testimony in the case. *See also Payne v. Dist. of Columbia*, 279 F.R.D. 1, 8 (D.D.C. 2011); *Mansourian v. Bd. of Regents of Univ. of Cal. at Davis*, CIV S-03-2591 FCD EFB, 2007 WL 4557104 (E.D. Cal. Dec. 21, 2007) (allowing the deposition of an official with “direct, personal knowledge of facts relevant to this action”); *Alliance to End Repression v. Rochford*, 75 F.R.D. 428, 429 (N.D. Ill. 1976) (requiring the deposition of Mayor Richard J. Daley in light of allegations of his personal involvement in illegal activity). Moreover, the deference that is afforded to enable public officials to perform their duties free of the intrusion of the deposition process is not applicable in a case—like that of Mr. Daley here—where the official whose deposition is being sought is no longer serving in office and is now a private citizen. *See, e.g., Sanstrom v. Rosa*, 93 CIV. 7146 (RLC), 1996 WL 469589 (S.D. N.Y. Aug. 16, 1996); *Toussie v. County of Suffolk*, CV 05-1814(JS)(ARL), 2006 WL 1982687 (E.D. N.Y. July 13, 2006).

7. As demonstrated by Plaintiff's “outline” of his anticipated areas of questioning (*see* ¶ 3, *supra*), Mr. Daley obviously has direct, personal involvement and knowledge concerning a number of matters in issue in this case. His testimony is relevant to Plaintiff's claims under the broad definition in Rule 26(b)(1)—Daley's answers on a number of subject

areas could be admissible or could reasonably be expected to lead to the discovery of admissible evidence. Thus, in accordance with settled authority, Mr. Daley should be required to sit for a deposition notwithstanding the fact that he was formerly Mayor of Chicago.

8. The City's position, as Plaintiff understands it, is that Mr. Daley should not be required to testify at a deposition because the Court has dismissed Daley as a defendant in this case<sup>3</sup> and because the Court has granted the City's motion to bifurcate discovery and trial of Plaintiff's *Monell* claim. This contention does not bear scrutiny. Even though Mr. Daley is no longer a defendant and even with the *Monell* claim on hold, Plaintiff's remaining claims in this case encompass a number of subject areas on which Mr. Daley has direct and personal involvement deriving from his tenure as State's Attorney of Cook County and, thereafter, as Mayor of Chicago.

9. *First*, Daley was State's Attorney at the time that the murder charges were brought against Plaintiff. Daley personally made the decision to seek the death penalty against Plaintiff. *See* Tr. of John Eannace 8/1/12 Dep. at 63, 95 (excerpt attached as Ex. F hereto). Plaintiff is entitled to explore the circumstances surrounding this decision with Mr. Daley as well as the information that was known to Daley at the time the decision was made. In particular, the death penalty decision and the circumstances surrounding it may bear on Plaintiff's damages and/or on the named defendants' malice (for purposes of Plaintiff's state law malicious prosecution claim).

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<sup>3</sup> The claims that Plaintiff made against Daley in this case mirror those that were subsequently upheld by Judge Pallmeyer in *Tillman v. City of Chicago*, 2011 U.S. Dist. LEXIS 79320, at \*73, 77-78 (N.D. Ill. July 20, 2011). Judge Pallmeyer concluded in the *Tillman* case that Mr. Daley was properly named as a conspirator with knowledge of the Burge-led racially motivated conspiracy to torture African American men, and that he "actively" participated in a scheme to "suppress," "conceal" and "cover up" the scope and extent of that conspiracy. *Compare* Plaintiff's Complaint, Doc. No. 1, ¶¶ 60-103, with the complaint in the *Tillman* case, *Tillman* Doc. No. 1, ¶¶ 52-93.

10. *Second*, Daley—though he is no longer a defendant—remains an important witness with respect to Plaintiff's still-pending claims against Defendants Martin, Shines and Hillard, who are alleged to have prolonged Plaintiff's wrongful incarceration by taking steps to deflate and minimize the widening Burge scandal during the 1990s.<sup>4</sup> For example, Martin is alleged to have taken various actions to discredit the Goldston Report, an internal Chicago Police investigation that concluded that Burge had engaged in systematic abuse of African American citizens with the participation and acquiescence of police command personnel. When the Goldston Report became public, Daley personally attempted to minimize the findings, referring to them in a media interview as "rumor" and unsupported "allegations." Plaintiff is entitled to explore Daley's reasons for making these statements as well as any communications he may have had with Martin (then his Superintendent of Police) regarding the report.

11. *Third*, Plaintiff's complaint includes a claim for conspiracy to deprive him of his constitutional rights because of his membership in the African American race. *See* Complaint, Doc. No. 1, Count V. The gravamen of that claim is that Burge and his men set out to coerce confessions from Plaintiff and scores of other African Americans and thereby wrongfully convict them because they were black. Undeniably, Mr. Daley became aware of highly credible evidence that Andrew Wilson (one of Burge's relatively early victims) had been tortured. In his position as State's Attorney, he in all likelihood learned of a number of other cases in which Burge and his men were accused of using torture to coerce confessions from African Americans, particularly in cases where he was required to approve the seeking of the death penalty. When he became Mayor, Daley learned, through the Goldston Report and other sources, of scores of

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<sup>4</sup> The same opinion that dismissed Mr. Daley as a defendant in this case affirmed Plaintiff's claims for cover-up and racially discriminatory conspiracy against defendants Martin, Shines and Hillard. *See Kitchen v. Burge*, 2011 U.S. Dist. LEXIS 42021 at \*6, 27-32, 36 (N. D. Ill 2011). The allegations underpinning the claims against Mr. Daley were identical to those on which the still-pending claims against Martin, Shines and Hillard are based.

African American victims of Burge and his underlings. Plaintiff is entitled to question Mr. Daley concerning his knowledge of these cases and the underlying pattern of victimizing African Americans; what discussions Mr. Daley had concerning these interrelated subjects with any of the named conspirators; and the substance of any such interactions.

12. *Fourth*, Mr. Daley obviously communicated with a succession of Police Superintendents, including two who are defendants herein, regarding the Burge torture scandal, and with defendant OPS director Gayle Shines, whom he appointed. Mr. Daley chose not to investigate or prosecute Burge in 1982 and publicly commended him in 1983. Yet, in 2006, Mr. Daley condemned the pattern of abuse committed by Burge and his men while refusing to take any personal responsibility. Plaintiff is entitled to explore with Mr. Daley the basis for his comments and positions over the years and the communications Mr. Daley likely had regarding the torture scandal with the high level police officials who remain as named defendants in this case.

13. The foregoing list is hardly exhaustive. But it is enough to demonstrate that Mr. Daley had personal involvement in the prosecution and wrongful conviction of Plaintiff and the conspiracy to conceal the Burge torture scandal that is alleged in Plaintiff's Complaint. This provides ample justification for Plaintiff's request for Mr. Daley's deposition.

14. Mr. Daley and his City lawyers have consistently resisted voluntarily producing Mr. Daley concerning the matters alleged in this case and in the cases filed on behalf of other wrongfully convicted victims of Burge and his men. Settlements permitted Mr. Daley to do so in the *Hobley* and *Tillman* cases while he was still Mayor. He should not be permitted to indefinitely evade questioning regarding these matters simply because he was once—but is no more—the Mayor of Chicago. Mr. Daley is undeniably a witness with a great deal of material

information concerning matters in issue in this case. Plaintiff must be afforded the opportunity to take his deposition.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order directing the City of Chicago to make former Mayor Richard M. Daley available for a deposition in this case.

Dated: January 31, 2013

Respectfully submitted,

**RONALD KITCHEN**

By: /s/ G. Flint Taylor

By: /s/ Locke E. Bowman

G. Flint Taylor  
Joey L. Mogul  
Ben H. Elson  
People's Law Office  
1180 N. Milwaukee Avenue  
Chicago, Illinois 60622  
(773) 235-0070

Locke E. Bowman  
Alexa Van Brunt  
Roderick and Solange MacArthur Justice Center  
Northwestern University School of Law  
375 East Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-0844

J. Samuel Tenenbaum  
Bluhm Legal Clinic  
Northwestern University School of Law  
375 East Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-8576



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

v.

JON BURGE, et al.,

Defendants.

Case No. 10 C 4093

The Hon. John J. Tharp, Jr.

Magistrate Judge Maria Valdez

## Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL TILLMAN,

Plaintiff,

v.

JON BURGE, et al.,

Defendants.

No. 10 C 4551

The Hon. Rebecca R. Pallmeyer

**PLAINTIFF'S MOTION TO COMPEL THE DEPOSITION  
OF DEFENDANT RICHARD M. DALEY**

Plaintiff Michael Tillman, by and through his attorneys, having satisfied the requirements of Local Rule 37.2, moves this Honorable Court to compel Defendant Richard M. Daley to appear for his deposition in the above-entitled cause on a date certain within the next 30 days. In support of this motion, Plaintiff states:

I.

1. On July 20, 2011, this Court denied Defendant Daley's motion to dismiss in part, holding that Plaintiff had sufficiently alleged that Daley was part of a racially based conspiracy to torture and cover-up. *Tillman v. Burge*, 2011 U.S. Dist. LEXIS 79320, at \*73, 77-78 (N.D. Ill. July 20, 2011). More specifically, this Court held sufficient the allegations that Defendant Daley participated in a "common scheme to engage in torture," "knew about the pattern and practice of torture at Area 2 and worked actively to suppress the truth," "undermined and obstructed findings of torture," and "covered up and suppressed evidence of that pattern and practice of torture of which Plaintiff was a victim." *Id.*

2. On August 3, 2011, Plaintiff noticed Defendant Daley for a videotaped deposition on September 8, 2012. (Exhibit A)

3. On August 31, 2011, Defendant Daley, through counsel, "objected" to the notice of Deposition, demanded that Plaintiff withdraw his notice, and asserted that he would not appear without court order. (Exhibit B).

