

OLD BRIDGE MUNICIPAL UTILITIES AUTHORITY

OLD BRIDGE, NEW JERSEY

PUBLIC RATE HEARING
WATER DIVISION

**TRANSCRIPT
OF
PROCEEDINGS**

WEDNESDAY, JULY 16, 2014
6:30 P.M.

Kami Lyn Lauer
Shorthand Reporter
732-547-1331

CHAIRMAN AND COMMISSIONERS PRESENT

ART HANEY

DR. ANITA GREENBERG

ROCCO DONATELLI

EDWARD TESTINO

FRANK WEBER

BRIAN CAHILL

ALSO PRESENT

GUY DONATELLI - Executive Director

MITCHELL B. JACOBS, ESQ. -- Board Attorney

STEPHEN A. FLOREK -- Comptroller

MICHAEL ROY - Staff Engineer

BOB ALLISON-- Auditor

MICHELLE SMITH

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WITNESS

DIRECT

STEPHEN A. FLOREK
ROBERT ALLISON

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DIRECT BY MR. JACOBS:

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(Whereupon the Pledge of Allegiance was recited)

(Whereupon, Affidavit of Publication in the Asbury park Press was received and marked as Exhibit-1)

(Whereupon, Affidavit of Publication in the Home News Tribune was received and marked as Exhibit-2)

(Whereupon, the Stipulation of Settlement by the State of New Jersey was received and marked as Exhibit-3)

(Whereupon, Letter dated May 28, 2014 from Wilentz regarding Report of Settlement was received and marked as Exhibit-4)

(Whereupon, Useable Retained Earnings as of May 31, 2014 was received and marked as Exhibit-5)

(Whereupon, the Rate Structure for Water Division was received and marked as Exhibit-6)

MR. HANEY: This public rate hearing is being held in conformance with the Open Public Meetings Act. Notice has been given to the newspapers and notice of the Public Rate Hearing has been posted in public places. Would you please call roll?

MS. GREENE: Mr. Donatelli?

MR. DONATELLI: Here.

MS. GREENE: Dr. Greenberg?

DR. GREENBERG: Present.

MS. GREENE: Mr. Testino?

MR. TESTINO: Here.

MS. GREENE: Mr. Cahill?

MR. CAHILL: Present.

MS. GREENE: Mr. Haney?

MR. HANEY: Present. At this time I am going to turn this meeting over to our attorney, Mitch.

MR. JACOBS: Thank you. This Public Rate Hearing shall pertain to rate changes for the Water Division of the Old Bridge Municipal Utilities Authority. This Public Rate Hearing is for the purpose of a pass-through rate on water increases from Middlesex Water Company, as required by State Statute 40:14B-21 and 40:14B-22, and any other rate changes deemed necessary.

This Public Rate Hearing is open to the public; and the public is invited to participate at the appropriate time.

Mr. Chairmen and Commissioners, tonight is the Rate Hearing for the pass-through rate on the water increases from the Middlesex County Water Authority. We are required by law to have a rate hearing before you impose any rate increase or consider a rate increase.

We have already pre-marked exhibits entered in to evidence. Let me just go through those. Exhibit-1 is an Affidavit of Publication with the Asbury Park Press, advertising tonight's meeting. Exhibit-2 is an Affidavit of Publication in the Home News Tribune, also advertising tonight's meeting. Exhibit-3 is a Stipulation of Settlement, the BPU Docket number WR13111059. Exhibit-4 is a report of Hesser McBride from Wilentz Goldman and Spitzer, which is the law firm that the Authority hired to represent them in the application for Middlesex Water. Exhibit-5 is a Usable Retained Earnings Schedule and Exhibit-6 is the Rate Structure Water Division Resolution.

We are going to be producing two witnesses tonight, Steve Florek, the Comptroller and also Bob Allison the accountant.

I would like to start by having each of the witnesses sworn in.

(Whereupon, the witnesses were sworn in)

S T E P H E N F L O R E K and R O B E R T A L L I S O N, Having been duly sworn according to law, were examined and testifies as follows:

MR. JACOBS: I will call Steve Florek to be the first witnesses.

