

1 Gladstone

2 registration of dogs.

3 I also told them that I thought that,  
4 by virtue of the embarrassing situations I had put  
5 the lawyers for the AKC into in a couple of  
6 different cases, that the lawyers would take every  
7 possible opportunity to find a way to keep me from  
8 being seated.

9 Q. Did the members or leaders of the  
10 Coulee Kennel Club tell you why, specifically,  
11 they selected you to be their delegate?

12 A. Other than saying "We like what we  
13 hear and we want you to be our delegate, because  
14 we think you'll be responsive to us," I don't  
15 think that there was any other particular  
16 verbalization.

17 Q. So it was put somewhat in general  
18 terms?

19 A. I guess so, yes.

20 Q. After you were advised that they had  
21 selected you to be their delegate, were there any  
22 further, more specific discussions or directions  
23 that you received from the Coulee Kennel Club with  
24 respect to issues or agenda items that you should  
25 pursue?

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A. Yes.

As a matter of timing, it's my recollection -- and, if I can assume that the May 25th date that you suggested is accurate, then I think probably the next day, one of the members of the Coulee Kennel Club, perhaps the secretary, perhaps Mrs. Rand -- I don't know who -- contacted Jim Crowley at AKC to get from AKC the necessary paper work to file with AKC, to submit what we call the credentials of the proposed delegate.

And I'm getting to the responsive part. There is a timing question of how long it would take to become approved or to be seated as a delegate.

The goal was for me to be seated in time to attend the September 1993 delegates meeting. The reason for that goal is that at that meeting, for the first time, the AKC delegates would be voting upon delegate committee positions for what was then newly created and formed delegate committees, and there was some discussion about which committees they would like to see me try and get involved with.

As it turns out, there were some

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2 rulings by someone at AKC that they would not  
3 place my name on the ballot, since I had not been  
4 seated at the time that the ballots were prepared,  
5 or something of that nature.

6 In any event, notwithstanding whether  
7 I was seated for September or not, it turned out  
8 they were not going to put my name on the ballot  
9 for those elections in September.

10 But there were conversations about  
11 which committees they wanted me to run for.

12 Q. Did they tell you which committees  
13 they wanted you to run for?

14 A. They did.

15 And one of them was the bylaws and  
16 constitution committee of the delegate body, and  
17 one of them was the -- I think the proper name of  
18 it is the canine overpopulation issue committee or  
19 something of that nature. I don't know the  
20 specific name.

21 Q. Who told you they wanted you to run  
22 for those committees?

23 A. I think that was Nancy Rand. I  
24 think.

25 Q. During the 1993 period, would it be

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1  
2 fair to say that most of your contact with the  
3 Coulee Kennel Club was through Nancy Rand?

4 A. Certainly prior to my designation or  
5 election as a delegate for the club it was with  
6 Nancy, with the exception of the conference calls  
7 that took place before that.

8 After -- after it became apparent  
9 that AKC was not going to seat me, which I think  
10 would have been -- well, whenever -- whenever that  
11 turns out, whenever that was, I think that the  
12 officers of Coulee also changed at the same time.  
13 I think that John Ellifson became president, as I  
14 recall, and I started having some conversations  
15 with him, I think.

16 Q. Did you expect to be paid to serve as  
17 the Coulee Kennel Club's delegate?

18 A. I -- no, I did not.

19 Q. Did you expect to profit financially  
20 in any fashion from being the Coulee Kennel Club's  
21 delegate?

22 A. Not at all.

23 MR. YABLONSKI: Why don't you mark  
24 this?

25 (Letter dated May 27, 1993, with two

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2 attachments, were marked as Gladstone  
3 Exhibit 1 for identification, as of this  
4 date)

5 BY MR. YABLONSKI:

6 Q. Mr. Gladstone, we've marked as  
7 Deposition Exhibit Number 1 here today a  
8 three-page document, the first page of which  
9 appears to be a letter signed by yourself,  
10 addressed to James P. Crowley, secretary of the  
11 American Kennel Club, dated May 27, 1993, and then  
12 attached to it are two pages that are entitled  
13 "American Kennel Club Delegate Credentials."

