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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

5

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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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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

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19 WEDNESDAY, MARCH 30, 2005

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21 8:30 A.M.

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23 (PAGES 4174 THROUGH 4236)

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

28 BY: Official Court Reporter 4174

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3 Note: Mr. Sneddon is listed as "SN" on index.

4 Mr. Zonen is listed as "Z" on index. Mr. Auchincloss is listed as "A" on index.

5 Mr. Nicola is listed as "N" on index. Mr. Mesereau is listed as "M" on index.

6 Ms. Yu is listed as "Y" on index. Mr. Sanger is listed as "SA" on index.

7 Mr. Oxman is listed as "O" on index.

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9 PLAINTIFF'S

10 WITNESSES DIRECT CROSS REDIRECT RECROSS

11 BELL, Cynthia Ann 4177-A 4209-M

12 4226-A

13 (Contd.)

14 KATZ, Stan J. 4229-Z

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1 Santa Maria, California

2 Wednesday, March 30, 2005

3 8:30 a.m.

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5 THE COURT: Good morning.

6 COUNSEL AT COUNSEL TABLE: (In unison)

7 Good morning, Your Honor.

8 THE WITNESS: Good morning.

9 THE COURT: Let's see, Mr. Mesereau, were

10 you examining?

11 MR. MESEREAU: Excuse me, Your Honor. My

12 cross-examination is completed. I believe that --

13 BAILIFF CORTEZ: Mike closer.

14 THE COURT: He said his cross-examination is

15 completed.

16 (Laughter.)

17 THE COURT: Go ahead, Counsel.

18

19 REDIRECT EXAMINATION

20 BY MR. AUCHINCLOSS:

21 Q. Good morning, Miss Bell.

22 A. Good morning to you.

23 Q. Would you please characterize the level of

24 service -- is this on?

25 Would you please characterize the level of

26 service that you provided on the flights that you

27 handled involving Mr. Jackson?

28 MR. MESEREAU: Objection; vague. 4177

1 THE COURT: Overruled.

2 You may answer.

3 THE WITNESS: The level of service was A-1.

4 Q. BY MR. AUCHINCLOSS: First Class service?

5 A. That is correct.

6 Q. And how attentive are you to the guests or

7 the individuals who are guests of the client on the

8 plane?

9 A. Extremely attentive.

10 Q. You interact with each one of them?

11 A. Yes, I do.

12 Q. Do you have -- I think I asked you

13 previously, but is it fair to say that you were

14 either interacting with the guests, the client, or

15 you were working in the galley during the entire

16 flight?

17 A. Can you repeat the question? I'm sorry.

18 Q. My question is, during the entire flight,

19 are you always on your feet?

20 A. Yes.

21 Q. And during that entire time that you're on

22 your feet, is it fair to say you're always involved

23 in some level of service?

24 A. That is correct.

25 Q. Are you in the galley at times?

26 A. Yes, I am.

27 Q. Are you in the pilots' cabin at times?

28 A. Only briefly. Just to serve them meals on 4178

1 crew trays.

2 Q. Okay. But otherwise, you were attentive to

3 the needs of everybody who's on that plane?

4 A. That is correct.

5 Q. Do you personally prepare the meals?

6 A. Personally prepare? On certain flights,

7 yes, we do. However, on Mr. Jackson's flights, we

8 typically had them catered.

9 Q. You served hot hors d'oeuvres?

10 A. That's correct.

11 Q. Dessert?

12 A. If required, yes.

13 Q. Meals?

14 A. Yes, sir.

15 Q. How many meals on a five-hour flight from

16 Miami to Santa Barbara?

17 A. Depending on what we're serving, depending

18 on the catering requests. I mean, I like to start

19 with cold appetizers, to roll into hot appetizers,

20 to roll into a salad, a soup, a main course, a

21 dessert, finish with assorted usually sorbets in

22 between, with a drink and beverage service

23 throughout the entire duration.

24 Q. And on a flight like this involving Mr.

25 Jackson and his guests, is there one person you're

26 most concerned about pleasing?

27 A. You're always concerned with your lead

28 passenger. 4179

1 Q. And that would be Mr. Jackson?

2 A. That is correct.

3 Q. So if Mr. Jackson doesn't like something, do

4 you change it?

5 A. Absolutely. In regards to catering?

6 Q. In regards to your level of service,

7 anything that you do. If he tells you he doesn't

8 like something, do you take care of it?

9 A. Yes.

10 Q. If he wants something, do you take care of

11 it?

12 A. Yes.

13 Q. Have you ever met Mr. Jackson outside your

14 role as a server on one of these flights?

15 A. No, sir, I have not.

16 Q. So would it be fair to say you've been

17 always in a role of pleasing Mr. Jackson,

18 pleasing -- making sure he's --

19 A. Yes. As a cabin attendant.

20 (Laughter.)

21 Q. All right. With that -- with that

22 condition, would it be fair to say that you're in a

23 position where you're always concerned about making

24 Mr. Jackson happy?

25 A. As a cabin attendant, yes.

26 Q. Yes, we've got that, okay.

27 A. I'll lose my job over this.

28 (Laughter.) 4180

1 Q. You mentioned that you served an underage --

2 some underage girls, or an underage girl on this

3 particular flight from Miami to Florida?

4 A. Yes, sir. I was unaware that she was

5 underage. I actually did -- I did I.D. her, and I

6 saw a positive identification which reflected that

7 she was 21 years of age.

8 Q. She wasn't underage?

9 A. It reflected that she was of age, 21 years

10 of age.

11 Q. And were there two girls or one girl?

12 A. There were two girls on that flight.

13 Q. Uh-huh.

14 A. And they maintained that they were best

15 friends and that they were on their way to Neverland

16 Ranch.

17 Q. Did you card both of them?

18 A. No, I did not.

19 Q. Why not?

20 A. Because I assumed that -- because they were

21 maintaining they were best friends that they were

22 both of the same age. There was a younger boy on

23 the flight who --

24 Q. I'm not going to ask about the boy. I'm

25 just concerned about the two girls right now.

26 A. Yes.

27 Q. Why didn't you card the other girl?

28 A. I was told that they were the same age. 4181

1 Q. Okay. Did she look 21, the other girl?

2 A. They both looked young, and that's why I

3 I.D.'d them -- I I.D.'d the primary person who

4 requested a cocktail.

5 Q. Okay. So you just assumed the other one was

6 21?

7 A. That's correct.

8 Q. And did you mention this to Mr. Jackson,

9 that you were serving these young ladies alcohol?

10 A. No, I did not.

11 Q. And how did you -- what kind of glass did

12 you serve them in?

13 A. In a tall crystal Waterford glass.

14 Q. Okay. Was it fluted?

15 A. No, sir, it was not.

16 Q. Okay.

17 A. It was cut crystal.

18 Q. You have previously mentioned in the grand

19 jury that all flights kind of blend together for

20 you.

21 A. I fly very often.

22 Q. Is that true?

23 A. The person -- the people that I fly, or the

24 actual flights?

25 Q. In terms of your recollections.

26 A. Flights --

27 Q. You stated flights kind of run together so

28 it's hard for you to remember, is that true? 4182

1 A. They tend to, yes.

2 Q. How -- do you have peculiar recollections of

3 this particular flight over others? Is your memory

4 better about this particular flight that we're

5 talking about in this particular case over other

6 flights that you've had?

7 A. Is my memory of the actual flight or --

8 Q. Yes. You've testified about a number of

9 details about this flight --

10 A. I'm very clear about the flight. I'm

11 actually very clear about the people that I fly.

12 It's the locations, typically, that blend together.

13 But -- because, you know, you're in New York a lot,

14 you're in Florida a lot. I mean, you're a lot --

15 and it's typically the same sort of places that we

16 go to.

17 Q. Okay. Now, you mentioned that you didn't

18 recall if Mr. Jackson was sleeping, but you don't

19 think he did.

20 A. I'm certain that he was not sleeping.

21 Q. Okay. What time did this flight leave

22 Miami?

23 A. I believe it was either a three or four

24 o'clock launch or -- yes.

25 Q. Okay. So it would have arrived in Santa

26 Barbara -- taking into account five hours, it would

27 arrive around eight or nine o'clock Florida time,

28 true? 4183

1 A. They're three hours ahead of us. You want

2 Florida time --

3 Q. Yes, I said "Florida time." Five hours.

4 Three plus five, eight. Eight or nine?

5 A. I can't do the math.

6 Q. Okay. So was it dark when you arrived in

7 Santa Barbara; do you know?

8 A. I believe it was.

9 Q. And did you happen to notice whether other

10 people slept on that flight, dozed or napped,

11 anything of that nature?

12 A. The medical doctor that was on board did

13 sleep. The child, the youngest child, slept on that

14 flight for --

15 Q. Mr. Jackson's youngest child?

16 A. That is correct.

17 Q. Just your best recollection.

18 A. That's my best recollection. Thank you.

19 Q. Is it possible that other people napped

20 during the flight?

21 A. I know it was a pretty busy cabin.

22 Q. Did people move around the cabin?

23 A. Yes.

24 Q. A little bit, or a lot, or something in

25 between. You tell me.

26 A. I wouldn't say unusually a lot. But the

27 children were up and down and back and forth and the

28 governesses were back and forth. 4184

1 Q. Did many people change seats?

2 A. No.

3 Q. Did some people change seats?

4 A. Yes.

5 Q. Do you have specific recollections of who

6 changed seats and what manner the change took place,

7 how that took place?

8 A. Definitely Prince and Paris. They were back

9 and forth in the cabin, interactive with the entire

10 cabin.

11 Q. So they would get up and move from their

12 seat?

13 A. Yes.

14 Q. And I believe you testified that at one

15 point they were in the banquet area; is that what

16 you --

17 A. In the club seating.

18 Q. Club seating. Yeah. Okay. In the club

19 seating with Mr. Jackson.

20 You also testified that during the entire

21 fright they were around Mr. Jackson, his children

22 were around him?

23 A. That is correct.

24 Q. Do you have a specific recollection of that?

25 A. I do.

26 Q. All right.

27 If I may approach, Your Honor?

28 THE COURT: Yes. 4185

1 Q. BY MR. AUCHINCLOSS: Miss Bell, I show you

2 People's Exhibit 765. It appears to be a diagram of

3 the plane. But you tell me. Can you identify that?

4 A. Yes, I can.

5 Q. What is it?

6 A. That is the exact configuration of

7 November-8-7-tango-delta.

8 Q. Is that the plane that you used on the

9 flight we've been talking about involving Mr.

10 Jackson and the Arvizos?

11 A. Yes, sir.

12 MR. AUCHINCLOSS: All right. Could I have

13 the Elmo on, Your Honor?

14 THE WITNESS: Oh, wait, I'm sorry. It might

15 have been hotel-Charlie.

16 MR. AUCHINCLOSS: I'm not --

17 Q. I'm not concerned about the name.

18 MR. MESEREAU: Objection. She hasn't

19 completed her answer.

20 MR. AUCHINCLOSS: There isn't a question

21 pending.

22 Q. But go ahead.

23 THE COURT: Just a moment.

24 What does "hotel-Charlie" -- is that a plane

25 designation?

26 THE WITNESS: It's the last tracking tail

27 numbers of another one of our aircraft with a very

28 similar cabin configuration. 4186

1 THE COURT: All right. I will overrule the

2 objection. Go ahead.

3 Q. BY MR. AUCHINCLOSS: All right. So my

4 question, though, is -- my concern is, is this a

5 fair representation of the floor plan of the plane

6 that was used on the flight from Miami to Santa

7 Barbara with Mr. Jackson that we've been talking

8 about?

9 A. Yes, sir, it is.

10 MR. AUCHINCLOSS: If I could have "Input

11 No. 4," Your Honor.

12 Q. Now, I can't get this entire diagram on

13 this -- on this screen, so I'm going to ask you to

14 just help me out a little bit.

15 Is there a pointer that we have?

16 Ms. Bell, this is just a laser pointer.

17 A. Okay.

18 Q. And if you hold it down, you can help us out

19 with identifying some locations.

20 A. Thank you.

21 Q. All right. I'm not going to ask you to mark

22 on this exhibit, but I would ask you just to point

23 with the laser, if you would, your best recollection

24 of where Mr. Jackson was seated, if it's on this

25 particular portion of it.

26 Okay. Indicating in the club seating, the

27 chair nearest the aisle, and in the center of the

28 diagram, and I believe -- 4187

1 A. He actually sat there of most of the time.

2 He went to the lav, and at that time, when he came

3 back, he was seated here.

4 Q. Uh-huh.

5 A. And Prince and Paris both shared this seat.

6 Q. Now, you mentioned, during most of the

7 flight, in the grand jury that Gavin was next to

8 him.

9 A. Yes, was seated there.

10 Q. Okay. So is that a fact, that during most

11 of the flight that Gavin was seated next to Mr.

12 Jackson?

13 A. Yes, sir.

14 Q. And you said that there is a divider between

15 those seats that can be lifted up.

16 A. That is correct.

17 Q. Was that divider down or up during that

18 flight or did it -- let me maybe ask you -- rephrase

19 that question. Was that divider moved during that

20 flight?

21 A. The only time it was moved was when Mr.

22 Jackson used the lav.

23 Q. It went down?

24 A. Yes.

25 Q. Okay. And when he came back from the lav,

26 did it go back up again?

27 A. No, it did not. His children were seated

28 there and it was open. 4188

1 Q. Okay. What do you mean, "it was open"? It

2 went back up or down?

3 A. The actual divider was -- the children were

4 sharing the seat.

5 Q. Show me what we're talking about as far as

6 the thing that goes down. Where is that located on

7 this diagram?

8 Okay. Just between the two seats?

9 A. That's correct. It's an actual armrest that

10 divides the seats here.

11 Q. You have a specific recollection on this

12 particular flight of the time that that armrest went

13 down and up?

14 A. Do I have a specific -- yes, because he had

15 to -- I had to lower it. And I remember it quite

16 clearly because there was a hinge problem with that

17 particular seat.

18 Q. Uh-huh.

19 A. And we had to lower it for Mr. Jackson to --

20 we had to -- well, there's also a divider here with

21 cupholders.

22 Q. Yes.

23 A. So both of those had to be lowered for him

24 to get in and out. And also, like I said, the

25 children wanted to sit next to him at that time.

26 Q. Uh-huh.

27 A. So instead of having the hindrance of the

28 divider, we went ahead and lowered it. 4189

1 Q. Oh, I see. Okay. All right. So going back

2 to the time when he was -- you said there was a

3 portion of the time that Prince and Paris were

4 seated next to him.

5 A. That is correct.

6 Q. Then did they move again?

7 A. Prince was with his father most of -- a lot

8 of the flight. Paris moved to help me bake cookies.

9 Q. All right. My question is in terms of not

10 whether they were with him, but whether they were

11 seated in that seat. Did they move from that seat?

12 After they sat in it, how much time did they spend

13 in that seat? That's my question.

14 A. I'm not sure. I'm sorry.

15 Q. Okay. But is it still fair to say that

16 Gavin Arvizo spent most of the flight in that seat

17 seated next to Mr. Jackson?

18 A. That is correct.

19 Q. All right. Do you recall where

20 Dr. Farshshian, or the doctor, I should say, was

21 seated?

22 A. Yes.

23 Q. Where was that?

24 A. You'll need to move the diagram down in

25 order to display his seating.

26 Q. I'm moving the diagram --

27 A. Thank you.

28 Q. I'm moving it towards the pilots' cabin; is 4190

1 that correct?

2 A. That is correct.

3 Q. All right. We're now looking at the front

4 of the airplane, and you're indicating in the seat

5 that's closest to the -- I guess that would be the

6 doorway into the aircraft; is that correct?

7 A. That is correct.

8 Q. And that's in the upper right-hand portion

9 of the diagram.

10 All right. Did he move at all during the

11 flight?

12 A. Yes. He came back and chatted with me in

13 the galley. But always -- typically always -- oh,

14 no, actually, the only other time that he didn't

15 return to his seat after the galley was, of course,

16 to use the lav, but also he was chatting with

17 everyone at the club seating on the credenza.

18 Q. Okay.

19 A. He sat himself there for a period of time.

20 Q. All right. So you at times were back in the

21 galley chatting with Dr. Farshshian, or the doctor?

22 A. Yes.

23 Q. And you said at times you were back there

24 baking cookies with the kids?

25 A. That's correct.

26 Q. And is it fair to say at times you were in

27 this area that's identified by four seats attending

28 to the needs of those passengers? 4191

1 A. Yes, sir.

2 Q. And there was a passenger in each of those

3 seats?

4 A. Yes, sir.

5 Q. A passenger in every seat on this aircraft?

6 A. There may have been an open seat, but

7 it's -- when you have that many people, it's a full

8 house. I mean, it's --

9 Q. So possibly a seat open, but --

10 A. We don't, like, count our seats. I mean, as

11 for emergency evacuations, we know where people are

12 located amongst -- you know, in the aircraft.

13 However, we don't actually -- it's not like airline

14 style where you count the seats and the passengers.

15 Q. Okay.

16 A. So, I mean --

17 Q. No, that's fine. You've answered the

18 question.

19 And at times you're dealing with -- Diagram

20 765. You're dealing with people in the club seating

21 area?

22 A. That is correct.

23 Q. Sometimes you're turned in the opposite

24 direction, you're dealing with people who are in the

25 couch that's marked in blue on the lower left-hand

26 corner?

27 A. On the divan.

28 Q. The divan. Is that true? 4192

1 A. Yes.

2 Q. And at times you are turned, again, towards

3 the rear of the aircraft where you're attending to

4 the needs of the persons seated directly in the aft

5 of the club seating, true?

6 A. That is correct. Well, actually you're not

7 really turned, because you're usually --

8 Q. Okay. To the side?

9 A. Right.

10 Q. Okay. And moving the diagram towards what

11 appears to be the aft of the airplane, that shows

12 the galley area; is that fair to say?

13 A. That is correct.

14 Q. Would you show us on the --

15 A. This open area here, with a --

16 Q. Where it looks to be marbled?

17 A. That is correct. That is our galley.

18 Q. So you've indicated on the diagram that the

19 galley comprises both the port and starboard sides

20 of the aircraft?

21 A. That is correct.

22 Q. So sometimes you're facing to the left of

23 the aircraft, and sometimes you're facing to the

24 right?

25 A. That is correct.

26 Q. What's that little L-shaped section in the

27 lower portion of the diagram, if you would?

28 A. This here? 4193

1 Q. No, above that. Yes, that little

2 rectangular square.

3 A. That's our sink.

4 Q. So sometimes you're over the sink dealing

5 with whatever you need to clean, or get water, that

6 type of thing?

7 A. That's correct. We don't do dishes on

8 board, so we don't really use that sink a whole lot.

9 Q. All right. So would it be fair to say at

10 any given moment your attention and focus would be

11 on any given one of those areas we've just

12 identified?

13 A. Yes.

14 Q. In terms of all the seating, the kitchen,

15 the galley?

16 A. That is correct. It's an open galley, and

17 for specific reasons, that you can monitor your

18 cabin while you're preparing.

19 Q. See who wants something?

20 A. Absolutely.

21 Q. Someone can get your attention if they need

22 to?

23 A. That is correct.

24 Q. And you pay whatever visits you need to the

25 lav area?

26 A. The lav is actually pretty busy. We keep

27 catering -- a lot of catering in the baggage hold or

28 in the lav. That right there is a closet. And then 4194

1 our other catering storage area is here.

2 Q. Okay. But, basically, my question was, that

3 lav is for your use as well as everybody else's

4 during the flight?

5 A. For everyone on the aircraft.

6 Q. And do you have any reason to go back in the

7 baggage area?

8 A. Yes, I do.

9 Q. What do you do back there?

10 A. Depending on whether or not I've stored -- I

11 usually store my ice cream and my sorbets in the

12 baggage hold.

13 Q. So sometimes you're back in that area that

14 appears to have suitcases in it in the very aft of

15 the diagram?

16 A. That is correct.

17 Q. And what's the area -- it looks like it

18 might be a coat rack in the upper right-hand corner.

19 Upper left-hand, excuse me. Do you see that?

20 A. In the lav or --

21 Q. Do you see what's across from the lav?

22 A. Yes, that's a storage area --

23 Q. Okay.

24 A. -- for coats. And I sometimes put catering

25 there, and extra hand towels and that sort of thing.

26 Q. So sometimes your attention is to get

27 something out of that area?

28 A. Yes. 4195

1 Q. You use that area during the flight?

2 A. Yes, we do.

3 Q. All right. Now, Mr. Mesereau asked you

4 about whether or not Mr. Jackson would sometimes

5 have vodka in a Coke can. Do you recall that

6 portion of your testimony?

7 A. Yes, I do. I do.

8 Q. So you would serve Mr. Jackson mixed alcohol

9 drinks in a Diet Coke can?

10 A. Every beverage that was consumed by Mr.

11 Jackson was in a Diet Coke can, that is correct.

12 Q. And I think you testified that that was your

13 idea originally?

14 A. That is correct.

15 Q. Before you came up with this idea, was Mr.

16 Jackson secretive about his drinking?

17 MR. MESEREAU: Objection; leading.

18 THE COURT: Overruled.

19 MR. MESEREAU: Assumes facts not in

20 evidence.

21 THE COURT: Overruled.

22 You may answer.

23 THE WITNESS: I -- I don't know. The only

24 time I flew him was with Pacific Jet and --

25 Q. BY MR. AUCHINCLOSS: That's what I'm talking

26 about. When you flew with him on Pacific Jet.

27 A. Oh.

28 Q. Was he open about his drinking on Pacific 4196

1 Jet?

2 A. No, sir, he was not.

3 Q. What makes you say that?

4 A. Because I served him out of a -- I'm sorry,

5 a -- a blue -- it was almost like a -- not a

6 Tupperware thing. I can't describe it. I mean, it

7 was sort of like -- I mean, it was a cup, but it

8 wasn't transparent. It was sort of a Tupperware --

9 Q. Plastic cup?

10 A. Right.

11 Q. Anything else unusual about that cup?

12 A. No.

13 Q. Did that cup -- was that something that was

14 provided with the aircraft or something he brought?

15 A. Actually, that cup I believe was on the

16 aircraft.

17 Q. And why did you use that cup -- well, let me

18 back up.

19 Did -- on that particular aircraft, or on

20 that particular charter jet company, did you also

21 use crystal to serve your clients alcoholic

22 beverages?

23 A. Yes, sir.

24 Q. Can you tell me why you did not use crystal

25 to serve Mr. Jackson on those flights?

26 A. I don't remember why, I'm sorry. I don't

27 remember why I did that that time.

28 Q. But there was something about your serving 4197

1 him those items that made you believe he wanted it

2 served in the plastic cup rather than crystal?

3 A. Can I take a moment to think about this?

4 Q. Sure.

5 A. I really -- I mean, I don't remember why.

6 Because I know I served children usually in plastic.

7 I mean, you know, small children. Or they're like

8 sippy cups, but I don't remember why.

9 Q. Was this like a sippy cup?

10 A. No.

11 Q. Did Mr. Jackson ever object to being served

12 in a plastic cup?

