

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 IN AND FOR THE COUNTY OF SANTA BARBARA  
3 SANTA MARIA BRANCH; COOK STREET DIVISION  
4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

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7 THE PEOPLE OF THE STATE OF )  
8 CALIFORNIA, )  
9 Plaintiff, )  
10 -vs- ) No. 1133603  
11 MICHAEL JOE JACKSON, )  
12 Defendant. )

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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17

18 TUESDAY, MARCH 1, 2005

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20 8:30 A.M.

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27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 BY: Official Court Reporter 172

1 APPEARANCES OF COUNSEL:

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1 Santa Maria, California  
2 Tuesday, March 1, 2005  
3 8:30 a.m.  
4  
5 THE COURT: Good morning.  
6 COUNSEL AT COUNSEL TABLE: (In unison)  
7 Good morning, Your Honor. Good morning.  
8 THE COURT: Mr. Mesereau.  
9 MR. MESEREAU: Thank you, Your Honor.  
10 Good morning.

11 THE JURY: (In unison) Good morning.  
12 MR. MESEREAU: Ladies and gentlemen of the  
13 jury, I would like to clarify some statements I made  
14 yesterday, correct a couple of statements, and talk  
15 a little bit more about a few other things I  
16 mentioned.  
17 First of all, the prosecutor, in his opening  
18 statement, made an allegation that Mr. Jackson had  
19 intentionally, knowingly provided alcohol to a child  
20 on a flight from Florida.  
21 You will learn in the trial that on that  
22 private flight were Mr. Jackson, two of his  
23 children, his physician, security personnel, and  
24 other guests, as well as the Arvizos. And you will  
25 hear from his physician that he was in a seat on  
26 that plane where he could see everything and never  
27 slept. And he never saw anything like this  
28 so-called licking that the prosecutor described. 175

1 But in that regard, you need to understand  
2 that the charges in this case involving alcohol are  
3 not charges like a bartender giving an underaged kid  
4 alcohol. The charges are that Mr. Jackson gave  
5 alcohol for the purpose of molesting.  
6 The alcohol charge is directly tied into  
7 allegations of molestation. One doesn't exist  
8 without the other in those alcohol charges. And  
9 Mr. Jackson absolutely denies that.  
10 In that regard, we will prove to you,  
11 through witnesses, people who worked at and visited  
12 Neverland, that the Arvizo kids, at times, were out  
13 of control, broke into the wine cellar, were caught  
14 drinking alcohol themselves, without Mr. Jackson  
15 even being present or knowing about it. They also  
16 were caught breaking into the refrigerator in the  
17 kitchen, drinking alcohol, and they were caught  
18 grabbing alcohol from a cupboard. There is one  
19 witness who will tell that you Mr. Jackson ordered  
20 some alcohol for he and guests and the children  
21 stole it. They were caught intoxicated. They were  
22 caught with bottles. Mr. Jackson was nowhere  
23 around.  
24 We will prove to you that they are now  
25 trying to say that he was behind all of this. And  
26 it's false.  
27 We also will prove to you that the Arvizo  
28 children, as I said before, initially seemed very 176

1 well behaved, but that changed. And it changed  
2 radically. For example, there are workers who are

3 in charge of the amusement rides. There is a ferris  
4 wheel. There are other carousels that children,  
5 when they visit Neverland, ride on and play on.  
6 One of the workers in charge of those rides  
7 will tell you that he's not sure how this happened,  
8 but they appeared to have memorized the codes to  
9 start those rides. And he was shocked and horrified  
10 to find the kids on a ferris wheel up at the top  
11 throwing objects at elephants and people.  
12 They also, we will prove, did that with  
13 various codes in the house. They somehow found a  
14 way to roam around the house at will when Mr.  
15 Jackson wasn't even in town and were actually caught  
16 in his room. Those witnesses will testify to those  
17 facts. They were out of control.  
18 The prosecutor told you that there were  
19 girlie-type magazines and sexually explicit material  
20 in Mr. Jackson's home, and there were. Mr. Jackson  
21 will freely admit that he does read girlie magazines  
22 from time to time. And what he does is he sends  
23 someone to the local market, and they pick up  
24 Playboy and they pick up Hustler, and he has read  
25 them from time to time. He absolutely denies  
26 showing them to children. And, in fact, the  
27 magazines the prosecutor referred to were in a  
28 locked briefcase. And Mr. Jackson will tell you he 177

1 found those kids going through his magazines, and  
2 grabbed them from him and locked them in his  
3 briefcase. That will be proven at trial.  
4 I want to emphasize that Mr. Jackson was  
5 paid nothing from Bashir. The original negotiations  
6 were that money would go to charities in England.  
7 They were talking about 250,000 pounds, British  
8 pounds they are.  
9 That, from Mr. Jackson's point of view, the  
10 incentive for doing that documentary was that he  
11 trusted Mr. Bashir was going to present him in an  
12 appropriate and honorable and honest light. And  
13 that's not what happened.  
14 Yesterday, I mentioned Mrs. Arvizo, while  
15 she said she was falsely imprisoned, going for a  
16 body wax treatment. I checked the receipt, and I  
17 mistakenly said February 14th. It's February 11th,  
18 for the body wax. What is particularly significant  
19 about that, other than the fact that it's hard to  
20 believe while you're being falsely imprisoned you're  
21 going for a local body wax. The significance is  
22 this: She, at her own request, was driven from  
23 Neverland to a salon. She was gone for about three  
24 hours. She was left at the salon alone. She was  
25 there for over an hour getting a treatment, when she

26 says she was falsely imprisoned and couldn't  
27 communicate with anyone. That is the significance  
28 and that is absurd. 178

1 On that particular day, some very odd things  
2 happened. Her boyfriend and now her husband, as I  
3 mentioned, was a Major Jay Jackson, who's in the  
4 Army Reserve, and he was making approximately \$8,000  
5 a month while she was accepting welfare. And he was  
6 allowing her to deposit her welfare checks into his  
7 account. And as I said to you yesterday, she was  
8 not disclosing his income or support in any of her  
9 requests for public assistance, which were under  
10 oath.

11 On that particular day, Major Jackson spoke  
12 to her on the phone, and something strange happened.  
13 In between the body waxes and whatever else she was  
14 doing at Neverland, she claims and he claims that  
15 she said she had trouble at Neverland and that he  
16 called 9-1-1. But when he told her that he had  
17 called 9-1-1, she said, "I'm not having trouble. We  
18 don't need 9-1-1." So the opportunity to call  
19 9-1-1, to call the police, to call the military  
20 police, was always there. She says she was kept  
21 from these people during all of this false  
22 imprisonment by some conspiracy she claims was  
23 engineered by Michael Jackson. And that's false.  
24 On that note, we will prove to you, ladies  
25 and gentlemen, that during the period she says she  
26 was falsely imprisoned, she had access to the Los  
27 Angeles Police Department, and was, in fact, in  
28 contact with police officers in the Los Angeles 179

1 Police Department who she associated with, and never  
2 raised an issue about false imprisonment. She was  
3 in contact with Major Jay Jackson, who also had  
4 access to the military police, and no complaint was  
5 made.

6 She went to a federal building in Los  
7 Angeles to get a passport for the trip to Brazil.  
8 That federal building was loaded with federal  
9 employees, federal agents. Nobody was told there  
10 was a problem.

11 She had access to the Department of Children  
12 & Family Services in Los Angeles because they  
13 interviewed her. Where. At Jay Jackson's home.  
14 Did she complain, "We're being falsely imprisoned.  
15 We're being abducted. We're being pressured. We're  
16 being defrauded. My children are at risk". No,  
17 never.

18 All of this during the period that the  
19 prosecutor says the family was being abducted,  
20 falsely imprisoned, children were being harmed, et  
21 cetera.  
22 I told you yesterday that Michael Jackson  
23 flat out denies these molestation allegations. They  
24 are false.  
25 Now, the prosecutor told you that Ms. Arvizo  
26 and her children will come in and say there was  
27 molestation. They gave you this lurid discussion of  
28 masturbation and things of that sort. Well, ladies 180

1 and gentlemen of the jury, the Santa Barbara  
2 Sheriffs raided Neverland. Approximately 70  
3 officers showed up --  
4 MR. SNEDDON: Excuse me, Counsel. I'm going  
5 to object as argumentative.  
6 THE COURT: Sustained.  
7 MR. MESEREAU: Ladies and gentlemen, the  
8 Arvizo children's DNA was never found in Mr.  
9 Jackson's bedroom after searching and testing.  
10 Their DNA isn't there. Because the molestation  
11 claims are fiction.  
12 I did mention yesterday that Mr. Jackson  
13 owns approximately a million book. He does, but I  
14 think I may have suggested that they were all in his  
15 house. Actually, a lot of them are in storage. So  
16 I want to make sure that's clear. But he is a  
17 voracious reader and book collector.  
18 I also indicated to you that the prosecutors  
19 initially had filed a Complaint against Mr. Jackson  
20 alleging that molestation had occurred, based on  
21 what the Arvizos told them before the Arvizos did  
22 the rebuttal tape praising Michael Jackson saying he  
23 never did anything wrong. And you'll see it in the  
24 trial. And also before they were interviewed by the  
25 Los Angeles Department of Children & Family Services  
26 where they repeated their absolute denials that he'd  
27 ever done anything wrong. They did nothing but  
28 praise him to the hilt. 181

1 And what I said to you was after the reality  
2 of those statements set in, the prosecutors changed  
3 the dates of the alleged molestation and now they're  
4 supposed to have occurred after those interviews.  
5 And as I said to you, this is a time when  
6 the media and Mr. Sneddon's investigating, and  
7 everybody is talking about this Bashir documentary,  
8 and the networks are coming out to see if they can  
9 vie for the ability to do a rebuttal tape. This is

10 when they're claiming these acts of molestation  
11 occurred. They didn't.  
12 Now, Mr. Sneddon, the prosecutor, said to  
13 you, "Janet Arvizo doesn't want money. She's not  
14 doing this for money."  
15 Well, we will prove to you the following:  
16 As I said yesterday, when she allegedly learned of  
17 these molestation claims, she didn't go to the  
18 police, she went to a lawyer. And I just mentioned  
19 to you that she was in touch with various members of  
20 the Los Angeles Police Department during this period  
21 of so-called false imprisonment, this period of a  
22 so-called conspiracy by Michael Jackson and his  
23 associates.  
24 One of those police officers will testify  
25 that Janet said to him, "Something big is happening,  
26 and I got a lawyer." That's number one.  
27 Number two, as I said to you yesterday, she  
28 realized at some point that going to a lawyer first 182

1 doesn't look too good. And that's when she began to  
2 claim that she learned about it from the police, not  
3 the lawyers. The problem is, that the lawyers are  
4 the ones who eventually went to the police. So  
5 you'll have to figure that one out.  
6 Janet Arvizo told the Santa Barbara Sheriffs  
7 in one of her interviews, "You know, my kids have  
8 till the age of 18 to file civil suits." And she  
9 was correct, because someone underage who has a  
10 claim is not held to what is called a statute of  
11 limitations the way adults are.  
12 A statute of limitations, as many of you  
13 know, is a certain period of time you have to sue if  
14 you have a claim, or your claim gets stale. It gets  
15 thrown out, because they don't want -- basically the  
16 law says that people can't go sitting around forever  
17 waiting to file claims, or the whole system would be  
18 chaotic.  
19 So the statutes of limitation have been  
20 defined by the legislature. And they give time  
21 periods during which somebody can sue.  
22 For her children, the alleged victims of  
23 molestation, they have till 18. And she told that  
24 to the police, just as she told the police that she  
25 had hired lawyers. Why did she tell that to the  
26 police. And why in her police interviews, as we  
27 will prove, did she repeatedly say, "I need money, I  
28 want money," or words to that effect. 183

1 Ladies and gentlemen, we will prove to you

2 the relationship between a criminal prosecution and  
3 a civil claim for damages based upon the same type  
4 of alleged conduct. What am I referring to. I  
5 think some of you know this already, but we're going  
6 to prove it to you anyway.

7 Here's what it is: There is what is called  
8 a burden of proof in a criminal case; and that is,  
9 you must prove beyond a reasonable doubt the  
10 allegations are true and that the defendant's  
11 guilty.

12 In a civil case what is called the burden of  
13 proof is lighter. It's easier. It's called  
14 preponderance of the evidence.

15 MR. SNEDDON: Your Honor, I'm going to  
16 object to this.

17 THE COURT: Sustained.

18 MR. MESEREAU: Ladies and gentlemen, we will  
19 prove that Janet and her children are using this  
20 case to win a civil case.

21 MR. SNEDDON: Your Honor, I'm going to  
22 object to that as argumentative.

23 THE COURT: Sustained.

24 MR. MESEREAU: We will also prove that her  
25 lawyer, Larry Feldman, who the prosecutor  
26 acknowledged had sued Mr. Jackson a long time ago, a  
27 lawyer very well known in Beverly Hills, California,  
28 we will prove to you that this lawyer was having 184

1 lunch with CNN talk show host Larry King and told  
2 him, "She wants money."  
3 Ladies and gentlemen, the prosecutor  
4 yesterday alleged that acts of molestation occurred  
5 during certain dates. We will prove to you that  
6 most of those dates, not all of them, but most of  
7 them, Michael Jackson wasn't even near Neverland.  
8 Based upon our investigation, we can find four  
9 approximate dates where he was at Neverland. But a  
10 lot of the dates you heard the prosecutor identify,  
11 he isn't even near the place.

12 Now, ladies and gentlemen, I'd like to talk  
13 to you a little bit about these conspiracy  
14 allegations, particularly as they relate to the  
15 so-called co-conspirators that Mr. Jackson is  
16 supposed to be aligning with for the purpose of  
17 committing felonies.

18 The first thing you need to know is what  
19 they're saying is that Mr. Jackson committed crimes  
20 by agreeing with others to commit crimes, so-called  
21 co-conspirators. And the prosecutor identified who  
22 those co-conspirators are supposed to be. And  
23 indeed, in the charging document, Judge Melville  
24 read you their names. Schaffel, Dieter, Konitzer,

25 Cascio, Amen. You know that none of them have been  
26 charged. Do you know that the only one they charged  
27 with conspiracy is Michael Jackson.  
28 MR. SNEDDON: Your Honor, I'm going to 185

1 object as argumentative.

2 THE COURT: Counsel, it is really -- the way  
3 you're saying what you're saying is argumentative  
4 form of -- you're not saying, "We're going to prove  
5 this, we're going to prove that."

6 MR. MESEREAU: Okay. Thank you, Your Honor.  
7 We will prove to you that none of those  
8 so-called co-conspirators have been charged with any  
9 crime. The only one these government prosecutors  
10 have pointed out is Mr. Jackson when it comes to  
11 these conspiracy allegations.

12 As I said to you yesterday, Mr. Jackson has  
13 a certain lifestyle and presence that attracts all  
14 kinds of people on a continual basis who seek to  
15 profit at his expense. It's an ongoing problem.  
16 It's an ongoing issue. He is one of the world's  
17 best known megastars. He's known as a musical  
18 genius, one of the greatest in the world. And he's  
19 known around the world as someone who's made lots of  
20 money. This is the reputation people come to him  
21 with and they want to profit from it.  
22 And you can just guess at the characters who  
23 show up trying to get their nose under the tent with  
24 an idea. An idea for a concert --

25 MR. SNEDDON: Your Honor, I'm going to  
26 object again as argumentative.

27 MR. MESEREAU: I will -- I will change that,  
28 Your Honor. 186

1 THE COURT: Rephrase it.

2 MR. MESEREAU: We will prove to you that  
3 Mr. Jackson, because of his presence around the  
4 world in the music industry, continually attracts  
5 people who seek to profit.  
6 We will prove to you, ladies and gentlemen,  
7 that this creates a problem in his life. And here  
8 is the problem we'll prove to you exists: Mr.  
9 Jackson is an artist. That is what his primary work  
10 is. He's an artist. He is called a musical genius.  
11 He is a creative person who dances to a creative  
12 drummer.