14 I'll ask you if you can identify that  
15 document for me as a letter that you sent to Mr.  
16 Crowley and as the delegate credentials that you  
17 submitted to Mr. Crowley with that letter.

18 (Pause in the proceedings)

19 A. Yes.

20 Q. I don't have an extra copy, so I'm  
21 just going to --

22 A. All right.

23 Q. One specific question:

24 The delegate credentials form, was  
25 this filled out by yourself?

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A. Yes.

Q. And the bottom question on the first page of the delegate credentials form reads:

"Are you connected in any way with a publication disseminating dog news or carrying dog advertising? If so, give name of publication or describe your position."

And then, in response to that, you typed in "No"; is that correct?

A. Correct.

Q. Was that accurate at the time you filled this out, that you were not associated with any publication disseminating dog news?

MR. WATKINS: Hold up. Hold up just one second.

Object to the form.

Q. Can you answer the question?

THE WITNESS: Can you read it back for me?

(Question read)

A. The form asked me if I was "connected in any way," not "associated," as your question put it.

My understanding of what that

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2 question meant to ask -- it's an accurate answer.

3 BY MR. YABLONSKI:

4 Q. What did you understand the question  
5 to ask?

6 A. I understood it to ask whether or not  
7 I was occupationally ineligible to serve as a  
8 delegate because of the standards used in the  
9 bylaws of the American Kennel Club with respect to  
10 acting for dog publications.

11 As an example, at the time that I  
12 filled this out and answered that question "No,"  
13 Mr. Merriam wrote a regularly published column in  
14 Dog News, published every week while he sat as a  
15 delegate, and that was the -- I answered this with  
16 an understanding deeper than the words on this  
17 paper.

18 Q. So you went beyond the words on the  
19 paper in answering "No"?

20 A. Well, I guess the question is what is  
21 "connected" with. I note it's the same language  
22 that's used in the Pennsylvania statute that gives  
23 a shield law to a reporter who is connected with a  
24 publication, and I'll note that Judge McClure in  
25 this case has held that I was not connected with.

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2 So the answer is, yes, that's an  
3 accurate statement.

4 Q. But in a broad sense, were you  
5 connected with any publications?

6 A. Absolutely not.

7 Q. Were you writing or submitting  
8 articles for publication to any dog publications  
9 at that time?

10 A. Yes.

11 Q. Which publication was that?

12 A. At what time?

13 Q. May of '93.

14 A. I would only be speculating. I don't  
15 think -- I have no recollection of what I  
16 submitted to anyone in May of '93.

17 Q. Well, let's say '93, from the  
18 beginning of the year.

19 A. I regularly submitted articles for  
20 publication over a five-year period, from '88 to  
21 '93, let's say, to Dog News, Canine Chronicles,  
22 Show Sites, Dog Watch, The Leader, perhaps Kennel  
23 Review. I don't recall.

24 Q. All right. Let me --

25 A. By the way, am I to understand from

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2 your question that there's an implication that if  
3 one writes an article for a dog newspaper, one is  
4 ineligible to be a delegate?

5 Q. I meant my question to imply nothing,  
6 sir. I'm simply asking questions and seeking  
7 answers to those questions.

8 A. O.K.

9 Q. Now, I believe your testimony earlier  
10 was that, even at the time that you were selected  
11 by the Coulee Kennel Club to be its delegate, your  
12 expectation was and you discussed with the  
13 leadership of the Coulee Kennel Club that you  
14 expected the AKC to find some reason not to  
15 recognize you as a delegate; is that correct?

16 A. I think what I expressed was that I  
17 wouldn't at all be surprised if the AKC kicked and  
18 screamed every way they could to keep me out of  
19 the delegates meeting.