DIRECT EXAMINATION BY MR. JACOBS:

Q. Mr. Florek, could you spell your last name for the record.

A. F-L-O-R-E-K.

Q. What position do you hold with the Old Bridge MUA?

A. Comptroller of the Old Bridge Municipal Utilities Authority.

Q. Are you familiar with the matter of the Petition of the Middlesex Water Company for approval for an increase in rates for

water service and other tariff changes, BPU Docket Number WR13111059?

A. Yes, I am.

Q. Are you familiar with the Settlement Agreement that was entered into by interested and affected parties under this docket number?

A. Yes, I am.

Q. If you would look at the document, which has already been marked -- pre-marked as Exhibit-3, the Stipulation of Settlement, which was entered into in connection with the rate hike application. Have you had the opportunity to review that Stipulation?

A. Yes, I have.

Q. Can you just describe to everyone present exactly what that Stipulation of Settlement details?

A. The Stipulation of Settlement is an agreement worked out between the BPU, BPU Staff, the rate payer advocates, Middlesex Water Company, Marlboro Utilities and Old Bridge Municipal Utilities Authority for the pending rate hike.

Q. Can you describe what those rate increases are?

A. The rate increases vary across the board, but the rate increase we are mostly concerned with is the one for the Old Bridge MUA, which is 4.566 percent. Residential customers of Middlesex Water received an 8.081 percent increase. Their

commercial accounts received 7.99 percent, industrial accounts received 8 percent. Likewise, Marlboro Water, which is also along the South River basin line, received a higher rate; they received a 5.289 percent increase.

Q. Do you know what position Old Bridge MUA took in connection with the Petition that was filed with the BPU?

A. The Old Bridge MUA basically took a very proactive position in contesting the rate increase and demanding justification of the rate increase by the law firm that we hired to represent us and also by the rate engineer expert. He does the water study survey. They vehemently opposed and objected to the rate and they got them down to a point where 6.4566 percent. Originally, they were coming in looking for a 17 percent rate increase from us and we got that down to where it is today.

Q. The law firm that was hired by the MUA was Wilentz, Goldman and Spitzer?

A. Yes.

Q. It is my understanding that the Township shared the cost of that representation with Marlboro –

A. The Authority. The MUA.

Q. Did the law firm issue any reports to you with respect to their representation in this matter?

A. Yes, they did. If you look at Exhibit-4, is one of the reports which is actually a Report of the Settlement Recommendation.

Q. Did you have an opportunity to review that report?

A. Yes, I did.

Q. Did you agree with their findings or recommendations?

A. Unfortunately, I did. You know, they were battling back and forth. They even tried to petition to get us down to a zero which our cost of study expert actually recommended. They propounded BPU's staff recommendations and the rate payer counsel. The rate payer counsel – billed four independent people or bill Middlesex direct. They basically don't want the residential people to pick up the costs, they want the – We are fighting to do the opposite because there is so much more maintenance and costs to run the system within the residential neighborhood area as opposed to one site. We vehemently fought it and tried to bring it down as low as we could. We did over a course of -- because the original petition came through back in November 2013 and we have been battling back and forth with them, in negotiations and rate pay studies and everything since November 2013 through last month.

Q. It is your recommendation, meaning the law firm that we hired to represent us in the rate increase – their recommendation to adopt the terms that were set-forth in the Stipulation of Settlement, which is marked Exhibit-3?

A. Yes, it was.

Q. Now, after you have had the opportunity to review the settlement agreement, do you perform any analysis on your own, with respect to the information that you received?

A. The only information that I think was in our calculations that impacted our budget –

Q. What did you conclude as a result of that analysis?

A. As a result of that analysis to reduce the amount of money to 4.57 percent. The actual rate increase to the average Old Bridge MUA customer comes out to 1.2 percent.

Q. Was there any way to absorb the increase that is due to Middlesex Water without raising the rate to tax payers in Old Bridge?

A. You will see that on May 31, 2014 shows our retained earnings in the Water Division and right now we are in the negative in the Water Division, so there is no way that the MUA could absorb any rate increase whatsoever.

Q. Just to be clear, Exhibit-5 is the Usable Retained Earnings?

A. That is correct.

Q. So as a result of your analysis of all of the documents that you have reviewed, is your recommendation that the MUA pass-through the increases to the customers?