13 Mr. Jackson was interviewed by Mr. Bashir  
14 about how he lives, how he feels, and how he works.  
15 And among other things, he responded to Mr. Bashir's  
16 questions along those lines. He said, "I have to be

17 inspired. I can't wake up each day and say, 'You  
18 know, today I have a goal. I'm going to create  
19 music. I'm going to create choreography. I'm going  
20 to create a video. I'm going to find the message.  
21 I'm going to translate it into music and  
22 choreography. This is what I'm going to do today.'" "  
23 He told Mr. Bashir, "I can't do that.  
24 That's not the way it works. I have to be inspired.  
25 I don't know when I'm going to be inspired. I have  
26 to make myself open for inspiration in order to do  
27 the kind of work I do." And to do that, he has to  
28 live a certain way. 187

1 For example, Mr. Bashir expressed surprise  
2 when he said to him, "I have a tree on my property.  
3 And lots of times I go up and I sit in the tree  
4 alone. And I'm peaceful and I'm still, and I  
5 meditate. And very often God gives me that creative  
6 spark that I need to do the work that I excel in."  
7 We will prove to you that Mr. Jackson will  
8 often wake up at 3:00 in the morning at Neverland.  
9 He will walk out of his house alone, and he will  
10 take a walk alone under the stars, under the moon,  
11 under the sky. He will meditate in his own way, and  
12 wait for ideas and inspiration to come.  
13 And he often says when it comes to dance or  
14 music, "I can't think my way to the result. It has  
15 to come to me, and I have to feel it."  
16 This is his lifestyle, we will prove. And  
17 one of the problems, we will prove, is that if  
18 you're going to be that kind of a creative genius,  
19 it doesn't always leave time to sit down with  
20 lawyers and accountants and business advisors on a  
21 regular basis. In fact, he has said, "When I spend  
22 time in those areas, I create less."  
23 What does that mean, ladies and gentlemen.  
24 It means he's vulnerable to being taken advantage of  
25 financially and legally. And we will have witnesses  
26 tell you, they have observed him presented with  
27 documents, and he signs them without reading them.  
28 And these types of behavior -- this type of behavior 188

1 has caused problems in the past for him. But he is  
2 the creative spirit he is, and he has to live the  
3 way he lives. And he doesn't live like a criminal,  
4 as they have told you.  
5 At one point, a number of individuals  
6 approached him, were able to actually get face to  
7 face with him and convince him that they could help  
8 him out with his affairs. Of course, this has been

9 going on for years. This has been going on, we will  
10 prove to you, since he was a child. Because he  
11 began performing at the age of five. And by the age  
12 of eight was being recognized for his genius and his  
13 talent. That's an early age.  
14 And he was, and his family, were working  
15 with studios like Motown, where they got a big  
16 break. And as part of the business of music, they  
17 were told, "We have publicists, press people,  
18 agents, managers. They will tell you what to say.  
19 Image is business. Image is critical. You can't  
20 just walk out there and freely discuss your  
21 feelings, your life, what you do, what you like or  
22 don't like. We'll tell you what to say, and you'll  
23 say it."  
24 And things like personal habits, personal  
25 fears, personal idiosyncrasies, were hidden,  
26 because, after all, this was big business.  
27 You heard the names Konitzer and Dieter.  
28 They did arrive, and they did claim they were going 189

1 to somehow rescue Michael Jackson from this world of  
2 charlatans and profiteers, and would-be do-gooders  
3 with a hand in his pocket.  
4 They also revealed who they were during the  
5 course of his experience with them. The prosecutor  
6 would have you believe that Mr. Jackson was somehow  
7 involved with these people on a daily basis, getting  
8 all kinds of information from them and knew  
9 everything they were doing. He did not.  
10 MR. SNEDDON: Your Honor, I'm going to  
11 object as argumentative.  
12 THE COURT: Overruled.  
13 MR. MESEREAU: He didn't. This is what  
14 Dieter and Konitzer were planning to do with regard  
15 to Mr. Jackson: Now, as for his involvement,  
16 referring to Michael Jackson, Michael is an  
17 entertainer and not a businessman. He does not like  
18 business. He does not care about any formalities,  
19 proper procedures, detailed briefings, et cetera.  
20 Any one of those elements kills his creative energy.  
21 He wants to stay out of that. That is the reason  
22 why he gave us an extensive power of attorney.  
23 Do you know what a power of attorney is,  
24 ladies and gentlemen. I'm sure some of you do.  
25 Maybe you all do. It's giving away to somebody an  
26 ability to sign for your affairs and represent you  
27 in signing things and doing things from a legal  
28 point of view. It's a very serious act when you 190

1 give someone a power of attorney. But they got one  
2 out of Michael.  
3 They said further, "His intention was  
4 definitely not being bothered with signatures here  
5 and there, every other day, and with personal  
6 meetings with each and every member of the team. We  
7 realized that some might feel insulted, but it's not  
8 personal. Signatures and meetings with Michael  
9 will, in general, not happen. Only in very special  
10 cases, exceptions will be made."  
11 We will prove to you that these so-called  
12 business advisors made a concerted effort to keep  
13 Michael Jackson away from a lot of what they were  
14 trying to do on his behalf and to control his  
15 affairs, particularly the music business.  
16 On January 11th, 2003, this is what one of  
17 them wrote: "Yes, I and Mr. Weizner, whom you met  
18 in Las Vegas, are authorized to engage you. We  
19 shall gain control of financial affairs, records,  
20 documents, agreements, and also operations, anything  
21 else belonging to Michael Jackson in their  
22 possession or control."  
23 They identified two phases of activity they  
24 were going to pursue: One, take-over. Two, cleanup  
25 operation, clean up old business. And they said  
26 they were going to create what they called "The  
27 Michael Jackson Universe." This was their business  
28 proposal for managing and controlling all of Michael 191

1 Jackson's business, while he spent his time creating  
2 and writing and choreographing and the things he  
3 loves to do.  
4 We will prove to you that, unlike what you  
5 were told, he didn't know a lot of things they were  
6 doing, because they intended that he not know what  
7 they were doing. And they weren't telling him a lot  
8 of what was going on.  
9 We will also prove to you that a lawyer  
10 named David LeGrand was, at one time, retained to  
11 help Mr. Jackson. David LeGrand had been a  
12 securities law prosecutor. As a securities law  
13 prosecutor, we will prove that he had prosecuted  
14 people for financial crimes, stock fraud, not  
15 following proper procedures and disclosures if  
16 you're selling stock or securities. Things of that  
17 sort.  
18 David LeGrand began to smell that something  
19 was wrong, and he confronted Dieter and Konitzer  
20 with his suspicions, even writing to them and  
21 saying, "Why are you withdrawing money. Who told  
22 you to do that. Who gave you permission. Where's  
23 it going. What are you doing with it."

24 They then were able to convince Michael  
25 Jackson to fire LeGrand. But before that happened,  
26 David LeGrand commenced an investigation into the  
27 activities of these alleged co-conspirators, Dieter,  
28 Konitzer, Schaffel and others. He hired a 192

1 top-flight investigative firm in New York to check  
2 out their backgrounds, to check out what they were  
3 doing, to see if they were hiding things overseas,  
4 to see if Mr. Jackson was being, as he said,  
5 defrauded, and to see if they were engaging in acts  
6 as what he described as self-dealing.  
7 But they were able to get to Michael and  
8 stop the investigation by getting him to fire  
9 LeGrand, because they convinced him that LeGrand was  
10 doing something wrong.  
11 An investigative report was prepared. It  
12 wasn't completed, but it was prepared. It was  
13 printed and it was given to Mr. LeGrand.  
14 Marc Schaffel, the prosecutor told you that  
15 Mr. Jackson was a partner in his business. We will  
16 prove to you he was never a partner in his business.  
17 Marc Schaffel was a film producer who had met Mr.  
18 Jackson in the early '90s. And at one point Mr.  
19 Jackson said he wanted nothing to do with him. That  
20 was in writing from his attorneys.  
21 Marc Schaffel, like so many others, wanted  
22 to do business with Mr. Jackson. And typically, as  
23 we will prove, when people are on the outs, they  
24 band with other people on the outs and look for a  
25 way to get back in. They look for a way to glom  
26 onto somebody who has Mr. Jackson's ear during the  
27 limited time he has to deal with these things. And  
28 Mr. Schaffel came forward with a proposal that a 193

1 rebuttal show be done with FOX.  
2 Mr. Schaffel travels to Brazil all the time.  
3 Mr. Schaffel has friends in Brazil and production  
4 facilities in Brazil. And Mr. Schaffel convinced  
5 Janet Arvizo that she should come to Brazil, because  
6 Michael Jackson was going to be with them in Brazil.  
7 And she was all for it. We will produce witnesses  
8 who will tell you that Janet Arvizo was very excited  
9 about going to Brazil. Her children, apparently,  
10 weren't excited, because they wanted to stay at  
11 Neverland.  
12 But we will prove to you through witness  
13 testimony that she was very happy about going to  
14 Brazil until she concluded that Schaffel and Dieter  
15 and Konitzer and others were somehow trying to

16 profit off Michael Jackson and keep her out of the  
17 profits. That's when all these new claims began to  
18 surface.  
19 And when she decided not to go to Brazil,  
20 she didn't go to Brazil. When she decided not to go  
21 to Brazil, Marc Schaffel went to Brazil anyway.  
22 Because that's where he was planning to go all  
23 along.  
24 We will produce witnesses who will tell you  
25 that she was excited about this vacation. She  
26 thought she was going to be with Michael Jackson.  
27 And one of the constant themes I've been  
28 articulating to you is that when she realized 194

1 Michael wasn't going to be there taking care of the  
2 family the rest of their life, her attitude suddenly  
3 changed. And when she realized she couldn't make  
4 millions of dollars one way, she looked for another  
5 way. And here we are.  
6 I was going through a chronological  
7 description yesterday of events, and we were into  
8 February of 2003. I told you that the Bashir  
9 program had aired in the United States on February  
10 6th, 2003. I also told you, ladies and gentlemen,  
11 we would prove that that's the day that Prosecutor  
12 Sneddon announced he was investigating. And  
13 according to this prosecutor, a little over a month  
14 after he starts investigating, and Michael Jackson  
15 learns about it, he suddenly begins to molest. It's  
16 false and absurd.  
17 I told you that two days later, on February  
18 8th, 2003, Ed Bradley at 60 Minutes arrived at  
19 Neverland with his film crew. Also present was the  
20 president of CBS Entertainment, Jack Sussman;  
21 Attorney David LeGrand, whom I just mentioned to  
22 you, the one who began investigating the backgrounds  
23 and the activities of these alleged co-conspirators;  
24 and Attorney Mark Geragos.  
25 Now, Attorney Mark Geragos you've heard  
26 about because he's been in some high-profile cases  
27 in California. And he had been contacted by  
28 Mr. LeGrand because Mr. Sneddon had started an 195

1 investigation. He was at Neverland that day also.  
2 That's February 8th.  
3 On February 13th, Janet Arvizo has a phone  
4 conversation with Frank Cascio that is recorded,  
5 without her knowledge. And I'd like to tell you a  
6 few of the things she said in that phone  
7 conversation February 13th.

8 She didn't like those German people, she  
9 said, and of course she was referring to Dieter and  
10 Konitzer. She said to Frank Cascio, "I love you so  
11 much. You don't know how much I love you. Your  
12 little sister and your little brother."  
13 Janet Arvizo: "Yeah, it's like we're  
14 family, you know, Frank."  
15 Frank tells her, "And to protect Michael,  
16 because we've been in this situation many times,  
17 Janet. And you know what, it ends up hurting the  
18 kids, and we don't want -- and Michael does not want  
19 Gavin to be hurt."  
20 Janet, as I said yesterday, has been  
21 complaining that the media are harassing her. And  
22 that her son, who was in the Bashir documentary, is  
23 being hassled at school. She has requested security  
24 help and she has gotten it. We will prove to you  
25 now she has converted all of this into this notion  
26 of being imprisoned.  
27 Janet: "Oh, I know, I know. That's why I'm  
28 getting all those information. Oh, for example, 196

1 ahh, there was like a year and a half ago, a year  
2 and a half ago they did an investigation of me and  
3 David." David, of course, is her ex-husband.  
4 "We understand that Michael Jackson and  
5 Chris Tucker are involved with you and the kids."  
6 And they said -- and the kids spoke up and  
7 they said, "They're family to us. If we didn't have  
8 Michael, if we didn't have Michael, we wouldn't have  
9 a father, a father figure in our life."  
10 And then the social worker, referring to the  
11 Department of Children & Family Services: "Okay.  
12 I'll give the person here a call. Name, David  
13 Arvizo. And she documented it and everything. So  
14 I'm returning the note paper so you can have all  
15 these papers."  
16 She continually says, "Michael is our  
17 father." Ladies and gentlemen, Michael Jackson will  
18 tell you one time at Neverland he got a very bad  
19 feeling and intuition. They were in the theater  
20 that you've heard about. There is a theater at  
21 Neverland, where you can just go in, and kids can  
22 have their seats. It's on an incline. You got a  
23 stage and you got a big screen.  
24 He was there with Janet Arvizo and the three  
25 kids, Gavin, Star and Davallin. And all of a  
26 sudden, Janet Arvizo grabs Michael's hand and has  
27 her children all hold hands, and she says, "Let's  
28 all kneel down and pray with our Daddy Michael." 197

1 And Michael Jackson got a very bad feeling.  
2 And after that, he concluded, "I got to get away. I  
3 got to get away. I love helping this child, but  
4 something is wrong."  
5 And we will prove to you that he was warned  
6 by others, "Get away."  
7 Janet Arvizo continues in that recorded  
8 phone conversation, "I know we're family, Frank.  
9 Me -- you, me, my kids, are family. You, Marie  
10 Nicole, my kids, Baby Rubba, are family. Michael,  
11 Marie Nicole, you, me, are family, and my parents,  
12 that's all I got."  
13 "So that's why these German people" -- and  
14 it's inaudible what she says, but presumably it's  
15 not too kind.  
16 She is sensing that Dieter and Konitzer, the  
17 ones who wanted to take over Michael's business, are  
18 keeping her away from Michael, the daddy figure, the  
19 one who's supposed to rescue her family from all of  
20 their troubles.  
21 Further on, she says to Frank Cascio, "So  
22 he's -- I told him, I told the German people, 'But  
23 you don't understand. He's family to us and we're  
24 family to him.' And oh, ahh..."  
25 And he goes, "Your kids are unimportant, you  
26 know."  
27 "Michael's family to me. My kids call him  
28 'Daddy Michael'." 198

1 Yesterday the prosecutor told you he would  
2 prove that Michael wanted this. Nonsense.  
3 Frank Cascio: "Michael wants to see you."  
4 Janet Arvizo: "Tell him he's our family."  
5 Frank Cascio: "You don't have to talk to  
6 him."  
7 Janet Arvizo: "I thought, like everything,  
8 my family was in jeopardy."  
9 Frank Cascio: "No."  
10 Janet Arvizo: "Meaning us being with  
11 Michael and Michael being with us."  
12 She fears that relationship is ending.  
13 Ladies and gentlemen, we will prove that  
14 three days later, the Arvizo family are interviewed  
15 by Brad Miller, a licensed California investigator,  
16 employed by Attorney Mark Geragos.  
17 Now, Mr. Geragos at this point was concerned  
18 about who the Arvizos were, and what they were up  
19 to, and what they really were trying to accomplish.  
20 During this period of alleged false  
21 imprisonment, the investigator visits them at their  
22 home. Does Major Jay Jackson of the Army Reserve

23 call the police.  
24 No. They have an interview with the  
25 investigator that is tape-recorded. Again, three  
26 days after that phone conversation with Frank was  
27 recorded and she didn't know it was being recorded.  
28 Okay. 199

1 She starts talking about her son's cancer.  
2 Janet Arvizo: "To this day it's an unknown  
3 cancer. And it's been declared that by multiple  
4 laboratories and a team of 12 doctors."  
5 And she talks about her son's internal  
6 organs that have been removed. Left adrenal,  
7 kidney, tip of his pancreas, spleen, lymph nodes, et  
8 cetera.  
9 The investigator says to her, "Okay. Thank  
10 you. And what was Mr. Jackson's role in his  
11 recovery."  
12 Janet Arvizo: "Like a -- like a father to  
13 him."  
14 Investigator: "What would Michael do."  
15 Janet Arvizo: "Everything a loving  
16 father -- unselfish, kind" - inaudible - then  
17 "exhibits unconditional love."  
18 She goes on: "And that's one thing the  
19 role Michael was -- there's not -- he wasn't just a  
20 father figure to Gavin, he also was to Star and  
21 Davallin, because he knew all three of them needed  
22 him. And he was, um, is family to me and he also  
23 realized that I needed him."  
24 This is when she's living with her  
25 boyfriend, whom she later married.  
26 Janet Arvizo - we go on further - "Yes, and  
27 all -- David's role - her ex-husband - to make sure  
28 he appeared to be a good father to people, because 200

1 he knows of the harm that he placed on me and my  
2 children for years."  
3 "How long were you married to David."  
4 "17 years. I'm living -- we're legally  
5 separated, pending divorce."  
6 And then she talks about her being the  
7 victim of domestic violence by the ex-husband.  
8 I remind you, in the J.C. Penney deposition,  
9 she said he had never touched her, under oath.  
10 She talks about her ex-husband committing  
11 acts of child endangerment and terrorist threats.  
12 Sound familiar.  
13 Then Gavin says about his father, "He hit me  
14 while I -- during my cancer treatment. Even when I

15 had surgery, he hit me a lot."  
16 Star Arvizo: "He used to hit me in the head  
17 a lot and used to always kick me."  
18 Davallin: "He would throw us against the  
19 wall and he would yank us by the hair."  
20 Davallin: "My mom has bald spots resulting  
21 from my father."  
22 Then Janet talks about how he would abuse  
23 their dog and their pet ferret.  
24 Continuing with Janet Arvizo in this  
25 conversation that she knew was recorded: "No, I'm  
26 just a regular person, Brad. I had to live with him  
27 for 17 years. And for 17 years I wished that one  
28 day me and my children were going to be delivered 201

1 from this evil. And when Michael came into the  
2 picture, I knew that Michael was kind and gentle and  
3 a loving person, and he too had to be delivered from  
4 him."  
5 Continuing; Janet Arvizo: "Yes, he went --  
6 they had filmed. When they had filmed the beautiful  
7 story about Michael and my son, David was there,  
8 present."  
9 That's the Bashir filming. "And he no  
10 longer allowed me to be around Michael because he  
11 was afraid that I was going to tell Michael about  
12 everything. Everything that the children had --  
13 were undergoing by his -- his -- I don't know how to  
14 classify it -- evil demonic ways."  
15 She calls the ex-husband demonic. Didn't  
16 Mr. Sneddon tell you that she refers to Michael as  
17 "the devil".  
18 Continuing in this interview; Janet Arvizo:  
19 "And that one day the kids and me were going to tell  
20 Michael. So only one time I went with David up  
21 there when he was the -- and me and Michael were  
22 dancing. Just dancing. We were approximately --  
23 maybe like 20 feet from each other and we were  
24 dancing to the same song. And when I -- and when we  
25 were taken back into that room, that's why the rest  
26 of the trip Michael never saw me again. I was  
27 beaten up." She says she was beaten up inside the  
28 guest room by her ex-husband at Neverland. 202

1 Were police called. No. Were complaints  
2 made. No. Did anyone hear about it. No. Were  
3 security yards contacted at Neverland. No. Kitchen  
4 staff, zookeeper, management, administration, fire  
5 truck operator. No.  
6 "And me, because I knew that Michael was

7 going to help us. I knew he was going to protect  
8 us, as any loving father would, as any head of  
9 household. Because that's how I see Michael, as a  
10 family man. He's a family man."  
11 The investigator looks at Gavin, and he  
12 says, "Gavin, tell me about when you would spend the  
13 night with Michael. Where would you sleep."  
14 "I spent the night with Michael one time  
15 when he slept on the floor."  
16 He says his brother and he slept on  
17 Michael's bed. Michael slept on the floor. And  
18 "Michael slept on the floor. Michael slept on the  
19 floor."  
20 "When I had cancer, he would sleep on the  
21 floor. And my brother would be there with me."  
22 "Was there ever anything inappropriate with  
23 Michael.  
24 Janet: "Never."  
25 Davallin, the sister, says the following:  
26 "He's a bigger father to all of us. He's given us  
27 safety. He's given us love. He's given us  
28 everything we've ever wanted. He's been our father 203

1 figure. He's the only thing we know to be a  
2 father."  
3 Michael Jackson is being sucked in. And  
4 look what happens when you try to sever the  
5 connection and not take responsibility for this  
6 family for the rest of your life, after you were  
7 kind enough to help them when they were in need.  
8 Janet Arvizo: "And being what I endured for  
9 17 years, I would be the most sensitive to any  
10 little thing. And Michael has never, absolutely  
11 never made me feel, in any way, form or shape or  
12 matter, that anything was different, other than  
13 Gavin, as a son to Michael, Star as a son to  
14 Michael, Davallin as a daughter to Michael. And  
15 Michael father, like a father to all three of them.  
16 And to me, family. We, my kids and me, no  
17 rejection. We know neglect. We've been  
18 rejected, neglected, spit on, fried, tried, burned,  
19 abused, the door shut in our face, opportunities  
20 lost. And Michael said -- took us from way behind  
21 in the line and pulled us up to the front, and said,  
22 "You matter to me. You may not matter to many  
23 people, but you matter to me. And that's what's  
24 important.'"  
25 The prosecutor wants you to think this was  
26 all scripted and done through force at the Major's  
27 home. The Major in the United States Army.  
28 Janet talks a little bit about her life, 204

1 ladies and gentlemen. That obviously is going to be  
2 an issue in this courtroom. She says David, her  
3 ex-husband's older brother, is a convicted drug  
4 dealer. She says she would get beatings "because I  
5 wouldn't participate in drug activities or drug  
6 sales. I got beat up for things I stood for."  
7 Always leading up to "Michael has rescued us  
8 from destruction. We are his family. He is  
9 responsible for us."