20 Q. So --

21 A. The reason being that the delegates  
22 meeting has a unique opportunity to address issues  
23 to --

24 Q. Mr. Gladstone, let me stop you there.

25 MR. YABLONSKI: I don't think that's

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responsive to the question.

A. O.K.

Q. I don't want to invite further speeches. You've had a chance to articulate yourself there.

A. Fine.

Q. Let me simply ask you this:

Would it be fair to say that it did not come as a surprise to you when you received notification in August of '93 that the AKC board had voted to defer action on your delegate credentials?

A. No, that would not be fair to say.

It came as a shock.

Q. But earlier you had expected that there would be some reason given for not recognizing you as a delegate; is that correct?

A. It never occurred to me that the AKC board of directors would so blatantly violate their bylaws.

Q. What was your first contact with Coulee Kennel Club after learning that the AKC board had voted to defer action?

A. I have no recollection of what my

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2 first contact was.

3 Q. What is the first recollection of any  
4 contact you had after that?

5 A. With Coulee? With people at Coulee?

6 Q. Right. Right.

7 A. I really don't remember when my first  
8 contact was.

9 I know I spoke with Nancy Rand  
10 shortly after that.

11 Q. Do you have any recollection of what  
12 you discussed with Nancy Rand at that time?

13 A. What Coulee Kennel Club wanted to do.

14 Q. What did she tell you they wanted to  
15 do?

16 A. Pursue having me seated as their  
17 delegate, as they believed was their right.

18 MR. YABLONSKI: Would you mark these  
19 as 2 and 3?

20 (Two letters, dated August 20, 1993  
21 and September 2, 1993, were marked as  
22 Gladstone Exhibits 2 and 3, respectively,  
23 for identification, as of this date.)

24 MR. YABLONSKI: All right.

25 BY MR. YABLONSKI:

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2 Q. Mr. Gladstone, I'm going to show you  
3 what's marked as Exhibits 2 and 3, letters from  
4 the Coulee Kennel Club.

5 The first, Exhibit 2, is dated August  
6 20, 1993, addressed to James Crowley at the  
7 American Kennel Club.

8 The second one, dated September 2nd,  
9 1993, is addressed to John H. Ward, chairman of  
10 the board of the AKC.

11 My question to you, first off, is:

12 Have you seen copies of these letters  
13 before today?

14 (Pause in the proceedings)

15 A. Yes.

16 Q. All right. Did you --

17 A. I'm sorry, I answered yes with  
18 respect to Exhibit Number 2. If you give me a  
19 moment, I'll look at Number 3.

20 Q. Certainly.

21 (Pause in the proceedings)

22 A. Yes. I've seen both of these before  
23 today.

24 Q. Did you in any fashion encourage the  
25 Coulee Kennel Club to send those letters?

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2 A. I think I was told that they intended  
3 to, and I certainly suggested it was probably  
4 appropriate.

5 Q. Did you participate in drafting those  
6 letters, in any fashion?

7 A. No.

8 Q. Do you know why it would have been  
9 necessary or appropriate for the Coulee Kennel  
10 Club to send the letter on September 2nd after  
11 having sent the earlier letter, on August 20th?

12 A. I think you're asking me to speculate  
13 a bit, but I can certainly understand.

14 They are different letters, addressed  
15 to different people and with a different set of  
16 copies. Having received no satisfaction from  
17 their August 20th letter, it's obvious that they  
18 chose to advise not only the members of the AKC  
19 board of directors, but all of the AKC delegates  
20 and all of the AKC club secretaries of the kennel  
21 club's violation of their bylaws.

22 Q. Prior to the September 2nd letter  
23 being sent, did you have any discussions with the  
24 leaders of the Coulee Kennel Club to the effect  
25 that there should be some broad communication to

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2 the AKC delegates, in general?