13 A. No.

14 Q. Did he ever object to being served in a Diet

15 Coke can?

16 A. No.

17 Q. Did you believe that that's how he wanted

18 his beverage -- his alcoholic beverages served, in

19 Diet Coke cans, and in this plastic cup when you did

20 so?

21 A. I assumed that's how he wanted to be served.

22 Q. And did Xtra Jet adopt a policy of having

23 Diet Coke cans of wine available for Mr. Jackson on

24 any flight Mr. Jackson flew on?

25 A. Yes, sir.

26 Q. So even when you weren't flying, he was

27 always served with a Diet Coke can, as far as you

28 know? 4198

1 A. Yes. I would give that information to our

2 flight attendants.

3 Q. So you shared that with other flight

4 attendants at Xtra Jet?

5 A. That is correct.

6 Q. Was this information ever -- did this

7 information about serving wine in Diet Coke cans

8 ever appear in writing on any Xtra Jet manifest, or

9 order, or anything like that?

10 A. No, sir. We signed confidentiality

11 agreements, and that would be something that would

12 fall under a confidentiality agreement.

13 Q. Okay. Speaking of that, the reason you gave

14 for doing this was because you believe that Mr.

15 Jackson wanted to keep his drinking a secret from

16 his children?

17 A. Private from his children, yes.

18 Q. He didn't want his children to know he was

19 drinking?

20 A. Yes.

21 Q. What makes you say that?

22 A. Because he's a private person, and -- I have

23 a lot of clients that don't drink in front -- don't

24 present to drink in front of their children.

25 Q. My question is, what makes you think that

26 Mr. Jackson didn't want his children to know he was

27 drinking, specifically Mr. Jackson?

28 A. I don't know why he -- I don't know why. 4199

1 Q. Okay. But you believe that was the reason?

2 A. Yes.

3 Q. Did he ever talk to you about it?

4 A. No.

5 Q. Was it ever talked about on the flight, that

6 he was having -- that he had alcoholic beverages in

7 his Coke can?

8 A. Was it ever talked to --

9 Q. Talked about openly on the flight, by

10 anybody, that he's drinking?

11 A. No.

12 Q. That he's drinking from a Coke can?

13 A. No, sir.

14 Q. So on this particular flight that involved

15 the Arvizo children, was it ever mentioned that he

16 was drinking wine from a Coke can?

17 A. No, sir.

18 Q. Now, I believe you previously stated that he

19 drank wine on this flight, about a bottle, and you

20 opened up another bottle, that's correct?

21 A. There were three bottles of wine opened.

22 Two white and one red.

23 Q. And do you know how much of the second white

24 bottle -- white wine bottle was consumed?

25 A. I do not. I know that it was opened,

26 though.

27 Q. As far as vodka drinks, did you serve Mr.

28 Jackson vodka drinks on that flight? 4200

1 A. Mr. -- no, I did not serve Mr. Jackson vodka

2 drinks on that particular flight.

3 Q. In the grand jury, did you testify -- when I

4 asked you the question, "Do you recall if you served

5 him any mixed drinks on that flight," and you

6 testified, "I did" --

7 A. Rum and Coke.

8 Q. -- do you recall saying that?

9 A. Yes.

10 Q. And then I asked you what type of mixed

11 drinks, and you said, "I served him vodka and Diet

12 Coke." Did you say that?

13 A. I'm sorry, I believe it was rum and Diet

14 Coke.

15 Q. Okay. So you were just mistaken about the

16 type of drink that he had?

17 A. That's correct.

18 Q. Okay. So -- but you did serve him mixed

19 drinks on that flight?

20 A. I served one mixed drink, which was not

21 consumed. And I remember it being rum and Coke,

22 because that is what the girls were drinking.

23 Q. All right. So would anyone on that flight

24 have any way of knowing that there was wine in that

25 Coke can, or rum and Coke in that Coke can, unless

26 they took a sip of it?

27 MR. MESEREAU: Objection. Calls for

28 speculation; leading. 4201

1 THE COURT: Sustained.

2 Q. BY MR. AUCHINCLOSS: Did he ever explain to

3 you why he was hiding his -- the fact that he is a

4 drinker from his children?

5 MR. MESEREAU: Objection; asked and

6 answered.

7 THE COURT: Sustained.

8 Q. BY MR. AUCHINCLOSS: On the flight home from

9 Florida --

10 A. Uh-huh.

11 Q. -- did Mr. Jackson become intoxicated?

12 Do you understand the question?

13 A. I don't -- "intoxicated" as in like how --

14 Q. Did he show signs that he was inebriated or

15 signs that -- signs of showing that he was somebody

16 who had been drinking? Show any physical signs of

17 it?

18 A. Yes.

19 Q. In what way?

20 A. Well, he's a very nervous flyer, and he was

21 just a lot more relaxed. By no means was he drunk.

22 I was more worried about the two girls. I actually

23 stopped pouring them alcohol.

24 Q. Okay. But didn't you testify in the grand

25 jury that he was intoxicated?

26 A. Yes.

27 Q. All right. And on this flight home, you

28 noticed that this young boy, Gavin we've called him, 4202

1 you know who I'm talking about?

2 A. Yes, sir.

3 Q. You said that he was acting weird.

4 A. Yes, sir.

5 Q. What -- tell me a little bit about that.

6 When was the first time you noticed that he did

7 something that seemed weird to you?

8 A. Well, he was just incredibly rude. And I

9 find that behavior unintelligent, and strange.

10 Q. Okay. My question was, when did you first

11 start noticing that he's not being --

12 A. From the very beginning, the originating

13 point of the flight.

14 Q. As the flight went on, was -- did he

15 become -- well, tell me exactly what happened. What

16 was it that made you say that?

17 A. Upon arrive -- upon seating himself or

18 situating himself in the cabin, he acted like I was

19 his maid, basically, throwing a book bag at me, and,

20 "I want this here," and then, "I want this there."

21 And just very demanding. Just unusually demanding,

22 unusually rude.

23 Q. Did his behavior get better as the flight

24 went on?

25 A. The only time his behavior was acceptable

26 was when he was listening to music.

27 Q. Okay.

28 A. He had a headset with some music that he was 4203

1 listening to.

2 Q. My question is, did his behavior get better,

3 worse, the same? You tell me.

4 A. It stayed pretty much the same throughout

5 the flight.

6 Q. And you said that he was -- now, you -- did

7 you know this young man from any -- in any sense

8 from outside the realm of flying this jet?

9 A. No, sir, I don't watch T.V. typically, and

10 I --

11 Q. So did you have any means of gauging whether

12 this boy acted this way normally?

13 A. No. I would have no -- no way to gauge his

14 behavior outside of on the aircraft.

15 Q. You said something about a food fight?

16 A. Yes, sir.

17 Q. The boy was engaged in a food fight?

18 A. That is correct.

19 Q. And who was he engaged in that food fight

20 with?

21 A. Primarily with the medical doctor.

22 (Laughter.)

23 Q. And the doctor was fighting back?

24 A. Well, the medical doctor was sleeping at

25 first, when he flung mashed potatoes at him.

26 (Laughter.)

27 Q. And then what happened?

28 A. Then -- 4204

1 Q. It went back and forth?

2 A. Right. It was like crowd mentality.

3 Everyone sort of joined in.

4 Q. More than just the doctor?

5 A. The girls. And it became a game, basically,

6 on board.

7 Q. So it was playful?

8 A. The -- the initial flinging of the mashed

9 potatoes, in my opinion, was not playful. Flinging

10 mashed potatoes at a sleeping man?

11 Q. Did you have -- you mentioned that he was

12 bragging about a watch. Tell me about that.

13 A. He came into my -- into my galley area

14 requesting an orange soda, Sunkist orange soda. And

15 he had two watches on his wrist, and was saying

16 things like, "Look at what Michael bought me." You

17 know, "These are very expensive watches." And,

18 "He's my best friend." And just --

19 Q. You didn't like that?

20 A. Well, I -- I fly Fortune 500 people. I

21 could care less what your watch costs.

22 Q. You weren't impressed by his watch?

23 A. He just goes on.

24 Q. Okay. Did he mention anything about where

25 he got that watch from?

26 A. Well, he did say, "Michael bought this watch

27 for me." And, "He'll buy me anything." He was

28 just -- just an odd bird. 4205

1 Q. Did you have any reason to believe that that

2 is the way he normally acted or if something was

3 causing him to act that way?

4 A. I have no idea. The only --

5 Q. You have no idea whether he normally acts

6 that way?

7 A. I have no idea.

8 Q. When he was acting up, was Mr. Jackson

9 seated next to him?

10 A. He was in my -- he was in my galley.

11 Q. No, in general. You said he was -- you

12 know, in general, during this flight, you said he

13 was acting weird. Did this behavior happen in Mr.

14 Jackson's presence?

15 A. Some of the time.

16 Q. Did Mr. Jackson do anything to stop it?

17 A. No.

18 Q. Miss Bell, was he acting at all like he

19 could have been intoxicated?

20 MR. MESEREAU: Objection. Leading; asked

21 and answered.

22 MR. AUCHINCLOSS: I haven't asked that

23 question.

24 THE COURT: Overruled.

25 You may answer.

26 THE WITNESS: Thank you.

27 No.

28 Q. BY MR. AUCHINCLOSS: In the grand jury, 4206

1 didn't you say it was possible he was intoxicated?

2 A. Anything's possible. It could be possible.

3 Q. Did you say that?

4 A. I wouldn't know how to gauge it, because he

5 acted the same throughout the entire trip.

6 Q. So it could be that he was reacting because

7 he'd been drinking?

8 MR. MESEREAU: Objection. Leading; and

9 asked and answered.

10 THE COURT: Sustained.

11 Q. BY MR. AUCHINCLOSS: All right. When Mr.

12 Jackson was seated next to Gavin, was he physically

13 touching him?

14 A. Did they have physical contact?

15 Q. Was he physically touching him in any way?

16 A. Yes, at times.

17 Q. Did Mr. Jackson, at times, cuddle with

18 Gavin?

19 A. I wouldn't say "cuddle." They -- he had his

20 arm around him listening to music at times.

21 Q. So how do you define cuddling?

22 A. "Cuddling"? I guess I'd have to show you.

23 (Laughter.)

24 MR. AUCHINCLOSS: May I approach the

25 witness, Your Honor?

26 (Laughter.)

27 Q. Okay. So it didn't fit your definition of

28 "cuddle," but he did have his arm around him? 4207

1 A. At times, yes, sir.

2 Q. Did it seem odd to you that Mr. Jackson

3 didn't do anything to stop this young boy from being

4 what you said was rude?

5 MR. MESEREAU: Objection. Calls for

6 speculation; no foundation.

7 THE COURT: Overruled.

8 You may answer. Do you want the question

9 read back?

10 THE WITNESS: Yeah, please.

11 THE COURT: All right.

12 THE WITNESS: It's just distracting when you

13 guys like --

14 THE COURT: I know it is. That's why I'm

15 asking you if you want the question read back.

16 THE WITNESS: Thank you.

17 (Record read.)

18 THE WITNESS: Yes. I -- because his children

19 are so polite, I wasn't used to that.

20 Q. BY MR. AUCHINCLOSS: Does he intervene when

21 his children --

22 A. Absolutely. They're very well disciplined

23 and polite.

24 MR. AUCHINCLOSS: All right. Thank you.

25 I have no further questions.

26 THE WITNESS: Thank you.

27 THE COURT: Mr. Mesereau?

28 // 4208

1 RE-CROSS-EXAMINATION

2 BY MR. MESEREAU:

3 Q. Good morning.

4 A. I'm sorry.

5 (Laughter.)

6 A. Okay. What next?

7 Q. Okay. Gavin's mother was on the plane, was

8 she not?

9 A. Yes, she was.

10 Q. Did you ever see Gavin's mother try to stop

11 his rude behavior?

12 A. No.

13 Q. Did you find that odd?

14 A. I found that very odd.

15 Q. And you did say that his rude behavior began

16 from the moment he got on that plane, correct?

17 A. That is correct.

18 Q. And from the moment Gavin got on that plane,

19 you never saw his mother ever try to stop his rude

20 behavior, correct?

21 MR. AUCHINCLOSS: Objection; asked and

22 answered.

23 THE COURT: Sustained.

24 Q. BY MR. MESEREAU: How soon after Gavin got

25 on that plane did the rude behavior start?

26 A. Immediately.

27 Q. And when you say "immediately," where was

28 Gavin when the rude behavior began? 4209

1 A. When he came up the stairs to enter the

2 aircraft.

3 Q. And what was the first rude thing he did?

4 A. He threw his book bag at me and started

5 ordering me around the cabin as to where he wanted

6 placement of his items.

7 Q. And how did you respond to that?

8 A. Polite and efficiently.

9 Q. Was his mother near him when he began the

10 rude behavior?

11 A. Yes.

12 Q. And if you recall, where was his mother when

13 Gavin began this rude behavior?

14 A. She entered the aircraft behind him.

15 Q. Was it obvious to you that she could see his

16 rude behavior?

17 A. Absolutely.

18 Q. What's the next rude thing you recall him

19 doing on the plane?

20 A. He was just very demanding throughout the

21 entire flight, with wanting to get his needs met,

22 whether it was, you know, more ice in his orange

23 soda, to no cole slaw on his plate with his chicken,

24 more mashed potatoes. It seemed like nothing -- his

25 chicken wasn't warm. He -- you know, "I want a side

26 of cole slaw. I don't want it on the same plate."

27 Just unusual things, like just very -- like,

28 you can tell that, like, he was a newcomer to these 4210

1 sort of flights.

2 Either you have people who are really polite

3 or lovely, or you have people who are really

4 demanding, and they feel like they need to be that

5 way to make them feel important. I'm not sure why.

6 But he was very demanding throughout the

7 entire flight.

8 Q. Do you recall where his mother was seated

9 during the flight?

10 A. Yes, sir.

11 Q. Could you please tell the jury where she was

12 seated?

13 A. She was -- if you pull down the diagram, I

14 can show you exactly where she was seated.

15 A. (Indicating.)

16 Q. So roughly how far away was Gavin during the

17 flight when you saw him behaving in a rude manner?

18 A. He was seated here.

19 Q. Okay.

20 A. And he also was seated, at times, on the

21 divan.

22 Q. And the divan is where?

23 A. Here.

24 Q. Okay. Did he behave rudely when he sat on

25 the divan?

26 A. He was engaging in conversation with the two

27 girls. They had just gotten back from a shopping

28 trip in, I believe it was New York, they were 4211

1 saying. New York.

2 Q. And these are the girls that were drinking?

3 A. That is correct.

4 Q. So Gavin spent time with the two girls that

5 were drinking?

6 A. Briefly, yes.

7 Q. Did you have your eye on Gavin all the time

8 while he was with the two girls that were drinking?

9 A. It was hard not to. He was so demanding.

10 Q. Did he demand things of you while he was

11 sitting with the girls that were drinking on the

12 divan?

13 A. No, he was engaged in a conversation about

14 their shopping trip. And they were talking about

15 going horseback riding at Neverland Ranch when they

16 landed from the flight. They had had plans to go

17 horseback riding or something.

18 Q. And you saw Gavin talking to them about

19 that?

20 A. Yes, sir.

21 Q. And you saw Gavin talk to them while they

22 were drinking alcohol, right?

23 A. That is correct.

24 Q. Have you told the jury every rude thing you

25 can remember he did?

26 A. Well, there were so many. Let's see.

27 Basically he was just -- I mean, very demanding when

28 it came to customer service. 4212

1 There was also an incident in the lav where

2 we had ran out of passenger napkins, and he made

3 comments about that.

4 Also, when I did my towel service - which

5 you do continually throughout the flight -

6 apparently his hot -- well, we do cold towels,

7 because it was hot in Florida. And then when I

8 served the hot towels, he was -- I mean, he wasn't

9 rude, but, "Why isn't this cold? Shouldn't it be

10 cold?" It's like, "No, it's meant to be hot,

11 because you're getting ready for your second

12 course." So, I mean, just things of that nature.

13 Q. And how long was this flight?

14 A. About five hours.

15 Q. Was he the only rude passenger on the

16 flight?

17 A. Yes, sir.

18 Q. So what he did stands out in your mind very

19 vividly, correct?

20 A. It stood out very vividly.

21 Q. Okay. And did you ever have your eye on his

22 mother during the flight?

23 A. Yes, I did.

24 Q. And what do you recall her doing?

25 MR. AUCHINCLOSS: Objection. Beyond the

26 scope; relevance.

27 MR. MESEREAU: I don't think it's beyond the

28 scope, Your Honor, at all, given his questions. He 4213

1 actually put this diagram up there.

2 THE COURT: Overruled. But the question is

3 rather vague. "What do you recall her doing" is --

4 MR. MESEREAU: Okay. Okay.

5 Q. Do you recall seeing the mother seated in

6 the seat that you've identified for the jury?

7 A. Yes, sir.

8 Q. And do you recall ever seeing the mother get

9 out of her seat?

10 A. She got out of her seat to use the lav, yes.

11 Q. And do you recall speaking to the mother?

12 A. Yes. She was actually very interactive with

13 the other governesses.

14 Q. So she was talking to the other governesses?

15 A. Yes, sir.

16 Q. And I think you've described three of them,

17 correct?

18 A. Yes.

19 Q. And did they seem like they were talking to

20 her?

21 A. Yes, it was a very friendly conversation

22 that they were having.

23 Q. And please tell the jury, if you can, where

24 the governesses were seated.

25 A. One of the governesses was seated -- oh, can

26 you -- thank you.

27 I had Governess No. 1 here. Governess

28 No. 2 here. The medical doctor. The mom. The head 4214

1 governess was seated most of the time on the divan.

2 Q. Okay. Now, from what you recall, were the

3 governesses in a position to observe Mr. Jackson?

4 A. Yes, sir.

5 Q. Were they in a position to observe Gavin?

6 A. Yes, sir.

7 Q. And were they in a position to observe Mr.

8 Jackson's children?

9 A. Yes, sir.

10 Q. And you said you saw Mr. Jackson's children

11 walking around at times, correct?

12 A. That is correct.

13 Q. Where did you see them walking around?

14 A. Back and forth throughout the aisles. And

15 typically back in this area. They were playing back

16 in this area here, where the credenza is and the

17 divan. Yeah, mostly in that area.

18 Q. And Mr. Jackson's children were well

19 behaved, as far as you're concerned?

20 A. Lovely.

21 Q. Had you flown with them before?

22 A. Yes. The third child wasn't there yet.

23 But, yes, Paris and Prince, I'd flown with them once

24 before.

25 Q. And did you see Paris and Prince spend time

26 with Mr. Jackson on this flight?

27 A. Very much so.

28 Q. What did you see -- excuse me, let me 4215

1 rephrase the question. Describe what you saw in

2 that regard.

3 A. They always had a lot of interaction

4 together. Mr. Jackson -- I mean, he's -- he plays

5 with his children, he really does. He's very

6 interactive with his children. And so throughout

7 the entire flight they were playing games and

8 spending time with each other.

9 Q. Did Mr. Jackson seem to be keeping an eye on

10 his children during the flight?

11 A. Absolutely.

12 Q. Okay. Did you have a chance to observe what

13 the governesses were doing on the flight?

14 A. They were governing the children.

15 Q. Okay. Did you often see them looking in Mr.

16 Jackson's direction?

17 A. Yes. It's a small aircraft. I mean, it's

18 not a small aircraft, but it's small. It's not --

19 it would be like if -- if this entire row of jurors

20 were on my aircraft. It's that small. I mean, you

21 see everything that's going on. Except for the

22 pilots. They're piloting the aircraft. I don't

23 know what they're doing.

24 Q. So it's very small and very compact,

25 correct?

26 A. That is correct.

27 Q. Would it be accurate to say that, based on

28 what you know about that aircraft and what you 4216

1 observed, that people were always looking at Mr.

2 Jackson during the flight?

3 A. Yes.

4 Q. Now, the prosecutor for the government asked

5 you about the level of service. You said it was

6 Level I, correct?

7 A. That is correct.

8 Q. And would you please define for the jury

9 what Level I service is?

10 A. Level I service entails a lot of things.

11 Paying attention to details. Making sure that the

12 catering is correct. Making sure that the aircraft

13 is clean, and all the particular movies, and all of

14 the specific requests are met.

15 As for food service -- you know, making

16 sure that everyone is comfortable and fed, and

17 properly looked after.

18 Q. Is a lot of this work done in advance of the

19 flight?

20 A. Yes, sir.

21 Q. You said you were extremely attentive to Mr.

22 Jackson during the flight, right?

23 A. Yes, sir.

24 Q. And what did you mean by that?

25 A. Well, I made certain that, you know, all of

26 his catering requests were together; made certain

27 that, you know, the cabin was at the proper

28 temperature; that, you know, his -- just that he was 4217

1 looked after properly.

2 Q. Were the -- were you the only person on the

3 flight responsible for Mr. Jackson's service?

4 A. That is correct.

5 Q. Okay. You were always on your feet you

6 said?

7 A. Yes, sir.

8 Q. And you said something that you don't

9 prepare meals on that particular flight?

10 A. Mr. Jackson tended to prefer KFC with all

11 the fixings, so we would go get Kentucky Fried

12 Chicken prior. Although the children, I was

13 instructed by the head governess to have chicken

14 breasts, grilled chicken breasts for them, fruit, a

15 little different fare for the children.

16 Q. Okay. Now, the prosecutor for the

17 government tried to get you to say that possibly he

18 could have been intoxicated, correct?

19 MR. AUCHINCLOSS: Objection; argumentative.

20 THE COURT: Sustained.

21 Q. BY MR. MESEREAU: You never saw Mr. Jackson

22 drunk on that flight, right?

23 A. No, sir.

24 Q. When you discussed the possibility of being

25 intoxicated, what you were saying was that he calmed

26 down and didn't seem as hyper and nervous as he

27 normally would, correct?

28 A. That is correct. 4218

1 Q. To your knowledge, did anyone consume

2 alcohol on the flight other than Mr. Jackson and

3 these women?

4 A. The medical doctor.

5 Q. Okay.

6 A. I served the mom a glass of wine. I don't

7 think she had drank it, though. None of the

8 governesses drank. And of course not the pilots.

9 Yeah, just the two girls -- the two girls,

10 the medical doctor, the mom, and Mr. Jackson.

11 Q. And do you know what kind of wine you served

12 the mom?

13 A. Yeah. It was a --

14 MR. AUCHINCLOSS: I'll object; relevancy.

15 THE COURT: Overruled.

16 THE WITNESS: It was a Chardonnay, Kendall

17 Jackson, white wine.

18 Q. BY MR. MESEREAU: Did you ever see Gavin

19 with his mother?

20 A. Together?

21 Q. Yes.

22 A. They came on the aircraft together, yeah.

23 Q. Did you ever see the mom interacting with

24 Gavin? Excuse me, something in my voice. Pardon

25 me. Did you ever see the mom interacting with Gavin

26 on the flight?

27 A. Briefly.

28 Q. And where -- approximately when was that, if 4219

1 you know?

2 A. When she went to the lav. She stood midway,

3 I remember it clearly, because she was blocking my

4 aisle. She -- oops. Uh-oh.

5 She came out of the lav and was standing

6 here talking to her son.

7 Q. Did you find it odd that she had very little

8 interaction with her son on the flight?