4. On September 6, 2011, Plaintiff sent a formal Local Rule 37.2 letter to Daley's counsel, setting forth in detail why Daley was required to appear for deposition as a Defendant and co-conspirator. (Exhibit C).

5. That same day, Plaintiff, in order to give Daley time to reconsider his bald refusal, re-noticed Daley for deposition on September 29, 2011. (Exhibit D).

6. Daley did not appear on September 29, 2011, arguing that he wanted to defer until his motion to reconsider the denial of his motion to dismiss was resolved.

7. On November 2, 2011, this Court denied Defendant Daley's motion to reconsider (*Tillman v. Burge*, 2011 U.S. Dist. LEXIS 126627 (N.D. Ill. November 2, 2011)) and Plaintiff immediately re-noticed Daley for December 7, 2011. (Exhibit E).

8. In response, Daley's counsel informed Plaintiff's counsel that he would not produce Daley on December 7, and requested a Local Rule 37.2 conference to further discuss the necessity and parameters of the deposition.

9. Plaintiff's counsel, noting that the deposition had already been delayed for three months, reluctantly agreed, and a phone conference was conducted on November 22, 2011. (Exhibit F).

10. At this conference, Daley's counsel once again requested that Plaintiff's counsel set forth their reasons for seeking the deposition of Defendant Daley, which they again did. (*Id.*).

11. Daley's counsel, however, would not commit to producing Daley, but rather said that

he would set forth his position after promptly consulting with his client, and further stated that a deposition date in December was "unlikely." (*Id.*).

12. All counsel agreed to re-convene the Local Rule 37.2 conference on November 29, 2011 for Daley's counsel to articulate his final position, and Plaintiff's counsel requested a date in early to mid-January for the deposition. (*Id.*).

13. Sadly, on November 25, 2011, Defendant Daley's wife passed away.

14. Out of respect, Plaintiff deferred completion of the Local Rule 37.2 conference to December 15, 2011, then again to January 3, 2012. (Exhibit G).

15. On or about January 3, 2012, Daley's counsel informed Plaintiff's counsel that he still could not convey a final position on, or firm date for, Defendant Daley's deposition.

16. For the next six weeks, while counsel attempted in vain to resolve the case through settlement, Daley and his counsel remained silent on the deposition issue.

17. Finally, on February 22, 2012, Plaintiff's counsel, exasperated by the nearly six month delay, sent yet another Rule 37.2 letter demanding a final response by February 27, 2012 and offering several dates in March for his deposition. (Exhibit H).

18. Now, a month later, this letter has been met with no response. Hence, the Parties have reached an impasse requiring Court intervention.

## II.

19. Defendant Daley, now the former Mayor of the City of Chicago, must sit for his Deposition to answer for his longstanding knowledge and involvement in the alleged torture and cover-up conspiracy, like all of the other high ranking City and County Defendants, some with markedly less involvement than Daley, have done in previous similar torture cases. For example:

- a. **Richard Devine**, the First Assistant State's Attorney under Daley and, at the time of his deposition, the sitting State's Attorney of Cook County, sat for a 10 hour deposition, taken over two days, in the *Cannon v. Burge* and *Patterson v. Burge* cases;
- b. **Leroy Martin**, former Chicago Police Superintendent, sat for 14 hours of deposition over three days in the *Patterson* and *Cannon* cases;
- c. **Terry Hillard**, former Chicago Police Superintendent, sat for 10 hours of deposition in the *Patterson* and *Cannon* cases.

20. Moreover, in the *Hobley v. Burge* case, Judge Geraldine Soat Brown ordered that Daley, who was only a non-party witness therein, sit for his deposition on *Monell* policy and practice issues that were similar, but less extensive, than those alleged under 42 U.S.C. § 1985 and *Monell* herein, holding:

Mr. Daley was the State's Attorney during the time when Hobley, an African-American, alleges he was subjected to constitutional violations by Chicago police, including defendant Jon Burge. The State's Attorney and his assistants prosecute criminal charges brought by Chicago police. There is evidence that in February 1982, the State's Attorney's office, and perhaps Mr. Daley personally, was put on notice of allegations of physical abuse of suspects by Chicago police through a letter to Mr. Daley from the then-Superintendent of Police Richard Brzezczek. (Pl.'s Renewed Mot., Ex. D.) Mr. Brzezczek's letter states that he is enclosing a letter from the Medical Director of Cermak (Prison) Health Services which describes injuries appearing on defendant Andrew Wilson, an African-American suspected in the murder of Chicago police officers. (Id., Ex. C.) Apparently, nothing was done to follow up on the issues raised by the two letters. Mr. Wilson's conviction was reversed by the Illinois Supreme Court. *People v. Wilson*, 116 Ill. 2d 29, 506 N.E.2d 571, 106 Ill. Dec. 771 (Ill. 1987). Recently, the Special Prosecutor who investigated allegations of abuse by Chicago police officers concluded that there was enough evidence of mistreatment of Andrew Wilson by Jon Burge to establish guilt beyond a reasonable doubt. (Pl.'s Renewed Mot., Ex. N at 16.) The Special Prosecutor's report also stated, "There are many other cases which lead us to believe or suspect that the claimants were abused, but proof beyond a reasonable doubt is absent." Id. Since the release of the Special Prosecutor's report, Mr. Daley has stated that he believes Mr. Brzezczek's letter was referred at the time to the appropriate professionals within the State's Attorney's Office. (Id., Ex. BB.) Testimony obtained by the Special Prosecutor from other witnesses suggests that the Brzezczek letter was received and considered by

highly-placed members of the State's Attorney's staff, possibly including Mr. Daley. (*Id.*, Ex. G at 35; Ex. H at 32.) 2 Notably, after Mr. Wilson was convicted, Mr. Daley, in his position as State's Attorney, publicly honored Burge and other police officers for their work on the case. (*Id.*, Ex. P.) These facts, among other circumstances cited in *Hobley's* motion, support a conclusion that Mr. Daley may have information about the activities of Burge and other police officers, about who in the City [\*9] and police administration knew about those activities, and about whether any action was taken on the basis of such knowledge. Such information could well lead to potentially admissible evidence regarding whether the mistreatment of the African-American suspects reflected a policy or practice by the City that denied equal protection of the laws to those suspects.

*Hobley v. Burge*, 2007 U.S. Dist. LEXIS 12159, at \*6-7 (N.D. Ill. Feb. 22, 2007).

21. A summary of a substantial portion of the relevant subject matter that underpins the necessity of Defendant Daley's deposition can be found in the Plaintiff's complaint, and that necessity is underscored by Daley's recently filed non-sworn Answer to Plaintiff's Complaint, wherein he often gives evasive answers, offers denials in contradiction to prior admissions by himself or other defendants, or otherwise refuses to answer.

22. These evasions, contradictions, and refusals, include:

- a. The pattern and practice of torture at Area 2 under Burge: despite admitting to such a pattern and practice in his July 21, 2006 press release, (Exhibit I), he now at various times, denies such a practice or claims to have insufficient knowledge to respond. (e.g., Defendant Daley's Answer to Plaintiff's Complaint, Dkt. No. 239, Answers to paragraphs 2, 7, 47, 48).
- b. Daley's knowledge that Andrew Wilson was tortured in February of 1982: Daley denies knowledge, despite testimony from his First Assistant, Richard Devine, that Daley did receive and discuss the letter from Dr. Raba that detailed Wilson's torture. (*Id.*, Answer to paragraph 55);

- c. **Daley's failure to instruct Superintendent Brzezczek to conduct a criminal investigation into the torture of Andrew Wilson:** Daley denies this, in contradiction to the testimony of Brzezczek. (*Id.*, Answer to paragraph 59);
- d. **Daley's receipt of the Raba and Brzezczek letters documenting the torture and abuse of Andrew Wilson:** Daley acknowledges the existence of these letters, but, contrary to Devine's prior testimony, does not admit or deny that he received and discussed them with Devine and other staffers. (*Id.*, Answer to paragraph 58).
- e. **Daley's seeking of the death penalty for Plaintiff Tillman and numerous other Burge torture victims:** Daley admits that the State's Attorney of Cook County "generally" made the decision to seek the death penalty, but not to have sufficient knowledge as to whether he made that decision with regard to Plaintiff Tillman, his co-defendant Steven Bell, and other torture victims including Darrell Cannon, Leroy Orange, Leonard Kidd, Stanley Howard, Aaron Patterson, Reginald Mahaffey and Jerry Mahaffey. (*Id.*, Answer to paragraphs 64 and 65). This is in direct contradiction to the attached memorandum of November 14, 1986, in which he approved the death penalty for Plaintiff Tillman and Steven Bell. (Exhibit J).
- f. **Daley's public statements as Mayor discrediting the Goldston Report and its findings of "systematic" police torture:** Daley admits that these discrediting quotes, attributed to him, appeared in the newspaper, but does not answer whether he made them. (*Id.*, Answer to paragraph 83);

- g. Daley's failure, as Mayor, to seek a criminal investigation and/or the prosecution of Burge and his confederates after the release of the Goldston Report in 1992: Daley denies that he "could have" done this despite the obvious reality that he had the power and opportunity to do so. (*Id.*, Answer to paragraph 82).
- h. The meritorious promotion of Defendant Peter Dignan: Daley admits that Dignan was meritoriously promoted, but fails to answer whether he participated in, or approved, the decision to promote. (*Id.*, Answer to paragraph 91).
- i. The continuing decision to continue to finance Burge's defense for the entire time that he was Mayor: Despite statements by his Chief of Staff and Corporation Counsel to the contrary, Daley denies his involvement in this decision. (*Id.*, Answer to paragraph 93).