3 A. I seem to recall conversations with  
4 Nancy Rand about whether or not the Coulee Club  
5 should -- should write a letter for the -- should  
6 let all the delegates know what was going on.

7 Q. Did you suggest that to her?

8 A. I don't really recall suggesting  
9 that, no.

10 Q. Do you know who first raised that  
11 idea?

12 A. I think perhaps Gretchen Bernardi.

13 Q. Who is Gretchen Bernardi?

14 A. I believe she's a delegate of the --  
15 I don't know the club she's a delegate from. She  
16 lives somewhere in the Midwest and --

17 THE WITNESS: Can we go off the  
18 record just for a second?

19 MR. WATKINS: You'll get an answer  
20 to your question.

21 MR. YABLONSKI: For what purpose do  
22 we want to go off the record?

23 THE WITNESS: Forget it. No, we  
24 don't want to go off the record.

25 A. I don't know exactly where Gretchen

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2 lives or exactly what club she's a delegate from,  
3 but she is a delegate from somewhere in the  
4 Midwest.

5 BY MR. YABLONSKI:

6 Q. Did you discuss the subject with Ms.  
7 Bernardi?

8 A. Yes.

9 Q. Who initiated that contact?

10 A. Gretchen Bernardi and I have  
11 discussed issues concerning AKC and the delegates  
12 and registration frauds and investigation policies  
13 for a number of years.

14 Q. My question, I believe, was:  
15 Who initiated the contact?

16 A. About what?

17 Q. You indicated that you discussed this  
18 situation with Ms. Bernardi --

19 A. Yes.

20 Q. -- and I'm asking you did she call  
21 you or did you call her?

22 A. I have no recollection.

23 Q. Do you know how she became aware of  
24 what the board had done to defer on the delegate  
25 credentials?

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2           A.     Most people who I would consider to  
3 be my supporters in the dog world learned of it  
4 through the dog grapevine that is fairly active  
5 throughout the country.

6                     I don't know how else to answer that.

7           Q.     Who would have put the information in  
8 the grapevine to begin with?

9           A.     Coulee might have; I might have;  
10 somebody on the Board might have.

11                    I don't know.

12          Q.     You might have. Did you?

13          A.     Certainly.

14          Q.     Did you discuss it --

15          A.     Tell me who. Ask me a question.

16          Q.     During August of 1993, did you  
17 apprise anyone other than leaders of the Coulee  
18 Kennel Club of the action of the board to defer on  
19 your delegate credentials?

20          A.     Certainly.

21          Q.     Who did you apprise of that  
22 information?

23          A.     Gretchen Bernardi, Diane Albers,  
24 Wally Pede. I spoke to Jim Crowley about it. I  
25 spoke to James Phinzy about it.

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2 Q. Well, other than AKC officials.

3 MR. WATKINS: Why other than that?

4 Your question was who did he advise.

5 MR. YABLONSKI: I'm limiting it.

6 A. I'm just trying to think.

7 C. Allen Nicks. Ed Sledzik. Bob

8 Moore.

9 Q. Let me stop you there.

10 Did Ed Sledzik know prior to your

11 telling him?

12 A. I have no recollection. I believe he

13 probably did.

14 MR. YABLONSKI: Mark that and mark

15 this.

16 (Letter dated August 18, 1993, with

17 attachments, and fax dated September 14,

18 1993, were marked as Gladstone Exhibits 4

19 and 5, respectively, for identification, as

20 of this date)

21 BY MR. YABLONSKI:

22 Q. First off, Mr. Gladstone, I'm going

23 to hand you a copy of what the reporter here has

24 marked as your Deposition Exhibit Number 4, and I

25 will represent to you that that was marked and

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2 identified yesterday as Exhibit Number 6 at the  
3 Coulee Kennel Club deposition.

4 This appears to be a letter dated  
5 August 18, 1993, written and signed by yourself  
6 and addressed to the Coulee Kennel Club, attention  
7 Nancy Rand.