10 As I mentioned to you, that was February  
11 16th, 2003, three days after the recorded phone  
12 conversation.

13 Now we go to February 20th, four days later.  
14 We will prove to you that Janet and the kids did a  
15 video, freely, voluntarily; they wanted it. The  
16 kids wanted to be on camera. They wanted to be  
17 actors. The mother wanted to be on camera. The  
18 hitch was they wanted lots of money.  
19 They arrived at the home of the videographer  
20 in Los Angeles. We will produce witnesses who will  
21 tell you that Janet seemed happy as a lark, excited  
22 and interested; but delayed it so she could talk to  
23 someone whom she thought was an attorney. She  
24 didn't want to sign a document releasing rights.  
25 She wanted rights. She wanted money if they were  
26 going to be filmed. So they went through a lot of  
27 discussion like that.

28 No false imprisonment, no abduction. No 205

1 force. Nothing like that.  
2 She was laughing and giggling throughout the  
3 video, as you will see. You will see her laughing  
4 during the filming. And you will see her laughing  
5 with her kids when they think they're not being  
6 filmed.  
7 She goes through the same routine I just  
8 read to you. The same victim routine. "We were  
9 spat on because of our race, our poverty. Nobody  
10 would help us. We shared cereal. We were going  
11 nowhere," words to that effect. "And Daddy Michael  
12 rescued us. Took us into his fold, became the  
13 surrogate father." And they all praise him to the  
14 hilt. This is February 20th. They praise him for  
15 all he has done to help Gavin with his illness.  
16 They praise him for all he has done to help them  
17 enjoy life. But implicit in everything she says is,  
18 "We are now his family. He is now our dad."  
19 Again, while she's living with Major Jay  
20 Jackson of the United States Army. Again, she says,  
21 this is all part of the false imprisonment. And as

22 I said to you yesterday, when you see this tape -  
23 and if they don't show you, we will - just watch the  
24 responses. Watch the facial expressions. Watch the  
25 spontaneity in the Arvizos. Watch Davallin shed  
26 tears about wonderful Michael is. Watch Gavin  
27 praise him for being a father figure; and say to  
28 yourself, "Is this whole family rehearsed because 206

1 there's a gun to their head." Absolutely,  
2 positively no.  
3 She does bring religion in; I'll tell you  
4 that. She says that, "God's grace as God works  
5 through people, so does the devil. But God elected  
6 to work in Michael to breathe life into Gavin and to  
7 my two other children, and to me a much necessary  
8 love in a very traumatic time in our life." On, and  
9 on, and on.  
10 The next morning, she's interviewed by the  
11 Los Angeles Department of Children & Family  
12 Services. Now, the prosecutor told you that this  
13 was all under the gun too, because there was some  
14 security guy imprisoning them or stopping their  
15 movement or stopping them from calling someone on a  
16 telephone. Did they ever tell the interviewers from  
17 the Los Angeles Department of Children & Family  
18 Services, "We're being held against our will, my  
19 children are being abducted, I'm being falsely  
20 imprisoned, we are prisoners of Michael Jackson".  
21 No. They sang his praises again.  
22 And you know something. Actor Chris Tucker,  
23 from the Rush Hour Series, girlfriend was there too.  
24 Did they ever look at her and, say, "Please, sneak a  
25 call to the police. Call 9-1-1. Do something.  
26 Help us. We're being restricted".  
27 No.  
28 After they realized the effect of these 207

1 interviews, after they realized it might be a tough  
2 sell, that this is all scripted and done by force,  
3 that's when the dates of the alleged molestation  
4 changed to after these interviews. Gavin has said  
5 to the police on one occasion it was before the DCFS  
6 interview, and then changed it to it was after. How  
7 come.  
8 How come.  
9 The day after those interviews, Ms. Arvizo  
10 went to a lawyer named William Dickerman. She had  
11 concluded that she had been duped by Schaffel,  
12 Dieter, Konitzer, Frank, Vinnie. She had concluded  
13 she was not going to get a piece of the action from

14 any rebuttal show, which, as you know, was supposed  
15 to be a response to the Bashir documentary.  
16 And as I said to you yesterday, yes, there  
17 was concern over Michael being placed in a false  
18 light, and Bashir. But also these people saw great  
19 money-making opportunities, because you could do  
20 another show and the networks were bidding for the  
21 other show.  
22 She decided she wasn't going to be able to  
23 obtain what she wanted and now it was time to take  
24 legal action. She had the lawyer send a series of  
25 letters to Geragos. And they started coming. First  
26 of all, she was upset that she was joined with  
27 Michael as a complainant, a plaintiff in a British  
28 lawsuit against the company that produced the Bashir 208

1 documentary. Because as I said to you yesterday, we  
2 will prove Michael was duped by Bashir, didn't want  
3 his children revealed so you could recognize them on  
4 the show, thought he had editorial control, and  
5 trusted Bashir.  
6 Janet claimed to be upset that her son was  
7 on the show. In reality, we'll prove, she wanted  
8 money from the show. That was the problem. She had  
9 joined Michael Jackson in a suit in England with  
10 Michael Jackson paying the fees. And it was done  
11 through LeGrand, his lawyer who I mentioned before,  
12 who had obtained legal counsel in England.  
13 She decided, "I'm not going to get much out  
14 of any of this." So she went to this lawyer and he  
15 starts writing letters to Mr. Geragos, saying she  
16 wants her property back, which is in storage.  
17 At her request, her property was taken from  
18 the studio apartment, put in storage. Her back rent  
19 was paid by these people who were helping her out,  
20 because she wanted to go to Brazil, and she always  
21 complained, "I want to live in a nicer place."  
22 In fact, her daughter stated to one witness,  
23 "We're going to get a nice home in the Hollywood  
24 Hills." Her fiance and now husband complained, "We  
25 want more than a house out of this. We want more  
26 than a college education out of this. You guys are  
27 making millions. What are we getting."  
28 She wanted out of that location. What she 209

1 decided to do when she thought she couldn't make  
2 money the friendly way was to make money through  
3 lawyers the hostile way. And Dickerman started  
4 sending letters, "We want her furniture back, we  
5 want her possessions back," as if Michael Jackson

6 wanted to steal her furniture and possessions. But  
7 nevertheless, he also said, "We don't want Mr.  
8 Jackson's people hassling her, harassing her.  
9 Interestingly enough, the letters keep  
10 coming, and there's never any mention of child  
11 molestation. Not in any of these letters.  
12 Those claims evolved with time.  
13 In late March, Janet Arvizo bumped into one  
14 of the Department of Children & Family Services  
15 workers who had interviewed her at a hamburger  
16 place, late March 2003. Never mentioned sexual  
17 misconduct, false imprisonment, extortion, child  
18 abduction, giving alcohol to minors for sexual  
19 purposes. Never mentions any of this stuff. Sees  
20 her at a public place.  
21 March 26th, Lawyer Dickerman contacts Mark  
22 Geragos and never mentions sexual misconduct. It's  
23 in April of 2003 that Janet Arvizo goes to Lawyer  
24 Larry Feldman.  
25 On April 16th of 2003, the Santa Barbara  
26 Sheriff's Department closes their case investigating  
27 Michael Jackson. They conclude no criminal activity  
28 has gone on. 210

1 In May of 2003, that's May 15th, Larry  
2 Feldman, who, as you know, has sued Michael Jackson  
3 before, gets Janet and the children to talk to a  
4 psychologist that he uses as an expert witness in  
5 other cases. In other words, lawyers often will  
6 have experts they want to use and the experts get  
7 paid, and they're kind of in bed together.  
8 Not until May 29th, 2003, does this  
9 psychologist suddenly claim he has a reasonable  
10 suspicion there was molestation. I repeat the date.  
11 May 29th, 2003. She hires Attorney Feldman in  
12 April. It's not till the very end of May that they  
13 come up with these false claims.  
14 On June 5th, 2003, the psychologist meets  
15 with Lawyer Feldman and Lawyer Dickerman. They're  
16 all collaborating. Doesn't go to the police. Janet  
17 doesn't go to the police. The kids don't go to the  
18 police.  
19 Psychologist Katz and Lawyer Feldman go to  
20 the Los Angeles Department of Children & Family  
21 Services on June 13th to report this.  
22 I'd like you to hear this one, ladies and  
23 gentlemen: On September 30th, 2003, Lieutenant  
24 Klapakis from the Santa Barbara Sheriff's Office  
25 calls the Los Angeles Department of Children &  
26 Family Services and doesn't want them to interview  
27 the Arvizos. I repeat, doesn't want them to  
28 interview the Arvizos. They already had. 211

1 On March 29th, 2004, Janet Arvizo testifies  
2 under oath before a grand jury in Santa Barbara and  
3 says she learned for the first time about the  
4 molestation from the police. That, we will prove,  
5 is false.  
6 Ladies and gentlemen, it's going to be a  
7 long trial and you're going to see and hear lots of  
8 evidence. We are extremely confident that, when you  
9 do, you are going to find Michael Jackson absolutely  
10 not guilty of any of this.  
11 Thank you. `

12 THE COURT: Thank you, Mesereau.  
13 MR. MESEREAU: Thank you, Your Honor.  
14 THE COURT: We'll take our morning recess.  
15 Remember the admonition.  
16 (Recess taken.)  
17 --o0o--  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 212

1 (An off-the-record discussion was held in  
2 chambers.)  
3 THE COURT: All right. Is there a  
4 stipulation reached.  
5 MR. SNEDDON: Yes, Your Honor, between  
6 counsel.  
7 MR. SANGER: Yes, Your Honor.  
8 THE COURT: Would you state, briefly state  
9 the stipulation.  
10 MR. SNEDDON: Yes, Your Honor. The  
11 stipulation is that there are certain exhibits  
12 lodged with the Court in connection with the grand  
13 jury proceedings, and there's a stipulation that  
14 those exhibits can be released to us, to the People,  
15 and that -- for mutual use by both sides.  
16 MR. SANGER: So stipulated, Your Honor.  
17 THE COURT: I'll approve that stipulation  
18 and release the exhibits.  
19 MR. SNEDDON: Thank you, Your Honor.  
20 THE COURT: Leslie, is the unit on here. Is

21 this on.  
22 THE BAILIFF: You need to --  
23 THE COURT: No, I just asked if the --  
24 THE BAILIFF: It takes about ten seconds to  
25 heat up.  
26 THE COURT: You may call your first witness.  
27 MR. SNEDDON: Thank you, Your Honor. Call  
28 Martin Bashir. 213

1 Mr. Bashir, come forward, please.  
2 THE COURT: Come forward to the witness  
3 stand. And when you get to the witness stand,  
4 remain standing, face the clerk here, raise your  
5 right hand.  
6  
7 MARTIN BASHIR  
8 Having been sworn, testified as follows:  
9  
10 THE WITNESS: I do.  
11 THE CLERK: Please be seated. State and  
12 spell your name for the record.  
13 THE WITNESS: My name is Martin Bashir.  
14 M-a-r-t-i-n; surname, B-a-s, as in "sugar," h-i-r.  
15  
16 DIRECT EXAMINATION  
17 BY MR. SNEDDON:  
18 Q. Mr. Bashir, I'm going to ask you if you'd  
19 scoot a little closer to that microphone, if you  
20 can.  
21 A. I'm not particularly tall. I'm sorry.  
22 Q. That's all right.  
23 Mr. Bashir, what is your profession or  
24 occupation.  
25 A. I'm a television journalist.  
26 Q. And how long have you been involved in that  
27 occupation.  
28 A. I've been involved in journalism for 20 214

1 years, and I've been a television journalist for  
2 around 18 years.  
3 Q. Could you just --  
4 THE COURT: Somehow you need to get closer to  
5 that mike. Can you swing it towards you a little  
6 bit.  
7 BAILIFF CORTEZ: It's bolted down.  
8 THE COURT: It moves this way.  
9 THE WITNESS: I'm sorry.  
10 THE COURT: Okay.  
11 THE WITNESS: Sorry.  
12 THE COURT: You'll have to move to it. It

13 doesn't --

14 THE WITNESS: I'm sorry. I've been working  
15 as a journalist for 20 years, and I've been working  
16 as a television journalist for around 18 years.

17 Q. BY MR. SNEDDON: Tell us a little bit, to  
18 the ladies and gentlemen of the jury, if you would,  
19 a little bit about what a television journalist  
20 does.

21 A. A television journalist is somebody who  
22 performs the task of journalism, which is, in  
23 effect, to report, to research, to investigate, to  
24 report stories. The distinction would be that a  
25 television journalist, as opposed to a newspaper  
26 journalist, would use the medium of television so  
27 that -- when I started my career, I would write for  
28 newspapers, do stories for newspapers, did some 215

1 sports reporting, some general news. And then when  
2 I moved on to television, it was the same core task  
3 of reporting, but it was done using the medium of  
4 television.

5 Q. And then how does the profession -- how does  
6 the way that you practice that profession differ, if  
7 it does in any respect, from those that we see on  
8 the nightly network news stations reporting the news  
9 as a journalist.

10 A. There would be no distinction as to what I'm  
11 doing. I'm covering stories and reporting. I  
12 suppose the distinction would be that news  
13 journalists would tend to file shorter reports.  
14 My career has tended to be fixed around  
15 long-form films. I mean by that documentaries,  
16 half-hour, one-hour, and in some cases two-hour  
17 films, current affairs programs. So I would tend to  
18 be described in the United Kingdom as a current  
19 affairs specialist, somebody who does long-form film  
20 as opposed to nightly news.

21 Q. Now, in the practice of your profession,  
22 where is it that you've worked professionally.

23 A. As a television journalist.

24 Q. Yes, sir.

25 A. I began at the BBC with what we call  
26 regional broadcasting. That would be like a local  
27 affiliate to you.

28 Q. Now, what is the BBC. 216

1 A. The BBC is the British Broadcasting  
2 Corporation. It is a state-funded broadcasting  
3 organization which does everything from drama,  
4 comedy, to news and current affairs, light

5 entertainment, music, and I joined a local regional  
6 station in London covering news that was breaking in  
7 London. I did that for three years.  
8 Then after that, I was promoted to a network  
9 position on a current affairs program called "Public  
10 Eye." And there I did a variety of domestic  
11 stories, everything ranging from car crime, to  
12 stories about violent attacks and racist attacks on  
13 immigrant groups in London.  
14 After that -- I did that for about three  
15 years, and then after that I moved on to a program  
16 called "Panorama," and that was in 1992. "Panorama"  
17 is the BBC's flagship current affairs program. And  
18 whilst on that program, I did a number of important  
19 stories, and the first film I did for "Panorama" was  
20 actually a film about allegations of satanic abuse.  
21 I did a film which investigated whether there was  
22 such a thing. There was so-called satanic covens --  
23 MR. MESEREAU: Objection. Narrative.  
24 THE COURT: Sustained.  
25 Q. BY MR. SNEDDON: In the year of 2002 --  
26 excuse me just a second.  
27 (Brief interruption.)  
28 Q. BY MR. SNEDDON: All right, Mr. Bashir, 217

1 let's jump forward in your career to the year 2002,  
2 if we could.  
3 A. Sure.  
4 Q. Where were you employed professionally in  
5 the year 2002.  
6 A. I was employed by the United Kingdom's  
7 biggest commercial television network ITV.  
8 Q. And what does "ITV" stand for.  
9 A. Independent Television.  
10 Q. And in connection with your professional  
11 responsibilities there, did you do video  
12 documentaries.  
13 A. What do you mean by "video documentaries".  
14 Q. All right. Then obviously you didn't, if  
15 you don't know what it's called.  
16 When you do programs, what do you call them.  
17 A. I call them films.  
18 Q. Films.  
19 A. Yeah. Current affairs films.  
20 Q. Current affairs films, so we can talk about  
21 the same thing.  
22 Now, could you give me just two or three or  
23 maybe four, just by name, of individuals that you've  
24 done current affairs films for over the years.  
25 A. Sure. I did a one-hour special on a  
26 notorious serial killer called Harold Shipman, who  
27 is alleged to have murdered 273 people and was found

28 guilty in court and in fact committed suicide quite 218

1 recently. I did an hour on that.

2 I did a special hour on an extraordinary  
3 story featuring a Maltese couple who came to the  
4 United Kingdom, and the mother was --

5 MR. MESEREAU: Objection. Relevance.

6 THE COURT: The qualifications is overruled.

7 Q. BY MR. SNEDDON: Did you do a current  
8 affairs piece on Princess Diana.

9 A. I did, yeah. That was not in 2002. That  
10 was in 1995.

11 Q. All right. So you did do that.

12 A. I did.

13 Q. And how long was that production.

14 A. I think the total duration was around an  
15 hour and 50 minutes, an hour and 45 minutes.

16 Q. All right. Now, in connection with your  
17 current affairs occupation or business during the  
18 year 2000, did you do a current affairs film on the  
19 defendant in this case, Michael Jackson.