23. As Plaintiff's counsel previously stated, almost seven months ago in our first Local

Rule 37.2 letter:

These are just some of the reasons that your refusal to produce former [Mayor] Daley is without any basis in law and fact. Mayor Emanuel has recently stated that he would closely monitor the taxpayer money spent in the defense of Richard Daley. This exercise in your litigating this issue is, in our view, a perfect example of the City needlessly spending public monies pursuing a strategy of delay and obstruction, rather than to facilitate ending the City's role in this decades long torture scandal.

(Exhibit C).

WHEREFORE, Plaintiff Michael Tillman moves this Honorable Court to compel Defendant, co-conspirator, and *Monell* witness Richard M. Daley to appear for his deposition in the above-entitled cause on a date certain within the next 30 days.



Dated: March 27, 2012

Respectfully submitted,

/s/ G. Flint Taylor

G. Flint Taylor

Joey L. Mogul

Ben H. Elson

Sarah Gelsomino

People's Law Office

1180 N. Milwaukee Avenue

Chicago, IL 60642

(773) 235-0070

Locke E. Bowman

Alexa Van Brunt

MacArthur Justice Center

Northwestern University Law School

357 E. Chicago Ave.

Chicago, IL 60611

(312) 503-8576

Attorneys for Plaintiff Tillman

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL TILLMAN

Plaintiff,

vs.

JON BURGE, et al.

Defendants.

No. 10 C 4551

Judge Rebecca R. Pallmeyer

RONALD KITCHEN,

Plaintiff,

v.

JON BURGE, et al.,

Defendants.

No. 10 C 4093

Judge Elaine E. Buckle

NOTICE OF VIDEOTAPED DEPOSITION

TO: See Attached Service List

YOU ARE HEREBY NOTIFIED THAT pursuant to the Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, Eastern Division, the undersigned will take the oral and videotaped deposition of the following person before a Videographer, Notary Public or other authorized officer at the following location, date and time indicated below:

Deponent

Richard M. Daley

Date and Time

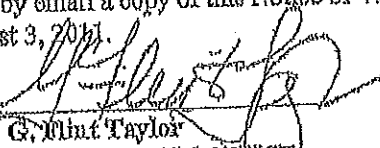
September 8, 2011 at 10:00 a.m.

Location

People's Law Office

CERTIFICATE OF SERVICE

I certify that I caused to be delivered by email a copy of this Notice of Videotaped Deposition to Counsel listed below on August 3, 2011.

  
G. Clint Taylor  
PEOPLE'S LAW OFFICE  
1180 N. Milwaukee Avenue  
Chicago, Illinois 60642

SERVICE LIST

*Tillman v. Burge, et al.*, No. 10 C 4551

<p>James McGovern Helena Wright Andrew M. Hale &amp; Associates, LLC 53 W. Jackson, Suite 1800 Chicago, IL 60604</p> <p>Patrick T. Driscoll Stephen Garola Cook County State's Attorney's Office 500 Richard J. Daley Center Chicago, IL 60602</p> <p>Michael J. Kralovec Sara R. McClain Kralovec Meenan, LLP 53 West Jackson Blvd., Suite 1102 Chicago, IL 60604</p> <p>William G. Gamboney 216 South Marlon Street Oak Park, IL 60302</p>	<p>Paul Michalik Terrence Burns Daniel Noland Dykema Gossett 10 S. Wacker Drive, Suite 2300 Chicago, IL 60606</p> <p>Eileen M. Letts Kenya Jenkins-Wright Greene and Letts 111 West Washington St., Suite 1650 Chicago, IL 60602</p> <p>Richard M. Benke 53 West Jackson Blvd., Suite 1410 Chicago, IL 60604</p>
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# **EXHIBIT B**

**DYKEMA**

Dykema Gossett PLLC  
10 South Wacker Drive  
Suite 2300  
Chicago, Illinois 60606  
www.dykema.com  
Tel: (312) 876-1700  
Fax: (312) 848-2697  
TERRENCE M. BURNS  
Direct Dial: (312) 827-2172  
Email: TBURNS@DYKEMA.COM

August 31, 2011

Via Facsimile and First Class Mail

C. Flint Taylor  
People's Law Office  
1180 N. Milwaukee Ave.  
Chicago, IL 60622

Re: *Tillman v. Jan Borge, et al.*  
Court No. 10 C 4351

*Kitchen v. Borge, et al.*  
Court No. 10 C 4093

Dear Mr. Taylor:

We object to your notice of deposition of former Mayor Daley. As you are aware, Judge Gottschall (before whom *Munell* discovery was consolidated in *Patterson, Orange, Hobley, Howard*) granted the City's motion for protective order and denied those plaintiffs' motion to compel Mayor Daley's deposition on December 16, 2004. Judge Gottschall pointedly concluded that "the case has not been made for me, and I am not going to allow this to happen in this case, unless I know exactly why the people are being deposed and everybody else does, too, and I have been convinced that there is some reason apart from the huge publicity value."

From the time of Judge Gottschall's decision to the present, nothing has changed to alter her conclusion. In fact, since Judge Gottschall's ruling, Judge St. Eve also denied your request in the *Cannon* case to take Mr. Daley's deposition and Judge Aspen sustained the City's objection to the request for Mr. Daley's deposition in *Hobley*.

There is nothing different in the *Tillman* (or *Kitchen*) case that would warrant Mr. Daley's deposition. As in *Patterson, Orange, Hobley, Howard*, and *Cannon*, the complaint fails to allege Mr. Daley, in his position as State's Attorney, directed or personally participated in plaintiff's arrest or prosecution. As for the suggestion in the complaint that Mr. Daley as mayor discredited information and reports regarding allegations of police torture made by suspects other than plaintiff, those allegations fail to provide a basis on which to depose former Mayor Daley. There are no allegations or evidence Mr. Daley had any personal involvement in plaintiff's post-

Dykema

G. Flint Taylor  
August 31, 2011  
Page 2

conviction proceedings. In fact, while he had no direct role in plaintiff's case, Mr. Daley's administration initiated the separation proceedings against Jon Burge and two of his subordinates for misconduct in the Andrew Wilson case which led to Burge's separation from the Chicago Police Department. Furthermore, there are no allegations any of the OPS investigations allegedly "re-opened" in 1993 involved plaintiff or that Mr. Daley had anything to do with those investigations. There are no allegations Mr. Daley obstructed any investigation or suppressed any findings, information, or files pertaining to plaintiff. Plaintiff's complaint itself demonstrates the lack of personal involvement of Mr. Daley that would warrant a deposition.

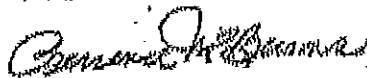
As recognized by Judge Gottschohl in 2004, it is apparent you continue to seek Mr. Daley's deposition for its "huge publicity value." It is also telling you have not sought the deposition of any of the prosecutors who were actually involved in Mr. Tillman's prosecution, but instead seek the deposition in the first instance of the former State's Attorney, who was not personally involved. The issuance of the notice of deposition during the pendency of Mr. Daley's motion to reconsider is also improper. Furthermore, while we strongly believe the motion to reconsider is meritorious, even if it is denied, that will not necessarily support a basis to depose the former Mayor. *Olivieri v. Rodriguez*, 122 F.3d 406, 409 (7th Cir. 1997); *Stagman v. Ryan*, 176 F.3d 986, 995 (7th Cir. 1999).

With respect to Mr. Kitchen, Judge Buckle dismissed Mr. Daley as a defendant in that case and, like Tillman, there is no evidence Mr. Daley had any role in the arrest, prosecution, post-investigation proceedings or any other matter pertaining to Kitchen's case. In fact, Kitchen's case went to trial well after Mr. Daley left the State's Attorney's office. Finally, your notice violates the tiered discovery plan your office suggested, which was adopted by the Court.

Accordingly, we request that you withdraw your notice of deposition of former Mayor Daley. If you should decide not to withdraw your notice of deposition of Mr. Daley, we will file a motion for protective order. We ask that you respond to this correspondence by September 7, 2011 in order to avoid court intervention on this issue.

Very truly yours,

DYKEMA GOSSETT P.A.



Terrence M. Burns

cc: Counsel of Record



# **EXHIBIT C**

## PEOPLES LAW OFFICE

1100 N. Milwaukee  
Chicago, Illinois, 60642  
(773) 236-0070  
Fax (773) 236-6699  
peoplesLaw@aol.com

Michael E. Deutsch  
Ben H. Elson  
Sarah Gelsomino  
James L. Hoff  
Joy L. McGill  
John L. Stahlhut  
Jan Stoler  
G. Brent Taylor, Jr.

Of Counsel  
Jeffrey H. Haas

September 6, 2011

### VIA EMAIL AND U.S. MAIL

Terrence Burns  
Dykenia Gossett  
10 S. Wacker Drive, Suite 2300  
Chicago, IL 60606

Re: *Tillman v. Burge, et al.*, No. 10 C 4551 (N.D. Ill.)