A. Yes, I do. Which it comes out to 1.2 percent rate increase.

Q. If you look at Exhibit-6. That is the Rate Structure for the Water Division. Could you just comment on that.

A. Basically, what this is all of the rates that the MUA charges in the Water Division. It lists your current rate and the proposed rate in all of the different categories. There is residential, commercial and industrial rate are all going up.

Q. So the rates are going up 1.2 percent to basically all of the rate payers.

MR. JACOBS: I don't have any more questions for Mr. Florek.

DIRECT EXAMINATION BY MR. JACOBS:

Q. Mr. Allison, you have had the opportunity to review some of the documents, in connection with the reason that we are here tonight?

A. Yes, I have had the opportunity to review the documents that were submitted to me by Mr. Florek,

Q. Did you have an opportunity to look at the Settlement Agreement that has been marked as Exhibit-3?

A. I did.

Q. After review of the Settlement Agreement or any other documents that we have used in connection with this proposed rate increase, do you agree with Mr. Florek's opinion as to whether a rate increase is necessary that it should be passed on to the rate payers?

A. I do.

Q. Do you also agree that based on the Retained Earnings Schedule, a pass on is necessary?

A. Yes, I do. There is a negative cash surplus.

Q. Aside from the fact that the Board of Public Utilities has passed this rate increase, does the MUA have some type of contractual obligation to Middlesex Water Company? Are you contacted to buy water from them no matter what?

A. Yes, we are obligated to buy from them.

MR. FLOREK: We are and at a minimum of two million gallons a day, give or take. Take it, you pay for it, you don't take it you still pay for it.

MR. JACOBS: You have two options, either absorb the increase or to pass on the increase to the rate payer, correct?

MR. FLOREK: Correct.

Q. Mr. Allison, have you had the opportunity to review Exhibit-6, which is the Resolution for the Rate Structure?

A. Yes, I have.

Q. Do you agree with Mr. Florek's opinion with respect to that Rate Structure also?

A. Yes, I do.

Q. I don't know whether you have the knowledge, but as far as you know as being a consultant to the MUA does tonight's

procedure conform with the Statutory Requirements in order to pass on this rate hike?

A. As far as I can tell, yes.

Q. Do you recommend to the Commissioners that they adopt this rate increase?

A. I do.

Q. Do you recommend to the Commissioners that it is passed on to the rate payers?

A. Yes.

MR. JACOBS: I do not have any further questions of Mr. Allison or Mr. Florek. At this point I would like to open this up to the Commissioners if they have any questions that they would like to ask Mr. Allison and Mr. Florek.

Seeing none, I am going to open up questions to the public.

Does anyone have any questions from the public?

Please come up and state your name and address for the record.

MR. KAPPAIN: My name is Walter Kappain. I live at 38 Bordentown Avenue, Madison Park. K-A-P-P-A-I-N.

MR. JACOBS: Who are you going to direct your question to?

MR. KAPPAIN: I think that somebody has to take a stand. We already pay a higher rate than anybody. Why not find some place to absorb it? I have my own grievances. I have

a bill here that says my reading is 970. Three months later the reading is 970, because I am an RV'r. I was away for four months, yet I still have to pay the minimum. I have another one that I got a late fee an interist because we were away, again, for more than three months. The bill arrived, I didn't ever get it. Then I get a notice that we not only owe them the bill, but we owe a late fee and interest on a bill where we did not use one drop of water. Now, I do not know whether it has anything to do with the rate pay, but it certainly has a lot to do pay. I am paying for something that I do not use. I do not think any of you here want to go and pay for something that you are not using. If you have to buy two million gallons a day from Middlesex, buy it, don't waste it, but then don't charge me for water I don't use. I think there should be some way that you can take – It's not a big rate increase – are you listening to me over there? It's not a big rate increase, but it's more than a lot of people can afford to pay. We are on limited income. I have been retired for twenty-three years. I have gotten one raise on my pension in that time. The only other increase I see, in my income, is whatever we get from Social Security. I think it's time for some of the people in this room to step up and take care of the people that have lived in this town. I have been in town a hell of a lot longer than