20 A. I did.

21 Q. And could you tell me when it was that you  
22 commenced that, in what year.

23 A. 2002.

24 Q. And when did you finish it.

25 A. The broadcast date was the 3rd of February,  
26 2003.

27 Q. When did you actually complete the project,  
28 the filming of it. 219

1 A. The filming of it, I think the last day of  
2 filming was the 14th of January, 2003, in Miami.

3 Q. Now, during the time -- and you have -- let  
4 me ask you this: Did you review the actual film  
5 that was used in connection with the broadcast you  
6 just mentioned in Great Britain.

7 A. I'm sorry, what do you mean, did I "review"  
8 it.

9 Q. The one that was shown on the television.

10 Excuse me, let me just go back for a second if we  
11 can.

12 What was the name of the program in which  
13 the current affairs film on the defendant in this  
14 case, Mr. Jackson, was shown in the United Kingdom.

15 A. It was titled, "Living with Michael  
16 Jackson."

17 Q. And what program was it connected with.

18 Some individual program, or just --

19 A. It was made by a team. The current affairs

20 team that supplied the weekly output for ITV was  
21 called "Tonight." The show was called "Tonight."  
22 Q. That's what I was after, what the show was  
23 called.  
24 A. Forgive me, I'm sorry. The program itself,  
25 because it was longer than a normal "Tonight" show,  
26 was actually broadcast on a different night in the  
27 evening for a longer duration, so it was given its  
28 own specific title for that reason. 220

1 MR. SNEDDON: All right. Your Honor, at  
2 this time I have two exhibits I'd like to have  
3 marked as People's 1 and People's 2 for  
4 identification purposes.

5 Actually, if you would excuse me, I will  
6 make my way over to the clerk.  
7 (Off-the-record discussion held at counsel  
8 table.)

9 MR. SNEDDON: Your Honor, the exhibits that  
10 I've just had the clerk mark for identification  
11 purposes, People's 1 is a custodian of the records  
12 declaration from a Phillip Lunt, L-u-n-t, from  
13 Granada Productions as the declarant, as the  
14 custodian.

15 And the second exhibit is the -- I'm opening  
16 the package and removing from it the film. That's  
17 been marked as People's Exhibit No. 2, which  
18 according to the authentication, is a copy of the  
19 program that was shown in Great Britain on February  
20 the 3rd, so I'd like to have both of these moved  
21 into evidence as People's 1 and 2, and I intend to  
22 then show the video to the jury.

23 THE COURT: All right. They're admitted.

24 Q. BY MR. SNEDDON: Mr. Bashir, one last  
25 question before we actually show the video.  
26 During the time that you were in production  
27 of the video "Living with Michael Jackson," were you  
28 aware of the fact that Mr. Jackson also had one of 221

1 his videographers accompanying you during the  
2 filming of your footage.

3 MR. BOUTROUS: Objection.

4 Your Honor, I should probably introduce  
5 myself. I'm Mr. Bashir's counsel, Theodore J.  
6 Boutrous, Jr., and I'm joined here today by Henry  
7 Hoberman, who is a senior vice-president and the  
8 head of litigation for ABC News, and pursuant to the  
9 Court's prior order, I'm going to object to this  
10 question on the grounds that it calls for  
11 unpublished information that's protected by the

12 California Constitution's journalist shield law  
13 which is meant to protect the independence of  
14 journalists from being called to testify.  
15 And I'd like to renew our objection to Mr.  
16 Bashir being called today and also would rely on the  
17 First Amendment, First Amendment privilege for  
18 journalists.  
19 Thank you, Your Honor.  
20 THE COURT: Mr. Boutrous, the objection you  
21 raise, it's not a privilege. It's a shield from  
22 contempt. So from the standpoint of sustaining your  
23 objection, I won't sustain the objection.  
24 The question's been asked. Are you going to  
25 answer the question.  
26 MR. BOUTROUS: Your Honor, the First  
27 Amendment privilege is a privilege, so I would  
28 request that the Court enforce that privilege. This 222

1 is unpublished information gathered in the news-  
2 gathering process, and it's important for  
3 journalists to have that freedom to gather news and  
4 report it without intrusion of the courts. And I  
5 would ask the Court to enforce the First Amendment  
6 privilege.  
7 We have great respect for the Court and  
8 don't want to go into contempt, but we would ask the  
9 Court to preclude that type of questioning. And  
10 based on some of the arguments, I'm concerned that  
11 this will become a side issue, and it could really  
12 do harm to the ability of journalists to gather  
13 information that's of important public interest and  
14 concern and disseminate it to the public.  
15 So I'd ask the Court to at this point limit  
16 the questioning to published information and  
17 background information about Mr. Bashir on both  
18 sides, because I'm concerned about where the --  
19 THE COURT: The rights are different on both  
20 sides.  
21 MR. BOUTROUS: They are, Your Honor, and in  
22 fact it's an absolute privilege with respect to --  
23 yes, it's an absolute privilege with respect to the  
24 District Attorney, and on that ground, I would ask  
25 the Court to enforce it absolutely and preclude this  
26 question, and Mr. Jackson's lawyers have not made  
27 any showing thus far that they have any ability --  
28 THE COURT: True. We're not at that issue. 223

1 MR. BOUTROUS: Okay. Thank you, Your Honor.  
2 THE COURT: The question, though, has been  
3 asked. The objection is overruled. And I'm asking

4 the witness if he's going to answer the question.  
5 Would you like it read back to you.  
6 THE WITNESS: I would, yes.  
7 MR. SNEDDON: Thank you.  
8 (Record read.)  
9 THE WITNESS: The answer to the question is  
10 yes, but the individual concerned --  
11 MR. MESEREAU: Objection.  
12 THE WITNESS: -- only filmed on two  
13 occasions.  
14 THE COURT: Wait. You answered the question,  
15 and there's an objection. The question is answered.  
16 MR. SNEDDON: Okay.  
17 THE COURT: And the answer was "Yes."  
18 MR. SNEDDON: Okay. Your Honor, I  
19 understand you have a button that has to be  
20 activated before we can show the VCR.  
21 THE COURT: That's true.  
22 MR. SNEDDON: And my second question is,  
23 Your Honor, we do have a transcript of this if, in  
24 the Court's discretion, you would like to have the  
25 jurors have them at this time. If not, that's fine.  
26 THE COURT: Because I'm not sure at this  
27 point that the transcripts are transcripts of this,  
28 and you couldn't make that representation to me, I'm 224

1 not going to allow the transcript to be passed  
2 around.  
3 MR. SNEDDON: That's perfectly  
4 understandable, Your Honor. All right.  
5 THE COURT: Now, I think I pushed the right  
6 button.  
7 MR. BOUTROUS: Could I make a request.  
8 Would it be possible for Mr. Bashir to come down so  
9 he can watch the broadcast rather than -- I can  
10 vacate my seat if that would --  
11 THE COURT: Oh, yeah, absolutely. But I  
12 didn't want to have him come down yet until we're  
13 sure that -- I think we're at that point.  
14 MR. BOUTROUS: No problem.  
15 MR. MESEREAU: If I may lodge an objection,  
16 Your Honor; no transcripts. The rules of Court  
17 require them before you show a tape.  
18 THE COURT: Audiotape. They require them on  
19 videotape.  
20 MR. MESEREAU: I believe so, Your Honor.  
21 They also require that the jury have the transcript.  
22 THE COURT: I don't think that's the case.  
23 MR. SNEDDON: I thought that what it  
24 required was that the record on appeal requires a  
25 transcript, not that it's required at the time.  
26 THE COURT: You have to lodge the tape with

27 the Court, which I didn't prevent him from doing.  
28 He wanted to hand the jurors copies, and you weren't 225

1 in chambers, but it was represented in chambers that  
2 he hasn't had the opportunity to compare his  
3 transcript to this tape. So I'm not -- you know,  
4 I'm not having that. I wouldn't want to hand it to  
5 the jury at this point.

6 MR. SNEDDON: Because it just got here.

7 THE COURT: Yeah, this tape just got to my  
8 office last Friday.

9 MR. SNEDDON: Yes, sir, at the court.

10 MR. MESEREAU: Could I request, Your Honor,  
11 that we get a copy of their transcript.

12 THE COURT: Certainly.

13 MR. MESEREAU: Thank you.

14 THE COURT: Now, I'm going to let Mr. Bashir  
15 sit down, if you're sure you don't have any other  
16 questions to ask him.

17 MR. SNEDDON: I better quit while I'm ahead,  
18 Your Honor. I guess we'll have Mr. Bashir come down  
19 here, I'll give him my chair, and he can watch.

20 THE COURT: I can't see. Is there any room.  
21 There's someone nodding affirmatively. He can sit  
22 next to that individual.

23 Mr. Bashir, you may step down now.

24 THE WITNESS: Thank you.

25 MR. BOUTROUS: Just to be clear, too, this  
26 is Mr. Hoberman, who I identified in passing.

27 MR. HOBERMAN: Good morning, Your Honor.

28 THE COURT: The individual shaking his head 226

1 was co-counsel.

2 MR. HOBERMAN: Good morning, Your Honor.

3 THE COURT: Good morning.

4 Whenever you're ready. I have a button here  
5 that also allows me to have the screen go blank, and  
6 if counsel is concerned, any of the attorneys is  
7 concerned -- huh.

8 MR. SNEDDON: I thought you were still  
9 talking.

10 THE COURT: If you're concerned, tell me and  
11 just say, "Blank it," and I'll do that.

12 MR. SNEDDON: All right.

13 THE COURT: That would only be because it  
14 shows something I don't anticipate.

15 (Whereupon, a portion of a videotape,  
16 People's Exhibit No. 2, was played for the Court and  
17 jury.)

18 THE COURT: You know, would you hold it a

19 second.  
20 There's one admonition that I want to make  
21 to the jury before we watch this, and I'm going to  
22 give you a more detailed instruction on this later,  
23 but I just want to prepare you for this right now:  
24 That the video of "Living with Michael  
25 Jackson," which is this video, at this point is not  
26 offered for the truth of anything said or shown in  
27 the program, with the exception of certain passages  
28 that will later be identified. 227

1 You will receive additional instruction with  
2 regard to these identified passages. The rest of  
3 the contents of the video is hearsay and not -- and  
4 cannot be considered by you to prove anything other  
5 than the fact that the program aired in February of  
6 2003.

7 You may now go forward.

8 MR. ZONEN: Your Honor, we're ready.

9 THE COURT: Yes.

10 (Whereupon, a portion of a videotape,  
11 People's Exhibit No. 2, was played for the Court and  
12 jury.)

13 MR. SNEDDON: There's about a 30-second  
14 break, Your Honor. Or 45 seconds.

15 THE COURT: Thank you.

16 MR. SNEDDON: We're missing the commercials.

17 MR. AUCHINCLOSS: Your Honor, I can try and  
18 fast forward through this if you'd like.

19 THE COURT: Whatever you'd like.

20 (Whereupon, a portion of a videotape,  
21 People's Exhibit No. 2, was played for the Court and  
22 jury.)

23 THE COURT: Well, it's almost time for the  
24 11:30 break, so let's take the 11:30 break.

25 (Recess taken.)

26 THE COURT: All right. You may proceed.

27 (Whereupon, a portion of a videotape,  
28 People's Exhibit No. 2, was played for the Court and 228

1 jury to its conclusion.)

2 THE COURT: Do you anticipate needing the  
3 screen again for a while.

4 MR. SNEDDON: No, sir. I have no further  
5 questions, Your Honor.

6

7 CROSS-EXAMINATION

8 BY MR. MESEREAU:

9 Q. Mr. Bashir, my name is Thomas Mesereau, and

10 I speak for Mr. Jackson.

11 A. Thank you.  
12 Q. At some point in time, you made an effort to  
13 contact Mr. Jackson about doing this show, correct.  
14 A. That is correct.  
15 Q. And approximately when was that.  
16 A. I think it was around April 2002.  
17 Q. And you contacted someone named Uri Geller,  
18 correct.  
19 MR. BOUTROUS: Objection, Your Honor. I  
20 think Mr. Mesereau is now straying directly into the  
21 areas covered by the California shield law and the  
22 First Amendment, and we would ask the Court to rule  
23 that that kind of inquiry is off limits.  
24 THE COURT: Before we rule on that objection,  
25 I think we need to discuss the scope of the  
26 examination here. As I see it, the prosecution put  
27 him on simply to authenticate the tape. I suspect  
28 you would like to examine him at length, based on 229

1 your opening statement, about a lot of things.  
2 MR. MESEREAU: Yes, Your Honor. But he does  
3 give special thanks to Mr. Uri Geller at the end of  
4 the tape. And the prosecution played that tape, and  
5 I think they've opened the door on that one.  
6 MR. SNEDDON: It's not even in for the truth  
7 of the matter stated, Your Honor.  
8 THE COURT: I think I'll -- do you have him  
9 under subpoena.  
10 MR. MESEREAU: No.  
11 THE COURT: What I think I should do is to  
12 limit your examination of him at this time as to the  
13 foundation of the tape. So that's what I'm going to  
14 do.  
15 Q. BY MR. MESEREAU: Mr. Bashir, in order to  
16 produce the show we've just watched, you had to  
17 speak to Mr. Jackson, true.  
18 MR. BOUTROUS: Objection, Your Honor.  
19 Again, this is unpublished information. It's clear  
20 from the face of the tape that Mr. Bashir talked to  
21 Mr. Jackson, and that's published material and  
22 that's the limits of the proper examination.  
23 THE COURT: I'll overrule the objection for  
24 the same reason I stated earlier.  
25 Would you be more comfortable to be at  
26 counsel table where you have a microphone.  
27 MR. BOUTROUS: That might be helpful, Your  
28 Honor. It might be better for the jury, and they 230

1 won't have to see me jumping up and down. I don't  
2 want -- I'm a little uncomfortable taking one side

3 or the other.

4 THE COURT: Well, I think you need to take a  
5 chair. We won't assume you're taking anyone's side.

6 MR. BOUTROUS: Okay. Thank you.

7 And, Your Honor, may I just inquire on the  
8 procedure that the Court is following. Because the  
9 approach the Court took, the initial objection was  
10 to ask Mr. Bashir to decide whether to answer. And  
11 I'm reluctant to have him make that decision without  
12 knowing that I'm going to be able to argue against a  
13 potential contempt finding based on the shield law.  
14 So if the Court could clarify the procedures  
15 that it's following, that would be very helpful.

16 THE COURT: Well, the procedure I was  
17 following was to let you make your objection. Then  
18 I'll ask the witness if he wishes to answer the  
19 question, and we will go from there.

20 MR. BOUTROUS: Will I have an opportunity,  
21 if the witness declines to answer based on the  
22 constitutional shield law protecting journalists, to  
23 then argue that the material's protected and the  
24 Court should not hold Mr. Bashir in contempt.

25 THE COURT: Of course.

26 MR. BOUTROUS: Thank you, Your Honor.

27 MR. MESEREAU: Your Honor, the prosecution  
28 did go into Mr. Bashir's qualifications. May I 231

1 cross-examine in that area.

2 THE COURT: Yes.

3 MR. MESEREAU: Thank you, Your Honor.

4 Q. First of all, Mr. Bashir, I did ask you a  
5 question, and that question I'll repeat: In order  
6 to produce what the jury has just seen, you had to  
7 make contact with Mr. Jackson, correct.

8 A. Correct.

9 Q. And you made numerous attempts to contact  
10 Mr. Jackson, true.

11 MR. BOUTROUS: Again, Your Honor, I object  
12 on the grounds that that's unpublished information,  
13 and it's also unclear from the face of the tapes  
14 that he had contact with Mr. Jackson.

15 MR. MESEREAU: Your Honor, I have  
16 correspondence from Mr. Bashir. It's pretty obvious  
17 that, in a nonprivileged context, he was trying to  
18 make contact and say what he wanted to do.

19 THE COURT: The objection is overruled.

20 Do you wish to answer that question, Mr.

21 Bashir.

22 MR. BOUTROUS: I'm going to leave it to  
23 Mr. Bashir. It puts him in a difficult position.  
24 Because there's a very important legal principle  
25 that's taken. It does not matter whether Mr.

26 Mesereau claims to have correspondence or that  
27 there's other documents. That's the limits of the  
28 permissible -- 232

1 THE COURT: I think I understand the legal  
2 parameters.  
3 MR. BOUTROUS: -- information.... I just  
4 want to make sure I preserve the record and that  
5 the --  
6 THE COURT: You are doing an excellent job.  
7 MR. BOUTROUS: Thank you, Your Honor.  
8 THE WITNESS: Your Honor, my preface is to  
9 simply stand by the film as you've seen it and to  
10 testify as to its contents.  
11 THE COURT: All right.  
12 MR. MESEREAU: I'll object, Your Honor, and  
13 move to strike his comments. They were not in  
14 response to any question.  
15 THE COURT: Well, actually they were a  
16 response to my question if he wanted to answer the  
17 question.  
18 THE WITNESS: Sorry, sir. That --  
19 THE COURT: So I won't let you strike that.  
20 All right. He is following his counsel's  
21 advice and he's not answering that question. Next  
22 question.  
23 MR. MESEREAU: Your Honor, I would move for  
24 sanctions against the witness. Or I would move to  
25 strike all of his testimony, including the  
26 prosecution's playing of this tape, if he refuses to  
27 be cross-examined.  
28 THE COURT: The way I would like to proceed 233

1 with this is that he -- he does have some protection  
2 under the shield law that his counsel has been  
3 pointing out. That protection is against contempt  
4 of court.  
5 What I think I'll do is let you ask him the  
6 questions, let his attorney make the objections, let  
7 him decide whether he's going to answer. And then  
8 I'll make a record -- we have a record of those  
9 questions, and then I'll review them later to  
10 determine whether or not I feel a contempt charge  
11 should be issued. It's really a ticklish area of  
12 the law.  
13 MR. MESEREAU: Thank you, Your Honor.  
14 Q. Mr. Bashir, you outlined some qualifications  
15 you have in the world of journalism, correct.  
16 A. I didn't outline any qualifications, sir. I  
17 just referred to the chronology of my career.