9 A. I did.

10 Q. Did you say anything about that to anyone?

11 A. I did.

12 Q. Who did you discuss that with?

13 A. Lauren Wallace.

14 Q. And where was Lauren Wallace when you

15 discussed that with her?

16 A. We had a telephone conversation several days

17 after the flight, so that I could brief her as to

18 confidential matters, such as making certain that

19 Mr. Jackson, on his next flight, had wine poured

20 into a Diet Coke can, and just giving her more of a

21 profile briefing on the specific passengers on board

22 so that she could accommodate them on their

23 passenger profile.

24 Q. Did you assist the mom at all during the

25 flight?

26 A. Assist her -- yeah, I served her food and

27 beverage.

28 Q. Anything else you did for her, that you can 4220

1 recall?

2 A. No, sir.

3 Q. Okay. Now, you said something along the

4 lines that you didn't use the sink very much. Do

5 you remember that?

6 A. Yes, sir.

7 Q. And what did you mean by that?

8 A. We don't wash dishes on Gulfstream aircraft,

9 because it has a tendency of clogging the drain, and

10 you have a problem with the flight that way. We

11 typically use it to wash our hands, and to store --

12 I actually use my sink, at times, to store -- if

13 it's going to be a lot of champagne and white wine,

14 to chill my champagnes and my wines.

15 Q. Now, the prosecutor for the government had

16 you identify various instances where you might have

17 been doing something other than look at Mr. Jackson,

18 correct?

19 A. Yes, sir.

20 Q. But how would you -- putting all this

21 together, how would you characterize the level of

22 attention you gave Mr. Jackson on that flight?

23 A. The level of attention?

24 Q. Yes.

25 A. I think it was -- I think it was -- I mean,

26 I think the flight went well. I gave everyone a lot

27 of attention, but he is my lead passenger. I really

28 was concerned about his needs at all times. 4221

1 Q. He's the one that you were most concerned

2 about during the flight, correct?

3 A. Absolutely.

4 Q. And would it be accurate to say that no

5 matter what you were doing, you were always looking

6 at Mr. Jackson to see if he needed something?

7 MR. AUCHINCLOSS: Objection; asked and

8 answered.

9 THE COURT: Argumentative; sustained.

10 Q. BY MR. MESEREAU: Were you periodically

11 looking Mr. Jackson's direction throughout that

12 flight?

13 MR. AUCHINCLOSS: Objection; asked and

14 answered.

15 THE COURT: Overruled.

16 You may answer.

17 THE WITNESS: Yes.

18 Q. BY MR. MESEREAU: Would you do that no

19 matter what activity you were involved in?

20 A. Yes. It's -- like I said, the aircraft is

21 small.

22 Like I can see the jurors. Like I can see

23 No. 4 writing. I mean, even if I'm not looking at

24 them, I can still see what they're doing.

25 So it's pretty intimate, the cabin.

26 Q. Did you ever complain about Gavin's behavior

27 to Lauren Wallace?

28 MR. AUCHINCLOSS: Objection. Assumes facts; 4222

1 hearsay.

2 THE COURT: Sustained as to hearsay.

3 MR. MESEREAU: If I could just take one

4 second, Your Honor.

5 Q. When did you last talk to any prosecutor

6 about what you were going to say in court?

7 A. Um --

8 Q. Did you talk to any prosecutor last night?

9 A. Prosecutor last night, no.

10 Q. Yes. Did anyone for the government call you

11 last night?

12 A. No.

13 Q. No one discussed your testimony last night?

14 A. No, sir.

15 Q. Okay. And before you testified yesterday,

16 did you ever have any meetings with anyone for the

17 government?

18 A. Yes.

19 Q. Okay. When were they, if you remember?

20 A. Do you mean phone meetings or personal

21 meetings?

22 Q. Let's start with personal meetings.

23 A. Personal meeting.

24 Q. Yes.

25 A. I met with an individual yesterday, just

26 briefly, to review my grand jury testimony.

27 Q. Was that in the morning?

28 A. Yes, sir. 4223

1 Q. And where was that?

2 A. It was here in -- well, not in this

3 building, but in a separate building.

4 Q. Do you know who you met with?

5 A. Yes. The individual that is seated behind

6 the District Attorney.

7 Q. Was that Mr. Robel?

8 A. That is correct.

9 Q. Okay. So he brought you a transcript of

10 your grand jury testimony?

11 A. We -- he didn't bring me a copy, we just

12 reviewed some of the items.

13 Q. So he sat down with you and discussed what

14 you had said before the grand jury, correct?

15 A. Yes, sir.

16 Q. When was -- excuse me. Did you have any

17 meetings with any representative of the government

18 before yesterday?

19 A. I had some brief phone conversations with

20 Mr. -- Gordon.

21 Q. Prosecutor Auchincloss?

22 A. Yeah. I can't say his last name.

23 Q. And when did they take place?

24 A. Just some brief phone conversations. Most

25 of that was about my travel arrangements and that

26 sort of thing.

27 Q. Did Prosecutor Auchincloss ever show you

28 this particular diagram before today? 4224

1 A. I believe when I was at the grand jury

2 trial, there was a diagram similar.

3 Q. Okay.

4 A. I'm not certain if it was the same.

5 Q. Did Prosecutor Auchincloss show that to you

6 at that time?

7 A. Yes, sir.

8 Q. Okay. Are there any other personal meetings

9 you had with anyone for the government that you

10 haven't described?

11 A. I think Sergeant Victor Alvarez.

12 Q. Okay. And was that a personal meeting with

13 him?

14 A. Yes, sir.

15 Q. And approximately when was that, if you

16 know?

17 A. That was prior to the grand jury meeting.

18 Q. Okay. How about phone conversations, have

19 you identified all the ones that you can remember?

20 A. Let me see. Victor Alvarez, Gordon.

21 Shaundra, I think her name is. She's the witness

22 coordinator. I've spoken with her several times.

23 Q. Did Prosecutor Auchincloss ever discuss with

24 you what questions he was going to ask you in this

25 trial?

26 A. He made mention that -- some of the issues

27 that may come up. I mean, he wasn't specific as to

28 like, saying, "I'm going to ask you this specific 4225

1 question."

2 Q. Right. He just told you things that might

3 be asked?

4 A. Yes.

5 Q. Okay. Of a topical nature --

6 A. Yes.

7 Q. -- does that sound right?

8 And -- okay. And did you discuss with him

9 what your responses would likely be if those topics

10 would come up?

11 A. No, I just said that I was going to tell the

12 truth to the best of my recollection.

13 Q. All right. Okay. Thank you very much.

14 A. Thank you.

15 MR. AUCHINCLOSS: Just a couple of

16 questions.

17

18 REDIRECT EXAMINATION

19 BY MR. AUCHINCLOSS:

20 Q. Miss Bell, you mentioned the two girls were

21 talking about a trip to New York that they had

22 taken?

23 A. That is correct.

24 Q. How is your recollection about that

25 conversation?

26 A. It was pretty good.

27 Q. Are you certain that they had both gone to

28 New York together, these two girls? 4226

1 A. That is what they had maintained in their

2 conversation.

3 Q. And they talked about what shopping they

4 did?

5 A. That is correct.

6 Q. Were they specific about the things that

7 they shopped for?

8 A. No, sir, they were not.

9 Q. Do you remember anything else about that

10 conversation?

11 A. They were just saying that -- you know, that

12 they were best friends, you know, that sort of

13 conversation. They were quite pleasant, actually,

14 the two girls.

15 Q. Did they act like they'd known each other

16 for a long time?

17 A. Absolutely. And they maintained that they

18 knew each other for quite some time, and that they

19 were best friends, and they were looking forward to

20 going horseback riding.

21 They seemed -- I mean, really -- I mean, I

22 was excited for them. I was excited to hear about

23 their shopping. And they were -- they were quite

24 nice, actually.

25 Q. Okay. You mentioned that there were movies

26 on this flight; is that correct?

27 A. We have the capability to show films, yes.

28 Q. Were movies shown? 4227

1 A. No, sir.

2 Q. And in response to Mr. Mesereau's

3 questioning, you said that the -- that Mr. Jackson

4 was not intoxicated on this flight; is that your

5 testimony?

6 A. No, I said that he wasn't drunk. He was

7 intoxicated.

8 Q. Okay.

9 A. Thank you.

10 Q. All right. Thank you.

11 A. Thank you.

12 MR. AUCHINCLOSS: I have no further

13 questions.

14 MR. MESEREAU: No further questions, Your

15 Honor.

16 THE COURT: You may step down. Thank you.

17 THE WITNESS: Thank you.

18 So I get to go, right?

19 THE COURT: Yes.

20 THE WITNESS: Thank you.

21 MR. ZONEN: We'll call Stan Katz to the

22 stand.

23 THE COURT: Come forward, please. When you

24 get to the witness stand, remain standing.

25 Face the clerk and raise your right hand.

26

27 STAN J. KATZ

28 Having been sworn, testified as follows: 4228

1 THE WITNESS: I do.

2 THE CLERK: Please be seated. State and

3 spell your name for the record.

4 THE WITNESS: Thank you.

5 Stan, S-t-a-n; J, period; Katz, K-a-t-z.

6

7 DIRECT EXAMINATION

8 BY MR. ZONEN:

9 Q. Sir, what is your current occupation?

10 A. I'm a licensed psychologist.

11 Q. And what is a psychologist?

12 A. A psychologist is licensed by the State of
13 California to perform assessment, treatment,
14 psychotherapy of individuals, groups, families, to
15 do clinical diagnostic treatment, and to treat, in a
16 variety of ways, individuals who have psychological
17 disorders.

18 Q. Let me start with your education and your
19 experience --

20 MR. MESEREAU: Excuse me.

21 Your Honor, the witness appears to be
22 reading something that I have not seen. May I

23 request an opportunity to look at that?

24 THE COURT: Yes, you may.

25 MR. ZONEN: Is he? Or was he just looking

26 down?

27 MR. MESEREAU: Yes, he was.

28 MR. ZONEN: Maybe we should establish if he 4229

1 was reading from something.

2 THE COURT: He has something in front of

3 him. Some papers there.

4 MR. MESEREAU: Thank you, Your Honor.

5 (To the witness) May I see this?

6 THE WITNESS: Yes.

7 MR. MESEREAU: Thank you.

8 Just for the record, Your Honor, the witness

9 appears to have a very thick file. I would like to

10 use it during the cross-examination.

11 THE COURT: You may or may not, depending on

12 what happens.

13 MR. MESEREAU: Okay. Thank you.

14 MR. ZONEN: May I proceed?

15 THE COURT: You may.

16 Q. BY MR. ZONEN: Your education, please? What

17 is your education?

18 A. I received a bachelor's degree from

19 California State University, master's degree from

20 Boston University, doctorate from UCLA.

21 Q. And your doctorate is in what subject?

22 A. Counseling psychology.

23 Q. When did you receive your doctorate?

24 A. 1977.

25 Q. Are you a practicing psychologist at this

26 time?

27 A. Licensed clinical psychologist.

28 Q. And do you have a practice that you 4230

1 maintain?

2 A. Yes, I do.

3 Q. What percentage of your workweek is devoted

4 to an actual practice where you care for and see

5 patients?

6 A. I spend approximately 60 to 70 percent of my

7 practice seeing patients and clients.

8 Q. And what do you do with the balance of your

9 professional week?

10 A. I spend 40 percent as a consulting

11 psychologist on a television show called Starting

12 Over.

13 Q. What is that?

14 A. It's a show that helps women change their

15 lives, women who have a myriad of problems that

16 range from relationship disorders to

17 life-threatening illnesses.

18 Q. And how long has this show been in series?

19 A. This is the second year. I've been on it

20 for one year.

21 Q. What do you do? Are you actually on the

22 show, or are you a consultant to the show?

23 A. I do both. I consult to the show, and I'm

24 actually the on-camera psychologist helping these

25 women to formulate plans to change their lives.

26 Q. And the nature of the problems that you deal

27 with on this show are what?

28 A. Very serious problems. They range from women 4231

1 who are battling cancer, to women who are dealing

2 with grief and loss, relationship problems, career

3 choices, problems that have stopped their lives that

4 need to be sort of restarted, and they are with us

5 for anywhere from 4 to 12 weeks.

6 Q. Are they actresses, or are they people with

7 real problems, or are they just pretending to be

8 people with problems?

9 A. These are real people with real problems,

10 who are assessed by psychologists before they come

11 on the show. It's unscripted. And they live in a

12 house together for this period of time, and they

13 receive a lot of expert help, counseling, coaching,

14 expertise, to help them change their lives.

15 Q. How long have you been working as a

16 psychologist, practicing psychologist?

17 A. Since 1978.

18 Q. And what types of experiences have you had

19 as a psychologist?

20 A. Well, I spent my early years as a

21 psychologist working with substance abuse; working

22 for the National Institute of Drug Abuse.

23 And then went to Children's Hospital in

24 1975, where I spent five years. The first year was

25 a general pediatric clinical internship. The second

26 year was a specialty internship in child abuse. The

27 third year was a fellowship in child abuse. And

28 then I became a senior psychologist working with the 4232

1 Suspected Child Abuse Neglect Team, and what they

2 call the Family Development Program, which was a

3 treatment program for families of abused children

4 and families who abuse their children.

5 Q. Is that your specialty, working with abused

6 children?

7 A. It's one of my specialties. I, after that,

8 had done -- I spent a great deal of time working

9 with the courts, with dependency court in Los

10 Angeles, working in child abuse cases. And later

11 on, became more involved with family law cases,

12 seeing a lot of family law cases for Los Angeles

13 County.

14 Q. All right. In your -- in conjunction with

15 your work with the courts in Los Angeles County, are

16 you appointed by the Court to do evaluations?

17 A. In dependence court I was appointed by the

18 court to do evaluations, yes.

19 Q. What does that mean, when you're appointed

20 by the court, and what kind of evaluation?

21 A. It means the Judge selected from a list of

22 so-called experts, expert panel, to conduct a 730

23 evaluation, Evidence Code 730 evaluation, of a child

24 and/or family in the dependence court.

25 Q. And how many times have you been appointed

26 by the Court to do evaluations?

27 A. In dependence court I was appointed over 600

28 times. 4233

1 Q. Do you have other either appointments or

2 where you've been selected by stipulation by both

3 sides to be an expert or potentially an expert

4 witness?

5 A. Yes, in family court, in criminal court,

6 I've been appointed about 700 times.

7 Q. Now, do you testify in all of those

8 occasions?

9 A. No, I do not.

10 Q. Do you testify on a small percentage of

11 those occasions?

12 A. Yes, I do.

13 Q. But you have testified as an expert witness

14 previously, have you not?

15 A. Many times.

16 Q. Do you consider yourself to be -- do you

17 consider a specialty of your practice dealing with

18 abused children?

19 A. One of my specialties, yes.

20 Q. When you say "abused children," do we mean

21 more than sexually abused children?

22 A. That's correct.

23 Q. So what categories of abuse do we deal with

24 in your specialty?

25 A. Physical abuse, endangering, neglect,

26 emotional abuse, and sexual abuse.

27 Q. Do you lecture as part of your practice?

28 A. Yes, I do. 4234

1 Q. And where, and how, and how often?

2 A. Well, I have lectured over the past 25 years

3 to groups arranged from judges, attorneys, the Bar

4 Association, judges' college. Co-chaired two

5 conferences with the dependency court, one of them

6 with Judge Paul Boland. I have lectured through a

7 lot of programs for the Los Angeles County Bar

8 Association, and a variety of programs.

9 Q. Do you teach and have you taught?

10 A. I taught at UCLA for approximately ten

11 years.

12 Q. What subject?

13 A. I taught research methodology, thesis

14 seminar. Taught at Antioch University for three

15 years, where I taught research methods, ethics, law

16 and ethics, and human sexuality.

17 Q. In the course of your practice, have you --

18 THE COURT: Counsel, let's take our break.

19 (Recess taken.)

20 --o0o--

21

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28 4235

1 REPORTER'S CERTIFICATE

2

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 4177 through 4235

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 30, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 30, 2005.

24

25

26

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

28 4236

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

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

13

14

15

16

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 WEDNESDAY, MARCH 30, 2005

20

21 8:30 A.M.

22

23 (PAGES 4237 THROUGH 4410)

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25

26

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

28 BY: Official Court Reporter 4237

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2

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28 4238

I N D E X

2

3 Note: Mr. Sneddon is listed as "SN" on index.

4 Mr. Zonen is listed as "Z" on index. Mr. Auchincloss is listed as "A" on index.

5 Mr. Nicola is listed as "N" on index. Mr. Mesereau is listed as "M" on index.

6 Ms. Yu is listed as "Y" on index. Mr. Sanger is listed as "SA" on index.

7 Mr. Oxman is listed as "O" on index.

8

9 PLAINTIFF'S

10 WITNESSES DIRECT CROSS REDIRECT RECROSS

11 KATZ, Stan J. 4245-M 4302-Z 4305-M

12 4310-Z

13 (Further)

14 DICKERMAN, William 4312-Z 4329-M 4374-Z

15 KLAPAKIS, Jeff 4377-SN 4393-M

16 (Re-called)

17

18

19

20

21 E X H I B I T S

22 FOR IN

PLAINTIFF'S NO. DESCRIPTION I.D. EVID.

23

24 625 Collection of letters 4317

25 630 Collection of letters 4317

26 769 Notebook 4377

27

28 4239

1 THE COURT: Before you proceed, I want to

2 give the jury some dates they can look forward to.

3 (To the jury) Next Wednesday, the 6th of

4 April, it will be dark. We will not be session.

5 I have to go to a meeting in Los Angeles.

6 And on April the 12th, which is the

7 following Tuesday, we will only be in session in the

8 morning, and I have a meeting in the afternoon.

9 And then on April 20th, we will only be in

10 session in the morning. I have a meeting in the

11 afternoon.

12 So, just to restate that, April 6th, we will

13 not be in session all day, next Wednesday. The 12th

14 we'll be in session only in the morning. And the

15 20th we'll be in session only in the morning. So

16 you can go ahead and make alternate plans.

17 All right. Counsel, you may proceed.

18 MR. ZONEN: Thank you, Your Honor.

19 Q. Dr. Katz, who is Larry Feldman?

20 A. Larry Feldman is an attorney in Los Angeles.

21 Q. And have you worked with Larry Feldman?

22 BAILIFF CORTEZ: Microphone.

23 Q. BY MR. ZONEN: Have you worked with

24 doctor -- with Larry Feldman previously?

25 A. I have on two occasions.

26 Q. Two occasions over what period of time?

27 A. 18 years.

28 Q. Incidentally, this television show -- if I 4240

1 can backtrack just for one second.

2 A. Sure.

3 Q. -- that you're involved in. Was this your

4 first experience in working in television?

5 A. No, I've been working with media since 1978

6 either as an advisor or on television films. I've

7 done three book tours, so I was on a lot of shows

8 because I was on tour for three books.

9 I actually was a guest on numerous occasions

10 talking about current topics. I did 23 episodes of

11 another show a number of years ago.

12 Q. As a consultant?

13 A. Consultant on camera.

14 I was the co-chairman of the first

15 international conference on children in the media,

16 international conference in children in the media.

17 So I've been working with media for approximately 25

18 years.

19 Q. All right. This television show is perhaps

20 a little different, but not unusual for you?

21 MR. MESEREAU: Objection; leading.

22 MR. ZONEN: I'll withdraw that question.

23 Q. This television show is not the first one

24 you've been involved in?

25 A. That is correct.

26 Q. Now, we were asking about Larry Feldman.

27 Larry Feldman is an attorney in private practice in

28 Los Angeles; is that right? 4241

1 A. Yes.

2 Q. And you indicated that you had a couple of

3 other associations with him?

4 A. Yes, two in 18 years. Two others besides

5 this one.

6 Q. And when were the other two cases?

7 A. I understand -- the first one was in

8 approximately 1987, although I don't have a distinct

9 memory of that.

10 Q. Okay.

11 A. And the second one was the Jordan Chandler

12 case.

13 Q. And that was when?

14 A. I don't have notes on that, but I think '93,

15 '92.

16 Q. Okay. All right. In this particular case,

17 were you retained by Larry Feldman to do some

18 evaluations?

19 A. I was retained by Mr. Feldman to conduct

20 some interviews.

21 Q. Okay. And what type of interview?

22 A. Mr. Feldman came to me and said that --

23 MR. MESEREAU: Objection; hearsay.

24 THE COURT: Sustained.

25 Q. BY MR. ZONEN: Tell us what your

26 understanding of what you were supposed to be doing

27 was.

28 A. My understanding was that I was to interview 4242

1 three children regarding allegations that they have

2 been either mistreated, abused, possibly molested,

3 that they had participated in a television program

4 without their consent, and that there were numerous

5 allegations, and he wanted me help sort it out.

6 Q. All right. Did you conduct interviews?

7 A. I did.

8 Q. And the interviews were with which children?

9 A. With Gavin Arvizo, Star Arvizo, and Davellin

10 Arvizo.

11 Q. How many interviews with each of these

12 children?

13 A. Two each.

14 Q. When did these interviews --

15 A. Excuse me. Two with Gavin, two with Star,

16 one with Davellin.

17 Q. Did you interview their mother as well?

18 A. I did.

19 Q. When was she interviewed?

20 A. She was interviewed on May 15, 2003, May 16,

21 and June 11, 2003.

22 Q. So you had three separate interviews with

23 their mother?

24 A. I did.

25 Q. And is she Janet Arvizo?

26 A. She is.

27 Q. The interview with the two boys, Star and

28 Gavin, when were those interviews? 4243

1 A. May 29 and June 11, 2003.

2 Q. And how long, approximately, were those

3 interviews?

4 A. Each interview is usually approximately an

5 hour, so they were probably an hour each on that

6 day, each day.

7 Q. And you said you had one interview with

8 Davellin Arvizo?

9 A. Yes.

10 Q. When was that date?

11 A. May 29, 2003.

12 Q. During the course of those interviews, did

13 you discuss with either of the children the

14 possibility of a lawsuit?

15 A. I did.

16 Q. What was the purpose of that discussion?

17 MR. MESEREAU: Objection, to the extent it

18 calls for hearsay.

19 THE COURT: The question was, "What was the

20 purpose of the discussion," not what was said. So

21 I'll overrule the objection.

22 Q. BY MR. ZONEN: Go ahead.

23 A. The purpose was, excuse me, to determine

24 what the children's expectations were for talking to

25 me, and what they thought would happen as a result

26 of talking to me.

27 Q. At the conclusion of all of these

28 interviews, did you contact Child Protective 4244

1 Services or the Department of Child & Family

2 Services in Los Angeles?

3 A. I did not personally contact them. However,

4 I did go to Department of Children & Family Services

5 on June 12th, 2003, and made an oral report to the

6 Department of Children & Family Services social

7 workers.

8 Q. All right. Following that, did you have an

9 interview with Santa Barbara County law enforcement?

10 A. The next day I did.

11 Q. Did they contact you or did you contact

12 them?

13 A. They contacted me, and left a message, and I

14 returned their call.