most of you. I moved in here in 1956. We were told a lot of things. We had to get sewers and one of the things is that we would never get a rate increase. Everyone knew that that was not going to hold but still. The water rates, which we had a water company at that time, it was affordable for someone who was young and working with kids that all went to school here in Old Bridge. That is about all I have got to say, but I think there has got to be some way. I have inquired about what can we do about these bills when I don't use the water, why do I have to pay? If I go away I call up the garbage company, they still have to drive by my house. All I have to do is call them up, put a little note in writing and I do not get any bills until I come back and I tell them I am back. They trust me on that. The electric company, we don't turn it off, all we use is the refrigerator and freezer while we away, I can understand that. We don't use a drop of water. I turn the water off inside the house, not on your valve, because your valve leaks. I put another valve in after the meter so I can turn the water off. I did that at my own cost. I worked for public service, so I can do that.

MR. HANEY: What we have here is regards to the rate increase. We will be having a meeting following this. I was allowing you to go because – also, we may be able to

address these issues at our office with our executive directors. Thank you.

MR. KAPPAIN: Thank you.

MR. JACOBS: Anyone else from the public?

MR. HANEY: Normally the commented time is three minutes. To give everyone time.

MR. HAMMA: My name is Kevl Hamma. K-E-V-L-H-A-M-M-A. I have a doctrine degree in chemistry. I would like for us to piece together –

MR. JACOBS: What is your address?

MR. HAMMA: 57 -- Regarding the figure, if they were correct, why is the rate for one so much higher than another and so on. Why is the rate for Old Bridge much higher than Sayreville? I kept thinking and I didn't find any reasoning or need for that because you are buying water from Middlesex Water Company and they are buying water from Middlesex Water Company. What is the reasoning behind the higher rate for Old Bridge?

MR. FLOREK: To start with, Sayreville does not buy anything from Middlesex Water. They do not have a contract with Middlesex Water. Middlesex Water does not have a hook up with them. Since 1987 – we have experienced a 7.65 percent increase in the rates every year. We actually absorbed some of the increases. They get an

overflow out of Lake Duhernal. They get their water and treat it.

MR. HAMMA: So the water we are getting from Middlesex Water has already been treated?

MR. FLOREK: Correct.

MR. HAMMA: Can we get the water from Duhernal?

MR. FLOREK: No.

MR. HAMMA: Why?

MR. FLOREK: If we go south and go to Aberdeen or any southern town, rates are higher, almost double of what Middlesex Water is.

MR. HAMMA: How many people are working in the Old Bridge Municipal Authority?

MR. FLOREK: Currently, sixty-seven.

MR. HAMMA: You have chemists, microbiologists?

MR. FLOREK: No, we don't have any of that. That work is basically farmed out. We do have in-house operators.

We get a sampling of the water and bring it to the lab.

MR. HAMMA: Why do we not have in house --

MR. FLOREK: Guy, you want to comment on that?

MR. DONATELLI: We have two treatment plants of our own. Everything that is in our town is under our jurisdiction. All of the primary and secondary, BOTs are all farmed out, collected. Everything is posted on Water

Watch. You can go on a website and every test that we are required to take is published there. All of the violations are published there.

MR. HANEY: We really only have three minutes per person. You are more than welcome to stay after and ask questions at our other meeting. Thank you for your advice. Anyone else?

MS. WATKINS: I live at 9 Colby Court that is in the Parlin section of Old Bridge. According to a letter that was written by one of our residents she said that Woodbridge water is allowed 12,045 gallons of water for 56 per quarter, Woodbridge also buys their water from the Middlesex Water Company. Old Bridge water is 6000 gallons a quarter at the cost of 69.37 per quarter. Why are other towns able to give minimum gallons at lower costs and sewer service at lower costs?

MR. FLOREK: Basically, all of the towns are not equal. On the sewer side for example, we have forty-two square miles, we have over thirty-six pumping stations that we have to maintain. We have to maintain the lines and upgrade the lines on a regular ongoing basis which requires a good expenditure of price. BPU basically comes down and regulates what we can do with water. As far as that is concerned, if we bought our water exclusively from

Middlesex, the rates would actually be higher because we pay our plant to monitor our facilities that aren't similar in other towns. Every town is different, in itself. You are referring to Sayreville and Woodbridge. Why don't you go one town south of us, Aberdeen, Matawan, Howell, their rates are double what ours are. In Keansburg, their rates are higher. Basically, you are taking two towns that are lower than ours, but there are many towns that are higher than us. If you look at a scale of 56 towns that we do on a regular basis, we are in the middle of roughly fifty surrounding towns, as far as our rates. We're not in the upper end, we're not in the lower end. We basically come up in the middle for the average user in town.