18 Q. Did you mean, when you did that, to explain  
19 that you're a qualified professional journalist.  
20 A. I meant simply to explain my career  
21 chronologically, sir.  
22 Q. Do you consider yourself as a professional  
23 journalist.  
24 A. I do, sir.  
25 Q. Do you consider yourself a professional  
26 journalist because you've had certain experience in  
27 journalism.  
28 A. I do, sir. 234

1 Q. Do you consider yourself to be a  
2 professional journalist because you're educated in  
3 the world of journalism.  
4 A. My academic studies were not in journalism.  
5 They were in the arts and humanities. So I don't  
6 have a formal qualification, if that's what you're  
7 asking, sir, but I have the experience that comes  
8 with working in the profession.  
9 Q. Now, as a journalist in England, you are  
10 regulated by a certain administrative agency,  
11 correct.  
12 A. Could you repeat the question.  
13 Q. Sure. Is there an organization or an  
14 administrative agency that goes by a title somewhat  
15 like British Broadcasting Standards Board.  
16 A. There is an organization called the  
17 Broadcasting Complaints Commission. Would you be  
18 referring to that.  
19 Q. I think I am. Do you work with that  
20 organization in any capacity.  
21 A. That organization doesn't employ  
22 journalists.  
23 Q. Have you been sanctioned by that  
24 organization.  
25 A. Could you repeat the question.  
26 Q. Have you been sanctioned by that  
27 organization.  
28 A. By the Broadcasting Complaints Commission. 235

1 Q. Yes.  
2 A. The answer to that question is, three  
3 complaints were made against me. Two of the key  
4 complaints were entirely rejected, and they were to  
5 do with balance and fairness. One of the three was  
6 upheld. This is -- sir, just so I can explain so  
7 people understand, because they --  
8 Q. Certainly.  
9 A. -- because they may not understand.

10 The Broadcasting Standards Commission is not  
11 a legal body, and it has no particular merit in a  
12 legal setting.  
13 Q. Nevertheless, a complaint against you as a  
14 journalist was upheld, true.  
15 A. As I said, sir, three complaints were made.  
16 The two key complaints were entirely rejected. One  
17 complaint was upheld of the three.  
18 Q. Let's talk about the one that was upheld,  
19 sir. There was a complaint against you that was  
20 upheld by that agency, correct.  
21 A. There was, sir, yes.  
22 Q. And what did they complain about, Mr.  
23 Bashir.  
24 A. The complaint related to -- to what -- to  
25 what -- to how I described what I was doing with the  
26 story that I was working on.  
27 Q. And what were you doing, Mr. Bashir.  
28 A. I was doing journalism. 236

1 Q. Could you put a little teeth on that and  
2 just tell the jury what we're talking about.  
3 A. In relation to.  
4 Q. You don't know what we're talking about.  
5 A. Do you mean the specific program. Sorry, I  
6 don't know whether -- sorry, I apologize. Are you  
7 asking me about the complaint, or are you asking me  
8 about the story, the reporting that I was doing.  
9 Q. Why don't you tell the jury about both.  
10 MR. BOUTROUS: Your Honor, I'm going to  
11 object. Mr. Mesereau is now inquiring about  
12 unpublished information or unbroadcast information  
13 about another matter. Same objection.  
14 THE COURT: Well, it's a compound question.  
15 Sustained.  
16 MR. MESEREAU: Okay.  
17 Q. Please describe for the jury the subject  
18 matter of the complaint you just identified, Mr.  
19 Bashir.  
20 A. The story was about a teenaged prodigy, a  
21 mathematics genius, who had run away from  
22 university, had legally emancipated herself from her  
23 family. And the story was to describe what had  
24 happened from both sides.  
25 Q. You were accused of misrepresentations,  
26 true.  
27 A. No, that's incorrect.  
28 Q. You were not accused of misrepresenting 237

1 anything in that complaint.

2 A. I was accused of unfairness, which was  
3 entirely rejected. I was accused of breaching an  
4 agreement, which was entirely rejected. I was  
5 accused of not representing the entirety of what I  
6 was doing with that broadcast to one of the  
7 individuals.  
8 Q. Kind of what you've been accused of here,  
9 right.  
10 MR. BOUTROUS: Objection.  
11 MR. SNEDDON: Argumentative, Your Honor.  
12 THE COURT: Sustained.  
13 Q. BY MR. MESEREAU: Mr. Bashir, how long was  
14 the film you did on Mr. Jackson.  
15 A. The total duration.  
16 Q. Yes, please.  
17 A. I'm afraid I don't know in exact terms.  
18 It's some time -- it's over two years since the film  
19 was broadcast. I think it was around an hour and 15  
20 minutes.  
21 Q. And how many hours of footage did you obtain  
22 during the time you spent with Mr. Jackson.  
23 MR. BOUTROUS: Objection, Your Honor.  
24 Unpublished information, covered by the shield law  
25 and the First Amendment.  
26 THE COURT: The objection is overruled.  
27 Do you wish to answer.  
28 THE WITNESS: No, I don't. 238

1 THE COURT: Next question.  
2 Q. BY MR. MESEREAU: You don't know at all.  
3 Can't even estimate.  
4 THE COURT: He doesn't --  
5 THE WITNESS: That's not what I wish to  
6 answer.  
7 THE COURT: He chose not to answer.  
8 MR. MESEREAU: Your Honor, I would move that  
9 the entire testimony be stricken and the  
10 prosecution's evidence be stricken.  
11 THE COURT: That's denied.  
12 MR. MESEREAU: I would ask for contempt,  
13 Your Honor.  
14 THE COURT: The procedure that I'm going to  
15 follow I already outlined.  
16 MR. MESEREAU: Okay. Okay. For the record,  
17 Your Honor, could I have a running objection if he  
18 refuses to answer a question, or shall I make my  
19 request each time.  
20 THE COURT: No, you don't need to do that.  
21 Let me just understand what we're having a running  
22 record about.  
23 MR. MESEREAU: Yes.  
24 THE COURT: If he -- if his attorney objects,

25 and he declines to answer based on his attorney's  
26 advice, I will review that question for contempt  
27 proceedings without further necessity on your part  
28 to request that. Your motion to strike his entire 239

1 testimony and evidence is denied.

2 MR. MESEREAU: Okay. Your Honor, could I  
3 have that be a running objection as well.

4 THE COURT: Yes.

5 MR. MESEREAU: Okay. Thank you.

6 Q. Mr. Bashir, you communicated with Mr.  
7 Jackson's assistant by letter before you began  
8 filming this show, correct.

9 MR. BOUTROUS: Again, Your Honor, I object.  
10 It's unpublished information created and prepared in  
11 the course of news gathering and covered by the  
12 shield law and the First Amendment.

13 THE COURT: Do you wish to answer.

14 THE WITNESS: No.

15 MR. MESEREAU: Same objection, Your Honor.

16 THE COURT: And I'll review the record.

17 Q. BY MR. MESEREAU: Mr. Bashir, you wrote to  
18 Mr. Jackson's assistant and said you would very much  
19 like to feature Michael with a large group of  
20 children, around 50, welcoming them and sharing with  
21 them his extraordinary home so that, for one day,  
22 their lives can be enriched, correct.

23 MR. BOUTROUS: Same objection, Your Honor.

24 THE COURT: Do you wish to --

25 MR. SNEDDON: Your Honor -- excuse me.

26 Could I add an objection to that also.

27 Beyond the scope of direct examination.

28 THE COURT: Sustained as to beyond the scope 240

1 of the direct examination.

2 Q. BY MR. MESEREAU: Mr. Bashir, you  
3 interviewed Mr. Jackson and repeatedly asked him  
4 questions about his desire for an international  
5 children's holiday, correct.

6 MR. BOUTROUS: Same objection, Your Honor,  
7 in that would seem to be beyond the scope of the  
8 direct examination as well.

9 THE COURT: Sustained as to beyond the scope.

10 MR. MESEREAU: Your Honor, will the Court  
11 permit me to ask questions about what's actually on  
12 the tape.

13 THE COURT: No, because the tape's being  
14 introduced not for the truth of the matter asserted,  
15 but for a different purpose. There are some areas,  
16 however, that I didn't instruct the jury on about

17 the assertions that they wish to have considered for  
18 the truth of the matter. And those would not be out  
19 of bounds, because -- well, let me ask the District  
20 Attorney.  
21 You do not intend to offer any other  
22 evidence of those statements that were the subject  
23 of the motion to have the Court consider the  
24 statements for the truth of the matter.  
25 MR. SNEDDON: No, I think we outlined in our  
26 motion, and the Court made its ruling last week. Is  
27 that what you're referring to, Your Honor.  
28 THE COURT: Well, I'm asking you, this is the 241

1 only evidence you're going to have of those  
2 statements, so --  
3 MR. SNEDDON: Yes, sir.  
4 THE COURT: Then those statements open  
5 cross-examination as to those statements.  
6 Do you understand what I'm saying.  
7 MR. MESEREAU: I think I do, Your Honor.  
8 The statements you had us isolate for purposes of  
9 constituting admissions --  
10 THE COURT: Yes.  
11 MR. MESEREAU: -- is what you're talking  
12 about.  
13 THE COURT: That's correct.  
14 MR. MESEREAU: May I take a second just to  
15 obtain those.  
16 THE COURT: Yes.  
17 MR. MESEREAU: Thank you.  
18 While we're getting those, Your Honor, if I  
19 may, I'll just continue.  
20 THE COURT: Sure.  
21 Q. BY MR. MESEREAU: Mr. Bashir, you had  
22 Michael Jackson sign an agreement without a lawyer  
23 present, true.  
24 MR. BOUTROUS: Again, Your Honor, beyond the  
25 scope of the direct and covered by the shield law.  
26 THE COURT: I'd overrule that objection.  
27 Will you answer that question.  
28 THE WITNESS: Mr. Jackson signed two 242

1 agreements in which he asked for no conditions  
2 whatsoever and agreed that I was free to make the  
3 film with him. And the first of those agreements  
4 was signed in November 2002, and the second  
5 agreement was signed in January 2003, just about two  
6 weeks prior to broadcast of the British version of  
7 the film that you've just seen.  
8 MR. MESEREAU: Your Honor, I would move to

9 strike the answer and request that the Court order  
10 the witness to answer the question.  
11 THE COURT: All right. It's stricken. And  
12 I'll ask the court reporter to read back the  
13 question so that you understand the question.  
14 (Record read.)  
15 MR. BOUTROUS: I renew my objection, Your  
16 Honor. That goes to news gathering and relates to  
17 information prepared in connection with news  
18 gathering.  
19 THE COURT: The objection is overruled.  
20 Do you wish to answer that.  
21 THE WITNESS: I think I agree with my  
22 attorney that I have protections under the shield  
23 law, Your Honor.  
24 THE COURT: All right.  
25 MR. MESEREAU: Same objection would be  
26 noted, Your Honor.  
27 MR. SANGER: I'm sorry, Your Honor, it's  
28 hard for Mr. Jackson and for us to hear the witness. 243

1 THE WITNESS: I apologize. It's my fault.  
2 Sorry. I'm sorry.  
3 THE DEFENDANT: Speak up.  
4 THE COURT: And, yes, you don't need to. I'm  
5 going to review all of the questions.  
6 MR. MESEREAU: Thank you, Your Honor.  
7 Q. Mr. Bashir --  
8 THE COURT: If you want to, you can.  
9 MR. MESEREAU: Okay.  
10 Q. Mr. Bashir, you have been accused in England  
11 of forging signatures, correct.  
12 A. Incorrect.  
13 Q. No one has ever made that accusation, sir.  
14 MR. BOUTROUS: I'm going to object, Your  
15 Honor. Hearsay; lack of foundation; beyond the  
16 scope of direct examination.  
17 THE COURT: Sustained on beyond the scope of  
18 direct.  
19 Q. BY MR. MESEREAU: Mr. Bashir, to qualify as  
20 a professional journalist, do you have to fulfill  
21 any particular educational program.  
22 A. In the United States or in the United  
23 Kingdom, sir.  
24 Q. Anywhere.  
25 A. I'm frankly unsure about how that applies in  
26 the United States. And in the United Kingdom, there  
27 would be different ways of progressing your career.  
28 Some people would do it through the route of 244

1 experience. And others would do it through some  
2 kind of academic qualification. I think others will  
3 have a mix of the two.  
4 Q. How did you do it.  
5 A. A mix of the two.  
6 Q. Could you please explain that.  
7 A. I was given training during my employment at  
8 the BBC. And I also took opportunities to work in  
9 print and radio journalism, so I combined the  
10 experience part with the training.  
11 Q. You are currently a paid legal analyst for  
12 ABC, correct.  
13 A. Incorrect, sir.  
14 Q. Are you a paid employee by ABC in any  
15 capacity.  
16 A. I am, sir.  
17 Q. Could you please tell the jury what that is.  
18 A. I'm employed as a correspondent for ABC  
19 News, which is owned by Disney.  
20 Q. How long have you been paid as a  
21 correspondent for ABC.  
22 A. My contract began on the 1st of September,  
23 last year.  
24 Q. Are you covering this case as a  
25 correspondent who is paid.  
26 MR. BOUTROUS: Objection, Your Honor, beyond  
27 the scope; and again, requiring him to cover news  
28 gathering activities is covered by the shield law. 245

1 THE COURT: Overruled.  
2 Do you wish to answer that question.  
3 THE WITNESS: No, I don't, Your Honor.  
4 MR. MESEREAU: Same objection. Thank you.  
5 THE COURT: Noted.  
6 Q. BY MR. MESEREAU: Mr. Bashir, if you look at  
7 the two documents you referred to that you say Mr.  
8 Jackson signed, his signature appears to be  
9 different from document to document, correct.  
10 MR. BOUTROUS: Same objection, Your Honor.  
11 And -- same objection on the shield law, Your Honor;  
12 and beyond the scope of direct.  
13 THE COURT: Sustained; beyond the scope.  
14 Q. BY MR. MESEREAU: Mr. Bashir, did you  
15 request that Michael Jackson bring Macauley Culkin  
16 so you could film him at Neverland.  
17 MR. BOUTROUS: Same objection under the  
18 shield law and the First Amendment, Your Honor. And  
19 beyond the scope of direct.  
20 THE COURT: Sustained on beyond the scope.  
21 Q. BY MR. MESEREAU: In the process of putting  
22 this film together, Mr. Bashir, did you write to  
23 Michael Jackson's assistant and say you wanted to

24 film the beautiful landscape encouraging all of us  
25 to become as little children again.  
26 MR. SNEDDON: I'm going to object as beyond  
27 the scope.  
28 THE COURT: You must let him finish his 246

1 question before you interrupt. Don't interrupt is  
2 what I'm saying.  
3 MR. BOUTROUS: Could I just object, though.  
4 The scope of the direct is very clear. Mr. Mesereau  
5 knows what the scope of direct is. And now he's  
6 just knowingly asking questions that are beyond the  
7 scope of direct. And I would ask the Court to ask  
8 him to refrain from doing that. That would truncate  
9 the examination.  
10 THE COURT: I would like to be able to hear  
11 the question he's asking so that I can make a  
12 reasoned ruling on his question.  
13 Q. BY MR. MESEREAU: Mr. Bashir --  
14 THE COURT: You had not finished the last  
15 question.  
16 Would you read back his answer as far as you  
17 got it. His question.  
18 (Record read.)  
19 THE COURT: Is that the complete question.  
20 MR. MESEREAU: Yes.  
21 THE COURT: And the objection.  
22 MR. BOUTROUS: Same objection. Beyond the  
23 scope of direct; shield law; First Amendment.  
24 Q. BY MR. MESEREAU: Mr. Bashir, did you, in  
25 the process of getting -- making contact with Mr.  
26 Jackson so you could make this film, misrepresent  
27 that you were putting together a trip to Africa for  
28 Mr. Jackson to visit sick children. 247

1 MR. BOUTROUS: Same objection, Your Honor.  
2 Beyond the scope of direct; shield law; First  
3 Amendment.  
4 THE COURT: I'll sustain the objection;  
5 beyond the scope of direct.  
6 Q. BY MR. MESEREAU: Mr. Bashir, did you allow  
7 Mr. Jackson any editorial control over this film.  
8 MR. BOUTROUS: Same objections, Your Honor.  
9 THE COURT: The objection beyond the scope is  
10 sustained.  
11 Q. BY MR. MESEREAU: Mr. Bashir, before this  
12 film was shown - and I'm talking about the actual  
13 film itself, not generally speaking. I'm talking  
14 about what the prosecution has used in this  
15 courtroom today, all right. - did you watch that

16 actual reel.  
17 MR. BOUTROUS: Same objections. Beyond the  
18 scope; shield law; First Amendment.  
19 MR. MESEREAU: I think we're discussing  
20 authentication, Your Honor.  
21 THE COURT: The objection is overruled.  
22 Do you want the question read back.  
23 THE WITNESS: Yes, please, Your Honor.  
24 (Record read.)  
25 THE WITNESS: I don't wish to answer the  
26 question. The question is -- is protected under the  
27 shield law.  
28 MR. MESEREAU: Your Honor, I would -- 248

1 THE COURT: Maybe you didn't understand the  
2 question. I hope I did. The question is, did you  
3 watch this reel right here, just before we showed  
4 it.  
5 THE WITNESS: Today.  
6 THE COURT: Today.  
7 THE WITNESS: Oh. I'm happy to answer that  
8 question, Your Honor.  
9 THE COURT: Is that your question.  
10 MR. MESEREAU: Yes, Your Honor.  
11 THE COURT: Okay.  
12 THE WITNESS: No, I did not.  
13 MR. MESEREAU: Move to strike the  
14 prosecutor's evidence and testimony as being  
15 unauthenticated.  
16 THE COURT: I'll take that under advisement.  
17 I'll have to go back and look at it.  
18 Q. BY MR. MESEREAU: Before you testified  
19 today, did you discuss your testimony with  
20 Prosecutor Sneddon.  
21 A. I did not.  
22 Q. Before you testified today, did you discuss  
23 your testimony with anyone.  
24 A. I had private discussions with my attorney.  
25 Q. Other than your attorney, before you  
26 testified today, did you discuss what you were going  
27 to say with anybody.  
28 A. No. 249