15 MR. ZONEN: I have no further questions.

16

17 CROSS-EXAMINATION

18 BY MR. MESEREAU:

19 Q. Good morning, Dr. Katz.

20 A. Good morning.

21 Q. We haven't met, right?

22 A. We've never met.

23 Q. My name's Tom Mesereau and I speak for

24 Michael Jackson.

25 Now, you indicated that you had a -- I think

26 the word you used was "association" with Attorney

27 Larry Feldman that involved two cases; is that

28 correct? 4245

1 A. Correct.

2 Q. Has Larry Feldman personally ever referred

3 any business to you?

4 A. He referred a total of three cases to me.

5 Q. Has he ever referred any clients or patients

6 to you?

7 A. I don't think so.

8 Q. Do you know for sure?

9 A. Well, I've been in practice 25 years, and

10 people -- I've seen hundreds of people, but I don't

11 recall anybody telling me that they were referred by

12 Mr. Feldman.

13 Q. Okay. So your statement is that other than

14 the two legal cases you referred to in response to

15 the prosecutor's questions, Larry Feldman, to your

16 knowledge, has never referred any patient to you?

17 A. I don't recall, yes.

18 Q. Do you know whether any firm associated with

19 Larry Feldman has ever referred any patient or

20 potential patient to you?

21 A. I don't know.

22 Q. You don't know?

23 A. I don't know.

24 Q. Okay.

25 A. I don't know all the firms he's been

26 associated with.

27 Q. Do you know if any relative of Larry Feldman

28 has ever referred any patients to you? 4246

1 A. I have no recollection of any relative of

2 Larry Feldman referring a patient to me.

3 Q. Do you know any of Larry Feldman's

4 relatives?

5 A. I don't think I know any of Larry -- oh, I

6 do know his wife. Is that a relative?

7 Q. I think so.

8 A. I'm not sure. Not blood.

9 Q. You're not sure. All right.

10 Do you know any cousins of Larry Feldman?

11 A. I don't think so.

12 Q. Okay. But you're not sure?

13 A. I'm not sure.

14 Q. Okay. Do you know the name of any law firm

15 Larry Feldman's ever been associated with?

16 A. I know his current firm is Kaye, Scholer.

17 Q. How do you know that?

18 A. Because he told me he moved from his last

19 firm to Kaye, Scholer.

20 Q. And when did he tell you that?

21 A. I think within the last year or so.

22 Q. Do you know a therapist named Leonora

23 Hausner?

24 A. Yes, I do.

25 Q. How do you know her?

26 A. I've known her for years through Beverly

27 Hills Mental Health Center, through the Beverly

28 Hills School District. 4247

1 Q. To your knowledge, is she related to Larry

2 Feldman?

3 A. I don't think she's related to him, no.

4 Q. In no way?

5 A. Not related to him, no.

6 Q. When you say "not related to him," what do

7 you mean? Does she have any connection to Larry

8 Feldman?

9 A. I think she does. I think his daughter or

10 son is married to her daughter or son.

11 Q. Has she ever referred patients to you?

12 A. Yes, she has.

13 Q. She's referred a lot of them, has she not?

14 A. I would say yes.

15 Q. Is there any reason you didn't reveal that

16 earlier?

17 MR. ZONEN: Revealed what earlier?

18 Argumentative.

19 THE COURT: Sustained.

20 Q. BY MR. MESEREAU: How many patients has

21 Leonora Hausner referred to you, to your knowledge?

22 A. Probably in the last 25 years, maybe six to

23 eight.

24 Q. And do you think she's related by marriage

25 to Larry Feldman?

26 A. I'm not sure what the correct relationship

27 is. I already said that I think her daughter or son

28 is married to one of his children. 4248

1 Q. Okay. Do you know for sure?

2 A. I think so.

3 Q. What do you know for sure?

4 A. A lot of things. Not that.

5 MR. ZONEN: I'll object. Argumentative.

6 THE COURT: Sustained.

7 MR. MESEREAU: Okay.

8 THE COURT: I thought you accepted that.

9 But --

10 MR. MESEREAU: Okay.

11 Q. Dr. Katz, please tell the jury what your

12 understanding is, as you sit here today, about the

13 relationship of Leonora Hausner to Attorney Larry

14 Feldman.

15 MR. ZONEN: Objection. Asked and answered;

16 and irrelevant.

17 MR. MESEREAU: I couldn't get an answer.

18 MR. ZONEN: I believe he answered --

19 THE COURT: Just stop talking, both of you.

20 I'm going to allow that question.

21 I'll have it reread for you.

22 (Record read.)

23 THE WITNESS: I think one of his children is

24 married to one of her children. I believe that to

25 be the case. I never met either one of them, so I

26 believe that to be the case.

27 Q. BY MR. MESEREAU: And where did you learn

28 that information? 4249

1 A. From Mr. Feldman.

2 Thank you.

3 Q. How long have you known about this?

4 A. Probably two years.

5 Q. Okay. Did you review any documents before

6 you testified today?

7 A. Yes, I did.

8 Q. And are those the documents in front of you?

9 A. Yes, they are.

10 Q. Okay.

11 MR. MESEREAU: May I see those documents,

12 Your Honor?

13 THE COURT: Yes.

14 MR. MESEREAU: May I approach?

15 THE COURT: Yes.

16 MR. MESEREAU: Thank you.

17 THE WITNESS: Would you like to look at the

18 file?

19 MR. MESEREAU: Yes.

20 THE WITNESS: Oh, here.

21 MR. MESEREAU: Thank you.

22 THE COURT: And, Counsel, that's not how

23 that's going to happen. You don't take his notes

24 and then start questioning about them.

25 MR. MESEREAU: Okay. What would the Court

26 prefer?

27 THE COURT: You asked permission to see them.

28 MR. MESEREAU: Yes, okay. 4250

1 THE COURT: I gave that permission. Now,

2 take them back up there.

3 MR. MESEREAU: Okay. May I take a look at

4 them again, Your Honor?

5 THE COURT: You may.

6 MR. MESEREAU: Thank you.

7 Q. Dr. Feldman (sic), when you interviewed the

8 Arvizos, did you bill for your services?

9 A. I did.

10 Q. Who did you bill?

11 A. Mr. Feldman's office.

12 Q. And how much did you bill for your services?

13 A. A total of \$4,800.

14 Q. Did that bill comprise all of the interviews

15 you described to the jury?

16 A. Yes, it did.

17 Q. And what was your hourly rate for those

18 interviews?

19 A. \$300 per hour.

20 Q. Have you been paid?

21 A. Yes, I have.

22 Q. By Mr. Feldman?

23 A. By his firm at the time.

24 Q. Okay. And what firm was that?

25 A. I don't recall the name of the firm. He was

26 one of the principals, so Feldman & Something, or

27 Something & Feldman.

28 Q. Okay. You mentioned you have a television 4251

1 show, right?

2 A. Correct.

3 Q. And you've been doing that for approximately

4 a year?

5 A. That's correct.

6 Q. And without giving the amount, you're

7 certainly paid to do the show, correct?

8 A. Not very well.

9 Q. Okay. But you are paid?

10 A. Not enough. I'm paid, yes.

11 Q. "Not enough" you say?

12 A. Not enough.

13 Q. How much would you like it to be?

14 A. More.

15 (Laughter.)

16 Q. Which station is that show on?

17 A. It's an NBC-Universal syndicated show.

18 Q. And it's on once a week?

19 A. It's on five days a week.

20 Q. You told the jury that you were retained by

21 Attorney Larry Feldman in the Jordie Chandler case,

22 correct?

23 A. That's correct.

24 Q. That was a lawsuit that Attorney Larry

25 Feldman filed against Michael Jackson, correct?

26 A. That's correct.

27 Q. That was in approximately 1992, correct?

28 A. Yes. 4252

1 Q. And you were paid money to work with Mr.

2 Feldman on that case, correct?

3 A. Well, I was paid for my time and services,

4 not to work with Mr. Feldman.

5 Q. But he's the one that got you involved,

6 true?

7 A. He's the one that retained me on the case.

8 Q. Okay. And did he pay you a retainer on that

9 case?

10 A. I don't think he paid me a retainer. I

11 think he paid me for the time I spent on the case.

12 Q. Okay. Okay. Okay. You've been in contact

13 with him ever since, correct, on a periodic basis?

14 A. I don't remember talking to Mr. Feldman -- I

15 don't remember talking to him the last ten years.

16 I don't think I've been in contact, but I don't

17 recall.

18 Q. Well, you certainly -- you don't recall?

19 A. I don't know if he ever called or I ever ran

20 into him, but I don't remember doing anything

21 professionally with him for the last ten years.

22 Q. Okay. I'm not asking if you did something

23 professionally with him.

24 A. Contact?

25 Q. I'm asking if you've had any contact of

26 any kind with him before he referred the Arvizos to

27 you.

28 A. Well, I'm trying to explain that. I have no 4253

1 social relationship with him. I don't go to dinner

2 with him or never been to his house. I don't have

3 lunch with him, dinner with him.

4 I may have had a phone call about something.

5 I may have talked to him in the ten years. I don't

6 have any other recollection, though.

7 Q. Now, did he call you about interviewing the

8 Arvizos?

9 A. Yes, he did.

10 Q. And is it because of his phone call that you

11 interviewed the Arvizos?

12 A. Yes, I did.

13 Q. Did you communicate with Attorney Larry

14 Feldman about those interviews?

15 A. Yes, I did.

16 Q. Did you communicate with Attorney Larry

17 Feldman while those interviews were being conducted?

18 A. Are you talking about during the actual

19 interview, you mean like telephonically?

20 Q. Between the first -- excuse me, let me

21 rephrase that.

22 Between your first meeting with the Arvizos

23 and your last meeting with the Arvizos, did you

24 discuss with Larry Feldman the content of any of

25 those interviews?

26 A. I did.

27 Q. How many times?

28 A. I had a meeting with him in between the two 4254

1 sets of interviews on June 5, 2003.

2 Q. That's one meeting?

3 A. One meeting, yes.

4 Q. Did you ever talk to him on the phone before

5 or -- or after that meeting about your interviews

6 with the Arvizos?

7 A. I believe I had a brief conversation with

8 him prior to setting up that meeting.

9 Q. After the interviews were finished, did you

10 contact Mr. Feldman and discuss those interviews?

11 A. Yes.

12 Q. Approximately when was that?

13 A. On the day of June -- June 11.

14 Q. Was that a phone conversation?

15 A. Yes, it was.

16 Q. Did you ever have a personal meeting with

17 Attorney Larry Feldman to discuss those interviews?

18 A. Yes, on June the 5th.

19 Q. Did you bill Mr. Feldman for the time you

20 spent in that meeting?

21 A. Yes.

22 Q. Did you bill Mr. Feldman for the time you

23 spent on the phone?

24 A. I don't believe so. I think it was a

25 five-minute phone call to set up the meeting.

26 Q. You indicated you met with authorities in

27 Santa Barbara at some point, correct?

28 A. I never met with them in person. 4255

1 Q. Did you ever talk to them on the phone?

2 A. I did.

3 Q. And was the subject of that phone call your

4 actions with the Arvizos?

5 A. My interviews. The subject was my

6 interviews, yes.

7 Q. And do you recall approximately when that

8 phone call was?

9 A. I think it was June 13, 2003.

10 Q. And who was that phone call with, if you

11 know?

12 A. Detective Paul Zelis.

13 Q. Did you know whether or not that phone call

14 was being recorded?

15 A. I did not know.

16 Q. At some point you learned it had been

17 recorded, correct?

18 A. That's correct.

19 Q. How did you learn that?

20 A. I learned that when I saw the transcript of

21 the -- of the phone call.

22 Q. And how did you get a copy of the

23 transcript?

24 A. Mr. Zonen of the D.A.'s Office gave me the

25 transcript.

26 Q. And approximately when was that?

27 A. I do not remember.

28 Q. And you reviewed that transcript before you 4256

1 testified today, correct?

2 A. Yes, I did.

3 Q. And you made notations on the transcript,

4 correct?

5 A. Are you asking me if I made notations that

6 are on the transcript right now, the copy you have?

7 Q. Well, I don't have your copy. You have your

8 copy now, right?

9 A. Yes, I have a copy.

10 There are notations on that transcript that

11 I did not make, and there are some notations I made

12 last night on the transcript for my own edification.

13 But there are notations on the transcript which are

14 not my notations.

15 Q. Whose notations are they?

16 A. I understand Mr. Zonen's. And when he made

17 the copy of the transcript, he gave me, I think

18 inadvertently, his copy where he had made notations.

19 Q. Did you ever discuss -- excuse me, let me

20 rephrase that. Did you ever discuss Prosecutor

21 Zonen's notations on the transcript with Prosecutor

22 Zonen?

23 A. Never.

24 Q. Okay. Did you ever tell him you have a copy

25 of a transcript that appears to have his notations?

26 A. No, I did not.

27 Q. Is today the first time, as far as you know,

28 he's ever heard that you have his transcript with 4257

1 his notations?

2 A. No, because he actually told me, he said,

3 "Those are my" -- recently he told me, "Those are my

4 notations in case you're asked." And I said, "Oh."

5 Q. Okay. When you spoke to the Santa Barbara

6 sheriffs, you talked about your discussions with the

7 Arvizos, correct?

8 A. That's correct.

9 Q. Who was involved in that call besides you?

10 Was it one officer, or more than one, to your

11 knowledge?

12 A. To my knowledge, it was just Detective Paul

13 Zelis.

14 Q. Was that an unexpected call, as far as

15 you're concerned?

16 A. No, it was not.

17 Q. Okay. Was it not unexpected because you had

18 already contacted authorities yourself?

19 A. I had contacted Department of Children &

20 Family Services in this face-to-face meeting. And

21 because I felt obliged to make this report, I told

22 Mr. Feldman that I had to report this to Santa

23 Barbara County authorities. And he told me that he

24 would find out which authority to report this to,

25 because he wanted to be sure it was confidential.

26 And so I then heard from -- excuse me, I then heard

27 from Detective Paul Zelis, who called me. And I

28 returned the call. 4258

1 Q. Do you remember telling Detective Zelis that

2 the Arvizos came to you in this lawsuit?

3 A. Yes.

4 Q. Do you remember referring to the lawsuit

5 more than once?

6 A. Probably so.

7 Q. You're not sure?

8 A. Well, I think I referred to it more than

9 once, yes.

10 Q. Okay. Your belief that there was a lawsuit

11 came from Attorney Larry Feldman, true?

12 A. No.

13 Q. He's the only attorney you had spoken to

14 about the Arvizos at that point, correct?

15 A. Yes.

16 Q. You're not a lawyer, correct?

17 A. That's correct.

18 Q. It was your belief, when you talked to the

19 Santa Barbara sheriff, that Mr. Feldman was filing a

20 lawsuit for the Arvizos, correct?

21 A. It was my belief that he was thinking about

22 filing a lawsuit, yes.

23 Q. To your knowledge, does Attorney Feldman

24 still advise the Arvizos?

25 MR. ZONEN: I'll object as speculative or

26 hearsay.

27 THE COURT: Overruled.

28 You may answer. 4259

1 THE WITNESS: I don't know. I don't know

2 that.

3 Q. BY MR. MESEREAU: When did you last talk to

4 Attorney Larry Feldman about this case?

5 A. Yesterday.

6 Q. Did he call you or did you call him?

7 A. He called me.

8 Q. Are you telling the jury that in that call

9 you did not discuss with Attorney Feldman in any

10 shape or form this case?

11 A. I never said that. I said he didn't tell me

12 that he was advising the Arvizo family.

13 Q. Did --

14 A. I don't think he's advising the Arvizo

15 family.

16 Q. In your phone call with Attorney Feldman

17 yesterday, did you, Dr. Katz, discuss this case?

18 A. Yes, I did.

19 Q. Before yesterday, when was the last time you

20 spoke with Attorney Larry Feldman about this case?

21 A. I don't have the dates here, but within the

22 last couple weeks, we talked about the schedule,

23 when we were going to both be appearing, and we

24 reviewed our notes together.

25 Q. And you reviewed your notes with Attorney

26 Larry Feldman regarding this case?

27 A. Yes.

28 Q. Okay. Would that include the file you have 4260

1 with you today?

2 A. Well, he didn't review my file. However, we

3 went through the process just so that we both could

4 refresh our memories of things that weren't written

5 down.

6 Q. How long was that discussion?

7 A. About a half hour.

8 Q. Where did it take place?

9 A. In his office.

10 Q. Did you go to his office?

11 A. I did.

12 Q. So you both discussed what you were going to

13 testify to in this case, correct?

14 A. No. We both talked about exactly our

15 recollections of how this case progressed, that's

16 correct.

17 Q. Before that meeting, when was the other --

18 excuse me. Let me rephrase that. You talked to him

19 on the phone yesterday about the case, right?

20 A. Correct.

21 Q. You met with him at the meeting you've just

22 described about the case?

23 A. Correct.

24 Q. Did you ever meet with him before that about

25 this case?

26 A. Not since June 5th of 2003.

27 Q. And have you ever talked to him on the phone

28 since June 5th, 2003, about this case? 4261

1 A. Yes, I have.

2 Q. How many times, do you think?

3 A. Two or three.

4 Q. Are you telling the jury you don't think

5 Mr. Feldman is providing any advice to the Arvizos

6 at the moment?

7 A. I'm telling the jury I don't know whether he

8 is. He did not tell me he's providing advice to the

9 Arvizo family.

10 Q. And in your phone calls and meetings with

11 Attorney Feldman, you never asked him?

12 A. No, I did not.

13 Q. Did you ever suspect during those phone

14 calls or in those meetings that he might be

15 representing the Arvizos?

16 A. What I do know, he has told me that he

17 hadn't spoken, I think, to the family in a while.

18 That's all he said to me.

19 Q. Okay. Now, you're aware that -- excuse me,

20 let me rephrase that.

21 You've been involved in your career in a

22 number of lawsuits involving allegations of child

23 abuse, correct?

24 A. That's correct.

25 Q. How many lawsuits involving allegations of

26 child abuse do you think you've been involved in as

27 a professional psychologist?

28 A. In all venues? Do you mean family law? 4262

1 Criminal?

2 Q. Sure.

3 A. Dependency?

4 Q. Sure.

5 A. A couple thousand maybe.

6 Q. And have you been involved as a professional

7 psychologist in any civil lawsuits involving

8 allegations of child abuse where people wanted

9 monetary damages?

10 A. Yes.

11 Q. Okay. And were they primarily in Los

12 Angeles?

13 A. Yes.

14 Q. Are you aware that if a child is abused or

15 claims they were abused they have until the age of

16 approximately 20 to file a lawsuit?

17 A. Yes.

18 Q. And you're aware that, what is called a

19 statute of limitations, meaning when the time period

20 begins to commence --

21 MR. ZONEN: I'm going to object as exceeding

22 the witness's expertise.

23 THE COURT: Sustained.

24 Q. BY MR. MESEREAU: Have you had any

25 experience, Dr. Katz, in the relationship between

26 criminal proceedings and civil proceedings when it

27 comes to allegations of child abuse?

28 A. Well, I'm not sure how to answer that, 4263

1 except to say that I'm currently working a number of

2 civil cases regarding victims of the Catholic

3 church, alleged victims of the Catholic church.

4 Those cases, some may end up being criminal, some

5 may be civil, depending on the statute of

6 limitations, as you pointed out.

7 Q. Have some of them concerned criminal

8 proceedings?

9 A. My work does not concern criminal

10 proceedings with those cases.

11 Q. Have you ever testified in a criminal case

12 before today?

13 A. Yes, I have.

14 Q. How many criminal cases have you testified

15 in before today?

16 A. Less than half a dozen.

17 Q. Were they primarily in Los Angeles?

18 A. Yes, they were.

19 Q. In any of those criminal cases, were you

20 also involved in a parallel civil proceeding?

21 A. No.

22 Q. In any of those criminal cases, were you

23 involved in a parallel divorce proceeding?

24 A. Yes.

25 Q. Now, a divorce proceeding is a civil

26 proceeding, correct?

27 A. Yes, it is.

28 Q. And what you're saying is that you were 4264

1 involved as a professional psychologist in both a

2 civil divorce proceeding and a parallel criminal

3 proceeding involving the same parties and issues,

4 correct?

5 A. "Parallel" is the problem. Do you mean

6 simultaneously, or one after the other? Sometimes

7 I've worked a family law case and then was called

8 into criminal court on the same case six months, a

9 year later.

10 Q. Okay. And it's your understanding that if

11 you have a conviction in a criminal case, you'll

12 automatically win the civil case?

13 MR. ZONEN: I will object. Exceeding the

14 scope of his expertise.

15 MR. MESEREAU: I didn't finish my question.

16 MR. ZONEN: Well, we know what it is.

17 THE COURT: You may finish the question.

18 Q. BY MR. MESEREAU: Given your experience in

19 the criminal courts and in parallel proceedings in

20 the civil courts where the same parties are

21 involved --

22 MR. ZONEN: I'll object as to parallel

23 proceedings in a civil court, as to whether it's a

24 civil or a family law court.

25 THE COURT: He hasn't finished his question.

26 Q. BY MR. MESEREAU: Given your experience,

27 Dr. Katz, in criminal actions involving allegations

28 of child abuse and parallel civil actions involving 4265

1 allegations of child abuse where the same parties

2 are involved, you're aware that if there is a

3 criminal conviction, one would automatically win a

4 civil suit for damages, true?

5 MR. ZONEN: Objection; exceeds the scope of

6 his expertise.

7 THE COURT: Sustained.

8 Q. BY MR. MESEREAU: The prosecutor asked you

9 about your experience in the area of child abuse,

10 correct?

11 A. Correct.

12 Q. You have published articles in that field,

13 true?

14 A. Yes.

15 Q. Do you know approximately how many articles

16 you have published in that field?

17 A. Well, I think you're talking about --

18 professional articles, I think there's only one or

19 two. If you're talking about books, there's three

20 books. And there's probably a number of interviews

21 or articles, some of which may be editorials. So

22 I'm not sure how to answer the question. But

23 certainly a number of publications.

24 Q. Let's just take articles --

25 A. Okay.

26 Q. -- that don't reach the form of a book. How

27 many articles do you think you've published in the

28 area of child abuse? 4266

1 A. Well, I'm not sure. Maybe three or four.

2 Q. And you've published in the Los Angeles

3 Times, correct?

4 A. As far as I know, the New York Times, Los

5 Angeles Times, they syndicate out to other

6 newspapers, so I know some of the articles I wrote

7 were way beyond; you know, in other markets also.

8 Q. You published an article called "Stop the

9 Witch Hunt For Child Molesters," correct?

10 A. That's correct.

11 Q. In that article you dealt with your concern

12 about false allegations of child molestation,

13 correct?

14 A. Absolutely.

15 Q. You also published a book called "The

16 Codependency Conspiracy," correct?

17 A. That's correct.

18 Q. And you published it with a woman named

19 Amiee Liu, correct?

20 A. That's correct.

21 Q. And in that book, you talked about false

22 allegations of child molestation, true?

23 A. Yes.

24 Q. You said that lawyers have told you as many

25 as 40 percent of child molestation allegations are

26 false, correct?

27 A. I'm not sure what context you're talking

28 about, but certainly, in certain venues, that is 4267

1 true.