MS. WATKINS: Why are people charged when they are not using their water?

MR. FLOREK: Why are people charged when they are not using their water?

MS. WATKINS: Why are people being charged when they are not using their water?

MR. HANEY: Again, I'm just –

MS. WATKINS: We'll save it for the next one.

MR. HANEY: Do you want to ask a question? Please state your name and address for the record.

MR. DIALOZLOWI: Chester D-I-A-L-O-Z-L-O-W-I, I live in Madison Park. You mentioned the highest rates, how many of them around us is the lower rates and how do you explain the towns next to us is the lower rates and we got higher?

MR. FLOREK: On the water side, they get a good portion of their water out of Old Bridge through an arrangement they had. On the sewer end, their host community is the Middlesex County Utility Authority; they get a host community benefit of that, which is where the Middlesex County Treatment Facility is for all of the sewage collected in the entire county. If you go to the Melrose section of Sayreville or the Morgan section of Sayreville, you'll know why they get the benefit because it smells in that area quite a bit. On given days you'll smell it on other days you won't. It depends on which way the wind is blowing. On the same token, you look at the size of Sayreville for their sewer division and you look at Old Bridge, you can't compare one to the other.

MR. DIALOZLOWI: Can you by law get from some other places?

MR. FLOREK: We're working on that. We have been always working on that to try and lower the cost of water. We're always trying to buy additional diversionary rights

or petition the State to buy additional diversionary rights, but that has never happened at this point in time.

MR. DIALOZLOWI: Is this true what we see in this letter, your company is obviously a very high rate?

MR. FLOREK: Over the last ten years, just for example, we have gotten a 3.43 percent increase right across the board. The quotes that are in that newspaper happen to be at the end of a period where there was no contract. Then there was contract struck, so there was retroactive rates going back to three years. That's why the increases were in there, that's what she planned on putting in the paper. She was at our meeting prior and we explained that to her, but she still put it in the paper that way.

MR. DIALOZLOWI: Thank you.

MR. TATL: My name is Pan Tatl. P-A-N T-A-T-L. I live in Princeton Road, Parlin. I don't understand the detail about the dimensions. East Brunswick is supposed to be as large as Old Bridge, am I right? The reason I am asking for that is East Brunswick charge for seventy-five hundred gallons of water 22.50 and we are charging six thousand gallons at 69.07. How can you explain to that?

MR. FLOREK: Edgeboro Landfill.

MR. TATL: What does that mean?

MR. FLOREK: Garbage dump.

MR. TATL: I don't understand your answer. They still get their water supply from Middlesex. You can see my point. East Brunswick is large enough as Old Bridge and 22.50 for seventy-five hundred gallons of water. Thank you.

MR. JACOBS: How many people would like to speak? Just two more? Okay, I will try and give you flexibility. This hearing is about the rate increase, a pass-through from the Middlesex Water Company. If you stay for the meeting afterwards, at the end of that meeting you will have an opportunity to ask questions other than questions regarding this specific pass-through rate increase from Middlesex Water.

MR. PARELLA: My name is Mark Parella. I live a 64 Princeton Road in the Madison Park. In the past I have heard that there is a reserve fund that the OBMUA holds. I would like to know how much that fund is.

MR. FLOREK: I would like to know what reserve fund you are talking about.

MR. PALELLA: I have heard in the past there was millions of dollars. Untapped – politically.

MR. FLOREK: Okay. No. Right now we have in the water division a negative \$528,000. There is no way that the MUA has any –

MR. PALELLA: How can you be operating a company, basically, in the negative?

MR. FLOREK: Right now on a cash basis, for both the water and sewer, at the end of the year and for rate increases, each division has to stand on their own.

MR. PALELLA: But at one time, wasn't there a reserve? Millions of dollars?

MR. FLOREK: Yes, there was.

MR. PALELLA: What happened to it?

MR. JACOBS: Again, sir. I think this is one of those topics that, for the next meeting. He can ask that question in the next meeting and hopefully he will get his answer. This is just for the rate increase. We are trying to get through this part. You will have the opportunity in the second meeting. There was one other person?