Dear Counsel:

We are writing pursuant to Local Rule 37.2 and in response to your letter refusing to produce Defendant and former Mayor Richard M. Daley for deposition without being ordered to do so by the Court.

You cite to Judge Gottschall's decision, from more than 7 years ago, at the inception of the post pardon phase of the torture litigation, as a reason for not producing the former Mayor. Suffice it to say that much has transpired since that time that makes the former Mayor's testimony highly relevant to Plaintiff Tillman's well pleaded allegations against Daley, Jon Burge, and their co-conspirators.

First and foremost, Judge Pollmeyer *has found* that Plaintiff Tillman has sufficiently alleged that Daley is part of a "common scheme to engage in torture" and a subsequent conspiracy that "covered up and suppressed evidence of that pattern and practice of torture of which Plaintiff was a victim," and that he "undermined and obstructed findings of torture." *Tillman v. Burge*; 2011 U.S. Dist. LEXIS 79320, at \*73, 77-78 (N.D. Ill. July 20, 2011). The Judge summarized our allegations as to this thirty year conspiracy and Daley's central role in it as follows:

Former Mayor and State's Attorney Richard M. Daley and former Chicago Police Superintendent LeRoy Martin refused and failed to investigate a pattern of torture carried out at Area 2 prior to Plaintiff's arrest; proximately causing Plaintiff's torture and wrongful conviction. Plaintiff claims that Daley, Martin, former Chicago Police Superintendent Terry Hillard, former aide to the Chicago Police Superintendent, Thomas

Needham, and former Office of Professional Standards Director Gayle Shines all conspired to suppress evidence of police torture that Plaintiff claims would have been exoneratory.

*Id.* at \*1. These well pleaded allegations are a bedrock of Daley's relevance as a witness, even in the unlikely event that he escapes as a defendant on the basis of his plea of immunity from suit. Further specifics of Daley's alleged role, both as State's Attorney, and Mayor, can be found in Judge Pallmeyer's opinion and in our complaint.

Second, Daley's First Assistant, former State's Attorney Richard Devine, in the fall of 2006 gave a 10-hour deposition in which he revealed Daley's knowledge, through the February 1982 Richard Brzezczek letter, of the evidence that Jon Burge tortured Andrew Wilson, and Daley and Devine's failure to investigate or prosecute Burge at that time. This continued failure to investigate links Daley directly to the conspiracy, and Plaintiff Tillman's case, because Tillman would not have been tortured and wrongfully convicted if Daley and Devine had acted.

Third, Daley as State's Attorney approved the seeking of the death penalty in Michael Tillman's case, despite the fact that there was no competent evidence against him, save for oral admissions that were tortured from him by Burge's Midnight Crew under his direct supervision, and that an unrelated suspect had, in all likelihood, independently committed the crime for which Tillman was charged. This is another direct link to Tillman's case.

Fourth, Judge Scott Brown, in the same torture cases that you cite, in February of 2007 ordered that then Mayor Daley, *who was not a defendant in any of those cases*, sit for a deposition in those cases, stating as her factual basis many of the same allegations that bind Daley here:

Mr. Daley was the State's Attorney during the time when Hobley, an African-American, alleges he was subjected to constitutional violations by Chicago police, including defendant Jon Burge. The State's Attorney and his assistants prosecute criminal charges brought by Chicago police. There is evidence that in February 1982, the State's Attorney's office, and perhaps Mr. Daley personally, was put on notice of allegations of physical abuse of suspects by Chicago police through a letter to Mr. Daley from the then-Superintendent of Police Richard Brzezczek. (Pl.'s Renewed Mot., Ex. D.) Mr. Brzezczek's letter states that he is enclosing a letter from the Medical Director of Cook County (Prison) Health Services which describes injuries appearing on defendant Andrew Wilson, an African-American suspected in the murder of Chicago police officers. (*Id.*, Ex. C.) Apparently, nothing was done to follow up on the issues raised by the two letters. Mr. Wilson's conviction was reversed by the Illinois Supreme Court. *People v. Wilson*, 116 Ill. 2d 29, 506 N.E.2d 571, 108 Ill. Dec. 771 (Ill. 1987). Recently, the Special Prosecutor who investigated allegations of abuse by Chicago police officers concluded that there was enough evidence of mistreatment of Andrew Wilson by Jon Burge to establish guilt beyond a reasonable doubt. (Pl.'s Renewed Mot., Ex. N at 16.) The Special Prosecutor's report also stated, "There are many other cases which lead us to believe or suspect that the claimants were abused, but proof beyond a reasonable doubt is absent."

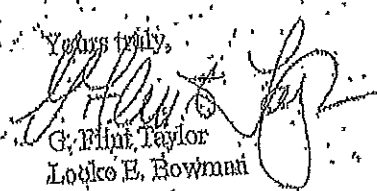
Id. Since the release of the Special Prosecutor's report, Mr. Daley has stated that he believes Mr. Brzezick's letter was referred at the time to the appropriate professionals within the State's Attorney's Office. (Id., Ex. BB.) Testimony obtained by the Special Prosecutor from other witnesses suggests that the Brzezick letter was received and considered by highly-placed members of the State's Attorney's staff, possibly including Mr. Daley. (Id., Ex. G at 35; Ex. H at 32.) 2 Notably, after Mr. Wilson was convicted, Mr. Daley, in his position as State's Attorney, publicly honored Burge and other police officers for their work on the case. (Id., Ex. P.) These facts, among other circumstances cited in Hobbey's motion, support a conclusion that Mr. Daley may have information about the activities of Burge and other police officers, about who in the City and police administration knew about those activities, and about whether any action was taken on the basis of such knowledge. Such information could well lead to potentially admissible evidence regarding whether the mistreatment of the African-American suspects reflected a policy or practice by the City that denied equal protection of the laws to those suspects.

*Hobbey v. Burge*, 2007 U.S. Dist. LEXIS 12159, at \*6-7 (N.D. Ill. February 22, 2007).

These are just some of the reasons that your refusal to produce former Mayor Daley is without any basis in law and fact. Mayor Emanuel has recently stated that he would closely monitor the taxpayer money spent in the defense of Richard Daley. The City's litigation of this issue is, in our view, a perfect example of the City needlessly spending public monies pursuing a strategy of delay, rather than to facilitate ending its role in this decades long torture scandal, as Mayor Emanuel recently stated publicly he would. We do recognize that our notice of deposition, as it relates to the *Kitchen* case, may be premature, given that the Court and parties have divided discovery into phases in that case. Given the City's recent suggestion, in open court, that mediation may be fruitful therein, Daley's deposition in that case may not be necessary. Hence we are issuing a new notice, attached hereto, for deposition of Defendant Daley for September 29 in the *Tillman* case alone.

We therefore urge you to reconsider your refusal to produce Richard M. Daley for deposition in the *Tillman* case, and stand ready to further discuss the matter pursuant to Local Rule 37.2.

Yours truly,

  
G. Phil Taylor  
Loyce E. Bowman  
Joey Mogul  
Ben H. Elson  
Sarah Gelsomino  
Alexa Van Brunt  
Attorneys for Plaintiff

Encl:  
cc: All Counsel

# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL TILLMAN

Plaintiff,

vs.

JON BURGE, et al.

Defendants.

No. 10 C 4531

Judge Rebecca R. Pullmeyer

SECOND NOTICE OF VIDEOTAPED DEPOSITION

TO: See Attached Service List

YOU ARE HEREBY NOTIFIED THAT pursuant to the Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, Eastern Division, the undersigned will take the oral and videotaped deposition of the following person before a Videographer, Notary Public or other authorized officer at the following location, date and time indicated below:

Deponent

Richard M. Daley

Date and Time

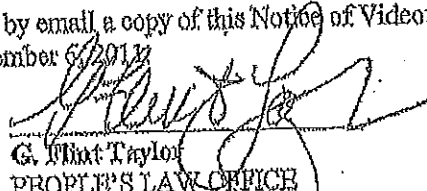
September 29, 2011 at 10:00 a.m.

Location

People's Law Office

CERTIFICATE OF SERVICE

I certify that I caused to be delivered by email a copy of this Notice of Videotaped Deposition to Counsel listed below on September 6, 2011.

  
G. Flint Taylor

PEOPLE'S LAW OFFICE

1180 N. Milwaukee Avenue  
Chicago, Illinois 60642

SERVICE LIST

*Tillman v. Burge, et al., No. 10 C 4551*

James McGovern Helen Wright Andrew M. Hale & Associates, LLC 53 W. Jackson, Suite 1800 Chicago, IL 60604	Paul Michalik Terrence Burns Daniel Noland Dykema Gossett 10 S. Wacker Drive, Suite 2300 Chicago, IL 60606
Patrick T. Driscoll Steven Garcia Cook County State's Attorney's Office 500 Richard J. Daley Center Chicago, IL 60602	Bileen M. Letts Kenya Jenkins-Wright Greene and Letts 111 West Washington St., Suite 1650 Chicago, IL 60602
Michael J. Kralovec Sara R. McClain Kralovec Meenan, LLP 53 West Jackson Blvd., Suite 1102 Chicago, IL 60604	Richard M. Benke 53 West Jackson Blvd., Suite 1410 Chicago, IL 60604
William G. Gamboney 216 South Marion Street Oak Park, IL 60302	

# **EXHIBIT E**



UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL TILMAN

Plaintiff,

vs.

JON BURGE, et al.

Defendants.