8 Can you identify this as a letter  
9 that you wrote and sent to Ms. Rand?

10 (Pause in the proceedings)

11 A. I've reviewed Exhibit 4.

12 What was your question?

13 Q. My question is whether you can  
14 identify that as a letter that you wrote and sent  
15 to Nancy Rand contemporaneous with the date shown  
16 on the first page.

17 A. Yes.

18 MR. YABLONSKI: Off the record one  
19 second.

20 (Discussion off the record)

21 MR. YABLONSKI: All right.

22 BY MR. YABLONSKI:

23 Q. The pages aren't numbered, but if you  
24 can look at what is the third page of the  
25 document, the paragraph at the bottom, beginning

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2 with, "With respect to the lawsuit."

3 Do you see that?

4 A. Yes.

5 Q. You've, before identifying the  
6 document, read through this.

7 The question I would have with  
8 respect to this paragraph and the letter entirely  
9 is whether or not at this time or at any  
10 subsequent time you specifically asked the Coulee  
11 Kennel Club to join you in a lawsuit against the  
12 AKC for a mandatory injunction, as referenced in  
13 this paragraph?

14 A. We discussed it. We discussed having  
15 Coulee either institute an action in Wisconsin,  
16 for which they, I believe, sought legal advice  
17 there, and we discussed instituting or  
18 counterclaiming for an injunction in the -- in  
19 Pennsylvania.

20 Q. Were you the first one to raise the  
21 idea of such a suit?

22 A. I have no recollection.

23 Q. Was it discussed prior to your  
24 addressing it in this letter?

25 A. I really don't remember the timing at

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all.

I do remember both Coulee members and myself were both quite upset with the AKC's actions, and we talked about suing them.

Q. And later, when you filed a counterclaim in this action, it did include a count for a mandatory injunction, correct, similar to the one that you've described in this paragraph?

A. The first count of the counterclaim included a request by me for a mandatory injunction, yes.

Q. But the Coulee Kennel Club never instituted its own action; did they?

A. That's correct.

Q. And they never joined in this lawsuit; did they?

A. That's correct.

Q. Did you ask them specifically to do so?

A. I don't recall -- I recall talking to them about the alternatives. I don't recall whether I asked them to join.

Q. Did anyone from the Coulee Kennel

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2 Club ever tell you that they would not bring an  
3 action against the AKC?

4 A. No.

5 They had sought legal advice in  
6 Wisconsin and were told that the action that  
7 should be brought in Wisconsin would merely be to  
8 force the AKC board of directors to vote on my  
9 credentials for Coulee, as opposed to seeking to  
10 have me seated as a delegate by Court Order.

11 Q. You state in this letter, at the  
12 bottom of the last full sentence of page 3:

13 "Certainly, both the Coulee Kennel  
14 Club, Inc., and myself, personally, would need to  
15 be plaintiffs if that is the route that is  
16 chosen."

17 Do you see that language?

18 A. I see that sentence, sure.

19 Q. Did something later change your  
20 opinion to believe that the Coulee Kennel Club  
21 would not be a necessary plaintiff in such an  
22 action.

23 A. Sure.

24 I reviewed the AKC bylaws again.

25 Q. So are you saying that this was a

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2 premature legal opinion that you were expressing?

3 A. I'm not sure it's a legal opinion.

4 MR. WATKINS: Object to the form.

5 MR. YABLONSKI: Well, let's take  
6 away the characterization of opinion, then.

7 Q. Would you, then, say today that that  
8 was a premature opinion that you reached?

9 A. I think it's a stronger statement  
10 than was appropriate as to who was necessary.

11 Q. Later you felt that it was not  
12 necessary for the Coulee Kennel Club to be part of  
13 this suit in order to include a count for  
14 mandatory injunction in your counterclaim; is that  
15 essentially accurate?