2 Q. You said that lawyers charged with turning

3 these allegations into convictions estimate that as

4 many as 40 percent of the accusations are

5 insubstantive, correct?

6 A. I assume you're reading from my book.

7 Q. I am.

8 A. And I'm not sure what precedes it. But if I

9 said it in my book, I will stand by it, that's true.

10 Q. You said, "Nowhere is our lack of

11 objectivity more evident than in our reactions to

12 reports of child molestation," right?

13 A. That's correct.

14 Q. You said, "The nation's courtrooms are

15 inundated with new allegations of abuse every day,"

16 right?

17 A. Yes.

18 Q. You said, "But many of the lawyers who are

19 charged with turning these allegations into

20 convictions estimate that as many as 40 percent of

21 the accusations are insubstantive," true?

22 A. Well, it's true. I'd have to give a

23 context, but it's certainly true. It may be even

24 higher than that in some cases, in some venues.

25 Q. And what venues were you talking about?

26 A. Particularly family law and divorce cases,

27 high-conflict divorce cases, where allegations are

28 made that one parent sexually molested a very young 4268

1 child under the age of usually four.

2 Q. When you were interviewing the Arvizos, did

3 you do any background check into their involvement

4 in any other litigation?

5 A. I did not.

6 Q. Did you ever check into any allegations of

7 domestic violence in the Arvizo family?

8 A. I didn't check into any of these

9 allegations. I did not investigate any of these

10 allegations other than -- excuse me, other than to

11 interview the parties. So I did not do any

12 investigation of any allegations.

13 Q. In your book, "The Codependency Conspiracy,"

14 you talked about a witch hunt mentality with respect

15 to false allegations of child abuse, true?

16 A. That's true.

17 Q. And you didn't just talk about divorce

18 cases, you talked about the McMartin Preschool case

19 in Manhattan Beach, California, true?

20 A. Yes, I did.

21 Q. And you mentioned that in the context of

22 false allegations of child molestation in a criminal

23 courtroom, true?

24 A. Well, I'm not sure if I said that in the

25 book or not. I didn't memorize it. But I was

26 talking about the McMartin case, which ended up

27 being not only in the criminal court, it was in

28 dependency court because there were children of the 4269

1 teachers who were involved in dependency court, and

2 I think there were civil suits also.

3 Q. Were you involved in that case in any

4 professional way?

5 A. Yes, I was.

6 Q. How were you involved?

7 A. I was the director of training and

8 professional education at the Children's Institute

9 International, and that's the agency that initially

10 interviewed all the McMartin children.

11 Q. And were you involved in that case for a

12 number of years?

13 A. Well, my involvement was that I was director

14 of the program. And Kee McFarland, who was the

15 woman who interviewed the children, actually worked

16 under me. But I was not -- I did not directly

17 interview the children's parents.

18 I did interview -- my involvement with the

19 McMartin case was, I did do assessments. I was

20 asked by the Department of Children & Family

21 Services to assess the children of the alleged

22 perpetrators to see if they had been molested.

23 Other than that, I had very little involvement

24 directly with the case.

25 Q. Is it your understanding that that was

26 perhaps the longest and largest criminal case in the

27 history of Los Angeles County?

28 A. I think it was. 4270

1 Q. Going further into your book, you discuss

2 cases where you've had false allegations of

3 molestation where no one ever turned up any physical

4 evidence to support the molestation, correct?

5 A. That's correct.

6 Q. And you talk about situations where you

7 think children, for whatever reason, believed they

8 were abused, but really aren't or haven't been,

9 true?

10 A. I talk about young children under the age of

11 four who believe they were molested, yes.

12 Q. And in your opinion, they had not been,

13 correct?

14 A. That's correct.

15 Q. You discuss situations where therapists have

16 taught children that they were traumatized when, in

17 fact, they were not, correct?

18 A. Correct.

19 Q. And you talk about situations where, despite

20 what therapists have said about the existence of

21 molestation, courts have gone against them, true?

22 A. I'm sorry, where therapists have said they

23 believed children were molested and the courts have

24 not ruled --

25 Q. Yes.

26 A. Yes. Yes.

27 Q. And has that been your experience as well,

28 as an expert? 4271

1 A. My experience has been that there are people

2 who are falsely accused and who get convicted, and

3 there are people who are falsely accused that get

4 acquitted, and there are people who get acquitted

5 who did the deed. So I've had all that experience.

6 Q. You talked about children in abuse cases who

7 are often scarred for life, not by the abuse,

8 because it didn't occur, they're scarred by what you

9 call the recovery process, true?

10 A. Yes.

11 Q. And what you were saying was, in situations

12 where there has been no abuse, but a child is

13 convinced that there has been and is put through a

14 process of therapy to deal with the abuse that never

15 happened, they can be hurt, true?

16 A. That's correct.

17 Q. You talk about situations where children can

18 have thoughts essentially given to them by parents

19 or therapists that convince them they've been abused

20 when there is no abuse, right?

21 A. Yes. But I was talking about young children

22 under the age of four. Pre-verbal children.

23 Q. You didn't limit it to that in your book,

24 did you?

25 A. I'm not sure what you're reading, exactly,

26 from, but I'm certainly talking about pre-verbal

27 children. And I think there's a -- a comment made

28 about young children under the age of five or so. 4272

1 Q. Do you know where the comment is?

2 A. I haven't looked at the book in a long time,

3 but --

4 Q. Okay.

5 A. I'll have to look at it later.

6 Q. Okay. You talked about a number of

7 situations where parents consistently told their

8 children they've been abused, and the children

9 believed it, and in your opinion there had been no

10 abuse at all, right?

11 A. And that specifically is regarding young

12 children. We're talking about children under the

13 age of five years.

14 Q. You are aware, that there can be all kinds

15 of motivations for false claims of molestation,

16 correct?

17 A. Certainly there's a possibility of all kinds

18 of claims and reasons.

19 Q. You're aware that alleged victims of

20 molestation often sue for millions of dollars in

21 civil court, correct?

22 A. That is correct.

23 Q. You talked about the reactions of victims of

24 child sexual abuse, correct, in your book?

25 A. If you say so. I don't remember exactly

26 what I talked about in that book, but --

27 Q. Well, you essentially said there can be all

28 sorts of varying reactions, assuming it really 4273

1 occurred, right?

2 A. I suppose, yes.

3 Q. Well, you said that some experience physical

4 or emotional trauma directly related to molestation,

5 right?

6 A. Okay.

7 Q. And some exhibit none of those symptoms,

8 correct?

9 A. I need to back up. You're reading

10 something. Are you talking about victims who have

11 been abused?

12 Q. Yes. I'm limiting this question to people

13 who actually have been abused, not the people you

14 discussed who were the victims of false accusations.

15 Okay?

16 A. Thank you.

17 Q. With limiting my question to people who have

18 actually been abused, you indicated some

19 experience -- appear to experience no real change in

20 their behavior, correct? They have no nightmares,

21 they have no --

22 A. You're talking here about --

23 Q. Let me just finish the question, if I can.

24 If I can.

25 A. Sorry. Excuse me.

26 Q. Okay. You discussed the fact that, in your

27 opinion, victims of sexual abuse generally fit into

28 one of three categories, true? Do you remember 4274

1 that? I could show you the book if you'd like to

2 take a look at it.

3 A. It would be helpful, since I wrote it about

4 12 years ago. It would certainly refresh my memory.

5 I could have brought a copy, but --

6 MR. MESEREAU: May I approach, Your Honor?

7 THE COURT: Yes.

8 Q. BY MR. MESEREAU: Have you had a chance to

9 look at your book?

10 A. Well, I did for about three seconds.

11 Q. And did you have a chance to look at the

12 three categories you identified in your book with

13 regarding what a real victim of child sexual abuse

14 might show?

15 A. Yes.

16 Q. Okay. Some will have nightmares, correct?

17 A. Yes.

18 Q. Some will have no nightmares, right?

19 A. Correct.

20 Q. Some will act out their version of the

21 abuse, correct?

22 A. Some act out sexually, yes.

23 Q. And some will not act out sexually at all,

24 right?

25 A. Correct.

26 Q. Some will suddenly become aggressive, right?

27 A. Yes.

28 Q. And some will not be aggressive at all, 4275

1 right?

2 A. Some will be withdrawn, yes.

3 Q. Some will be depressed, correct?

4 A. Yes.

5 Q. And some won't be depressed at all, right?

6 A. Yes.

7 Q. Some will demonstrate an aversion to their

8 own body, right?

9 A. Some have problems with body image and

10 aversion to any of their sexual organs, yes.

11 Q. And some don't have that at all, correct?

12 A. Right.

13 Q. And you would agree that it's difficult --

14 excuse me, let me rephrase that.

15 In this area, it can be difficult to

16 determine if certain characteristics really relate

17 to sexual abuse or not, correct?

18 A. That's correct.

19 Q. If you are examining a child, for example,

20 where there's an allegation of abuse, and you learn,

21 through whatever form, that the child is exhibiting

22 aggressive behavior, it's difficult to know if that

23 aggressive behavior is really the result of actual

24 sexual abuse, right?

25 A. That's correct.

26 Q. And in your evaluation of a potential victim

27 in a situation like this, one of the things you'd

28 want to know would be, did that child exhibit 4276

1 aggressive behavior before the alleged abuse

2 occurred, correct?

3 A. Well, I have to answer that by saying, if I

4 was evaluating forensically this case, I would want

5 to know a great deal about this family, about the

6 alleged perpetrator, about all the data,

7 multi-source data I could get.

8 If I was just interviewing the children to

9 hear what they had to say so that I could make a

10 determination whether or not I'd be obligated to

11 make a report, it would be a different issue.

12 Q. Right.

13 A. I'd be the gatekeeper, the beginning of the

14 process, if I felt there was reason to make a

15 report, and then further investigation/evaluation

16 would have to be conducted by professionals.

17 Q. And the quantity of investigation you just

18 articulated which you state would be necessary to

19 really determine if sexual abuse occurred you didn't

20 do in this case, right?

21 A. That's correct.

22 Q. Okay. In your book, you talk about the

23 situation where abuse is intertwined with other

24 serious family or psychological problems, correct?

25 A. Are you talking about interfamilial,

26 within-the-family abuse?

27 Q. Yes.

28 A. I think that's where you're going with that. 4277

1 Yes.

2 Q. And what you said was evaluating and

3 understanding real sexual abuse is made more

4 difficult if the family you're investigating has

5 other serious family or psychological problems,

6 true?

7 A. I'm not sure of the context there, Mr.

8 Mesereau, because when I -- I think I was talking

9 about sexual abuse within a family, where the

10 alleged perpetrator is a member of the family, you

11 have complications from a number of variables.

12 Q. Well, wouldn't you -- excuse me, let me

13 rephrase it.

14 Let's suppose the alleged perpetrator is
15 outside the family, right? And let's assume,
16 because we're just dealing with a hypothetical, that
17 the family itself is characterized by serious
18 emotional and psychological problems dealing with
19 domestic violence, divorce, allegations within the
20 family of molestation, alleged acts, multiple acts,
21 of violence going over years, alleged -- unusual
22 actions to obtain money so the family can survive, a
23 lot of emotional conflict between parents.
24 You would agree that all of those issues

25 could complicate the question of whether or not a

26 child in that family was truly abused by someone

27 else? Could complicate it?

28 A. It's possible. 4278

1 Q. If you had -- excuse me. If, during the

2 course of your investigation as a professional

3 psychologist and expert in this area, you discover

4 that within the family unit, there have, over the

5 years, been various allegations of molestation

6 within the family unit, that would complicate your

7 ability to evaluate whether or not someone had been

8 molested by a third party, true?

9 A. Well, I don't know if it would complicate

10 it. It would certainly be data I would want to look

11 at.

12 THE COURT: Counsel, just a moment.

13 MR. MESEREAU: Yes, Your Honor.

14 (Brief interruption.)

15 THE REPORTER: Thank you, Judge.

16 THE COURT: Sorry, Counsel.

17 MR. MESEREAU: Thank you, Your Honor.

18 Q. You indicated in your book, Dr. Katz, and we

19 were alluding to this before, that if abuse is

20 intertwined with other serious family or

21 psychological problems, you need to focus on these

22 problems separately in treatment, correct?

23 A. That makes perfect sense to me. I'm not

24 sure I wrote exactly that, or said that, but that

25 makes sense.

26 Q. I can show you the paragraph.

27 A. Well, I believe you.

28 Q. Okay. And what you said was, you recognize 4279

1 that different problems may have little to do with

2 each other, or may have a lot to do with each other,

3 right?

4 A. Correct.

5 Q. And you say the abuse that's claimed may be

6 very insignificant in a situation where you discover

7 serious psychological and family problems within the

8 family unit, true? May be.

9 A. I'm not sure. The first part of the

10 question I missed. You said abuse may be

11 inconsequence --

12 Q. Yeah. You indicated that the abuse

13 suffered --

14 A. Are you quoting? Because if you quote, then

15 it's easier for me to refer to. I'm not sure if

16 you're paraphrasing or interpreting.

17 Q. Let me just read you a paragraph.

18 A. Thank you.

19 Q. Okay. "If the conflict you feel about your

20 abuse is intertwined with other serious family or

21 psychological problems, you need to focus on these

22 problems separately in treatment, recognizing that

23 the different problems may have little to do with

24 each other, and that the abuse you suffered may have

25 been relatively insignificant."

26 Do you remember reading that?

27 A. Writing it.

28 Q. Excuse me, writing it. 4280

1 A. I do remember writing it, yes.

2 Q. Okay. Okay. Correct me if I'm wrong, you

3 were suggesting that, in a situation where you have
4 an allegation of abuse that sounds quite serious, if
5 you, as a therapist, start to investigate the
6 domestic situation in that family, and you, as a
7 therapist, find all sorts of other psychological
8 problems that may not be related to the abuse, there
9 are situations where, once you investigate those
10 problems and treat those problems, the actual claim
11 of abuse may turn out to have been exaggerated,
12 correct?
13 A. I think that totally misinterprets what I

14 was saying.

15 Q. Okay.

16 A. What I was saying is that people have a

17 myriad of complaints in their life, and that many

18 adults wish to connect their current problems to a

19 past event.

20 So, for example, a 40-year-old woman who

21 can't find a relationship, a healthy relationship,

22 says she was molested at age five and that's why she

23 can't find a healthy relationship today, that she

24 needs to look at what other things are stopping her

25 and preventing her from having a healthy

26 relationship today.

27 I think that was directed at that kind of

28 person, not directed at a therapist and how to 4281

1 evaluate or treat an alleged allegation of sexual

2 abuse.

3 Q. Well, but you were talking about treating

4 sexual abuse when you wrote that paragraph, true?

5 A. I think I was talking about what I just

6 said; that people like to blame lots of problems on

7 traumatic events that happened in their lives. And

8 they need to sort out that some of these events have

9 nothing to do with actually what they've become or

10 the problems they have.

11 Q. In fact, in many ways, the book that you

12 wrote called "The Codependency Conspiracy" was a

13 form of self-help book, correct?

14 A. It is a self-help book.

15 Q. And you talk about people who are perpetual

16 victims, correct?

17 A. That's correct.

18 Q. And you basically talk about how, as they

19 view themselves as a perpetual victim, they are

20 essentially saying that they are powerless over

21 their problems and don't have to take responsibility

22 for them, right?

23 A. That's correct.

24 Q. And you basically were saying that's not the

25 right way to live your life, right?

26 A. What I was saying, it's a debilitating and

27 immobilizing way to live.

28 Q. Essentially you said that people who are 4282

1 perpetual victims are not really --

2 MR. ZONEN: I'm going to object as exceeding

3 the scope of the direct examination.

4 THE COURT: That's sustained.

5 Q. BY MR. MESEREAU: Do you remember, you wrote

6 the following: "I do not think that a parent whose

7 hand lingers momentarily while diapering his or her

8 child belongs in the same category with convicted

9 child pornographers or pedophiles, yet many

10 therapists and self-help groups lump the victims of

11 these different perpetrators together and treat them

12 all as if they've been equally traumatized"?

13 MR. ZONEN: I'll object as exceeding the

14 scope of direct examination.

15 THE COURT: Sustained.

16 Q. BY MR. MESEREAU: You indicated in response

17 to the prosecutor's questions that you had worked on

18 a panel of psychologists, correct?

19 A. Yes.

20 Q. And was that with dependency court?

21 A. First in dependency court and then in family

22 law.

23 Q. Okay. Now, when you're on a panel of

24 psychologists in dependency court, you are routinely

25 appointed to handle a dependency court case,

26 correct?

27 A. Correct.

28 Q. And you're paid by the county, right? 4283

1 A. Correct.

2 Q. And how long did you say that you had done

3 that?

4 A. Over ten years.

5 Q. Okay. So over ten years you were on that

6 dependency court panel, you never knew when you'd be

7 called to work on a dependency court case, right?

8 A. I didn't know exactly, that's correct.

9 Q. Okay. Now, were you doing that at the

10 Edelman Courthouse on the 10 freeway?

11 A. I started doing it at the old courthouse at

12 first, I think criminal, and then it was over on

13 Sixth Street before the Edelman Courthouse.

14 Q. Okay. Now, would you agree that in

15 dependency court, you often find false claims of

16 molestation?

17 A. Who's "you"?

18 Q. Anybody.

19 A. Well, are you talking about did the judges

20 find it? Did I find it? Who's who?

21 Q. Well, when you wrote in your book that,

22 "Lawyers who prosecute molestation cases tell us

23 that approximately 40 percent may be false," were

24 you referring to dependency court?

25 A. Well, I'm not exactly sure which lawyers

26 you're referring to or I was referring to at this

27 point, but in general, the 40 percent figure comes

28 out of research on mostly young children, preschool 4284

1 kinds of cases, family law cases.

2 It does not come out of the research on

3 children who were allegedly molested by a -- by

4 someone outside the family, and it doesn't come out

5 of research about children over the age of

6 approximately five or six.

7 Q. Have you done research in that area?

8 A. Just clinical experience.

9 Q. Okay. Have you had experience with false

10 claims of molestation involving children over six?

11 A. Well, when you say "experience," have I

12 evaluated cases where someone thought the claims

13 were false?

14 Q. Yes.

15 A. Or where the judge determined they were

16 false? Which would you like?

17 Q. Let's start with the first example.

18 A. Well, in every case there's two sides.

19 Q. Okay.

20 A. So there's always someone who doesn't

21 believe and someone who does believe. So I've been

22 involved with many of those cases, in criminal and

23 family law and in civil cases. I have been involved

24 in cases where people were acquitted in a criminal,

25 and they were convicted. And I've been involved in

26 cases where monetary damages were paid to victims

27 and where no monetary damages were paid to victims,

28 and family law cases where the judge made a finding 4285

1 that molestation did not occur, or the judge made a

2 finding that there was inappropriate touching,

3 fondling, some kind of sexual abuse.

4 Q. When you wrote in your book that 40 percent

5 figure, saying prosecutors had told you that 40

6 percent of the accusations are insubstantive, you

7 never limited it in the book to children who are six

8 or younger, did you?

9 A. I don't think so. I have to look at the

10 source data. But it's in the back.

11 MR. ZONEN: Could I see the book, please?

12 MR. MESEREAU: I can get you a copy.

13 THE WITNESS: It's available at amazon.com.

14 (Laughter.)

15 MR. ZONEN: Doesn't say "prosecutors."

16 MR. MESEREAU: It says, "Lawyers who are

17 charged with turning these allegations into

18 convictions."

19 MR. ZONEN: Judge, I'm going to object as

20 misstating --

21 MR. MESEREAU: Your Honor, I'll read it, if

22 the Court would like.

23 MR. ZONEN: Well, I'm concerned about the

24 prior question asked. He used the word

25 "prosecutors."

26 MR. MESEREAU: I'll restate it. I'll

27 restate the question.

28 Q. Dr. Katz? 4286

1 A. Yes.

2 Q. You know that these prosecutors are all

3 lawyers, don't you?

4 MR. ZONEN: Which prosecutors is he

5 referring to? Objection. Vague; argumentative.

6 THE WITNESS: I have --

7 MR. ZONEN: There's an objection.

8 MR. MESEREAU: I'll withdraw the question.

9 Q. Dr. Katz, have you met with any of these

10 prosecutors at any time?

11 A. Yes, I have.

12 Q. When did you last meet with any of these

13 prosecutors?

14 A. I met with Mr. Zonen, yes, sir.

15 Q. Are you aware that he is a lawyer?

16 A. I'm aware that he is lawyer.

17 Q. Are you aware that he's a lawyer paid by the

18 government?

19 A. I'm not sure who he's paid by, but I assume

20 he's paid by the county or someone.

21 Q. Have you ever met Mr. Sneddon?

22 A. I have.

23 Q. Are you aware that he's a lawyer?

24 A. I assume he's a lawyer if he's in his

25 position.

26 Q. Are you aware that he's a lawyer paid by the

27 government?

28 A. I assume he's paid by the county. 4287

1 Q. And have you met Mr. Auchincloss, who's

2 directly to my left?

3 A. Yes, I have.

4 Q. Are you aware that he's a lawyer?

5 A. Yes, I'm aware that he's a lawyer.

6 Q. Are you aware that he's a lawyer paid by the

7 government?

8 A. Paid by the government.

9 Q. Are you aware their jobs as prosecutors are

10 to seek convictions?

11 MR. ZONEN: I'm going to object as

12 argumentative.

13 THE COURT: Sustained.

14 Q. BY MR. MESEREAU: When you said in your

15 book, you referred to lawyers who are charged with

16 turning these allegations into convictions, you were

17 referring to prosecutors?

18 A. Well, I actually was referring to cases that

19 I already talked about, the young children,

20 preschool cases, the family law cases --

21 Q. You were --

22 MR. ZONEN: The witness ought to be allowed

23 to answer the question.

24 MR. MESEREAU: Sure. Sure.

25 Q. I apologize. Go ahead.

26 A. Family law cases where either they were

27 trying to get some kind of finding in court, sustain

28 a petition or criminal conviction, yes. 4288

1 Q. Dr. Katz, you know that you can't convict

2 anyone of anything in a family law court, right?

3 A. No, but you can make a finding.

4 Q. But you don't convict in family law court,

5 true?

6 MR. ZONEN: Objection; argumentative.

7 THE COURT: Sustained.

8 Q. BY MR. MESEREAU: Based on your experience,

9 the only place you get convictions is criminal

10 courts, right?

11 MR. ZONEN: Objection. Argumentative; and

12 beyond his scope of expertise.

13 THE COURT: Sustained on argumentative.

14 MR. MESEREAU: Okay.

15 Q. Now, Dr. Katz, you said that 30 percent of

16 your work is currently involved with television; is

17 that right?

18 A. Approximately 30 to 40 percent, yes.

19 Q. And you said that you've been practicing

20 since 1978; is that correct?

21 A. That's correct.

22 Q. And I believe you told the prosecutor for

23 the government that you've been involved in other

24 T.V. projects, correct?

25 A. Yes.

26 Q. And what were they?

27 A. Well, starting out in the early years, in

28 the late '70s, I was an advisor on a number of 4289

1 television movies that had to do with either child

2 abuse or psychological issues. Did a number of

3 those kinds of movies.