MR. TOPATELLO: Al Topatello, 199 Princeton Road. A few months ago the gallons that we had were ten thousand, now we are down to six thousand, is that correct?

MR. FLOREK: That was about four years ago.

MR. TOPATELLO: I thought it was a couple of months ago.

MR. FLOREK: Four years ago.

MR. TOPATELLO: Forget it then.

MR. FLOREK: It went from ten thousand to eight thousand to six thousand.

MR. TOPATELLO: Was that within the last couple of months, eight thousand to six?

MR. FLOREK: About four years ago was the last one.

MR. TOPATELLO: I am a little behind in my time. Didn't the last administration take money out of your account to balance the budget before they left? What I am saying is that you are broke. If you had enough money in your treasury to have another administration to take that money to balance the budget, aren't you making enough money? You are \$500,000 in the hole, where would they get the money to balance their budget from your bank account.

MR. FLOREK: At the time we had funds available, we don't have anything currently.

MR. TOPATELLO: What changed?

MR. FLOREK: It took us like twenty years to build up the balances that we have, so that we could work and make capital improvements, infrastructure. When it's gone, it's just not there anymore.

MR. TOPATELLO: So the administration can come in and take whatever money you have built up in your treasury, I just take it and you are left in the hole.

MR. JACOBS: Again, Sir, I think these are questions –

MR. TOPATELLO: Well, we're talking about rate increases and the reason we have the rate increase is that there is no money in the bank.

MR. HANEY: I'll give you a quick one if you stay around for the next meeting. The state statute that allows the municipality to come to the utility authority and request about five percent of the operating budget in unrestricted earnings that are available funds. The previous administration thought in coming to the Authority for a period of about three years.

MR. TOPATELLO: Is that a loan?

MR. HANEY: No, it is not a loan. And it was about \$1,400,000 a year that they were able to acquire under that. That is based on a law that was set up by the state legislature. You will see this happen throughout the state.

MR. PATEL: My name is Mr. Patel. I heard about the Middlesex Water Company. Are we stuck with them for the life or can we cancel the contract with them?

MR. FLOREK: No.

MR. PATEL: Is there any way that we can get out of it or no? We are married to them?

MR. FLOREK: Right now we are married to them. We have to find another source first.

MR. PATEL: Can we find a reservoir?

MR. FLOREK: The DEP allowed it and we went there to do it. They didn't go along with it. They stopped a lot of it throughout the state. They were finding problems with some of the aquifer reservoirs that they were putting in. They were stopping it statewide. For now we are continually looking into ways to increase our diversions to reproduce the water for a third of the price.

MR. PATEL: We have to buy a certain amount of water from them and we did.

MR. FLOREK: That's right.

MR. PATEL: Have you ever thought about how we can get rid of them?

MR. FLOREK: For twenty-five years we have been trying. It's not an easy thing to do. You have to get a source that is cheaper and you have to get it approved by the State of New Jersey.

MR. JACOBS: Is there anything else from the public? No. I would like to move to make a motion.

MR. TESTINO: I'll move.

DR. GREENBERG: Second.

MR. JACOBS: Roll.

MS. GREENE: Donatelli?

MR. DONATELLI: Yes.

MS. GREENE: Dr. Greenberg?

DR. GREENBERG: Yes.

MS. GREENE: Mr. Haney?

MR. HANEY: Yes.

MS. GREENE: Mr. Cahill?

MR. CAHILL: No.

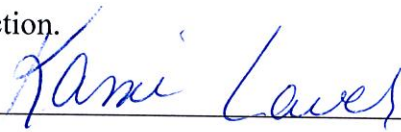
MS. GREENE: Mr. Testino?

MR. TESTINO: Yes.

(WHERE UPON THE MEETING CONCLUDED AT
7:15 P.M.)

I Kami L. Lauer, a Shorthand Reporter, certify that the foregoing is a true and accurate transcript of the testimony of STEPHEN FLOREK and ROBERT ALLISON, who were first sworn.

I further certify that I am neither attorney nor counsel for, not related to or employed by, any of the parties to the action in which this deposition was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



Kami L. Lauer

Shorthand Reporter