1 Q. No one with your company.  
2 A. No.  
3 Q. Never mentioned it to any other journalists,  
4 Mr. Bashir.  
5 A. Today.  
6 Q. Yes, sir.  
7 A. I haven't been with any other journalists,

8 sir.  
9 Q. How about yesterday.  
10 A. I wasn't with any journalists yesterday,  
11 sir.  
12 Q. Have you discussed with any other journalist  
13 at any time what you were going to say in this  
14 courtroom in this case, Mr. Bashir.  
15 MR. SNEDDON: Your Honor, what's the  
16 materiality of this question. That has nothing to  
17 do with the direct examination.  
18 THE COURT: Overruled.  
19 You may answer.  
20 THE WITNESS: The only -- I've discussed  
21 this case with my attorney.  
22 Q. BY MR. MESEREAU: To your knowledge, when  
23 did you receive a subpoena in this case, Mr. Bashir.  
24 A. At the beginning of this year.  
25 Q. Are you telling this jury, under oath, that  
26 since you received a subpoena, or since you knew you  
27 received a subpoena, till today, you've never  
28 discussed what you were going to say with anyone 250

1 other than your attorney.  
2 A. I'm trying very hard to remember so that I  
3 can be accurate, sir.  
4 Q. You can take your time.  
5 A. Thank you.  
6 As far as my recollection goes, I recall  
7 discussing the matter with my attorney.  
8 Q. Let me state the question again, because you  
9 may not have understood it. You learned you had  
10 received a subpoena when.  
11 A. At the beginning of this year.  
12 Q. Since you learned you had received a  
13 subpoena, have you ever discussed the fact that you  
14 were going to be a witness with anyone other than  
15 your attorney.  
16 MR. BOUTROUS: Your Honor, I'm going to  
17 object. That's a different question than discussing  
18 what he was going to say. I'm not sure how he could  
19 discuss what he was going to say before the trial.  
20 MR. MESEREAU: Objection, Your Honor. These  
21 are speaking objections. This is improper form.  
22 THE COURT: The objection's overruled.  
23 Q. BY MR. MESEREAU: You're free to answer.  
24 THE COURT: And I can have it read back for  
25 you.  
26 THE WITNESS: That's okay, Your Honor.  
27 Thank you.  
28 I'm happy to state that I discussed the 251

1 matter with my attorney.  
2 Q. BY MR. MESEREAU: You may be happy to say  
3 that, sir, but would you please answer the question.  
4 MR. SNEDDON: Your Honor, that's  
5 argumentative.  
6 THE COURT: Sustained.  
7 Read the question back to him, please.  
8 (Record read.)  
9 THE WITNESS: I discussed the matter with my  
10 attorney, sir.  
11 MR. MESEREAU: Your Honor, could I ask that  
12 the witness be ordered to respond to the question.  
13 THE COURT: You haven't quite answered it.  
14 THE WITNESS: I understand, Your Honor. The  
15 difficulty is I want to be completely accurate in my  
16 answers, unequivocal and clear. And what I know for  
17 certain is that I have discussed the matter with my  
18 attorney.  
19 THE COURT: And no one else.  
20 THE WITNESS: I'm pretty sure that's the  
21 case, but I can't -- I can't be as unequivocal as  
22 I'd like to be, and that's why I'm hesitant.  
23 THE COURT: Okay. Next question.  
24 Q. BY MR. MESEREAU: Correct me if I'm wrong,  
25 Mr. Bashir - and I might be - you do not have a  
26 clear recollection of telling any other journalist,  
27 since you learned you had a subpoena, that you're  
28 going to be a witness in this case, right. 252

1 A. No.  
2 MR. SNEDDON: Your Honor, I'm going to  
3 object to that question. That was not the question  
4 that was asked.  
5 MR. MESEREAU: It's another question.  
6 MR. SNEDDON: Then the framing of the  
7 question is improper.  
8 MR. MESEREAU: It's not improper, Your  
9 Honor.  
10 THE COURT: The objection is overruled. I'm  
11 going to have the question read back. Whenever  
12 there's an argument like that --  
13 THE WITNESS: Thank you.  
14 THE COURT: -- we lose the question.  
15 (Record read.)  
16 THE WITNESS: The fact of my subpoena, sir,  
17 was published in various forms of media, so that  
18 everybody knew that I had been subpoenaed as a  
19 result of that. It is possible that during my work  
20 for ABC, I may have mentioned that I had been  
21 subpoenaed.  
22 If you are suggesting that I had a detailed

23 discussion about what I was going to say, that is  
24 completely untrue. But it is possible -- as I say,  
25 I wish to be as clear as I can, but it is possible  
26 that I mentioned the fact of my subpoena to my  
27 colleagues.  
28 Q. BY MR. MESEREAU: But as you sit here today, 253

1 you just don't remember ever mentioning it to any  
2 particular colleague, true.

3 A. That's not what I said.

4 Q. What are you saying.

5 MR. BOUTROUS: Asked and answered; and  
6 argumentative.

7 THE COURT: Overruled.

8 You may answer.

9 MR. MESEREAU: I'll restate it, Your Honor,  
10 if it will make it easier.

11 Q. Mr. Bashir, are you telling this jury, under  
12 oath, that you don't have a clear recollection of  
13 ever telling any journalist that you were going to  
14 be a witness in this case.

15 A. Sir, what I said was, that news of the  
16 subpoena was published broadly and wide,  
17 internationally. And as I returned to my core task  
18 at ABC News, I may have mentioned the fact that I  
19 had received a subpoena.

20 Q. Are you telling this jury that you don't  
21 have a clear recollection of ever telling any  
22 particular journalist that you were going to be a  
23 witness in this case; yes or no, Mr. Bashir.

24 A. Sir --

25 MR. SNEDDON: I'm going to object to that.  
26 It's argumentative.

27 THE COURT: I'm going to sustain the  
28 objection, only because you said, "Are you telling 254

1 this jury," as opposed to just asking a question.

2 MR. MESEREAU: I'll rephrase it.

3 THE COURT: Everybody is telling this jury  
4 everything. They're sitting right there.

5 Q. BY MR. MESEREAU: Mr. Bashir, do you recall  
6 telling any particular journalist that you were  
7 going to be a witness in this case.

8 A. As I've said, news of my subpoena was  
9 published. And I'm quite sure that it's possible  
10 that I may have mentioned the fact that I had  
11 received a subpoena in relation to these  
12 proceedings.

13 What I am -- your earlier question, which  
14 slightly confused me, was that you were suggesting

15 that I may have had a discussion with individuals  
16 about the content of what I would say.

17 Q. Mr. Bashir, please tell us if you don't  
18 understand the question. Okay.

19 A. Thank you.

20 Q. Do you recall ever telling any journalist  
21 that you were going to be a witness in this case;  
22 yes or no.

23 A. I've answered the question.

24 MR. MESEREAU: May I ask that the witness be  
25 instructed to answer the question, Your Honor.

26 THE COURT: You have not answered the  
27 question. Would you answer the question.

28 THE WITNESS: My answer to the question, Your 255

1 Honor, is that I cannot specifically recollect a  
2 time, a day, and an individual with whom I had a  
3 detailed discussion about the subject of my  
4 subpoena. What I am saying is it is perfectly  
5 possible that it was mentioned to me, or by me, as I  
6 returned to work.

7 Q. BY MR. MESEREAU: Mr. Bashir, I'm not asking  
8 you about day or time. I'm just asking you if at  
9 any time you told any journalist that you're going  
10 to be a witness in the case.

11 A. It's possible.

12 Q. Are you saying under oath you don't recall  
13 any specific individual that you spoke to about  
14 that.

15 A. That's what I'm saying, sir.

16 Q. And you don't recall any specific journalist  
17 you ever told, "I'm going to be a witness in the  
18 Michael Jackson case".

19 A. I just can't be specific, I'm afraid, sir.

20 Q. Is your office in New York with ABC.

21 A. It is, sir.

22 Q. Are there other offices near your office at  
23 ABC.

24 A. There are, sir.

25 Q. Are there journalists who occupy those  
26 offices at ABC, Mr. Bashir.

27 A. There are, sir.

28 Q. Do you tend to chat with those journalists 256

1 from time to time, sir.

2 A. I have a private office. And I tend to  
3 spend a large amount of time out on the road. So  
4 opportunities to talk like that are not very  
5 frequent.

6 Q. Whose office is next to yours at ABC.

7 MR. BOUTROUS: Your Honor, I'm going to  
8 object on relevance grounds and beyond the scope of  
9 direct, and asked and answered, and many things.  
10 THE COURT: The problem is, Counsel, that he  
11 said that he only spoke to his attorney about this,  
12 and he has a privilege which we all understand. The  
13 reason I have not sustained objections is, counsel  
14 has been exploring whether or not he spoke to anyone  
15 else about that besides his attorney.  
16 But guess what. It's time for a break.  
17 THE WITNESS: Thank you, Your Honor.  
18 (Recess taken.)  
19 THE COURT: You may proceed.  
20 MR. MESEREAU: Thank you, Your Honor.  
21 Q. Mr. Bashir, I'd like to ask you some  
22 questions about some statements of Michael Jackson  
23 that Judge Melville has deemed to be legal  
24 admissions. They are statements that were contained  
25 in your show.  
26 To obtain those statements, you told Michael  
27 Jackson he was underappreciated, true.  
28 MR. BOUTROUS: Objection, Your Honor. 257

1 Covered by the shield law; beyond the scope of  
2 direct; and covered by the First Amendment.  
3 THE COURT: Just so you know, I was going to  
4 allow him to go outside of direct for these issues  
5 rather than have your client come back on some other  
6 date. There have been hearings outside the presence  
7 of the jury concerning these statements.  
8 MR. BOUTROUS: Your Honor, then I would  
9 request that Mr. Mesereau be limited to nonleading  
10 questions, since he will be handling this as a  
11 direct witness. And I'll continue to make my  
12 objections, but if he's going outside the scope, I  
13 would request that.  
14 MR. SNEDDON: Judge, I have a further  
15 comment. In fairness to Mr. Bashir, perhaps he  
16 should have the statements in front of him, so he  
17 knows which ones they are, since we've just watched  
18 an hour and a half of the video. He has the  
19 disadvantage from us, I think.  
20 THE COURT: Well, I think the witness right  
21 now is Mr. Mesereau's. I'll allow him to conduct  
22 the examination as he chooses.  
23 MR. MESEREAU: Thank you, Your Honor.  
24 Q. I'll repeat the question, Mr. Bashir.  
25 To obtain statements from Mr. Jackson, you  
26 told him he was underappreciated, correct.  
27 MR. BOUTROUS: Same objections, Your Honor.  
28 Plus, leading question. 258

1 THE COURT: The Court will sustain the  
2 objection for ambiguity.  
3 Q. BY MR. MESEREAU: Mr. Bashir, to obtain an  
4 interview with Mr. Jackson, you told him you were a  
5 friend of Princess Diana, correct.  
6 MR. BOUTROUS: Same objections, Your Honor.  
7 THE COURT: The objection being, when you say  
8 "same objection" --  
9 MR. BOUTROUS: First, impermissible leading  
10 question; beyond the scope of the direct elicited by  
11 the District Attorney. In addition, it seeks  
12 unpublished information connected to news gathering  
13 prepared and gained during news gathering.  
14 Conversations with the source is news gathering. So  
15 I would invoke the California shield law and the  
16 First Amendment.  
17 THE COURT: Here's the problem, Mr. Mesereau:  
18 You're back to the general question on the whole  
19 tape, the whole thing. And my prior statement that  
20 the question was ambiguous is that he doesn't know  
21 what statements you're talking about. So --  
22 MR. MESEREAU: I will --  
23 THE COURT: -- if you would --  
24 MR. MESEREAU: I could refer to some  
25 statements, Your Honor.  
26 THE COURT: All right.  
27 MR. MESEREAU: Sure.  
28 Q. Mr. Bashir, in the show you prepared, which 259

1 we've just seen, Mr. Jackson made statements to the  
2 effect that nothing sexual was going on in his bed,  
3 correct.  
4 A. Correct.  
5 Q. To obtain the interview you had with Mr.  
6 Jackson when he made that statement, you told him  
7 that he was underappreciated, true.  
8 MR. BOUTROUS: Objection, Your Honor, on the  
9 shield law grounds and First Amendment grounds,  
10 unpublished information, and the tape that the jury  
11 has seen speaks for itself.  
12 THE COURT: All right. The objection is  
13 overruled.  
14 Do you wish to answer that question.  
15 THE WITNESS: I'm standing on the broadest  
16 privilege and the shield law, Your Honor.  
17 MR. MESEREAU: Objection noted, Your Honor.  
18 THE COURT: Yes.  
19 MR. MESEREAU: Thank you.  
20 Q. Mr. Bashir, in the show about Michael  
21 Jackson, Mr. Jackson says that nothing sexual went

22 on in his bedroom. To obtain that statement, you  
23 told Mr. Jackson that your romantic development was  
24 partially shaped by his records, true.  
25 MR. BOUTROUS: Objection, Your Honor. Same  
26 grounds. First Amendment; shield law.  
27 THE COURT: Do you wish to answer that  
28 question. 260

1 THE WITNESS: No, Your Honor.  
2 THE COURT: All right. The objection is  
3 noted.  
4 Q. BY MR. MESEREAU: Mr. Bashir, on the show we  
5 just saw in this courtroom, Mr. Jackson says that  
6 nothing sexual goes on in his bedroom.  
7 To obtain that statement from Mr. Jackson,  
8 you told him that when you looked at his  
9 relationship with children, it almost made you weep,  
10 correct.  
11 MR. BOUTROUS: Same objections, Your Honor.  
12 California shield law and the First Amendment. And  
13 I object to that question as being ambiguous as  
14 well, the first phrase, "to obtain that statement."  
15 Object to that.  
16 THE COURT: The objection is overruled.  
17 Do you wish to answer that.  
18 THE WITNESS: I don't, Your Honor.  
19 MR. MESEREAU: Objection noted, Your Honor.  
20 THE COURT: Yes.  
21 Q. BY MR. MESEREAU: Mr. Bashir, on your show,  
22 Mr. Jackson says that nothing sexual ever went on in  
23 his bedroom.  
24 To obtain that statement from him, you told  
25 him that you believe in his vision of an  
26 international children's holiday, correct.  
27 MR. BOUTROUS: Same objections, Your Honor.  
28 The shield law and the First Amendment. 261

1 THE COURT: Overruled.  
2 Do you wish to answer that question.  
3 THE WITNESS: I don't, Your Honor.  
4 MR. MESEREAU: Objection noted, Your Honor.  
5 THE COURT: Noted.  
6 Q. BY MR. MESEREAU: Mr. Bashir, in this  
7 interview you did of Michael Jackson, he says that  
8 nothing sexual went on in his bedroom.  
9 To obtain that statement, you told him,  
10 "Neverland is an extraordinary, a breathtaking, a  
11 stupendous, an exhilarating and amazing place. I  
12 can't put together words to describe Neverland."  
13 True.

14 MR. BOUTROUS: Same objections, Your Honor.  
15 First Amendment and the California shield law.  
16 THE COURT: Do you wish to answer that  
17 question.  
18 THE WITNESS: I don't, Your Honor.  
19 THE COURT: Noted; objection noted.  
20 MR. MESEREAU: Thank you, Your Honor.  
21 Q. Mr. Bashir, to prepare the show you've just  
22 shown the jury where Michael Jackson says nothing  
23 sexual went on in his bedroom, you told him that you  
24 had an abiding sense that he is selfless and a most  
25 generous person, correct.  
26 MR. BOUTROUS: Same objections, Your Honor.  
27 THE COURT: Do you wish to answer that  
28 question. 262

1 THE WITNESS: I don't, Your Honor.  
2 THE COURT: Noted.  
3 MR. MESEREAU: Yes, Your Honor. Thank you.  
4 Q. Mr. Bashir, to obtain the statement from  
5 Mr. Jackson that nothing sexual goes on in his  
6 bedroom, you described Neverland as a beautiful  
7 landscape encouraging all of us to become as little  
8 children again, true.  
9 MR. BOUTROUS: Objection, Your Honor, and I  
10 want to repeat my objection on the leading question  
11 ground, and I believe the improper form of the  
12 question, and again, reassert the California shield  
13 law's protection of unpublished information prepared  
14 and gathered in news gathering, and the First  
15 Amendment.  
16 THE COURT: The objection's overruled.  
17 Do you wish to answer.  
18 THE WITNESS: I don't, Your Honor.  
19 Q. BY MR. MESEREAU: Mr. Bashir, to obtain  
20 Michael Jackson's statement that nothing sexual goes  
21 on in his bedroom with children, you complimented  
22 him for what he does for disadvantaged children from  
23 the ghetto, true.  
24 MR. BOUTROUS: Same objections, Your Honor.  
25 THE COURT: Do you wish to answer.  
26 THE WITNESS: I don't, Your Honor.  
27 THE COURT: The objection is noted.  
28 MR. MESEREAU: Thank you, Your Honor. 263

1 I just need to get one notebook, if I can,  
2 Your Honor.  
3 Q. Mr. Bashir, to obtain the statement from  
4 Mr. Jackson that nothing sexual went on in his  
5 bedroom with children, you told him that you were

6 going to arrange a meeting with Kofi Annan, the  
7 Secretary General of the United Nations, and would  
8 plan a trip to Africa with Mr. Jackson and Kofi  
9 Annan to help African children with AIDS, true.  
10 MR. BOUTROUS: Same objections, Your Honor.  
11 THE COURT: The objection is overruled.  
12 Do you wish to answer.  
13 THE WITNESS: I don't, Your Honor.  
14 THE COURT: The objection is noted.  
15 MR. MESEREAU: Yes. Thank you, Your Honor.  
16 Q. Mr. Bashir, to obtain Mr. Jackson's  
17 statement that nothing sexual ever went on in his  
18 bedroom with children, you told him that you had  
19 great admiration for his visiting sick children in  
20 hospitals in England, true.  
21 MR. BOUTROUS: Same objections, Your Honor.  
22 THE COURT: The objection's overruled.  
23 Do you wish to answer.  
24 THE WITNESS: I don't, Your Honor.  
25 THE COURT: The objection's noted.  
26 Q. BY MR. MESEREAU: Mr. Bashir, I would like  
27 to ask you further questions about how you obtained  
28 Michael Jackson's statement that nothing ever goes 264