4 I was a frequent guest on news shows talking

5 about current psychological topics.

6 I -- when I did my three books, I, of

7 course, did book tours, where you appear on numerous

8 shows, including "Oprah" and those kind of shows.

9 I have appeared as a panelist on T.V. on

10 certain topics. And have appeared as a guest to

11 work with family dysfunction on talk shows and other

12 television shows.

13 Q. When you did your -- excuse me, you did a

14 book tour to promote the book "Codependency

15 Conspiracy," did you not?

16 A. Yes.

17 Q. And did you appear on television as part of

18 that book tour?

19 A. Yes.

20 Q. Do you know how many times you appeared on

21 television as part of the book tour?

22 A. I would have no idea.

23 Q. And when you were on television, did you

24 talk about false claims of molestation?

25 A. I don't think so. That was just a small

26 part of the book. I don't remember specifically

27 talking about that, but certainly it could have come

28 up. And this was 1991, I think, so I don't have a 4290

1 distinct memory of that.

2 Q. Did you talk about people who act as if

3 they're perpetual victims?

4 A. Yes, I did.

5 Q. And did you talk about your belief that

6 there are ways to treat people who consider

7 themselves perpetual victims?

8 MR. ZONEN: Objection; exceeds the scope of

9 the direct examination.

10 THE COURT: Sustained.

11 Q. BY MR. MESEREAU: You indicated that you

12 interviewed the three Arvizo children and the

13 mother, right?

14 A. Correct.

15 Q. Did you ever interview the father?

16 A. Never.

17 Q. Did you ever investigate anything about the

18 father?

19 A. No.

20 Q. And that's because you never really

21 investigated the family other than the interviews

22 you conducted, right?

23 A. That's correct.

24 Q. Okay. Now, when were the dates of those

25 interviews?

26 A. Mom was May 15, May 16, June 11. Gavin and

27 Star were May 29, June 11. And Davellin was May 29.

28 Q. So the first interview was May 15th, 4291

1 correct?

2 A. Yes.

3 Q. The last interview was June 11th, correct?

4 A. Correct.

5 Q. Now, you told the prosecutor for the

6 government that at some point you went to the

7 Department of Children & Family Services about the

8 Arvizos, correct?

9 A. Correct.

10 Q. And was Mr. Feldman with you?

11 A. Yes, he was.

12 Q. Was it your belief at the time that Mr.

13 Feldman was representing the Arvizos?

14 A. Yes, it was.

15 Q. When did you and Mr. Feldman visit the

16 Department of Children & Family Services for the

17 first time to talk about the Arvizos?

18 A. June 12th, 2003.

19 Q. And you had a meeting at that department,

20 correct?

21 A. Correct.

22 Q. That department is in Los Angeles, right?

23 A. Correct.

24 Q. Did you ever have a second meeting at that

25 department about the Arvizos?

26 A. I did not.

27 Q. Was that the only meeting you had?

28 A. That's correct. 4292

1 Q. Okay. Now, was it just you and Larry

2 Feldman at that meeting?

3 A. And an associate of his. I don't recall his

4 name right now.

5 Q. Okay. Now, when you attended that meeting

6 with Mr. Feldman, did you know whether or not he was

7 a friend of someone named Jamie Masada?

8 A. I'm sorry, who was a friend?

9 Q. Mr. Feldman.

10 A. I had no idea.

11 Q. Do you know Jamie Masada?

12 A. Never met him.

13 Q. Do you know Attorney Bill Dickerman?

14 A. Yes, I do.

15 Q. And how do you know Attorney Bill Dickerman?

16 A. He was present at the meeting that I had

17 with Mr. Feldman on June 5th of 2003.

18 Q. Was he the only person at that meeting other

19 than you and Mr. Feldman, to your knowledge?

20 A. No.

21 Q. Who else was at that meeting?

22 A. Mr. Feldman's wife, Jo Kaplan.

23 Q. Was anyone else at that meeting?

24 A. No.

25 Q. Was that the first time you met Attorney

26 Bill Dickerman?

27 A. Yes.

28 Q. Do you know anything about Bill Dickerman's 4293

1 relationship with Jamie Masada?

2 A. He told me yesterday in the --

3 MR. ZONEN: I'm going to object as hearsay.

4 THE COURT: You may answer the question "yes"

5 or "no."

6 THE WITNESS: Would you repeat the question,

7 please?

8 Q. BY MR. MESEREAU: Yes. Do you have any

9 knowledge of Attorney Bill Dickerman's relationship

10 with someone named Jamie Masada?

11 A. Yes.

12 Q. And where did your knowledge come from?

13 A. Mr. Dickerman.

14 Q. And did he tell you that they're friends?

15 MR. ZONEN: I'm going to object, Your Honor,

16 as hearsay.

17 THE COURT: Sustained.

18 Q. BY MR. MESEREAU: Did you say you talked to

19 Bill Dickerman yesterday?

20 A. Yes.

21 Q. And did he call you or did you call him?

22 A. No, we sat in the holding area upstairs

23 together.

24 Q. Did you discuss the case at all with Mr.

25 Dickerman?

26 A. Not really.

27 Q. Not really?

28 A. Well, we talked a little bit about times and 4294

1 where we were going to stay last night and coming

2 back here, and we talked about everything from the

3 weather, to soup, to nuts. Not very much about the

4 case.

5 Q. Okay. Was your meeting with Mr. Dickerman

6 and Mr. Feldman the first time you had met Mr.

7 Dickerman?

8 A. Yes.

9 Q. After that meeting, did you have any further

10 contact with Mr. Dickerman before yesterday?

11 A. No.

12 Q. Have you communicated with him by letter at

13 any time since that initial meeting?

14 A. Never.

15 Q. Okay. So the only attorney you've ever

16 communicated with about this case is Attorney Larry

17 Feldman, right?

18 A. No. The attorney sitting in front of us

19 that we've named.

20 Q. The attorneys who are paid by the

21 government?

22 A. Paid by the government, yes.

23 Q. Okay. To get convictions. Okay, all right.

24 MR. ZONEN: Is that a question?

25 MR. MESEREAU: I withdraw that.

26 MR. ZONEN: If it is, I'm going to object to

27 it as argumentative.

28 MR. MESEREAU: I withdraw that. I withdraw 4295

1 that.

2 THE COURT: Objection's sustained.

3 Q. BY MR. MESEREAU: Do you have any knowledge

4 of Larry Feldman filing any claim against Los

5 Angeles County?

6 A. I read that, I think, on The Smoking Gun, or

7 somewhere on the Internet, but he's never said that

8 to me.

9 Q. Okay. Now, after your meeting at the Los

10 Angeles Department of Children & Family Services

11 that you have described, did you have any other

12 meetings with Mr. Feldman about this matter?

13 A. Other than what I've described?

14 Q. Yes.

15 A. No.

16 Q. Did you and Mr. Feldman ever jointly appear

17 with anyone in the Santa Barbara Sheriff's Office to

18 discuss this case?

19 A. No.

20 Q. After the meeting you had at the Department

21 of Children & Family Services, you spoke to the

22 Santa Barbara Sheriffs at some point, correct?

23 A. Yes.

24 Q. And approximately when was that?

25 A. I received a call from Detective Paul Zelis

26 on June 13, 2003.

27 Q. That was the first contact after the DCFS

28 meeting you had, right? 4296

1 A. That's correct.

2 Q. Okay. Did you have any knowledge of

3 Attorney Larry Feldman contacting the Santa Barbara

4 Sheriffs at any time after the DCFS meeting?

5 A. I have no knowledge of that.

6 Q. Did you ever discuss that possibility with

7 him?

8 A. No.

9 Q. Did you ever discuss with Attorney Feldman

10 whether or not he had talked to Mr. Sneddon after

11 the DCFS interview?

12 A. I don't think we ever talked about that.

13 Q. Never?

14 A. I don't have any recollection of that at

15 all.

16 Q. Okay. So you've never heard anything about

17 that as you sit here today?

18 A. I'm sorry, about Mr. Feldman talking to Mr.

19 Sneddon?

20 Q. Yes.

21 A. Yes, I think that, as I said before, prior

22 to the call to -- from Detective Zelis, I believe

23 that Mr. Feldman called the D.A.'s Office. I don't

24 know if he personally talked to Mr. Sneddon or not.

25 Q. Now, your understanding of any contact Mr.

26 Feldman had in this case would have come from Mr.

27 Feldman, correct?

28 MR. ZONEN: Contact with whom? Objection; 4297

1 vague.

2 MR. MESEREAU: I'm sorry, let me rephrase

3 it.

4 Q. After the DCFS meeting that you have

5 described, you learned at some point that Attorney

6 Feldman spoke to prosecutors in this case, correct?

7 MR. ZONEN: Unless this conversation was in

8 his presence, I'll object as hearsay and lack of

9 foundation.

10 MR. MESEREAU: State of mind, Your Honor.

11 THE COURT: I'll allow the question. "Yes"

12 or "no" answer only.

13 THE WITNESS: Could you repeat the question?

14 THE COURT: Do you want it read back?

15 THE WITNESS: Thank you, Your Honor.

16 (Record read.)

17 THE WITNESS: The only -- I'm sorry, but I'm

18 not sure which prosecutor or prosecutors or

19 assistant. I don't -- I know he called Mr.

20 Sneddon's office. I don't have a recollection if he

21 called directly to him.

22 Q. BY MR. MESEREAU: Okay. Do you have any

23 knowledge of when the Arvizos first met Attorney

24 Larry Feldman?

25 A. I vaguely remember. I think it was a month

26 or two before I saw them.

27 Q. Okay. And correct me if I'm wrong, but

28 you're suggesting to the jury that sometime after 4298

1 your last interview on June 11th, the Arvizos in

2 some form contacted the police, correct?

3 A. I have no idea how that happened.

4 Q. Okay. Okay. But based on what you've just

5 said, and I'm referring exactly to your

6 understanding, that the Arvizos had talked to Mr.

7 Feldman for a month or two before you got involved,

8 right?

9 A. And I'm very vague about it. It could be a

10 couple weeks, but some period of time before I got

11 involved.

12 MR. ZONEN: Judge, I'm going to object as

13 lack of foundation, unless he was involved in those

14 conversations.

15 THE COURT: Overruled. Next question.

16 Q. BY MR. MESEREAU: Clearly, it was your

17 understanding that the Arvizos had spoke to Attorney

18 Larry Feldman before Mr. Feldman contacted you about

19 this case, correct?

20 A. Yes.

21 Q. And based on what you've just told the jury,

22 it was approximately a month after your first

23 interview with any of the Arvizos that any report

24 was made to any agency, true?

25 MR. ZONEN: Objection; vague. I'm not sure

26 which agency, which report and by whom? By Feldman?

27 By the Arvizos? By the police?

28 THE COURT: All right. That's enough. 4299

1 The objection is overruled.

2 Read the question back to him.

3 (Record read.)

4 THE WITNESS: The first interview was on

5 May 15th with mother. The first interview with the

6 children was May 29th. The report was made on June

7 12th.

8 Q. BY MR. MESEREAU: That's the report to DCFS,

9 correct?

10 A. Correct.

11 Q. And it's your understanding that any contact

12 with Santa Barbara, be it sheriffs or prosecutors,

13 was after your meeting at DCFS, correct?

14 A. That's my understanding.

15 Q. Okay. Clearly, it was always your

16 understanding that the Arvizos first went to lawyers

17 before they ever went to any police office, correct?

18 A. It's my understanding that they went to

19 attorneys before they went to the police department.

20 That's my understanding.

21 Q. And was it your understanding that they

22 first went to Attorney Dickerman before they went to

23 Attorney Feldman?

24 A. Yes.

25 Q. Now, you have indicated that you were

26 retained by Attorney Larry Feldman to work with him

27 on his civil suit that he filed against Mr. Jackson

28 in 1993, correct? 4300

1 A. That's correct.

2 Q. Was it your understanding that Mr. Feldman

3 was in contact with Mr. Sneddon in 1993?

4 MR. ZONEN: Objection; lack of foundation.

5 THE COURT: Overruled.

6 THE WITNESS: I have no information about

7 that at all. I don't have any memory of that, any

8 information about that.

9 Q. BY MR. MESEREAU: Regarding your work on the

10 1993 case for Attorney Larry Feldman, when did your

11 work cease?

12 A. Let me help you out by telling you what my

13 work was. My work was to review the videotapes that

14 were made between the victim --

15 Q. No, I'm -- go ahead.

16 A. -- and Dr. Richard Gardner.

17 Q. Okay.

18 A. And to review those tapes, those videotapes,

19 and to view them and analyze them to give my

20 feedback to Mr. Feldman.

21 Q. To your knowledge, no criminal case was ever

22 filed against Mr. Jackson based on that '93 case,

23 correct?

24 A. That's my understanding.

25 MR. MESEREAU: All right. Let me take just

26 one more second, Your Honor.

27 THE COURT: Yes.

28 Q. BY MR. MESEREAU: I asked you at the 4301

1 beginning of my cross-examination about someone

2 named Lee Hausner, correct --

3 A. Yes.

4 Q. -- who you met?

5 A. I know Lee.

6 Q. And Lee has referred, I think you said,

7 something like six to eight patients to you?

8 A. I'm probably estimating around that.

9 Q. Do you know whether or not Lee Hausner

10 referred the '93 case against Mr. Jackson to Mr.

11 Feldman?

12 A. I'm almost sure she did not.

13 MR. MESEREAU: Okay. I have no further

14 questions, Your Honor.

15

16 REDIRECT EXAMINATION

17 BY MR. ZONEN:

18 Q. Mr. Mesereau asked you if you knew whether

19 or not criminal charges had been filed against Mr.

20 Jackson as a result of that '93 investigation, and

21 you said no --

22 A. Correct.

23 Q. -- that they had not been.

24 A. That's my understanding.

25 Q. Do you know why not?

26 A. I understand a settlement --

27 MR. MESEREAU: Objection. Objection.

28 Irrelevant; foundation; beyond the scope. 4302

1 THE COURT: Foundation; sustained. And

2 relevance.

3 Q. BY MR. ZONEN: Doctor, you made a reference

4 to -- or counsel made a reference to 40 percent

5 false accusations. What is that in reference to?

6 A. I was specifically talking about young

7 children. I was referring to the numerous cases

8 that were filed in the 1980s in preschools where we

9 had infants and toddlers alleging molestation, and I

10 was talking about the -- the incredible number of

11 high-conflict divorce cases where there were

12 allegations of molestation with very young children,

13 pre-verbal children, under the age of three and

14 four.

15 I was not talking about extrafamilial sexual

16 abuse. I wasn't talking about older children. I

17 was specifically referring to those cases.

18 Q. What do you mean by extrafamilial sexual

19 abuse?

20 A. Outside the family. Where the perpetrator

21 is not a member of the family.

22 Q. What is your understanding about the

23 percentage of false allegations in those types of

24 cases involving older children?

25 A. My experience, my clinical experience, my

26 collegial experience, is that there's very, very few

27 false allegations made with alleged perpetrators

28 outside the family by a child over the age of five. 4303

1 Q. And involving specifically allegations of

2 sexual abuse involving boys, adolescent boys, what

3 are the difficulties involved in making a false

4 allegation --

5 A. Well --

6 Q. -- or sustaining it?

7 A. A pre-adolescent or adolescent boy is

8 hypersensitive about his sexuality. It would be

9 extremely unusual for a child who's developmentally

10 at a stage where he's trying to figure out who he

11 is, and to actually become a man, to make an

12 allegation which would suggest that he's had

13 inappropriate sexual relationships with a male. It

14 would be extremely rare because these children are

15 so protective and so guilt-ridden and shamed by any

16 behavior that's extraordinary and extra-normal.

17 So it would be highly unusual in my

18 experience for a 12- or 13-year-old to make false

19 allegations regarding a male perpetrator.

20 Q. All right. Doctor, based on your experience

21 of as many years as you've been dealing with this,

22 have you had any personal dealings or associations

23 with cases where you believed there was a false

24 allegation by an adolescent child motivated by

25 profit?

26 A. Well, I've had some experience where I've

27 had some young girls actually allege molestation by

28 stepfathers to get out of the home sometimes, or 4304

1 fathers, and they have been recanted fairly quickly

2 after investigations began.

3 Q. Are there difficulties in a child

4 maintaining false allegations, from a practical

5 standpoint?

6 A. In my experience, a child who is going to

7 lie and fabricate cannot be consistent and hold that

8 very long, because children are impulsive, they

9 can't delay gratification. You can't tell a child,

10 "Years from now, if you lie, something good will

11 happen." Children are very much living in the now.

12 They don't maintain consistent allegations when they

13 start feeling as if the disadvantages of making

14 those allegations seriously outweigh any advantages.

15 MR. ZONEN: No further questions.

16

17 RE-CROSS-EXAMINATION

18 BY MR. MESEREAU:

19 Q. Other than Mr. Jackson, how many cases of

20 alleged molestation have you worked on involving

21 well-known celebrities?

22 A. Probably less than half a dozen.

23 Q. Have you ever published an article about

24 sexual allegations against celebrities?

25 A. I don't think so. I don't recall ever

26 publishing anything like that.

27 Q. In any of your books, have you ever authored

28 anything about the subject of sexual allegations 4305

1 made against celebrities?

2 A. Well, I -- I may have referred to cases, but

3 I didn't refer to a personal concern.

4 Q. You said something about children who are

5 making false allegations tend to be inconsistent

6 when they describe those false allegations, correct?

7 A. No. What I said was, in fact, it's the

8 opposite. Children who make false allegations are

9 usually very consistent and almost scripted in what

10 they say. They exaggerate, they embellish, they

11 take every opportunity to make a positive into a

12 negative.

13 Children who have been molested tend to be

14 inconsistent. They have problems with memory

15 retrieval. Their data storage is not great. They

16 don't remember dates and times, and they don't

17 remember exactly what happened. And they don't tend

18 to embellish and exaggerate. When you interview

19 these children and you ask them if something

20 happened, they won't say, "Oh, yeah, that happened

21 too." They'll say, "No, that didn't happen."

22 Children who fabricate will all of a sudden

23 tell you that everything happened to them by

24 everybody, and so they exaggerate because they don't

25 know intellectually when to stop.

26 Q. So what you're telling the jury is, in your

27 experience, exaggeration and embellishment can be

28 signs of false allegations of sexual abuse? 4306

1 A. That is correct.

2 Q. And if you were investigating an allegation

3 of sexual abuse, and if you, as a professional, were

4 to learn that there was a history of false

5 allegations before, would that be something that you

6 would consider?

7 A. A false allegation of sexual abuse?

8 Q. Yes.

9 A. And the false allegations have been

10 determined to be false?

11 Q. Or you think they're false, because you see

12 a lot of exaggeration and embellishment in what the

13 children say.

14 A. Well, you can't simplify it. These are just

15 two factors. So I'm saying that children tend to do

16 these things. They tend to exaggerate and

17 embellish. That does not predict that they are

18 lying. But if children do embellish and exaggerate,

19 I'd be suspect of what the motivation is for making

20 the comments.

21 Q. And if, in any of these cases, there is no

22 physical evidence to support the allegation of

23 sexual abuse, the decision regarding whether or not

24 you believe the allegation is true is really a

25 subjective one, right?

26 A. Well, there's rarely evidence in these kinds

27 of cases. I've been involved in thousands. Rarely

28 see evidence, physical evidence, like trauma to the 4307

1 genitals, for example. It's subjective evaluation

2 based on an assessment and many data sources to

3 actually determine what happened.

4 Q. Doctor, in cases involving sexual abuse in

5 the criminal courts, you're seeing more DNA evidence

6 all the time used in these cases, correct?

7 A. In some sexual abuse cases, yes.

8 Q. You're seeing evidence of semen, DNA, and

9 things of that sort, correct?

10 A. In some of the cases, yes.

11 Q. And if you don't have any physical evidence,

12 it becomes pretty much a subjective determination

13 regarding credibility, correct?

14 A. Well, there may be other evidence which is

15 more objective. But certainly if you don't have the

16 physical evidence, you're missing one -- the

17 physical trauma, you're missing one piece.

18 But sexual abuse is not physically

19 traumatic. Fondling does not leave marks and

20 bruises and semen.

21 Q. But sexual abuse can leave marks or bruises

22 or semen, true?

23 A. Yes, sir.

24 Q. Depending on the nature of it?

25 A. Yes, it can.

26 Q. And if it leaves marks or bruises or semen

27 and there's evidence of that, it would support a

28 claim, correct? 4308

1 A. That's correct.

2 Q. Now, when you say exaggeration or

3 embellishment can be indications of a false claim,

4 that could certainly include stories changing, could

5 it not?

6 A. Well, as I said before, stories changing

7 suggests that the child may be actually telling the

8 truth, because children cannot retain memories very

9 well. Their storage retrieval system is not very

10 sophisticated. And as you can tell, even us

11 professionals can't remember everything we did a

12 year ago, let alone two years ago.

13 So it's very hard for a child to do that,

14 and that would not be predictive whatsoever of a

15 false claim.

16 THE COURT: All right. Let's take a break.

17 MR. MESEREAU: Oh.

18 (Recess taken.)

19 THE COURT: You may proceed.

20 MR. MESEREAU: Thank you, Your Honor.

21 Q. Dr. Katz, are you suggesting to the jury

22 that you don't often see false claims of sexual

23 abuse by teenagers?

24 A. Yes.

25 Q. Have you published any articles on that

26 subject?

27 A. I have not.

28 Q. What research have you done on that subject? 4309

1 A. I have read probably all the current

2 research on "Jeopardy in the Courtroom," which cites

3 all the research regarding children in the courtroom

4 regarding molestation.

5 Q. Now, tell me what research you've done into

6 how many civil cases have been filed by plaintiffs

7 who are teenagers in the area of sexual abuse and

8 how many have been won or lost?

9 A. I have no research about that.

10 MR. MESEREAU: No further questions.

11

12 FURTHER REDIRECT EXAMINATION

13 BY MR. ZONEN:

14 Q. Doctor, do you have personal experiences

15 involving your own caseload over the past 20-plus

16 years that you've been doing this where you believe

17 there were cases that were allegations, false

18 allegations, of molestation that were motivated by

19 profit?

20 A. In addition to all the cases that I've

21 seen - I've supervised numerous interns and other

22 professionals - I don't recall seeing any

23 adolescents or preadolescents who were making

24 allegations for profit.

25 I do and have been involved with lawsuits

26 where children have alleged molestation, and there

27 have been civil suits and they've been awarded

28 damages. So that wasn't the motivation, but they 4310

1 did proceed with the civil case and they were

2 awarded damages.

3 Q. All right. But in terms of where you

4 believe that the allegation itself was false --

5 A. No.

6 Q. -- that was motivated by profit?

7 A. No.

8 MR. ZONEN: No further questions.

9 MR. MESEREAU: No further questions, Your

10 Honor.

11 THE COURT: Thank you. You may step down.

12 THE WITNESS: Thank you, Your Honor.

13 MR. ZONEN: Call William Dickerman to the

14 stand, please.

15 THE COURT: Come to the front of the

16 courtroom, please.

17 When you get to the witness stand, please

18 remain standing, face the clerk here, and raise your

19 right hand.