No. 10 C 4551

Judge Rebecca R. Pallmeyer

THIRD NOTICE OF VIDEOTAPED DEPOSITION

TO: See Attached Service List

YOU ARE HEREBY NOTIFIED THAT pursuant to the Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, Eastern Division, the undersigned will take the oral and videotaped deposition of the following person before a Videographer, Notary Public or other authorized officer at the following location, date and time indicated below:

Deponent

Richard M. Daley

Date and Time

December 7, 2011 at 10:00 a.m.

Location

People's Law Office

CERTIFICATE OF SERVICE

I certify that I caused to be delivered by email a copy of this Notice of Videotaped Deposition to Counsel listed below on November 3, 2011.

/s/ G. Flint Taylor

G. Flint Taylor

PEOPLE'S LAW OFFICE

1180 N. Milwaukee Avenue

Chicago, Illinois 60642

SERVICE LIST

*Tylian v. Burge, et al.*, No. 10 C 4551; *Kitchen v. Burge, et al.*, No. 10 C 4093

<p>James McGovern Helena Wright Andrew M. Hale &amp; Associates, LLC 53 W. Jackson, Suite 1800 Chicago, IL 60604</p> <p>Patrick T. Driscoll Steven Garcia Cook County State's Attorney's Office 500 Richard J. Daley Center Chicago, IL 60602</p> <p>Michael J. Kralovec Sara R. McClain Kralovec Meenan, LLP 53 West Jackson Blvd., Suite 1102 Chicago, IL 60604</p> <p>William G. Gamboney 216 South Marion Street Oak Park, IL 60302</p>	<p>Paul Michalik Terrence Burns Daniel Noland Dykema Gossett 10 S. Wacker Drive, Suite 2300 Chicago, IL 60606</p> <p>Bileen M. Letts Kenya Jenkins-Wright Greene and Letts 111 West Washington St., Suite 1650 Chicago, IL 60602</p> <p>Richard M. Bouke 53 West Jackson Blvd., Suite 1410 Chicago, IL 60604</p>
---	--

# **EXHIBIT F**

## PEOPLES LAW OFFICE

1180 N. Milwaukee  
Chicago, Illinois, 60642  
(773) 235-0070  
Fax (773) 235-6699  
PeoplesLaw@aol.com

Michael H. Deuschel  
Ben H. Elson  
Sarah Gelsomino  
Janine L. Holt  
Joey L. Mogul  
John L. Stahlin  
Jan Suoler  
G. Flint Taylor, Jr.

Of Counsel  
Jeffrey H. Haas

November 22, 2011

### VIA EMAIL AND U.S. MAIL

Terrence Burns  
Daniel Noland  
Dykema Gossett  
10 S. Wacker Drive, Suite 2300  
Chicago, IL 60606

Re: *Tillman v. Burge, et al.*, No. 10 C 4551 (N.D. Ill.)

Dear Counsel,

This is to memorialize the Rule 37.2 phone conference that we conducted today concerning the deposition of Defendant Daley that we had re-noticed for December 7, 2011. Present for the City and Defendant Daley were Terrence Burns and Dan Noland, and for Plaintiff Michael Tillman were Flint Taylor, Locke Bowman, Joey Mogul, Sarah Gelsomino and Alexa Van Brunt.

Mr. Burns opened the meeting by inquiring why the deposition was necessary and what the scope would be. We responded that the deposition was necessary to question Defendant Daley on the specific areas set forth in Plaintiff's complaint, and in various other pleadings, letters, and court orders concerning Daley's role in this and other related torture cases that have been filed in this and other related lawsuits, and that our questioning would cover his actions, inactions and knowledge both while Cook County State's Attorney and as Mayor.

We further stated that we needed the deposition in order to defend against any potential motion for summary judgment and to meet our burden to prove our case at trial. We pointed out that the areas of questioning were largely co-extensive with Plaintiff's *Monell* claim, and also similar to those at issue in the *Kitchen v. Burge* case, and suggested that Defendant Daley and his counsel consider proceeding with one consolidated deposition. Mr. Burns alluded to the statement taken from Defendant Daley by the Special Prosecutor in 2006, but that statement, which was short in duration, quite limited in subject matter, and did not address many of the

issues relevant to this lawsuit, is completely insufficient for the purposes of this case.<sup>1</sup>

In response to additional inquiries by Mr. Burns, we stated that the deposition would take up to seven hours, depending on the nature of the answers given by the deponent and the time devoted to objections raised by counsel, and that we would be amenable to conducting it at a location that was mutually agreeable. Mr. Burns suggested that he might file interrogatories on Mr. Daley's behalf seeking further specifics, and we responded that while we would certainly respond to such interrogatories, we would not agree to delay either the deposition or any motion practice related to it until such interrogatories were posed and answered.

Mr. Burns informed us that December 7 was not an agreeable date, and that a date in December was unlikely. We informed him that we would be sensitive to the deponent's family issues, and asked for a date certain in January, preferably during the first half of the month. Mr. Burns said he would promptly speak with his client as to the issues raised, and we all agreed to continue the Rule 37.2 phone conference to Tuesday November 29 at 2 p.m. for Mr. Burns to report back on the questions raised.

Yours truly,

  
Clint Taylor

Loeke Bowman

Joey Magul

Sarah Gelsonimo

Alexa Van Brunt

Ben Elson

For Plaintiff Tillman

<sup>1</sup>As Judge Scott Brown noted in *Hobley v. Burge*, 2007 U.S. Dist. LEXIS 12159, \*9, fn2 (N.D. Ill. Feb. 22, 2007): "The statement taken by the Special Prosecutor from Mr. Daley contains little useful information. It consists almost entirely of leading questions posed by the counsel for the Special Prosecutor, often prefaced by long factual recitations."

# **EXHIBIT G**

Gmail - Continued Rule 37.2 Daley Deposition Conference Flint Taylor  
<flint.taylor10@gmail.com>

Continued Rule 37.2 Daley Deposition Conference

Flint Taylor <flint.taylor10@gmail.com> Mon, Dec 19, 2011 at 3:37 PM  
To: "TBurns@dykema.com" <tburns@dykema.com>, "DNoland@dykema.com"  
<dnoland@dykema.com>  
Cc: elsonben@aol.com, joeymogul@aol.com, sarahgelsomino@gmail.com, Alexa  
Van Brunt <alexa.vanbrunt@gmail.com>, Locke Bowman  
<l-bowman@law.northwestern.edu>  
Bcc: Sam Tenenbaum <s-tenenbaum@law.northwestern.edu>

Dear Mr. Burns,

We received your voice mail message of December 15, requesting that the continued Rule 37.2 conference scheduled for that day concerning the deposition of Defendant Richard Daley be continued until after the first of the year. We can appreciate your stated reason --- that you have not been able to discuss this matter with Mr. Daley due to his personal family matters. However, given that his deposition was first noticed for early September of this year, we are justifiably anxious to learn his (and your) position concerning his deposition as soon as possible so that we can either proceed to schedule it for January 2012, or, if necessary, to expeditiously pursue litigation. That being said, we will reluctantly agree to forego moving to compel at this time if you will promptly confirm January 3, 2012 at 2:00 p.m. as a firm date for concluding the Rule 37.2 conference concerning the Daley deposition that commenced in November of this year. Thank you.

Flint Taylor

Locke Bowman

Ben Elson

Joey Mogul

Sarah Gelsomino

Alexa Van Brunt

For Plaintiff Michael Tillman

# **EXHIBIT H**



## PEOPLES LAW OFFICE

1100 N. Milwaukee  
Chicago, Illinois, 60642  
(773) 235-0070  
Fax (773) 235-6699  
PeoplesLaw@aol.com

Michael E. Deulson  
Ben H. Elson  
Sarah Gelsomino  
Janina L. Holt  
Joey L. Mugal  
John L. Stalnforth  
Jan Supler  
G. Flint Taylor, Jr.

Of Counsel  
Jeffrey H. Haas

February 22, 2012

VIA EMAIL AND U.S. MAIL

Terrence Burns  
Dykema Gosssett  
10 S. Wacker Drive, Suite 2300  
Chicago, IL 60606

Re: *Tillman v. Burge, et al.*, No. 10 C 4551 (N.D. Ill.)

Dear Mr. Burns:

I am writing to seek final resolution of the long running Rule 37(2) issue with regard to the deposition of Defendant Richard M. Daley, which we have renounced on several occasions. Our first Rule 37.2 communications concerning this deposition were in early September of 2011, and we convened a Rule 37.2 phone conference on November 22, 2011 to discuss the issue. At that conference, which we memorialized in the attached letter of the same date, you asked us to set forth our position about the deposition and we did so in detail. You said that you would get back to us as to your position after speaking with Mr. Daley, who, you stated, was dealing with serious family issues, and we jointly scheduled a second Rule 37.2 phone conference for November 29 for that express purpose.

Sadly, on November 25, 2011, Maggie Daley passed away, and, without hesitation, we granted your request to continue the Rule 37.2 conference. However, it is now two months since our last conference, and five months since we first noticed Mr. Daley, so we must now insist that you agree to produce him within the next 30 days, or state your final position if you do not intend to do so, no later than Monday, February 27, 2012, so we can report to the Court at our February 28 court date. We would suggest the following dates: March 7, March 9, March 14, March 19, or March 26 for Mr. Daley's deposition.

Sincerely yours,

G. Flint Taylor

For Plaintiff Michael Tillman

# **EXHIBIT I**

**STATEMENT OF MAYOR RICHARD M. DALEY**  
**Special Prosecutors Report**  
**Friday, July 21, 2006**

This week, the court released a lengthy special prosecutors report on the practice of abuse and torture of suspects in the 1970s and 1980s at the Calumet police district.