16 A. Yes.

17 Q. But you would have preferred to see  
18 the Coulee Kennel Club join in that count; would  
19 you have not?

20 A. As obviously would have Judge  
21 McClure, yes.

22 Q. You also state, in the last two  
23 sentences of this paragraph, that you would like  
24 to see other AKC member clubs join as party  
25 plaintiffs seeking to force the AKC to seat

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2 yourself as a delegate.

3 Did you, in fact, ever ask any other  
4 AKC member clubs to join as party plaintiffs in  
5 such a suit?

6 A. I have no recollection of that.

7 Q. Do you know if anyone else ever asked  
8 other AKC member clubs to join in such a suit?

9 A. I think Gretchen Bernardi had  
10 expressed that opinion and might have talked to  
11 some people.

12 Q. People in her own club?

13 A. I don't know.

14 Q. Did any leadership of any member club  
15 indicate that they were considering joining in  
16 such a suit?

17 A. No.

18 Q. You state in the letter that you  
19 suspect there are some who would join in that  
20 action.

21 Can you tell me who you think would  
22 have joined in such an action?

23 A. I think that Gretchen is the delegate  
24 of the Edwardsville Kennel Club, now that I think  
25 about it, and I think we were talking about that

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2 club potentially joining.

3 Q. Any others?

4 A. Not that I can think of right now.

5 Q. All right.

6 I'm going to now show you what's  
7 marked as your Exhibit Number 5, and that's also  
8 the same exhibit number that was given at the  
9 Coulee Kennel Club deposition that was taken in La  
10 Crosse, Wisconsin.

11 A. Is that all the questions that you  
12 have on Number 4?

13 Q. At the moment.

14 I'll ask you to take a look at Number  
15 5 and tell me if you've ever seen that document  
16 before today.

17 (Pause in the proceedings)

18 A. I have read all of these comments or  
19 conversations or discussions in the past. I don't  
20 have a specific recollection of this particular  
21 document, although I very well might have seen it  
22 before.

23 Q. Did you write it?

24 A. No.

25 Q. Do you know who did?

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2 A. I would be guessing.

3 Q. Take your best guess for me.

4 A. It -- it looks like perhaps Gretchen  
5 Bernardi's draft.

6 Q. Why would Gretchen Bernardi have  
7 drafted a letter for Nancy Rand at the Coulee  
8 Kennel Club?

9 A. I would suggest you ask Mrs.  
10 Bernardi.

11 Q. Well, what led your suspicion to be  
12 that it was Gretchen Bernardi who drafted this  
13 letter?

14 A. She was extremely upset with the  
15 AKC's violation of their bylaws. She is a good  
16 friend, as I understand it, of Nancy Rand's. She  
17 is a very active delegate and very active  
18 politically within the delegate body.

19 Q. As you read through the document --  
20 and did you, in fact, read through the entire  
21 document?

22 A. Just now?

23 Q. Yes.

24 A. I skimmed it.

25 Q. -- would Gretchen Bernardi have had

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2 the knowledge of the matters that are asserted in  
3 this document from any source other than yourself  
4 in the period in which it appears to have been  
5 written, prior to September 14, 1993?

6 A. From any source other than myself?

7 Q. Sure.

8 Who else would have been in a  
9 position to give Gretchen Bernardi the information  
10 that's included in this exhibit?

11 A. I think that if you -- if you don't  
12 recognize that, with fax machines, that any bit of  
13 information is instantly available, throughout the  
14 country, to anyone who is desirous of getting it,  
15 then you can't answer this question.

16 Yes, Gretchen could have gotten it  
17 from someone other than myself.

18 Q. All right. Well, let me put it  
19 another way:

20 Did you provide information to  
21 Gretchen Bernardi with respect to the factual  
22 matters that are asserted in this exhibit?

23 A. I have no recollection. I might  
24 have. I don't know if it was within the time  
25 frame that you're talking about. I just don't

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