20

21 WILLIAM DICKERMAN

22 Having so affirmed, testified as follows:

23

24 THE WITNESS: Respectfully, I'd prefer to

25 take an affirmation.

26 THE COURT: You may.

27 THE CLERK: All right. Do you solemnly

28 affirm that you will well and truly answer the 4311

1 questions propounded to you under the subject of

2 penalty of perjury?

3 THE WITNESS: I do.

4 THE CLERK: Thank you.

5 Please be seated. State and spell your name

6 for the record.

7 THE WITNESS: William Dickerman;

8 D-i-c-k-e-r-m-a-n.

9 (Discussion held off the record at counsel

10 table.)

11

12 DIRECT EXAMINATION

13 BY MR. ZONEN:

14 Q. Mr. Dickerman, good afternoon.

15 A. Good afternoon.

16 Q. Sir, what is your current occupation?

17 A. I'm an attorney at law.

18 Q. And you've been an attorney for how long?

19 A. Since 1977.

20 Q. It won't be a long direct examination. I

21 don't think I have much voice left, so we'll keep it

22 brief.

23 THE COURT: You need to be closer to the

24 mike, Mr. Dickerman.

25 And they're not hearing you either, probably

26 because of your cold.

27 THE WITNESS: Is that better now?

28 THE COURT: Yes, thanks. 4312

1 MR. ZONEN: Is that better now?

2 THE COURT: Yes.

3 Q. BY MR. ZONEN: Sir, what kind of a practice

4 do you have?

5 A. I'm a civil litigator/trial lawyer.

6 Q. Are you a sole practitioner or do you work

7 in a law firm?

8 A. I am a sole practitioner.

9 Q. What kinds of cases do you handle typically?

10 A. Well, generally civil, or strictly civil

11 rather than criminal, which means anything from

12 contract breaches, to torts, negligence cases,

13 unfair competition, copyright infringement. A whole

14 broad array of noncriminal cases.

15 Q. Do you know Jamie Masada?

16 A. I do.

17 Q. Is he is a client of yours?

18 A. Yes.

19 Q. And you have represented him at different

20 times over the years?

21 A. I have.

22 Q. Do you know Janet Arvizo?

23 A. I do.

24 Q. Is she a client, or was she a client of

25 yours?

26 A. She was, and I believe she thinks she still

27 is, so I'm assuming that she is.

28 Q. Okay. When did you first meet Janet Arvizo? 4313

1 A. February 21st, I think, 2003.

2 (Off-the-record discussion held at counsel

3 table.)

4 MR. ZONEN: Excuse me.

5 Q. I'm sorry, tell me the date of your first

6 meeting with her.

7 A. February 21st, 2003.

8 Q. 2003. And who was it who introduced you to

9 her?

10 A. Jamie Masada.

11 Q. And what was your understanding of the

12 nature of the problem?

13 A. Well, I have to be careful about disclosing

14 any attorney-client privilege. And it's my

15 understanding that Miss Arvizo and her family have

16 not waived the privilege, so I've got to be careful

17 about saying what I was told.

18 Q. Let me ask you differently, then. Did you

19 meet with her on a few occasions?

20 A. Yes, I did.

21 Q. Was Mr. Masada present on those occasions?

22 A. Some he was; some he was not. The initial

23 meetings he was.

24 Q. Approximately how many meetings did you have

25 with Ms. Arvizo where Jamie Masada was present?

26 A. I'd say a total of three or four in either

27 my office or at The Laugh Factory, and -- oh, gosh,

28 there were other times during the representation 4314

1 when we were all together.

2 Q. Okay. Did -- you did have a meeting with

3 her at The Laugh Factory; is that correct?

4 A. I believe there were at least two at The

5 Laugh Factory.

6 Q. What are the dates of those, if you know, or

7 if you have them written down?

8 A. One of them I know was February 25th. And

9 there was another one that I -- I don't know the

10 date of, but I believe it was not very long after

11 that date.

12 Q. Did you engage in efforts to do things or

13 perform services on behalf of Miss Arvizo?

14 A. Yes.

15 Q. Did that involve writing letters?

16 A. Yes.

17 Q. To whom did you write letters?

18 A. Well, the first letter I wrote was to Mr.

19 Geragos, who I understood was representing Mr.

20 Jackson at the time. And there was a whole series

21 of letters to him.

22 After Mr. Geragos, I wrote -- or I'm not

23 sure, maybe it was even before Mr. Geragos, I was

24 writing letters to various media outlets with regard

25 to the "Living with Michael Jackson" show.

26 Q. What was the extent of the problem as you

27 expressed it to Mr. Geragos?

28 A. There were a number of problems that I 4315

1 expressed to Geragos. And I remember I wrote a

2 letter on March 26th that covered three or four or

3 five of those things.

4 Q. Was that the first letter that you wrote?

5 A. I believe so.

6 Q. All right. Go ahead.

7 A. The most serious issue, as I recall, was an

8 intimidation/harassment/surveillance issue that I

9 expressed to him. I was asking him or directing him

10 to cut it out, or to have Mr. Jackson's people stop

11 surveilling, harassing, intimidating my clients.

12 Q. And what else did you ask for? Did you ask

13 specifically for anything to be returned?

14 A. Yes, I believe in that letter, and in

15 several others soon thereafter, I asked for the

16 return of passports, visas, birth certificates.

17 There may have been some other papers.

18 Q. All right. And did you ask, as well, for

19 other possessions that belonged to the Arvizo

20 family?

21 A. I don't know if it was in that first letter.

22 In one, at least one letter -- in fact, several

23 letters, I asked for return of clothing that had

24 apparently been -- not been returned to Gavin when

25 they left Neverland, including tap shoes, shirts,

26 socks, perhaps one or two other things.

27 Q. Okay. Were you aware as to whether or not

28 their possessions, in other words, the contents of 4316

1 their apartment, had been moved to some location?

2 A. I had been told that they had been moved to

3 some location.

4 Q. Did you make some effort to notify Mr.

5 Geragos of that fact and to ask that their

6 possessions be returned?

7 A. Yes, I believe it was in that same letter

8 and others thereafter that I asked not only -- well,

9 asked that they be returned, but preliminarily, to

10 get a listing of what those items were, where they

11 were, who had control over them. I wanted a whole

12 listing of things so we would know what there was

13 and what to do with it.

14 MR. ZONEN: All right. May I approach the

15 witness, Your Honor?

16 THE COURT: Yes.

17 Q. BY MR. ZONEN: Mr. Dickerman, I'm going to

18 show you two exhibits. Exhibit No. 625 and Exhibit

19 No. 630 both appear to be a collection of materials.

20 Could you take them both? And let's start with 625.

21 Take a moment, if you will, and look through 625,

22 and tell me if you recognize the content of that

23 exhibit.

24 A. I do recognize the content.

25 Q. All right. And what is that collection of

26 letters?

27 A. These are letters to -- mostly to Mr.

28 Geragos, and at least one from him, with regard to 4317

1 those efforts that you just asked about.

2 Q. All right. Did Mr. Geragos acknowledge to

3 you that they had Miss Arvizo's passport?

4 A. I don't believe he ever acknowledged it.

5 Q. Did he ever acknowledge that he had any --

6 or they had any of her other possessions, including

7 the content of her apartment?

8 A. At some point he did state that they did

9 have the items in storage.

10 Q. For the period of time that you were engaged

11 in these communications by mail with Mr. Geragos --

12 a period of what appears to be a couple months; is

13 that correct?

14 A. The first one was March 26th and his last

15 letter to me apparently was June 2nd, so more than a

16 couple months.

17 Q. Were you successful in getting Miss Arvizo

18 and her family's possessions returned to them?

19 A. Not at all.

20 Q. Did Mr. Geragos ever tell you where they

21 were?

22 A. I don't believe so. I think he simply

23 referred to -- or referred the matter to Mr. Miller,

24 Brad Miller, who then got in touch with me.

25 Q. All right. And when was that, the date of

26 that?

27 A. Well, on June 2nd, he wrote that -- well, he

28 asked to have my clients, quote, "assume 4318

1 responsibility for the lockers." I don't know that

2 I knew at that time which lockers that he was

3 talking about.

4 But then on June 12th, or thereabouts, I

5 received from Brad Miller a letter in which he

6 specified for the first time who had moved the items

7 and where they were in storage.

8 Q. All right. Up until that point, did Mr.

9 Geragos ever tell you where your clients'

10 possessions had been taken?

11 A. No. No.

12 Q. What was your understanding of the extent of

13 those possessions?

14 A. Well, again, without breaching

15 attorney-client privilege --

16 Q. Just on the basis of your communication with

17 Mr. Geragos.

18 A. Well, he had suggested to me that there

19 might be two vaults' worth of material, and my

20 understanding was that there was considerably less

21 than that. Of course, I don't know what he meant by

22 a "vault," but I was under the impression that there

23 was not very much that we were talking about at all.

24 Q. Was it all the furnishings of an apartment?

25 A. That was my understanding.

26 Q. Was this different from your request for

27 materials to be sent back that included clothing,

28 dance shoes and passports? 4319

1 A. Well, the -- yes. The only things that I

2 asked him to deliver, and repeatedly, many, many

3 times, was the items that were recently

4 transportable, the passports, the visas, the birth

5 certificates and the clothing.

6 Q. Did you learn whether or not your clients'

7 possessions were actually delivered to your office

8 at some point in time?

9 A. Yes. I got a phone message the day -- or

10 the day -- I think it was the day that they were

11 brought over. The office manager was irate that

12 certain things had been delivered or attempted to be

13 delivered, furniture, boxes and whatnot, and it was

14 a day that I was out for a religious holiday. So I

15 was very surprised to find that this had happened.

16 And I was told that those materials had been

17 told to be returned, that they were not off-loaded.

18 And I was quite upset about that, because I had made

19 no arrangements with Mr. Geragos or anybody else for

20 those things to be delivered at any time.

21 Q. Did you have a message on your voice mail or

22 your answer phone that -- answer phone is what I

23 mean to say, indicating that you would not be in the

24 office on that particular day?

25 A. Absolutely. Yes, I did.

26 Q. That's the day that these things were

27 delivered?

28 A. That's the day that they were delivered. 4320

1 Q. Were they actually received or accepted by

2 the office manager?

3 A. No.

4 Q. Or the building manager?

5 A. They were not.

6 Q. Did you talk with Mr. Geragos thereafter

7 about that?

8 A. I don't believe I spoke with him about it.

9 But we did have an exchange of letters.

10 Q. Again, during that entire -- I think we're

11 talking about eight to ten weeks, was anything ever

12 delivered to you, where you took possession of it,

13 or, to your knowledge, your client did?

14 A. Not a single item.

15 Q. Did you have actual verbal conversation with

16 Mr. Geragos during that period of time?

17 A. I believe there was at least one, perhaps

18 two.

19 Q. Did you, in the course of those

20 conversations, ask him about your clients'

21 passports?

22 A. Yes.

23 Q. And is this passports for each member of the

24 family?

25 A. I think so. May I refer to --

26 Q. Yes, please.

27 A. Yes, the passports of the entire family.

28 Q. What did Mr. Geragos tell you about the 4321

1 passports, if anything?

2 A. I don't recall specifically, without looking

3 at the document that embodies a memo, of what I

4 talked to him about, but I don't think he knew what

5 I was talking about. I remember him --

6 Q. Well, you have a number of letters to him

7 included in this packet that is 625 where you ask

8 him about passports, do you not?

9 A. Yes.

10 Q. Did you ask him to check into it?

11 A. Yes.

12 Q. Did you ask him about visas as well?

13 A. I don't remember. But again, there is a

14 memo of a phone conversation I had with him, and it

15 would be in that -- and that memo has been produced

16 to everybody involved in the case, as far as I know.

17 Q. Mr. Dickerman, at any time during the eight

18 to ten weeks that you were dealing with Mr. Geragos

19 and ultimately communication with Mr. Miller, did he

20 ever tell you, "Yes, we are in possession of these

21 passports, and we will return them to you and your

22 clients immediately"?

23 A. No.

24 Q. Did he ever acknowledge being in possession

25 of those passports?

26 A. No.

27 Q. Did he ever acknowledge those passports

28 existed? 4322

1 A. No.

2 Q. Those communications, 625, that you've

3 looked at, are those letters accurate reproductions

4 of the communications between you and Mr. Geragos in

5 writing, and in return, Mr. Geragos back to you?

6 A. Yes.

7 Q. Now, turn to the next group of letters,

8 please. That's 630; is that correct?

9 A. Yes.

10 Q. Excuse me.

11 630 is a collection of what kind of

12 materials, please?

13 A. These are letters to and from -- well, from

14 me to various attorneys, media outlets, with regard

15 to trying to -- with regard to the Bashir show

16 "Living with Michael Jackson."

17 Q. And among the people you wrote letters to

18 are whom?

19 A. There was Granada Television. Granada Media

20 Group. The British firm, law firm, of Addleshaw and

21 Goddard. David LeGrand at Hale, Lane, which is a

22 firm -- law firm in Las Vegas.

23 Q. Addleshaw and Goddard is where, what

24 location?

25 A. In London.

26 Q. In London, okay.

27 A. And finally, the Broadcasting Standards

28 Commission in London. 4323

1 Q. All right. The purpose of these

2 communications was what?

3 A. Well, there are various purposes for the

4 different ones.

5 Q. Okay. Were you -- what did they concern in

6 general?

7 A. They all concerned the "Living with Michael

8 Jackson" television program.

9 Q. All right. What was your concern about

10 that?

11 A. Well, the concern as to Granada was that

12 Granada and ITV, which was I believe a corporation

13 associated with Granada in England, they cease and

14 desist from using any program, tape, interview or

15 film footage, whether it was used in the "Living

16 with Michael Jackson" program or not, for any

17 purpose whatsoever unless they could provide valid

18 consents by my clients, who had been shot in that

19 video or in that program.

20 Q. All right. Did all of these communications

21 effectively deal with some issue pertaining to the

22 screening of "Living with Michael Jackson"?

23 A. Yes.

24 Q. Was there any mention made to you by any of

25 the people with whom you communicated over this

26 issue that they, in fact, represented the Arvizo

27 family or any of the Arvizo children in any claims

28 against those who produced the documentary "Living 4324

1 with Michael Jackson”?

2 A. Yes, the Addleshaw-Goddard firm,

3 especially -- or particularly Michelle Boote, who I

4 understood was a lawyer with that firm, stated

5 numerous times that that firm had been requested by

6 Ms. Arvizo to represent her in this complaint.

7 Q. Was your purpose in this communication

8 effectively to tell them that they were not?

9 A. Yes, and to keep them from moving forward

10 with anything that they were doing on the complaint

11 supposedly on her behalf.

12 Q. And -- all right. And did you instruct them

13 not to proceed on her behalf in any other

14 representation?

15 A. Yes.

16 Q. Why did you do that?

17 A. Because it was my understanding that she had

18 never given any consent for them to do so.

19 Q. And was there a reason that you didn't want

20 them representing her?

21 A. Because they weren't asked to represent her,

22 and she didn't want them representing her.

23 Q. Okay. Was it your understanding that you

24 would be representing her on that particular issue

25 dealing with the ramifications of the documentary

26 "Living with Michael Jackson"?

27 A. Yes.

28 Q. Now, you sent -- that collection of 4325

1 documents that you're looking at, No. 630, is that,

2 in fact, a complete collection, if you can tell, of

3 all the communications that you had with

4 Addleshaw-Goddard and with Mr. David LeGross?

5 A. It was LeGrand.

6 Q. LeGrand, I'm sorry. As well as BBC?

7 A. Well, I know there were a number of

8 communications. I can't be sure this is all of

9 them. I certainly produced all of them, as far as I

10 knew. I believe so.

11 Q. To the extent that you're looking at a

12 collection of documents, each of the documents that

13 you see in that exhibit, 630, is certainly one of

14 those letters; is that correct?

15 A. Yes.

16 Q. Either to you or from you?

17 A. Yes.

18 Q. All right. Did you file a lawsuit on behalf

19 of Janet Arvizo or her family?

20 A. No.

21 Q. At some point in time, did you refer this

22 matter to another attorney?

23 A. Yes.

24 Q. All right. Who was that other attorney?

25 A. Larry Feldman.

26 Q. And why did you do that?

27 A. Excuse me.

28 I began representing the Arvizos in 4326

1 February. And by the time I met with Mr. Feldman,

2 it was the beginning of May. In that period of time

3 I had learned a lot of things. There were a lot of

4 allegations being made, and I realized that the best

5 thing for my clients to do, and for me personally as

6 their attorney, was to get some expert input as to

7 matters of Michael Jackson.

8 The initial things I didn't think I really
9 needed to do that with, but as things developed, I
10 wanted to get some input. So I met with Mr.
11 Feldman, whom, by the way, I knew -- not "by the
12 way." It was very important. I knew that he was --
13 by reputation, he was one of the top trial lawyers
14 in California, if not the United States. And
15 actually, previously, not knowing him except by
16 reputation, I had referred a case to him, tried to
17 refer a case to him that I could not handle for
18 various reasons of an old client of mine.

19 And I knew that he was the go-to guy with

20 regard to Michael Jackson matters. Of course, I

21 knew about the 1993 case, so I met with him, with

22 the idea of picking his brain, actually, not to

23 refer any matters to him. And afterwards, he met

24 with them, and they -- we all associated together.

25 The Arvizos hired both him and me.

26 Q. All right. Have you filed a lawsuit as of

27 this time on behalf of the Arvizos or anybody else?

28 A. No. 4327

1 Q. Is it the case that the extent of your

2 dealings with them so far, in terms of your

3 communicating with others, has been for purposes of

4 getting their property returned or dealing with the

5 consequences of "Living with Michael Jackson," the

6 documentary?

7 A. Yes.

8 Q. Do you have an understanding with Mr.

9 Feldman that should there be a lawsuit in the

10 future, that --

11 THE COURT: They're not hearing you.

12 MR. ZONEN: I'm sorry?

13 THE COURT: Behind; these people can't hear

14 you.

15 MR. ZONEN: I'm terribly sorry.

16 Q. Is there an arrangement that, should there

17 be a lawsuit in the future, that there would be

18 compensation for you in any form of a settlement

19 even if you're not participating in that lawsuit?

20 Do you know what I mean?

21 A. Well, we have an agreement.

22 Q. Okay.

23 A. It doesn't say anything about participation

24 or not. We were retained together, and I have a

25 fee-sharing arrangement with Mr. Feldman.

26 Q. Which means what?

27 A. Which means I will get -- if there is such a

28 lawsuit anytime in the future, that I will be 4328

1 entitled to a sliding scale, depending on whether

2 there's a settlement or a judgment.

3 Q. Okay. What kind of lawsuit do you

4 anticipate?

5 A. I don't anticipate any lawsuit. My

6 understanding is that there isn't one in the offing.

7 Nobody's talking about one. And I suppose if there

8 were to be one -- well, that would be speculation.

9 MR. ZONEN: Okay. I have no further

10 questions.

11

12 CROSS-EXAMINATION

13 BY MR. MESEREAU:

14 Q. Good morning. Or good afternoon, I guess.

15 A. Good afternoon.

16 Q. Mr. Dickerman, my name is Tom Mesereau.

17 I speak for Mr. Jackson.

18 A. All right.

19 Q. You just told the jury you have a

20 fee-sharing arrangement with Attorney Larry Feldman,

21 right?

22 A. Correct.

23 Q. And fee-sharing arrangements among attorneys

24 are a fairly standard type of thing, are they not?

25 A. Under certain circumstances, yes.

26 Q. And typically in a fee-sharing arrangement,

27 the understanding is the following: Attorney 1

28 refers the case to Attorney 2. Attorney 2 files a 4329

1 lawsuit. And if there's a settlement or a judgment

2 or any amount of money recovered, then Attorney 2

3 has to give Attorney 1 a percentage of the recovery

4 the attorney gets, right?

5 A. Under circumstances as they often are, yes.

6 Q. It's typically called "a referral fee,"

7 right?

8 A. There are situations where there are

9 referral fees, and there are situations where the

10 attorney would be involved in the lawsuit and that's

11 how he would be compensated.

12 Q. In your typical referral fee arrangement,

13 the referring attorney, being the attorney that

14 sends the business to the other attorney, has an

15 arrangement where, if the other attorney collects

16 money, he gives a percentage to the attorney that

17 referred the matter, right?

18 A. In any strict referral fee arrangement, yes.

19 Q. But what you're telling the jury is your

20 arrangement with Larry Feldman is not a strict

21 referral fee arrangement, correct?

22 A. Correct.

23 Q. Your agreement with Larry Feldman is that

24 you both will share in any fees collected, correct?

25 A. Yes.

26 Q. And that would mean if tomorrow, or next

27 month, or this summer, you and Mr. Feldman decide to

28 file a civil suit against Mr. Jackson, you have an 4330

1 understanding that if any money is obtained, you'll

2 get a piece of that money, right?

3 A. Yes.

4 Q. When were you retained by Janet Arvizo?

5 A. Do you mean when a fee agreement was signed?

6 Q. Yes.

7 A. Well, there are a couple of different ones,

8 and they were both around March 24th, 2003.

9 Q. Was that the first date you met her?

10 A. No. We met February 21st.

11 Q. And who was at that first meeting on

12 February 21st?

13 A. Mr. Masada, Ms. Arvizo, I was, and I think

14 the three children were there, maybe in and out. I

15 believe I met them there, but I don't think they

16 were in on the meeting.

17 Q. Why was Masada in the meeting?

18 A. Well, Mr. Masada was the one who had brought

19 the people to me, and my understanding was that

20 there was no way that they were going to talk to me

21 without him there.

22 Q. Okay.

23 A. He was greasing the rails, as it were, to

24 get them to trust me enough to talk to me. They had

25 no reason to talk to me otherwise.

26 Q. Okay. And you had represented Masada for

27 many years, correct?

28 A. Yes. 4331

1 Q. And how many years had you represented Jamie

2 Masada at the point where you first met the Arvizos?

3 A. I think I began representing Mr. Masada in

4 1991. Perhaps 1990. So that would be about 12

5 years.

6 Q. Had you represented Mr. Masada in any

7 lawsuits?

8 A. Yes.

9 Q. How many?

10 A. I couldn't tell you precisely.

11 Q. How about generally?

12 A. Fewer than ten. Between five and ten,

13 probably. I shouldn't say that. I represented him

14 in many matters. How many have been lawsuits, I can

15 think of three off the top of my head. So there

16 were probably five.

17 Q. Approximately five civil lawsuits?

18 A. I would say so.

19 Q. Okay. And are you a civil litigator?

20 A. Yes.

21 Q. Do you litigate civil suits from start to

22 finish?

23 A. Yes.

24 Q. And would that mean that you will litigate

25 the case either to a settlement or a trial?

26 A. Which case? You mean generally speaking?

27 Q. Yes.

28 A. Yes. 4332

1 Q. Now, you've indicated you represented Mr.

2 Masada in matters other than the civil lawsuits

3 you've just described, right?

4 A. Yes.

5 Q. Generally, what did those matters entail?

6 A. Business matters, generally speaking.

7 Q. Would you consider yourself to be Mr.

8 Masada's principal business lawyer?

9 A. Well, he has told me I am. From time to

10 time he's had me coordinate everything, so, yes.