The city strongly supported the release of this report because the public deserves to know the full story about this shameful episode in our history.

They also need to know that the city has, in the two decades since, put in place a series of safeguards aimed at preventing such abuses.

First, let me say, we ask a lot of our police. They put their lives on the line to protect our communities. They see tragedy and loss every day, and are forced to confront the people responsible and bring them to justice. It's a tough, dangerous and often heartbreaking job.

But even as they work in a violent world, these men and women have a responsibility to operate within the law they have taken an oath to uphold. It's this simple: You cannot enforce the law by breaking the law.

No matter how awful the crime, no suspect should be subject to the kinds of abuses detailed in this report. And no suspect should ever be coerced into confessing to crimes he did not commit.

It fundamentally undermines our system of justice, and destroys public confidence. It should never happen.

That is why we now videotape interrogations in murder cases.

That is why we, as department policy, release suspects within 48 hours if they are not formally charged.

That is why we have put in place a new personnel performance management system to detect patterns of misconduct on the part of individual officers, so the department can intervene early, modify their behavior or separate them from the force.

That is why we have greatly upgraded DNA testing and our computer data bases of mug shots and fingerprints to reduce the chances of mistaken identity.

And that is why we now routinely audit homicide cases and review old cases, using the new technology, to determine if defendants were wrongfully charged.

It's also why I have emphasized the CAPS program. A close, working relationship between police and the communities they serve is an important safeguard against the systemic abuses that occurred in the past.

No one can guarantee that these and other steps we have taken will remove any possibility of abuse, misconduct or wrongful prosecution.

Ultimately, we count on human beings in policing and the criminal justice system, and human beings sometimes let us down.

What we will continue to do is put systems and policies in place to try and prevent such abuses, and to hold those who commit them accountable.

Finally, I want to comment on one aspect of the report that has received a great deal of attention and that is the letter the then police superintendent sent to my office about one case when I was state's attorney twenty-four years ago.

I believe the letter, which suggested but did not charge abuse in the case of a man accused of killing a police officer, was referred to the appropriate professionals within the State's Attorney's Office.

Only years later did the pattern of misconduct on the part of Burge and his unit become known.

Though the report does not allege any misconduct or cover-up within the State's Attorney's office, I know that there are those who will seek to play politics and draw inferences that aren't there.

My emphasis is and will continue to be on making sure that we are doing everything possible to insure that the horrendous abuses of two and three decades ago never happen again.

Thank you.

###

# **EXHIBIT J**

DATE: NOVEMBER 14, 1986

M E M O R A N D U M

TO: RICHARD M. DALEY  
State's Attorney

MICHAEL ANGAROLA  
First Assistant State's Attorney

MYCHAEL SHABAT  
Deputy Chief

JAY MAGNUSON  
Chief, Criminal Prosecution Bureau

J. SCOTT ARTHUR  
Chief, Felony Trial Division

WAYNE MEYER  
Trial Supervisor

FROM: Lawrence M. Lykowski  
Assistant State's Attorney

JUDGE: Kenneth Gillis  
Room: 11 G 38

RE: PEOPLE vs. Clarence Trotter, Michael Tillman, Stephen Bell  
Ind./Info. No. 86CB-10969

CAPITAL PUNISHMENT CASE

Date and Time of Occurrence: Between July 20, 1986, approximately 9:30 a.m. and  
July 21, 1986, 2:30 a.m.

Location: 2860 East 76th Street, Apartment 76, Chicago, Illinois

FACTS:

On July 20, 1986, Chicago Police officer responded to a burglary scene/ missing persons call at 2860 East 76th Street, Apartment 5B, Chicago, Illinois. Investigation disclosed that victim Betty Howard, 42 years of age, and her 2 year-old son Myron Howard were the residents of the burglarized premises. Within hours police found the victim's naked body lying in a pool of blood with her arms tied in a spreadeagle fashion to a radiator in a vacant apartment of the same building. Her clothes were strewn about her. The victim's 2 year-old son was found locked in the bathroom of the same apartment. He was physically unharmed, but ligatures were found on the bathroom floor, suggesting that he had been bound earlier. Police had been led to the vacant apartment by defendant Michael Tillman, 20 years of age. Tillman, who was staying in the building with his girlfriend, had been employed by the management to paint two vacant apartments in the building. Tillman, under questioning by police, made oral statements

-2-

implicating himself and defendant Stephen Bell, 18 years of age in the abduction, rape, robbery, and murder of the victim. Defendant Stephen Bell, under police questioning, also made oral admissions to abducting, raping, robbing, and stabbing the victim.

On July 24, 1986, defendants Michael Tillman and Stephen Bell were formally charged with the murder of Betty Howard.

On August 9, 1986, Chicago Police arrested two offenders driving victim Betty Howard's car. One of these offenders told police he had obtained the car from one Boris Flowers, 12 years of age. Police took Flowers into custody, and also recovered items of victim Betty Howard's property and a semi-automatic pistol from Boris Flowers residence. Upon questioning Boris Flowers told police he had received the victim's property as well as the pistol from defendant Clarence Trotter. Trotter was arrested at his residence, and at the time of his arrest police also recovered a stereo mixer which was later identified as having belonged to victim Betty Howard.

After taking Clarence Trotter into custody police learned through the police crime lab ballistics section that the pistol recovered from Boris Flowers was the same gun used to shoot victim Betty Howard. The latent fingerprint unit also identified one of defendant Clarence Trotter's fingerprints as having been recovered from a can of soda pop recovered at the murder scene.

Defendant Clarence Trotter gave a written statement to an Assistant State's Attorney in which he admits to being forced at gunpoint, to have sex with the already dead body of the victim at the murder scene. He also admits to being forced, at gunpoint, to stab the already dead body of the victim. Clarence Trotter was formally charged on August 11, 1986, with the murder of Betty Howard.

Subsequent to the charging of all offenders the State's Attorneys Office requested a microanalytic and serological work-up of evidence in this case. Preliminary work-up indicates that fibers recovered from the victim's body and fibers recovered from items of defendant Bell's and defendant Tillman's clothing are identical. This continuing investigation by the Chicago Police Department crime lab at the instance of the Office of the State's Attorney is at present incomplete, but will likely result in additional incriminatory evidence.

QUALIFYING FACTORS: (1) Statutory Citation: Chp. 38 Section 9-1(b)  
Paragraph (6)

- (2) Brief Description: a) each defendant was over the age of 17 at the time of the offense.  
b) Murder during the course of a criminal sexual assault/residential burglary/kidnapping

-3-

AGGRAVATIONS: 1) Facts of the case  
2) Defendant Truitt prior felony convictions

- a) November 7, 1977 (76-173) Burglary - 1 to 4 yrs. I.D.O.C.
- b) September 20, 1977 (76-4-39) Robbery - 2 to 6 yrs. I.D.O.C.
- c) December 28, 1978 (78-2582) Burglary - 6 yrs. I.D.O.C.
- d) January 27, 1983 (78-3129) Burglary - 8 yrs. I.D.O.C.

MITIGATION: Defendant Tillman - no prior conviction  
Defendant Bell - a) no prior arrests.  
b) Stephen Bell was working at two jobs at the time of his arrest to pay for college education. Bell was also a high school baseball star at Bloom High School who was being evaluated by Pittsburgh Pirates Baseball Club for possible draft.

PROBLEM AREAS: 1. Defendant Tillman recanted his oral statement.  
2. Defendants Tillman and Bell never admitted rape or murder to felony review Assistant State's Attorney.  
3. Tillman and Bell make no mention of a third offender at any time.  
4. Sexological evidence of Victim kit negative for semen or sperm. (Un corroborative of Statements).  
5. No offender ever mentions gun as murder weapon.

RECOMMENDATION OF TRIAL ASSISTANTS: Death penalty should be imposed.

ATTACHMENTS: 2 of 1 each defendant

Lawrence M. Lychowski  
Assistant State's Attorney

Room Number: 11 C 38

Phone Number: 2757



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

V.

JON BURGE, et al.,

Defendants.

Case No. 10 C 4093

The Hon. John J. Tharp, Jr.

Magistrate Judge Maria Valdez

## Exhibit B

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

vs.

JON BURGE, et al.

Defendants.

No. 10 C 4093

Judge John Tharp

**NOTICE OF VIDEOTAPED DEPOSITION**

TO: See Attached Service List

**YOU ARE HEREBY NOTIFIED THAT** pursuant to the Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, Eastern Division, the undersigned will take the oral and videotaped deposition of the following person before a Videographer, Notary Public or other authorized officer at the following location, date and time indicated below:

**Deponent**

Richard M. Daley

**Date and Time**


October 15, 2012 at 10:00 a.m.

**Location**

People's Law Office

**CERTIFICATE OF SERVICE**

I certify that I caused to be delivered by email a copy of this Notice of Videotaped Deposition to Counsel listed below on September 27, 2012.



G. Flint Taylor

PEOPLE'S LAW OFFICE  
1180 N. Milwaukee Avenue  
Chicago, Illinois 60642

**SERVICE LIST**

*Kitchen v. Burge, et al., No. 10 C 4093*

Andrew Hale Andrew M. Hale & Associates, LLC 53 W. Jackson, Suite 1800 Chicago, IL 60604  Patrick T. Driscoll Steven Garcia Cook County State's Attorney's Office 500 Richard J. Daley Center Chicago, IL 60602	Paul Michalik Terrence Burns Daniel Noland Dykema Gossett 10 S. Wacker Drive, Suite 2300 Chicago, IL 60606  Richard M. Beuke 53 West Jackson Blvd., Suite 1410 Chicago, IL 60604
--	---

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

NORTHERN DISTRICT OF ILLINOIS

Ronald Kitchen

Plaintiff

v.