1 on in his bedroom that is sexual with children. Do  
2 you intend to not answer any questions along those  
3 lines.  
4 MR. BOUTROUS: Let me just say that I intend  
5 to continue making the same objections, if Mr.  
6 Mesereau is seeking to short-circuit the process -  
7 the First Amendment, the shield law - if that's  
8 helpful.  
9 THE COURT: Do you intend to follow your  
10 counsel's advice on those issues.  
11 THE WITNESS: I do, Your Honor.  
12 Q. BY MR. MESEREAU: Mr. Bashir, I would like  
13 to ask you questions about other statements Mr.  
14 Jackson made in your interview, and I would like to  
15 ask you about how you got face to face with him to  
16 obtain those statements. Are you saying that you  
17 are not going to respond to any such questions.  
18 A. I'm --  
19 MR. BOUTROUS: Just to make clear, he's  
20 doing so based on my assertions of the California  
21 shield law protecting the independence of  
22 journalists, as well as the First Amendment.  
23 THE COURT: You would continue to object on  
24 those questions.  
25 MR. BOUTROUS: I would indeed, Your Honor.  
26 Thank you.  
27 THE COURT: Would you continue to follow your  
28 counsel's advice. 265

1 THE WITNESS: I would, Your Honor.  
2 MR. MESEREAU: Objection noted, Your Honor.  
3 THE COURT: Noted.  
4 Q. BY MR. MESEREAU: Mr. Bashir, in the process  
5 of attempting to obtain statements from Mr. Jackson,  
6 you called him "the boss," didn't you.  
7 MR. BOUTROUS: Same objections.  
8 THE COURT: The objection's overruled.  
9 Do you wish to answer that.  
10 THE WITNESS: I don't, Your Honor.  
11 THE COURT: The objection's noted.  
12 Q. BY MR. MESEREAU: Mr. Bashir, do you intend  
13 to not answer any question I ask you on  
14 cross-examination in this trial.  
15 MR. BOUTROUS: To preserve the record, Your  
16 Honor, I will continue to object on the grounds  
17 which we believe are well-founded. And Mr. Bashir  
18 is acting on my instruction and my objections under  
19 the California Constitution and the U.S.  
20 Constitution.  
21 THE COURT: Do you intend to follow his  
22 advice on all questions relating to this interview  
23 and the trial.  
24 THE WITNESS: I do, Your Honor.  
25 Q. BY MR. MESEREAU: Mr. Bashir, have the  
26 answers you actually have given been 100 percent  
27 truthful.  
28 A. I believe so. 266

1 Q. Do you know for sure.  
2 A. I think so.  
3 Q. Okay. Now, while you were obtaining  
4 statements from Mr. Jackson, someone named Hamid  
5 Moslehi was present, true.  
6 MR. BOUTROUS: I reassert the objection I  
7 made during direct, Your Honor, which was First  
8 Amendment and California law. It's unpublished  
9 information. Observations of a journalist during  
10 the journalistic process is protected under the  
11 California shield law, including people who are in  
12 public places.  
13 THE COURT: Do you wish to follow your  
14 counsel's advice --  
15 THE WITNESS: I do, Your Honor.  
16 THE COURT: -- and not answer the question.  
17 THE WITNESS: I do, Your Honor.  
18 THE COURT: The objection's noted.  
19 MR. MESEREAU: Thank you, Your Honor.  
20 Q. Mr. Bashir, in preparing for your testimony

21 today, did you discuss what answers you would give  
22 with anyone other than your lawyer.  
23 A. No.  
24 Q. To your knowledge, has anyone from the  
25 District Attorney's Office ever tried to contact you  
26 about your testimony in this case.  
27 A. No.  
28 Q. To your knowledge, has anyone from the 267

1 District Attorney's Office tried to get -- excuse  
2 me, to communicate with any representatives -- any  
3 representative of yours regarding your testimony in  
4 this case.

5 MR. BOUTROUS: Your Honor, I will object, to  
6 the extent that calls for the attorney-client  
7 communication or attorney work product.

8 THE COURT: Sustained.

9 Q. BY MR. MESEREAU: Mr. Bashir, have you  
10 discussed your testimony today with any  
11 representative of the Santa Barbara Sheriff's  
12 Office.

13 A. I have not, sir.

14 Q. Have you provided any statements to anyone  
15 associated with the prosecution.

16 A. I have not, sir.

17 Q. Among the journalists you associate with at  
18 ABC, have you ever discussed with any of them what  
19 you were going to say in this courtroom.

20 A. I don't believe so.

21 Q. You don't think so. Mr. Bashir, do you know  
22 for sure whether or not you ever discussed with any  
23 journalist at ABC what you were going to say in this  
24 courtroom.

25 MR. BOUTROUS: Asked and answered, Your  
26 Honor.

27 THE COURT: I'm not sure it is. I'll have to  
28 go back to that series of questions. But I'm 268

1 willing to do that, if you want.

2 MR. BOUTROUS: I think he asked this  
3 question many times, if I'm hearing it correctly.

4 THE COURT: I think -- I think it's a little  
5 different, but let me look.

6 MR. BOUTROUS: Okay.

7 THE COURT: Overruled. You may answer, but  
8 I'll have the question read back. It's been a  
9 while.

10 (Record read.)

11 THE WITNESS: As far as I can recollect, I  
12 don't think I discussed what I was going to say in

13 this courtroom, sir.  
14 Q. BY MR. MESEREAU: You used the words "as far  
15 as I can recollect." Is that correct.  
16 A. Yes.  
17 Q. Are you saying you have no present  
18 recollection of ever speaking with any journalist  
19 about what you were going to say in this courtroom.  
20 A. That's correct, sir.  
21 Q. Is it possible you had a recollection at  
22 some other point in time about who you had spoken  
23 to.  
24 MR. SNEDDON: Your Honor, that calls for  
25 speculation.  
26 THE COURT: Sustained.  
27 Q. BY MR. MESEREAU: Mr. Bashir, did you review  
28 any documents to prepare for your testimony today. 269

1 A. No, I did not.  
2 Q. To your knowledge, has anyone from the  
3 District Attorney's Office sent you any documents  
4 regarding this case.  
5 A. No, they have not, sir.  
6 Q. Okay. Have you ever spoken to District  
7 Attorney Thomas Sneddon.  
8 A. Never.  
9 Q. Never said hello to him.  
10 A. I think I may have said hello to him today.  
11 Q. When you arrived at court this morning, were  
12 you taken to any office associated with the District  
13 Attorney.  
14 A. I was taken -- I was taken to an office. I  
15 don't know if it was the District Attorney's Office,  
16 but I was taken with my attorneys to an office where  
17 we waited, because you were in session this morning.  
18 So we were waiting.  
19 Q. And when you got here today, did you meet  
20 anyone from the District Attorney's Office.  
21 A. Not to my knowledge. We were -- we were --  
22 we were given access by a female member of staff.  
23 We were left in a room. And when we were required  
24 to come down, we were invited to do so.  
25 Q. When you arrived, to your knowledge, did you  
26 meet anyone associated with the District Attorney's  
27 Office.  
28 A. To my knowledge, no. 270

1 Q. Okay. Did anyone come up to you and  
2 introduce themselves as from the District Attorney's  
3 Office.  
4 A. No.

5 Q. Okay. Have you met any of the prosecutors  
6 who are sitting here today on a prior occasion.  
7 A. No.  
8 Q. Did you meet them today for the first time.  
9 A. I did, sir.  
10 Q. Okay. Have you ever spoken to any of them  
11 on the telephone.  
12 A. Not the prosecutors, no.  
13 Q. Okay. How about the sheriffs.  
14 A. I received a phone call from a police  
15 officer sometime ago.  
16 Q. Who was that.  
17 A. Detective Paul Zelis.  
18 Q. Did you speak to him on the telephone.  
19 A. I did, sir.  
20 Q. And approximately when did you speak to  
21 Detective Paul Zelis on the telephone.  
22 A. It was prior -- it was prior to my arrival  
23 at ABC, so it would have been during 2004.  
24 Q. Where were you when he called you.  
25 A. I was in England.  
26 Q. Did you speak to him in England.  
27 A. I did, sir.  
28 Q. How long was the phone conversation. 271

1 A. Very brief.  
2 Q. Okay. Have you ever spoken to him since.  
3 A. No, but he did call again. He did call and  
4 leave a message, sir.  
5 Q. Is he the only person from the Santa Barbara  
6 Sheriff's Office you've spoken to.  
7 A. I believe so.  
8 Q. Do you know for sure.  
9 A. Yes, I think so.  
10 Q. Okay. Has anyone from the Santa Barbara  
11 Sheriff's Office, to your knowledge, sent you any  
12 documents to review.  
13 A. Never.  
14 Q. Who made arrangements for you to come here  
15 today, to your knowledge.  
16 MR. BOUTROUS: Objection to the extent it's  
17 an attorney-client communication or work-product  
18 issue, Your Honor.  
19 THE COURT: To the extent it is, I'll sustain  
20 the objection.  
21 MR. BOUTROUS: I made his hotel reservation.  
22 Q. BY MR. MESEREAU: Mr. Bashir, in how many  
23 locations did the filming take place that appears in  
24 your show.  
25 MR. BOUTROUS: Objection, Your Honor.  
26 Again, the film speaks for itself. It was on  
27 screen. The jury's seen it. Anything else is

1 THE COURT: The objection is overruled.  
2 Do you wish to answer that.  
3 THE WITNESS: The evidence of where we were  
4 filming was clear from the film, from the  
5 documentary which has just been shown.  
6 MR. MESEREAU: Could I ask that the witness  
7 be instructed to answer, Your Honor.  
8 THE COURT: You did not answer the question.  
9 Do you wish to answer the question.  
10 THE WITNESS: Yes.  
11 MR. BOUTROUS: I will reassert my objections  
12 under the shield law, Your Honor. Again, it's just  
13 classic unpublished information. The film speaks  
14 for itself.  
15 THE COURT: All right. Your objection is  
16 overruled.  
17 Do you wish to answer the question.  
18 THE WITNESS: No, Your Honor.  
19 THE COURT: The objection's noted.  
20 Q. BY MR. MESEREAU: Did you fly to these  
21 locations with Mr. Jackson.  
22 MR. BOUTROUS: Same objection, Your Honor.  
23 First Amendment; shield law.  
24 THE COURT: The objection's overruled.  
25 Do you wish to answer.  
26 THE WITNESS: No, Your Honor.  
27 THE COURT: The objection's noted.  
28 Q. BY MR. MESEREAU: Did you travel by car to 273

1 any of the locations where you filmed any footage  
2 that appears in this documentary with Mr. Jackson.  
3 MR. BOUTROUS: Same objections, Your Honor.  
4 And I think in the last series of questions Mr.  
5 Mesereau's has veered back into being far beyond the  
6 scope of direct, so I will again assert that that  
7 question was beyond the scope of direct examination,  
8 as were the last several.  
9 THE COURT: Sustained.  
10 Q. BY MR. MESEREAU: Mr. Bashir, after this  
11 show appeared, you were sued by Mr. Jackson in  
12 England, correct.  
13 MR. BOUTROUS: Again, Your Honor, beyond the  
14 scope of direct and --  
15 THE COURT: Sustained.  
16 MR. BOUTROUS: Thank you.  
17 MR. MESEREAU: Your Honor, in light of the  
18 refusal to answer questions, I'm going to terminate  
19 my cross-examination. But I would ask that the

20 Court order this witness back to appear as a defense  
21 witness.  
22 THE COURT: I will order you to return at a  
23 time when the defense requests that you return.  
24 Is that a satisfactory -- I'm assuming -- I  
25 don't mean to say, "Is that satisfactory." I mean,  
26 is it a satisfactory way of handling -- if you're  
27 willing to have your client appear and he's willing  
28 to appear on notice by the defense, then I'll 274

1 release him under our normal convenience-type  
2 subpoenas. If not, I'd have to have him appear at a  
3 certain date to retain jurisdiction.  
4 MR. BOUTROUS: Your Honor - if I may step up  
5 here. Thank you - I guess two things: The defense  
6 has known for several weeks that the prosecutors had  
7 subpoenaed Mr. Bashir. And they had indicated they  
8 had put Mr. Bashir on their witness list, and I  
9 argued that the defense had not made the showing. I  
10 put them on notice that I planned to invoke the  
11 shield law and the First Amendment and that there  
12 were standards for them to meet. And they knew Mr.  
13 Bashir was going to be here.  
14 And for them now -- he lives part of the  
15 time in the United Kingdom, part of the time in New  
16 York. To now make him come back seems unfair and  
17 burdensome, particularly without the defense making  
18 the requisite showing that they need to make in  
19 terms of necessity of his testimony, lack of  
20 alternative sources, the tests that they would need  
21 to make to justify piercing the reporter's  
22 privilege. So I would ask the Court to reject that  
23 request.  
24 THE COURT: I'll modify my order. I will  
25 order him to return. However, I will require the  
26 defense to file the appropriate application for  
27 subpoena, with the reasons, and allow you to file an  
28 opposition to that. 275

1 But to just short-circuit the problem of  
2 actually serving him, I'll order him to appear under  
3 those conditions I've previously announced, unless  
4 we advise him otherwise, if you succeed on your  
5 motion.  
6 MR. BOUTROUS: That makes sense, Your Honor.  
7 And just to clarify on the questions today,  
8 I think there were a number that he declined to  
9 answer on the shield law grounds. And I wanted to  
10 clarify that my objections also go to the questions  
11 being beyond the scope of direct testimony and

12 wanted to clarify and make sure that we would have a  
13 chance to brief these issues, before the Court makes  
14 a contempt ruling, to try to either --  
15 THE COURT: Oh, absolutely.  
16 MR. BOUTROUS: Thank you, Your Honor.  
17 THE COURT: The procedure I would intend to  
18 follow would be as indicated. I'll review the  
19 transcript and the law. If it appears that he's in  
20 contempt or -- I will issue a contempt citation, and  
21 then you'll have your opportunity to be heard.  
22 MR. BOUTROUS: I just would like to have the  
23 chance to persuade you that the information was  
24 protected and no contempt citation should be issued  
25 before any contempt finding.  
26 THE COURT: I will give you that opportunity.  
27 MR. BOUTROUS: Thank you, Your Honor.  
28 THE COURT: I think we're talking about the 276

1 same thing. There's a difference between citing him  
2 so you can speak to me through your written  
3 pleadings, and holding him in contempt. I'm not  
4 going to do the latter without giving you an  
5 opportunity to be heard.  
6 MR. BOUTROUS: Thank you, Your Honor.  
7 And my apologies to the jury for not having  
8 more creative or different objections every time.  
9 But thank you very much, Your Honor.  
10 THE COURT: All right. Do you have further  
11 questions.  
12 MR. SNEDDON: I think not, Your Honor.  
13 THE COURT: Thank you. You may step down.  
14 You're not excused. You're on call subject to the  
15 arrangements that I've made with your counsel.  
16 Should you no longer need this counsel, you have the  
17 direct personal responsibility to me to return if I  
18 ask you to. Do you understand that.  
19 THE WITNESS: I do, Your Honor.  
20 THE COURT: Okay.  
21 MR. BOUTROUS: Thank you, Your Honor.  
22 THE COURT: Call your next witness.  
23 MR. AUCHINCLOSS: Thank you, Your Honor.  
24 Our next witness will be Ann Kite, and she is on her  
25 way down from our office.  
26 THE COURT: When you get to the witness  
27 stand, remain standing. Face the clerk and raise  
28 your right hand. 277

1 ANN KITE  
2 Having been sworn, testified as follows:  
3

4 THE WITNESS: Yes, I do.  
5 THE CLERK: Please be seated. State and  
6 spell your name for the record.  
7 THE WITNESS: My name is Ann Marie Kite,  
8 K-i-t-e. But I use Ann Gabriel as my professional  
9 name.  
10  
11 DIRECT EXAMINATION  
12 BY MR. AUCHINCLOSS:  
13 Q. Good afternoon, Ms. Kite.  
14 A. Good afternoon.  
15 Q. Can you tell me who you work for, please.  
16 A. Currently.  
17 Q. Currently, yes.  
18 A. I am the president of an organization called  
19 the Webcaster Alliance.  
20 Q. What is Webcaster Alliance.  
21 A. Webcaster Alliance is a group of webcasters  
22 who play music on the Internet.  
23 Q. How long have you been employed with  
24 Webcaster.  
25 A. Well, the organization's been in association  
26 for about two years, since 2002.  
27 Q. And in what capacity are you employed.  
28 A. President. 278

1 Q. And what are your duties as president of  
2 Webcaster Alliance.  
3 A. To help move forward legislation to make it  
4 easier for people to be able to produce music and  
5 information on the Internet. Also to help people  
6 produce programming.  
7 Q. At sometime prior to -- well, maybe at the  
8 same time. At some point previously, were you the  
9 president of an organization called Gabriel Media.  
10 A. Yes, that's correct.  
11 Q. What was Gabriel Media.  
12 A. Gabriel Media was a public relations firm  
13 and a marketing firm.  
14 Q. And what was your role in Gabriel Media.  
15 A. To help people and products get their  
16 information out to the public.  
17 Q. Basically PR.  
18 A. Yes.  
19 Q. Public relations.  
20 A. Yes.  
21 Q. Have you had a background in public  
22 relations.  
23 A. Yes, I have.  
24 Q. Can you describe that for me, please.  
25 A. Sure. For about the last 20 to 25 years  
26 I've been involved in a number of different

27 businesses, all with the intention of helping people  
28 meet, take their products and move them to the 279

1 public, to help them look better, to help them  
2 market themselves better.

3 Q. Do you have a background that qualified you  
4 for that position.

5 A. Life experience. A lot of life experience.

6 I've worked in a number of different businesses,  
7 specifically with products, to help people and their  
8 products reach the public.

9 Q. All right. So when you say 20 years of  
10 experience in public relations, can you elaborate on  
11 that for me a little bit.

12 A. Certainly. I've had a number of different  
13 clients. For example, I went through a period where  
14 I did a lot of things with technology, high  
15 technology. Consumer products; both Sony and JVC,  
16 Panasonic. Those types of things.

17 Then I also worked with some people who  
18 might be considered personalities, where I helped  
19 them to define their image to the public. I helped  
20 them if they got into a difficult position with  
21 their image in the public, and helped them make a  
22 plan to move themselves forward.