Jon Burge, et al.,

Defendant

Civil Action No.  
10 C 4093

(If the action is pending in another district, state where:  
District of )

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To Richard M. Daley, Katten, Muchin, Rosenman, LLP, 525 W. Monroe Street, Chicago, IL 60661

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: People's Law Office, 1180 N. Milwaukee Ave.,  
Chicago, IL

Date and Time:  
October 15, 2012, 10:00 a.m.

The deposition will be recorded by this method: stenographer and videotape

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Sep 27, 2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiff Ronald

Kitchen

who issues or requests this subpoena, are:

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

V.

JON BURGE, et al.,

Defendants.

Case No. 10 C 4093

The Hon. John J. Tharp, Jr.

Magistrate Judge Maria Valdez

## Exhibit C

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

vs.

JON BURGE, et al.

Defendants.

No. 10 C 4093

Judge John Tharp

**SECOND NOTICE OF VIDEOTAPED DEPOSITION**

TO: See Attached Service List

**YOU ARE HEREBY NOTIFIED THAT** pursuant to the Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, Eastern Division, the undersigned will take the oral and videotaped deposition of the following person before a Videographer, Notary Public or other authorized officer at the following location, date and time indicated below:

**Deponent**

Richard M. Daley

**Date and Time**

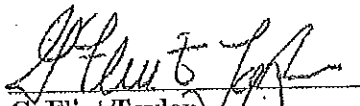
November 8, 2012 at 10:00 a.m.

**Location**

People's Law Office

**CERTIFICATE OF SERVICE**

I certify that I caused to be delivered by email a copy of this Notice of Videotaped Deposition to Counsel listed below on October 16, 2012.

  
G. Flint Taylor  
PEOPLE'S LAW OFFICE  
1180 N. Milwaukee Avenue  
Chicago, Illinois 60642

**SERVICE LIST**

*Kitchen v. Burge, et al.*, No. 10 C 4093

Andrew Hale Andrew M. Hale & Associates, LLC 53 W. Jackson, Suite 1800 Chicago, IL, 60604  Patrick T. Driscoll Steven Garcia Cook County State's Attorney's Office 500 Richard J. Daley Center Chicago, IL 60602	Paul Michalik Terrence Burns Daniel Noland Dykema Gossett 10 S. Wacker Drive, Suite 2300 Chicago, IL 60606  Richard M. Beuke 53 West Jackson Blvd., Suite 1410 Chicago, IL 60604
---	---

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

NORTHERN DISTRICT OF ILLINOIS

Ronald Kitchen

Plaintiff

v.

Jon Burge, et al.,

Defendant

Civil Action No.

10 C 4093

(If the action is pending in another district, state where:

District of )

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To Richard M. Daley, c/o Paul Michalik, Terrence Burns, Dykema Gossett, 10 S. Wacker, Chicago, Il. 60606

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: People's Law Office, 1180 N. Milwaukee Ave.,  
Chicago, Il.

Date and Time:

November 8, 2012, 10:00 a.m.

The deposition will be recorded by this method: stenographer and videotape

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Oct. 16, 2012

CLERK OF COURT

OR.

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiff Ronald

Kitchen, who issues or requests this subpoena, are:



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

V.

JON BURGE, et al.,

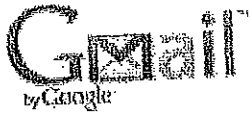
Defendants.

Case No. 10 C 4093

The Hon. John J. Tharp, Jr.

Magistrate Judge Maria Valdez

## Exhibit D



Flint Taylor <flint.taylor10@gmail.com>

## Daley Deposition

1 message

Tue, Nov 20, 2012 at 3:23 PM

Flint Taylor <flint.taylor10@gmail.com>  
To: "TBurns@dykema.com" <tburns@dykema.com>, PMichalik@dykema.com  
Cc: elsonben@aol.com, joeymogul@aol.com, sarahgelsomino@gmail.com, Alexa Van Brunt  
<alexa.vanbrunt@gmail.com>, Locke Bowman <l-bowman@law.northwestern.edu>, Sam Tenenbaum <s-  
tenenbaum@law.northwestern.edu>

Dear Mr. Burns:

We write in response to your email of November 1, 2012 and pursuant to Rule 37.2 concerning the deposition of Richard Daley, which was re-noticed for November 8, 2012.

In our view, it is clearly unnecessary, given the extensive history of this and other related torture litigation, and our lengthy Rule 37.2 discussions in the Tillman case earlier this year, to reiterate what areas we are entitled to explore with Mr. Daley at his deposition. Among other things, we need to question Mr. Daley concerning his involvement as Mayor in the early 1990s with defendants Leroy Martin and Gayle Shines, with the Goldston and Sanders Reports, the Amnesty International Report, the decision to seek Burge's separation, and the separation proceedings; Mr. Daley's public statements on these subjects; Mr. Daley's January 1989 decision to seek the death penalty in Mr. Kitchen's case; Mr. Daley's approval of the SAO and CPD's application for overhears of Willie Williams and Mr. Kitchen in August of 1988; his public statements regarding the July 2006 Special Prosecutor report; the Burge indictment, conviction and sentencing; and his knowledge of, and participation in, the ongoing torture and cover-up conspiracy.

All of these matters are obviously relevant to Mr. Kitchen's case for a variety of reasons, including the allegations in Mr. Kitchen's complaint that Mr. Daley was a participant in Burge's conspiracy to obtain confessions by torture and cover up the wrongdoing. If you agree to produce Mr. Daley, we suggest a deposition the week of December 11. If you do not agree, please so advise us and we will present the matter to the court.

Sincerely,

Flint Taylor

Locke Bowman

for Plaintiff Ronald Kitchen

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

V.

JON BURGE, et al.,

Defendants.

Case No. 10 C 4093

The Hon. John J. Tharp, Jr.

Magistrate Judge Maria Valdez.

## Exhibit E

**From:** Flint Taylor [mailto:flint.taylor10@gmail.com]  
**Sent:** Thursday, January 10, 2013 11:13 AM  
**To:** TBurns@dykema.com  
**Cc:** elsonben@aol.com; joeymogul@aol.com; sarahgelsomino@gmail.com; Alexa Van Brunt; Locke E Bowman; J.Samuel Tenenbaum  
**Subject:** Summary of January 7, 2013 Rule 37.2 Conference Re: Daley Deposition

Dear Mr. Burns,

This is to summarize our continued Local Rule 37.2 phone conference of January 7, 2013 concerning the deposition of Richard M. Daley.

During our phone conference of December 14, 2012, you requested a short period of time to speak to Mr. Daley and we acceded to a week. After that week expired, you requested, and we agreed, to extend that period to January 3, 2013. The conference was conducted on January 7, 2013.

During the conference, you again raised the scope of the deposition, the length of the deposition, and a protective order. We offered to shorten the length of the deposition to 5 hours, and place the video, but not the transcript, of the deposition under a protective order until trial or resolution of the case, if you would agree to produce Mr. Daley for questioning within the scope of topics that we had repeatedly articulated to you both orally and in writing. You declined this offer, made no counterproposal, and we thereby agreed that we had reached an impasse. Consequently, we informed you that we would proceed shortly to compel Mr. Daley's deposition with the Court.

Sincerely yours,

G. Flint Taylor

Locke E. Bowman

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN,

Plaintiff,

V.

JON BURGE, et al.,

Defendants.

Case No. 10 C 4093

The Hon. John J. Tharp, Jr.

Magistrate Judge Maria Valdez

## Exhibit F

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONALD KITCHEN, )  
Plaintiff, )  
vs. ) No. 10 C 4093  
JON BURGE, et al., )  
Defendants. )

The video deposition of JOHN EANNACE, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before DEIDRE PLAVSIC, a Certified Shorthand Reporter within the State of Illinois, at 357 East Chicago Avenue, 8th Floor, Chicago, Illinois, on the 1st day of August, 2012, at the hour of 10:21 a.m.

Reported by: DEIDRE PLAVSIC, CSR  
License No.: 084-004812

INDEX

WITNESS DIRECT EXAMINATION  
JOHN EANNACE  
By Mr. Bowman 5

EXHIBITS

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No. 4	116
No. 5	122
No. 6	148
No. 7	187

APPEARANCES:

NORTHWESTERN UNIVERSITY SCHOOL OF LAW  
BY: MR. LOCKE BOWMAN  
MS. ALEXA VAN BRUNT  
357 East Chicago Avenue, 8th Floor  
Chicago, Illinois 60611  
(312) 603-1018  
erana-hart@law.northwestern.edu

and  
PEOPLE'S LAW OFFICE  
BY: MS. JOEY MOGUL  
MR. FLINT TAYLOR  
1180 North Milwaukee Avenue  
Chicago, Illinois 60642  
(773) 236-0070  
peopleslaw@aol.com

on behalf of Ronald Kitchen;  
DYKEMA GOSSETT, PLLC  
BY: MR. PAUL A. MICHALIK  
10 South Wacker Drive, Suite 2300  
Chicago, Illinois 60606  
(312) 627-1200  
pmichalik@dykema.com

on behalf of the City of Chicago,  
Terry Hillard, Thomas Needham,  
Leroy Martin, and Gayle Shines;  
ASSISTANT STATE'S ATTORNEY  
STATE'S ATTORNEY OF COOK COUNTY, ILLINOIS  
BY: MR. STEPHEN L. GARCIA  
MR. PATRICK T. DRISCOLL, JR.

600 Daley Center  
Chicago, Illinois 60602  
(312) 603-5476  
stephen.garcia@cookcountyil.gov  
on behalf of Officer Lukerich;  
ANDREW HALE & ASSOCIATES  
BY: MS. CHRISTINA LIU  
53 West Jackson Street, Suite 1800  
Chicago, Illinois 60604  
(312) 870-6926

on behalf of Officers Jon Burge,  
Thomas Byron, John Byrne, John Smith,  
and Michael Kil.

ALSO PRESENT:  
Mr. Paul Vaglica

THE VIDEOGRAPHER: This is the video deposition of John Eannace taken by the Roderick MacArthur Justice Center in the matter of Ronald Kitchen v Jon Burge, et al., case number 10 C 4093, held in the offices of Northwestern University School of Law, 357 East Chicago Avenue, Chicago, Illinois. Today is August 1, 2012. The time is 10:21. The court reporter is Deidre Plavsic, and the videographer is Rick Kosberg.

Counsel will now introduce themselves, and the court reporter is free to administer the oath.

MR. BOWMAN: My name is Locke Bowman. I represent Mr. Kitchen.

MS. VAN BRUNT: Alexa Van Brunt. I represent Mr. Kitchen as well.

MS. MOGUL: Joey Mogul. I represent Mr. Kitchen as well.

MR. VAGLICA: Paul Vaglica with the MacArthur Justice Center.

MR. BOWMAN: Mr. Vaglica is a law student here at Northwestern who is working under our supervision this summer. You are not a law student at Northwestern and you never were, but you're here this summer under our supervision. He's just taken

1 certainly there's -- I think you get a case off  
2 arraignment. I don't think you'd write it then.  
3 You don't have the information yet that would be  
4 necessary to evaluate.  
5 Q. So at the time that the memo is prepared,  
6 the trial assistant is expected to have some  
7 discovery in hand from the defense and have some  
8 idea of what the issues are going to be in trial?  
9 A. I don't know about expectation; but as a  
10 practical matter, I believe it would be necessary  
11 to do it properly.  
12 Q. Mr. Taylor is keeping track of me.  
13 Define the chain of command that this memo  
14 went through, please.  
15 A. I can only answer that generally. But  
16 typically it would be the immediate trial  
17 supervisor.  
18 Q. Who is that?  
19 A. In this particular case?  
20 Q. No, just in general. Is that like a wing  
21 commander or something like that?  
22 A. Sure. At 26th Street it would be, yes,  
23 uh-huh.  
24 Q. So there's the immediate supervisor in the

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1 building, and then where does it go from there?  
2 A. Probably to the chief of the felony trial  
3 division.  
4 Q. That's the position that you held under  
5 O'Malley at one point?  
6 A. No, it isn't.  
7 Q. Okay.  
8 A. That's not what I said today.  
9 Q. No worries. I just misunderstood you.  
10 A. Okay. Right.  
11 Q. So it goes to some immediate supervisor  
12 who's in charge of just felony trials?  
13 A. Correct.  
14 Q. Okay. Then it goes to the person in your  
15 position, the chief of --  
16 A. The criminal division --  
17 Q. -- criminal division.  
18 A. -- bureau, excuse me, to be precise.  
19 Q. Right. And from there?  
20 A. If there's a chief deputy, it would go to  
21 the Chief Deputy State's Attorney.  
22 Q. And then does it, in fact, go to the  
23 State's Attorney?  
24 A. No. Then it goes to the First Assistant

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1 State's Attorney and then the State's Attorney.  
2 Q. And I realize that this is -- this is in  
3 the highest levels of the State's Attorney's Office  
4 and at the time of Kitchen's prosecution, you were  
5 a long way removed from that. But it was your  
6 understanding, sir, that the State's Attorney  
7 himself needed to sign off before a capital  
8 prosecution could occur, right?  
9 A. I believe he participated with his upper  
10 echelon in making such a decision, yes. The  
11 ultimate decision came from his office, correct.  
12 Q. Now, let's talk for a minute about your  
13 experience in the O'Malley administration when you  
14 were chief of the criminal prosecutions bureau.  
15 You participated at that time in the capital  
16 prosecution decisions, yes?  
17 A. You know, I would imagine I did, although  
18 I don't have a great recollection of it, but...  
19 Q. Well, do you have any recollection of  
20 sitting with State's Attorney O'Malley and  
21 discussing whether any particular case -- I'm not  
22 interested in the substance of the conversation or  
23 what case it was -- just generally sitting with the  
24 State's Attorney and talking with him personally

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1 about whether to prosecute it as a capital case or  
2 not?  
3 A. I do not have a specific recollection,  
4 although I'm not saying it wouldn't have occurred  
5 procedurally.  
6 Q. Some of the documents in this case involve  
7 a payment of about \$785 that was made directly or  
8 indirectly to Willie Williams. Do you have a  
9 recollection of the circumstances that led to that  
10 payment?  
11 MR. GARCIA: Objection, form. But you can  
12 answer.  
13 BY MR. BOWMAN:  
14 Q. I'm not asking you to tell me what  
15 recollections you have. I'm just trying to get a  
16 sense for the degree of recollection you have of  
17 these events, which I'll question you about  
18 specifically later on today.  
19 A. As I sit --  
20 MR. GARCIA: Sorry. Objection, form. But you  
21 can answer.  
22 THE WITNESS: And you're asking my recollection  
23 as I sit here today?  
24

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16 (Pages 61 to 64)

1 Q. Well, did you ask -- well, I guess I may  
2 have asked you this already. But to be clear, did  
3 you ask Mr. Kill how the interrogation and the  
4 confession had gone?  
5 A. I asked all the witness -- well, first of  
6 all, I don't remember personally. But my focus on  
7 any such hearing would have been for the  
8 participants who were involved, any material  
9 witness, to tell me when and where and what  
10 occurred for their portion of their involvement.  
11 Q. That's all I'm asking.  
12 A. All right.  
13 Q. And you have no doubt that you did that in  
14 this case as well?  
15 A. Sure.  
16 Q. Now, if any of the detectives had told you  
17 that Kitchen had been beaten in the midsection, in  
18 the groin area, what would you have done?  
19 A. If any detective told me that during the  
20 course of preparation for the hearing?  
21 Q. Correct.  
22 A. I would not have proceeded.  
23 Q. Well, what steps would you have been  
24 obliged to take?

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1 A. You're saying if the detective admitted  
2 that abuse to me, I would have stopped the  
3 proceeding or the preparation. I would have made  
4 my supervisors aware of it.  
5 Q. So you can be quite confident since the  
6 proceeding went ahead, that you were advised of no  
7 such thing?  
8 A. I think that's a fair conclusion, sure.  
9 Q. Who was your supervisor at this time?  
10 A. When was the hearing?  
11 Q. The hearing was at some point in 1989?  
12 MR. TAYLOR: No, 1990.  
13 MS. MOGUL: '90.  
14 BY MR. BOWMAN:  
15 Q. It was in early 1990.  
16 A. '90, I was in the felony review unit  
17 supervising, so that's an interesting question.  
18 Q. So you don't know who you would have gone  
19 to, but you would have gone to someone --  
20 A. Absolutely.  
21 Q. -- in authority?  
22 A. Absolutely.  
23 Q. Okay. Let's go back to the chain of  
24 command with respect to the capital case. Has it

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1 ever happened in your career that you have learned  
2 from a detective that a suspect was abused while in  
3 custody? Has that admission ever been made to you?  
4 A. On a suppression motion preparation?  
5 Q. Ever.  
6 A. No.  
7 Q. Let's go back to the capital case  
8 sentencing memorandum. Could you tell me the names  
9 of the people in your chain of command at the time  
10 that you did that memo for Mr. Kitchen?  
11 A. In 1988 or '89, assuming it was done then,  
12 which I am assuming, I don't know who the chain of  
13 command was. Rich Daley was the State's Attorney,  
14 that's for sure. The six or seven people between  
15 him and I, I'm not sure who occupied those  
16 positions.  
17 Q. Okay. Have you -- let me ask you this:  
18 Were you aware in 1989 and 1990 when you were  
19 conducting -- getting ready for and conducting the  
20 suppression hearing in Mr. Kitchen's case, that the  
21 detectives who had interrogated Mr. Kitchen worked  
22 for a commander named Jon Burge?  
23 A. I don't think so on the one hand. But on  
24 the other hand, being up in felony review, you

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1 would know who the six area commanders were. But I  
2 have -- I have no such recollection assuming he was  
3 a commander then, Burge. I don't even...  
4 Q. In -- at this particular point in time  
5 when you were conducting the pretrial and the trial  
6 proceedings for Kitchen, did you have any  
7 information that Burge had abused a number of  
8 suspects in his custody while working as a Chicago  
9 Police officer?  
10 A. No.  
11 Q. At the same point in time when you were  
12 working on the Kitchen case, did you have any  
13 information that detectives who were under Burge's  
14 command had engaged in the abuse of suspects in the  
15 course of interrogations in a number of cases?  
16 A. No.  
17 Q. Had you heard at the time of the Kitchen  
18 pretrial and trial proceedings that Burge was a  
19 person who had tortured suspects in his custody  
20 using electric shock, suffocation, mock executions,  
21 and beatings?  
22 A. No.  
23 Q. Were you familiar at that time when you  
24 were working on the Kitchen case with any

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24 (Pages 93 to 96)