23 Q. When you say "personalities," does that  
24 include celebrities.

25 A. Yes.

26 Q. All right. Can you tell me what the term  
27 "crisis management" means.

28 A. Well, crisis management is a different type 280

1 of public relations. Crisis management comes about  
2 when you have someone, or a product or a person, who  
3 gets into a situation that is unexpected.

4 And in the case of crisis management, you  
5 have to do a couple of different things. First of  
6 all, you want to try to analyze the assets of the  
7 client or the product, and then also their  
8 vulnerabilities, what areas might they be attacked  
9 on.

10 And so crisis management is the - for lack  
11 of a better term - the difficult part of public  
12 relations, the difficult part of trying to help  
13 someone present themselves or their product to the  
14 public.

15 Q. What do you mean when you say "the assets of  
16 a client".

17 A. Well, any client or any product has assets,  
18 the things that are good about them, the thing that

19 the public perceives good about them.  
20 Q. In general terms, can you tell me what the  
21 goal of a public relations specialist is.  
22 A. In general terms, on the best days, it is to  
23 make sure that your client's product, or their  
24 person, the personality, is always presented in the  
25 best light to the public.  
26 Q. And the purpose for that would be.  
27 A. So that they can create things for  
28 themselves, whether they want to create more assets 281

1 as far as dollarwise, entertainment value, or  
2 whatever it is they're trying to sell.  
3 If it's themselves that they're trying to  
4 sell, you want to make sure they're always presented  
5 in the best light.

6 Q. Is it fair to say that a celebrity's image  
7 is his stock in trade for purposes of marketability  
8 and selling whatever entertainment that that  
9 particular celebrity is involved in.

10 A. Oh, yes, absolutely.

11 MR. MESEREAU: Objection, leading.

12 MR. AUCHINCLOSS: It's foundational, Your  
13 Honor.

14 THE COURT: Overruled. The answer was yes.

15 MR. AUCHINCLOSS: All right.

16 Q. Do you know an individual by the name of  
17 David LeGrand.

18 A. Yes, I do.

19 Q. Ms. Kite -- Ms. Kite, I show you People's  
20 Exhibit No. 3. Can you identify that for me,  
21 please.

22 A. Yes, that's David LeGrand.

23 MR. AUCHINCLOSS: Move to admit People's 3,  
24 Your Honor.

25 MR. MESEREAU: No objection.

26 THE COURT: It's admitted.

27 Q. BY MR. AUCHINCLOSS: How do you know David  
28 LeGrand. 282

1 A. David and I met in March of 2002, and we  
2 worked together on several projects.

3 Q. What is Mr. LeGrand's occupation.

4 A. He's an attorney.

5 Q. How did you meet him.

6 A. We met through a mutual friend.

7 Q. Okay. And what projects did you work on.

8 A. Well, we worked on Webcaster Alliance  
9 together. David had a client that had some products  
10 that they were looking to sell, and he wanted me to

11 look at their business plan and see how I could help  
12 them move forward with it, do some public relations  
13 with them on that.  
14 And then, of course, with Michael Jackson.  
15 Q. Okay. Was Mr. LeGrand affiliated with  
16 Webcaster Alliance.  
17 A. Yes, he was.  
18 Q. In what capacity.  
19 A. He was a director.  
20 Q. And what were the other associations you had  
21 with him in a business sense.  
22 A. Well, we worked together in Washington D.C.  
23 to put together legislation for webcasters.  
24 Q. Was that it.  
25 A. Yes.  
26 Q. Okay. Did you have a personal relationship  
27 with Mr. LeGrand.  
28 A. Yes, I did. 283

1 Q. And when did that begin.  
2 A. In July of 2002.  
3 Q. And did that end at some point.  
4 A. Yes, at the end of January of 2003.  
5 Q. Okay. Was that a dating relationship --  
6 A. Yes, it was.  
7 Q. -- something of that nature.  
8 A. Yes.  
9 Q. I'm sorry, I didn't write down the date.  
10 When did you say it ended.  
11 A. At the end of January of 2003.  
12 Q. In January of 2003 -- well, let me back up.  
13 You mentioned an affiliation with Mr.  
14 LeGrand concerning Michael Jackson.  
15 A. Yes.  
16 Q. When did that begin.  
17 A. I don't understand your question. When was  
18 the first time that he mentioned anything to me  
19 about Michael Jackson.  
20 Q. When did you -- well, let me back up.  
21 Did Mr. LeGrand himself become associated  
22 with Michael Jackson at some point.  
23 A. Yes, he did.  
24 Q. When was that.  
25 A. Officially.  
26 Q. As far as you know. In any fashion, let's  
27 start there.  
28 A. As far as I knew -- 284

1 MR. MESEREAU: Objection, hearsay and  
2 foundation.

3 THE COURT: Foundation's sustained.  
4 MR. AUCHINCLOSS: All right.  
5 Q. At some point, did David LeGrand recruit you  
6 to go to work for Michael Jackson.  
7 A. Yes, he did.  
8 MR. MESEREAU: Objection. Leading.  
9 THE COURT: Sustained.  
10 MR. AUCHINCLOSS: I can rephrase.  
11 Q. At some time did Mr. LeGrand ask to employ  
12 you, to come work for Michael Jackson.  
13 MR. MESEREAU: Objection. Hearsay.  
14 THE COURT: Overruled.  
15 You may answer.  
16 THE WITNESS: Yes, he did.  
17 Q. BY MR. AUCHINCLOSS: All right. And when  
18 was that.  
19 A. At the end of January of 2003.  
20 Q. And did you go to work for Michael Jackson.  
21 A. Yes, I did.  
22 Q. When you say the end of January 2003 was  
23 when Mr. LeGrand approached you, do you have the  
24 approximate dates.  
25 A. It was around the 27th -- the 26th, the 27th  
26 of January.  
27 Q. In what capacity were you -- were you  
28 employed. 285

1 A. Public relations.  
2 Q. And at some point did you actually go to  
3 work for Michael Jackson.  
4 A. Yes, I did.  
5 Q. When was that.  
6 A. February 9th of 2003.  
7 Q. As a public relations employee for Michael  
8 Jackson, what was your -- what was your job. What  
9 were you hired to do.  
10 MR. MESEREAU: Objection. Misstates the  
11 evidence.  
12 THE COURT: The preamble to the question.  
13 MR. MESEREAU: Yes, Your Honor.  
14 THE COURT: Sustained.  
15 Q. BY MR. AUCHINCLOSS: What were you hired to  
16 do.  
17 A. To help with image management.  
18 Q. Okay. And was there a specific reason why  
19 Michael Jackson's image needed to be managed.  
20 MR. MESEREAU: Objection. Foundation.  
21 THE COURT: Sustained.  
22 Q. BY MR. AUCHINCLOSS: Were you informed as to  
23 what your duty was to manage Michael Jackson's  
24 public relations image.  
25 MR. MESEREAU: Objection. Leading.

26 THE COURT: The objection's overruled. But  
27 you can only answer yes or no to that question. Do  
28 you want the question -- 286

1 THE WITNESS: Yes.  
2 THE COURT: Oh, you answered.  
3 Q. BY MR. AUCHINCLOSS: Okay. And what were  
4 you told.  
5 A. I was told that there would --  
6 MR. MESEREAU: Objection. Hearsay.  
7 THE COURT: Still foundation also as to who  
8 told you.  
9 MR. AUCHINCLOSS: Okay. And that's where  
10 we're -- okay.  
11 Q. Who told you what your assignment was to be  
12 as a public relations employee for Michael Jackson.  
13 MR. MESEREAU: Objection. Foundation and  
14 hearsay; it misstates the evidence.  
15 THE COURT: Overruled.  
16 You may answer.  
17 THE WITNESS: Initially it was David  
18 LeGrand.  
19 Q. BY MR. AUCHINCLOSS: All right. And what  
20 did Mr. LeGrand tell you your duties were.  
21 MR. MESEREAU: Objection. Hearsay;  
22 foundation.  
23 THE COURT: Overruled.  
24 You may answer.  
25 THE WITNESS: To help with the fallout from  
26 the Martin Bashir video.  
27 Q. BY MR. AUCHINCLOSS: All right. What did  
28 you understand your duties were at that point. 287

1 A. To immediately begin protecting Mr.  
2 Jackson's reputation.  
3 Q. Did you research the issue, the problem.  
4 A. Yes, I did.  
5 Q. Did you evaluate the problem.  
6 A. Yes, I did.  
7 Q. Did you come up with a plan of attack.  
8 A. Yes, I did.  
9 MR. MESEREAU: Objection. Leading and  
10 privilege.  
11 THE COURT: The leading is overruled. The  
12 other one I don't understand.  
13 MR. MESEREAU: She's retained by a law firm.  
14 She's not supposed to be --  
15 THE COURT: You're raising that privilege.  
16 MR. MESEREAU: Yes. She's not supposed to  
17 be violating her duty of confidentiality.

18 THE COURT: Do you want to address the  
19 attorney-client privilege.  
20 MR. AUCHINCLOSS: The attorney-client  
21 privilege has already been divulged to us, number  
22 one. Number two, counsel has not established that  
23 she was acting as an agency on behalf of the law  
24 firm in a legal capacity. This is an area that  
25 probably, if counsel wants to make that objection,  
26 he should have it briefed and address the Court with  
27 points and authorities on it.  
28 In addition, Your Honor, I can -- 288

1 MR. MESEREAU: She says she was hired by an  
2 attorney for Mr. Jackson, Your Honor. Mr. Jackson's  
3 never met her.  
4 THE COURT: All right. The objection's  
5 overruled. You may proceed.  
6 MR. AUCHINCLOSS: All right.  
7 Q. So, my last question, if I can recall it  
8 correctly was, what was the plan that you formulated  
9 to approach -- well, let me back up. Let me just  
10 start at the beginning here.  
11 You said you formulated an assessment of the  
12 problem. How did you go about doing that.  
13 A. Well, I took a look at a lot of the press  
14 that was coming out, the information that was out in  
15 the media. I looked at what was being played most  
16 prominently, and figured that that was probably the  
17 most vulnerable area of attack for Mr. Jackson at  
18 that point.  
19 So I began to formulate a plan, based on my  
20 information of things that had come out in the press  
21 in the past, and to immediately try to take the  
22 focus off of Mr. Jackson's frailties as a human and  
23 put them back on his genius as a musician. That was  
24 my plan.  
25 Q. Okay. Did you sign a contract to come on as  
26 a PR specialist.  
27 A. Yes, I did.  
28 Q. When did you do that. When was that 289

1 contract signed.  
2 A. In the afternoon of the 14th of February.  
3 Q. Did you become familiar with any other  
4 individuals who were also hired to work on the same  
5 problem.  
6 A. Yes, I did.  
7 Q. Did you communicate with them.  
8 A. Yes, I did.  
9 Q. Who were these people.

10 A. Ronald Konitzer. Marc Schaffel. Stuart  
11 Backerman. Melanie Riley. And Richard, I think  
12 it's Eldon, from Bell Yard. And a team of some  
13 other attorneys in the United K -- United Kingdom.  
14 Q. During the course of your employment for  
15 Mr. Jackson, did you communicate with these  
16 individuals.  
17 A. Yes, I did.  
18 Q. Did you communicate directly with Ronald  
19 Konitzer.  
20 A. Yes, I did.  
21 Q. In what fashion. In what medium.  
22 A. Both by e-mail and by telephone.  
23 Q. Did you contact and speak directly with Marc  
24 Schaffel.  
25 A. Yes, I did.  
26 Q. Did you also communicate with him by e-mail.  
27 A. Yes, I did.  
28 Q. How about Mr. Backerman. 290

1 A. Yes, I did.  
2 Q. Did you ever talk to an attorney by the name  
3 of Mark Geragos.  
4 A. Yes, I did.  
5 Q. Who did you report to. Who did you report  
6 to in terms of the hierarchy of this team.  
7 A. Well, I spoke to David. I spoke to Marc  
8 Schaffel. I spoke to Mr. Geragos. And I spoke to  
9 Ronald.  
10 Q. So would it be fair to say, you reported to  
11 all of those four individuals.  
12 A. Yes, at different times.  
13 Q. And Mr. Konitzer, did you have an  
14 understanding of what his function was in relation  
15 to Michael Jackson.  
16 A. I understood that Mr. Konitzer was the  
17 lead --  
18 MR. MESEREAU: Objection. Leading; and  
19 foundation.  
20 THE COURT: Foundation; sustained.  
21 MR. AUCHINCLOSS: It's a yes or no question.  
22 I would follow with foundation.  
23 MR. MESEREAU: Same objection.  
24 THE COURT: All right. I'll allow a yes or  
25 no answer.  
26 Do you want the question read back.  
27 THE WITNESS: Yes, please.  
28 Q. BY MR. AUCHINCLOSS: Okay. The question -- 291

1 THE COURT: The court reporter will read it

2 back. Thank you.  
3 (Record read.)  
4 THE WITNESS: Yes.  
5 Q. BY MR. AUCHINCLOSS: All right. And what  
6 was it that you based that opinion on, or that  
7 assessment on.  
8 MR. MESEREAU: Objection. Leading and  
9 foundation.  
10 THE COURT: Overruled.  
11 You may answer.  
12 THE WITNESS: On information that David had  
13 given me.  
14 Q. BY MR. AUCHINCLOSS: Okay. Did you also  
15 base it on information that you obtained in the  
16 course of conversing with Mr. Konitzer.  
17 A. Yes, I did.  
18 Q. And Mr. Schaffel.  
19 A. Yes, I did.  
20 Q. Did you base it on information that you  
21 obtained by way of e-mails from other members of the  
22 team.  
23 A. Yes, I did.  
24 Q. And from Bell Yard.  
25 A. Yes, I did.  
26 Q. Was it clear from -- clear to you -- well,  
27 did you also base it upon the conduct of all of  
28 these individuals on the team that you previously 292

1 mentioned.  
2 MR. MESEREAU: Objection. Leading;  
3 foundation.  
4 THE COURT: Sustained; leading.  
5 Q. BY MR. AUCHINCLOSS: Did you consider  
6 conduct as part of this assessment.  
7 MR. MESEREAU: Same objection.  
8 THE COURT: Overruled.  
9 You may answer.  
10 THE WITNESS: Yes, I did.  
11 Q. BY MR. AUCHINCLOSS: Okay. And based on all  
12 this information, did you form a belief or an  
13 understanding as to what Mr. Ronald Konitzer's role  
14 was in relation to Michael Jackson and this team  
15 that you've described.  
16 A. Yes, I did.  
17 Q. What was that.  
18 A. That he was the leader.  
19 Q. Also based on all that information that I've  
20 asked you about, were you able to form an opinion as  
21 to what Mr. Schaffel's role was in this team.  
22 A. Yes. Yes, I did.  
23 Q. And what was that.  
24 MR. MESEREAU: Objection. Foundation.

25 THE COURT: Overruled.  
26 THE WITNESS: That he was in charge of the  
27 public relations effort for Michael Jackson.  
28 Q. BY MR. AUCHINCLOSS: Same question as to 293

1 Mr. Backerman. Based on all the information you  
2 obtained during the course of your employment, were  
3 you able to form an assessment or did you obtain an  
4 understanding of what Mr. Stuart Backerman's role  
5 was.

6 A. Yes, I did.

7 Q. And what was that.

8 A. That he was the spokesperson for Mr.

9 Jackson.

10 Q. What's a spokesperson in the PR realm.

11 A. Well, in Mr. Backerman's case, it was my  
12 understanding that he would be the one that would,  
13 for the most part, get out and speak in front of the  
14 press.

15 Q. So the actual face person that would be in  
16 front of the camera.

17 A. For the most part, yes.

18 Q. All right. You previously said that you  
19 assessed the problem based upon your review of what.

20 A. The information that was coming out in the  
21 press.

22 Q. Uh-huh.

23 A. The information that was coming from the  
24 Bashir documentary.

25 Q. Uh-huh.

26 A. And the bombardment of questions that were  
27 coming from people in the press that were looking to  
28 delve into other aspects of Mr. Jackson's empire. 294

1 Q. All right.

2 THE COURT: All right. We're going to stop  
3 for the afternoon.

4 MR. AUCHINCLOSS: Okay.

5 THE COURT: I have a couple of points I want  
6 to address.

7 One is that the District Attorney must lodge  
8 a transcript of the videotape that was played today  
9 with the Court as soon as you can.

10 MR. SNEDDON: Judge, in order to do that,  
11 I'll need permission of the Court to withdraw the  
12 exhibit so I can have it -- have a transcript made  
13 perfect.

14 THE COURT: Any objection to that.

15 MR. MESEREAU: No objection, Your Honor.

16 THE COURT: All right.

17 MR. SNEDDON: Thank you.  
18 THE COURT: The second thing is that even  
19 though we are not redacting documents anymore,  
20 sealing documents, California Rule of Court 2073,  
21 which relates to the filing of documents on the  
22 Internet, which we do in this case, has some  
23 restrictions that you cannot put on the Internet.  
24 For example, addresses, phone numbers of parties.  
25 I'm not going to read the whole statute to you, but  
26 that's what I'm talking about.  
27 So when you file a document, you must file  
28 it -- file a redacted version in compliance with 295

1 California Rule of Court 2073 so that may be placed  
2 on the Internet.  
3 I don't intend to do any separate sealing  
4 orders, because they're just -- it's a statutory  
5 requirement that you redact those.  
6 Any questions about that.

7 MR. AUCHINCLOSS: No, Your Honor.

8 MR. MESEREAU: No, Your Honor.

9 THE COURT: All right. We'll recess until  
10 tomorrow morning. I'll see you tomorrow at 8:30.  
11 (The proceedings adjourned at 2:30 p.m.)

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1 REPORTER'S CERTIFICATE

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3

4 THE PEOPLE OF THE STATE )

5 OF CALIFORNIA, )

6 Plaintiff, )

7 -vs- ) No. 1133603

8 MICHAEL JOE JACKSON, )

9 Defendant. )

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 175 through 296

16 contain a true and correct transcript of the

17 proceedings had in the within and above-entitled

18 matter as by me taken down in shorthand writing at

19 said proceedings on March 1, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 1, 2005.

24

25

26

27 MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 297