11 Q. And would that mean you draft documents for

12 Mr. Masada?

13 A. I have done that. I'm not a transactional

14 attorney, so if there's something major to draft

15 that does not involve litigation, probably not.

16 Q. Do you often attend business meetings

17 involving Mr. Masada?

18 A. No.

19 Q. Do you draft articles in the corporation for

20 Mr. Masada?

21 A. No. When I say "business attorney," I'm

22 assuming that you mean handling business litigation

23 for him.

24 Q. Oh, okay. Do you typically write business

25 letters for Mr. Masada?

26 A. I don't know what you mean by "typically."

27 I have done so.

28 Q. Okay. Are they typically litigation-type 4333

1 letters or something else?

2 A. Both.

3 Q. Okay. So you do both civil litigation for

4 him and you give general business advice, right?

5 A. A little of the latter.

6 Q. All right. And at the time you first met

7 the Arvizos, you had represented Mr. Masada for

8 approximately 12 years, correct?

9 A. On and off, yes.

10 Q. Are you the lawyer for The Laugh Factory?

11 A. I don't know what that means.

12 Q. Do you do legal work for The Laugh Factory?

13 A. I have.

14 Q. Okay. What kind of business claims have you

15 handled for Masada?

16 A. Well, I think that's attorney-client

17 privilege, and since he hasn't waived the privilege,

18 I really can't go into specifics.

19 Q. Let's refer to filed documents, pleadings

20 with the civil court. What kinds of lawsuits have

21 you represented him in?

22 MR. ZONEN: I'll object as exceeding the

23 scope of the direct examination.

24 THE COURT: Sustained.

25 Q. BY MR. MESEREAU: Did the Arvizos retain

26 your services or did Mr. Masada?

27 A. The Arvizos.

28 Q. Okay. And would it be correct to say that 4334

1 at the time you were representing the Arvizos, you

2 were also representing Masada in other matters?

3 A. Yes.

4 Q. Now, the documents the prosecutor has given

5 you in the form of exhibits in no shape or form come

6 close to the number of letters you sent or received

7 on behalf of the Arvizos, correct?

8 A. Not correct.

9 Q. Well, are they all of them?

10 A. No.

11 Q. On March 27th, you sent a letter to the

12 executive vice-president and general counsel of Walt

13 Disney & Company, correct?

14 A. I don't recall.

15 Q. Would it refresh your recollection if I just

16 show you a copy of the letter?

17 A. It might.

18 MR. MESEREAU: May I approach, Your Honor?

19 THE COURT: Yes.

20 THE WITNESS: Yes, that's a copy of a letter

21 I wrote.

22 Q. BY MR. MESEREAU: Does that appear to be the

23 first letter you ever sent on behalf of the Arvizos;

24 do you think?

25 A. If that's dated March 27th, I think the 26th

26 to Geragos is the first one. Actually, I'm not --

27 excuse me. There were a number of letters written

28 with regard to the "Living with Michael Jackson" 4335

1 show --

2 Q. Okay.

3 A. -- that may have been well before that. I

4 don't know. If you show them to me, obviously I

5 did.

6 Q. But they retain you on the 24th, and you

7 sent a letter to Mark Geragos on the 26th, right?

8 A. Well, when you say "retain," they signed an

9 agreement on the 24th. As I said, they may have

10 signed -- they did sign one earlier that covered

11 different matters. And that's just the formal

12 retaining. That doesn't mean I wasn't their

13 attorney. I was their attorney, as far as I

14 understood, whenever they were talking to me about

15 these matters, whether they signed an agreement or

16 not.

17 Q. Now, without going into any attorney-client

18 privileged information, which is obviously

19 confidential, when you wrote a letter to Geragos on

20 the 26th, which is two days after you were retained,

21 the basis for your information in the letter had to

22 have been your client, correct?

23 A. Yes.

24 Q. And you suggested in the letter that Mr.

25 Jackson had relentlessly hounded and harassed the

26 children, right?

27 A. Yes.

28 Q. You never witnessed that yourself, correct? 4336

1 A. Correct.

2 Q. You said that Mr. Jackson had hounded,

3 harassed the mother almost daily since they left

4 Neverland, correct?

5 A. Yes.

6 Q. You never witnessed that. You just wrote a

7 letter based on the information given to you, right?

8 A. Yes.

9 Q. You suggested that Mr. Jay Jackson had been

10 harassed, correct?

11 A. Can you point me to where I said that?

12 Q. Sure. Right in the middle of that Paragraph

13 No. 1.

14 A. Yes.

15 Q. Was Jay Jackson your client at the time?

16 A. No.

17 Q. You suggested in the letter to Mr. Geragos

18 on March 26th that there had been banging on the

19 Arvizo's door at all hours, correct?

20 A. Yes.

21 Q. And certainly you never personally witnessed

22 that, right?

23 A. Right.

24 Q. That came from your discussions with your

25 clients, right?

26 A. Right.

27 Q. You said disturbing notes had been left,

28 correct? 4337

1 A. Are you in the same paragraph?

2 Q. Yes. A little further down.

3 A. Yes.

4 Q. And that information came from your clients,

5 correct?

6 A. Yes.

7 Q. You said on March 26th, your clients

8 believed that Mr. Jackson was illegally

9 eavesdropping on their phone conversations, right?

10 A. Yes.

11 Q. And it was your understanding they weren't

12 living at Neverland at the time, right?

13 A. Right.

14 Q. That information, of course, came from your

15 clients, right?

16 A. Right.

17 Q. At no time in that letter to Mark Geragos of

18 March 26th did you ever mention anything about child

19 molestation, right?

20 A. Right.

21 Q. Now, you talked about wanting passports and

22 visas returned, correct?

23 A. Yes.

24 Q. And at some point you learned that Mr.

25 Geragos had turned the passports in to this court,

26 correct?

27 A. I think so. But that might have been a few

28 weeks ago. Or even last week. I don't even know 4338

1 how I learned about it, but --

2 Q. But you heard about it at some point, right?

3 A. I think so. It rings a bell.

4 Q. That Mr. Geragos had arranged to deposit

5 those passports in this courthouse?

6 MR. ZONEN: I don't know that this witness

7 has personal knowledge. Lack-of-foundation

8 objection.

9 THE COURT: Sustained.

10 Q. BY MR. MESEREAU: Nowhere in this letter of

11 March 26th that you wrote to Mr. Geragos on behalf

12 of the Arvizos is there any mention of alcohol,

13 correct?

14 A. Correct.

15 Q. And you ask for a return in the last

16 paragraph of the papers they have signed, including

17 passport and visa applications, correct?

18 A. Not in the last paragraph of the letter.

19 Q. Paragraph No. 2 on the first page, which is

20 the very bottom.

21 A. Oh.

22 Q. I'm sorry. I should have said the first

23 page.

24 A. Yes.

25 Q. Was it your understanding they had signed

26 passport and visa applications?

27 A. I did not know about anything that they had

28 signed other -- I didn't know about whether they had 4339

1 signed passports or visa applications.

2 Q. Well, you asked for signed documents in

3 connection with a legal action in Britain concerning

4 "Living with Michael Jackson," right?

5 A. Yes, but that wasn't passports or visas.

6 Q. Was it your understanding that the Arvizos

7 had signed documents involving the show "Living with

8 Michael Jackson"?

9 A. There was one document that purportedly had

10 been signed, that I was aware of, by Miss Arvizo

11 with regard to that action in Britain.

12 Q. Now, in this letter of March 26th to Mr.

13 Geragos, there is no mention of the Arvizo family

14 ever being falsely imprisoned, correct?

15 A. I believe that's correct.

16 Q. And in this letter of March 26th to Attorney

17 Mark Geragos, there's no mention of the Arvizo

18 family ever being kidnapped, correct?

19 A. Correct.

20 Q. In this letter of March 26th, 2003, to Mr.

21 Geragos that you wrote, there's no mention of any

22 extortion, right?

23 A. I believe that's correct. I haven't read

24 this word for word, but it sounds right.

25 Q. Okay. When you sent this letter to Mr.

26 Geragos on March 26th, 2003, two days after you had

27 been retained by the Arvizos, did you ever call the

28 police to complain about false imprisonment, 4340

1 kidnapping, molestation or alcohol?

2 A. No.

3 Q. Now, you asked for the return of personal

4 property to the Arvizos in this March 26th, 2003,

5 letter to Geragos, right?

6 A. Yes.

7 Q. And your understanding was that this

8 personal property was stored somewhere, correct?

9 A. Yes.

10 Q. How did you know it was stored somewhere?

11 A. I don't recall specifically how I learned --

12 well, without violating the attorney-client

13 privilege, I really can't go into it more.

14 Q. Okay. Okay. But clearly the letter says

15 you want the keys to all locations and facilities in

16 which this property has been stored, right?

17 A. Where are you?

18 Q. Page two, the very beginning.

19 A. Yes.

20 Q. Okay. Now, in this letter you wrote on

21 March 26th, you said that your clients wanted copies

22 of all tapes, films, audio recordings, photographs,

23 images on film, et cetera, of your clients, the

24 Arvizos, correct?

25 A. Yes.

26 Q. And the reason for that was, you, as their

27 lawyer, thought that any tapes or recordings of the

28 Arvizos may have monetary value, correct? 4341

1 A. Well, that gets into the work-product

2 doctrine, my opinions and thoughts, and I'm not

3 waiving that.

4 Q. Okay.

5 A. So I can't tell you what I was thinking or

6 why I was thinking it.

7 Q. But you wanted the tape or film of the

8 Arvizos that was made in the home in the San

9 Fernando Valley within the last two months, right?

10 A. Yes.

11 Q. Okay. Have you ever seen that?

12 A. No.

13 Q. All right. You also wanted Mr. Geragos, in

14 your letter of March 26th, 2003, to provide you with

15 any releases that may have been signed by any Arvizo

16 concerning the show "Living with Michael Jackson,"

17 right?

18 A. Yes.

19 Q. And please tell the jury what you meant by

20 "release" in that letter of March 26th.

21 A. Well, typically before a production is

22 mounted, whether it's television or movies or

23 anything that depicts an individual -- I shouldn't

24 say "generally." Very often, if people are smart,

25 they get a release from the person who's the subject

26 of the show, and that then protects the producers

27 and everybody else involved with the show from

28 liability from the individual who is depicted. 4342

1 Q. Was it your understanding releases had been

2 signed?

3 A. It's my understanding that some releases,

4 some purported releases, had been signed for some

5 purpose.

6 Q. Okay.

7 A. Some --

8 Q. And you wanted those back, right?

9 A. Yes.

10 Q. Okay. You made a statement that the Arvizos

11 were hereby revoking any release they had signed in

12 favor of Mr. Jackson, right?

13 A. Yes.

14 Q. And you were making a claim that any such

15 release was obtained by fraud or undue influence,

16 correct?

17 A. Well, more fully, undue influence, fraud,

18 misrepresentation, false pretenses and/or duress.

19 Q. Okay. But you mention specifically the word

20 "fraud," don't you?

21 A. Yes.

22 Q. Now, as a civil litigator, you're aware of

23 how long one has to file a fraud claim against

24 someone else in a civil suit, correct?

25 A. Yes.

26 Q. And what I'm referring to is what is called

27 a statute of limitations, correct?

28 A. Correct. 4343

1 Q. What is the statute of limitations for

2 filing a claim for fraud in civil court?

3 A. Three years from the fraud or from the time

4 that the plaintiff should have known about it.

5 Q. And based on the date of your letter, Janet

6 Arvizo would have till approximately some date in

7 2006 to file a fraud claim against Mr. Jackson if

8 she chose to, correct?

9 A. I don't know. I don't know when the

10 actionable events would have occurred or what

11 exactly the fraud action would have involved.

12 Q. Well, you refer to fraud, correct?

13 A. Correct.

14 Q. You refer to fraud in a specific context,

15 correct?

16 A. Right.

17 Q. The context in which you refer to fraud is a

18 suggestion that any releases signed were

19 fraudulently induced, true?

20 A. Right. So it would be three years from the

21 fraudulent inducement or the time when the plaintiff

22 should have discovered it.

23 Q. Okay. And you threaten Mr. Geragos with a

24 civil restraining order, true, in the last

25 paragraph?

26 A. Well, I wouldn't say "threaten." I say that

27 this is what we intended to do.

28 Q. Did you ever do that? 4344

1 A. It wasn't against Mr. Geragos.

2 Q. It involved Mr. Jackson, true?

3 A. Yes.

4 Q. You were threatening to seek a civil

5 restraining order against Mr. Jackson, correct?

6 A. I'll take issue again with your description

7 of "threat."

8 Q. Well --

9 A. But we don't need to quibble about that. I

10 suppose that's essentially true.

11 Q. When you used the following words, "His

12 failure to heed this demand will force my clients to

13 seek a civil restraining order and perhaps to

14 vindicate their rights in other legal ways," that

15 was a form of a legal threat, wasn't it?

16 A. All right.

17 Q. You said if the items weren't returned by

18 April 1st, 2003, you would seek a civil restraining

19 order, right?

20 A. No, there is not a restraining order with

21 regard to return of items. The restraining order

22 would only be related to the improper conduct, the

23 harassment, the intimidation.

24 Q. Okay. Did you ever seek that civil

25 restraining order?

26 A. No.

27 Q. You have told the jury that along with

28 communicating with Mr. Geragos about your clients' 4345

1 allegations of misconduct by Mr. Jackson, you were

2 also writing to other parties about the Bashir

3 documentary, true?

4 A. Right.

5 Q. And who were those parties?

6 A. Generally speaking, they were the parties

7 that were producing, broadcasting and other ways

8 exploiting the show "Living with Michael Jackson."

9 So there was ABC, and I think Disney is ABC's

10 parent, and the National Enquirer's parent company,

11 I think it's American Media. There was, as I noted

12 before, the communications with Mr. LeGrand, who was

13 Mr. Jackson's attorney supposedly with regard to the

14 British action. I think there were -- I know there

15 was some communication with FOX about a subsequent

16 production after "Living with Michael Jackson."

17 Various media outlets.

18 Q. Now, the day after your first letter to

19 Mr. Geragos on March 26th - and I'm referring to

20 March 27th now, okay? - you wrote a letter to the

21 executive vice-president, general counsel of Walt

22 Disney, true? That's the letter I just showed you.

23 A. Well, I don't recall specifically who it was

24 written to, but I did write to Disney.

25 Q. And you asked them to let you know when your

26 clients had given any legal consent to use the

27 footage of the Arvizos in the film "Living with

28 Michael Jackson," right? 4346

1 A. Without having a copy of the document, I

2 can't vouch for what you're saying.

3 Q. Would it refresh your recollection if I show

4 you the letter again?

5 A. Most certainly.

6 MR. MESEREAU: May I approach, Your Honor?

7 THE COURT: Yes.

8 THE WITNESS: Okay.

9 Q. BY MR. MESEREAU: Have you had a chance to

10 look at the letter?

11 A. I briefly saw what you pointed out in the

12 paragraph.

13 Q. Does it refresh your recollection of what

14 you wrote in the letter on March 27, 2003, to the

15 Walt Disney company?

16 A. Yes.

17 Q. You asked them to please let you know

18 whether such legal consent, for example, via

19 release, was in fact given to ABC, or Granada, or

20 anyone else involved in the program, right?

21 A. Yes.

22 Q. At that point you didn't know whether they

23 had given releases or not, true?

24 A. I didn't know, that's correct.

25 Q. On March 31st, 2003, you did a memo to your

26 file about a phone call from Mark Geragos, right?

27 A. I don't recall the date, but I know there

28 was a typed memo to the file about a conversation 4347

1 with Mr. Geragos.

2 Q. And that's when you -- excuse me, let me

3 rephrase that.

4 In that call to Mark Geragos that's referred

5 to in that memo, you talk about him telling you he

6 thinks there either is a vault or two of storage

7 with the contents of the Arvizos' property, right?

8 A. If you give me a copy of that, or give me a

9 moment to try to dig up my own, I will be able to

10 answer that.

11 Q. I can show it to you, if it's easier.

12 A. It will be a little quicker.

13 MR. MESEREAU: May I approach, Your Honor?

14 Thank you.

15 THE WITNESS: Okay.

16 Q. BY MR. MESEREAU: Have you had a chance to

17 review that memo?

18 A. Yes.

19 Q. Does it refresh your recollection about the

20 phone call with Mr. Geragos?

21 A. Not really. It refreshes my recollection as

22 to the memo that I typed or had typed after the

23 conversation.

24 Q. Well, according to your memo, you said Mr.

25 Geragos told you he thought there were passports,

26 true?

27 A. Yes.

28 Q. According to your memo, Janet Arvizo told 4348

1 you the harassing behavior had just stopped,

2 correct?

3 A. I really need to see that again, or I have

4 to find my own copy.

5 Q. I can show you mine, if you want.

6 A. Okay.

7 MR. MESEREAU: May I approach, Your Honor?

8 THE COURT: Yes.

9 THE WITNESS: Okay.

10 Q. BY MR. MESEREAU: Have you taken a look at

11 the memo?

12 A. Yes.

13 Q. Does it refresh your recollection about your

14 discussions with Mr. Geragos?

15 A. It refreshes my recollection of the memo.

16 I don't recall specifically having the contents of

17 the conversation. It was a long time ago.

18 Q. Was it your understanding that Janet told

19 you that the harassment had just stopped?

20 A. If it says that there, then, yes, it did.

21 She did.

22 Q. Well, it says that there, doesn't it?

23 A. Yes.

24 Q. Okay. All right. You talked to Mr. Geragos

25 about the passports in a phone conversation,

26 correct?

27 A. Yes.

28 Q. And he told you he thought they existed, 4349

1 right?

2 A. Yes.

3 Q. You also asked him how to get in touch with

4 Bashir, correct?

5 A. Yes.

6 Q. And he said he would try to help you do

7 that, right?

8 A. Can you quote that language? I know he

9 mentioned something about Granada.

10 Q. "I also asked him about Granada, whether he

11 could find out how to get in touch with Bashir. He

12 said he thought it was Granada Productions, and I

13 told him I knew of Granada Television and Granada

14 LPC." Okay?

15 A. Yes.

16 Q. "He said he would try to get me a sheet

17 showing the proper company," right?

18 A. Okay.

19 Q. How would you describe your relationship

20 with Mr. Geragos at this point?

21 A. That was March 27th?

22 Q. Yes.

23 A. Well, at that point he had not turned

24 hostile.

25 Q. Okay.

26 A. So I would say it was just a regular old

27 relationship with opposing counsel.

28 Q. At what point do you think he turned 4350

1 hostile?

2 A. Well, he didn't respond to any of the

3 requests, except in that phone conversation where

4 he -- whatever he said about the passports. He

5 never returned anything. He didn't respond to

6 letters. You go through these letters and I keep on

7 recounting, "I've written to you this date, this

8 date, this date, this date, this date. Every time

9 I've asked you, say, 'Please return these things,

10 you don't respond, you don't give them to me, you

11 don't give me the contents of the storage. There's

12 no reason not to return the passports, the visas,

13 the birth certificates. You can get those to me

14 right away."

15 And then especially when he pulls this

16 shenanigan of having the items delivered to my

17 office -- not "the items," but apparently two vaults

18 of furniture in boxes and whatnot that I had

19 specifically never asked to have returned on a date

20 that anybody who had called my office would know I

21 wasn't going to be there, when we had no

22 arrangements whatsoever. And then he has the nerve

23 to write me later on that I had given consent

24 somehow, which of course I never had. That was

25 probably long past the time where I thought he had

26 turned hostile.

27 But obviously he wasn't responding, and it

28 was very surprising to me to have a lawyer of 4351

1 supposedly his caliber being such a hostile and

2 oppositional, adversarial person, when there was

3 really nothing at that point that I knew to be

4 adversarial about.

5 Q. What you're telling the jury is that a truck

6 came to your office or somebody had been instructed

7 to deliver the things that you requested and nobody

8 would accept them at your office, right?

9 A. I wasn't there. All I know is what the

10 manager of the facility told me.

11 Q. Okay. And what you learned from the manager

12 was that a truck of furniture and goods arrived, and

13 that nobody would accept them, true?

14 A. Yes.

15 Q. Now, in all of these conversations you had

16 with Mark Geragos on behalf of the Arvizos, at no

17 time did you mention to him anything about child

18 molestation, correct?

19 A. Well, I don't think I had more than one or

20 two conversations.

21 Q. And you never mentioned anything about child

22 molestation, correct?

23 A. That's correct. That wasn't the purpose of

24 the communication.

25 Q. You never mentioned anything about wine

26 allegedly being given to any of the Arvizo children,

27 correct?

28 A. Correct. There was no reason to do that. 4352

1 Q. The prosecutor, on direct examination of

2 you, talked about your writing letters to England,

3 correct?

4 A. Yes.

5 Q. And you started communicating with a company

6 called Granada Television, Ltd., around April 3rd,

7 2003, right?

8 A. Yes.

9 Q. And you wrote to that company to tell them

10 that they were not to use any film footage or

11 likeness of the Arvizos without their consent,

12 right?

13 A. Without providing valid consents, as I had

14 described previously in the letter.

15 Q. And in that letter, you said your clients

16 had advised you they never signed any consent form,

17 right? This is a letter of April 3rd, 2003, to

18 Granada Television, Ltd.

19 A. I'm looking at the letter.

20 Q. Okay. If you don't have it, I can show it

21 to you.

22 A. I've got it.

23 That's correct.

24 Q. You didn't want them taping, filming,

25 interviewing, exhibiting, selling, licensing or

26 exploiting any of the footage involving the Arvizos,

27 correct?

28 A. With regard to "Living with Michael 4353

1 Jackson," that's correct.

2 Q. Yes. Your position was that any such

3 footage was owned by your clients, and if it had any

4 value, that they owned that value, right?

5 A. No, my position was that they had not given

6 their consent to be either taped, filmed, broadcast

7 or exploited in any other way.

8 Q. You --

9 A. And we were seek --

10 Q. Excuse me. Sorry.

11 A. The purpose of all these communications with

12 regard to "Living with Michael Jackson" was to stop

13 the exploitation of the Arvizo family.

14 Q. You wanted any footage returned to you,

15 right?

16 A. I don't see in this letter requesting that

17 anything be returned.

18 Q. Do you ever recall requesting that any

19 footage or photographs of the Arvizos be returned to

20 you?

21 A. I think I wrote something to that effect in

22 the letter to Geragos on March 26th like we just

23 discussed. I may have later on to somebody else,

24 but certainly didn't in this April 3rd letter to

25 Granada.

26 Q. Did you want Mr. Geragos to deliver items to

27 your office?

28 A. Yes. The passports, the visas, the 4354

1 clothing, the birth certificates.

2 Q. How about furniture?

3 A. No. Never asked him. Never arranged for

4 it. We never discussed it.

5 Q. Are you saying that the Arvizos had no

6 problem with the furniture remaining in storage as

7 long as Mr. Jackson was paying for it?

8 A. Well, it was unknown to me who was paying

9 for it. It was unknown where the -- to me, where

10 these things were stored. And by far, as indicated

11 in these letters, the most important thing to be

12 returned were the passports, visas, birth

13 certificates, Gavin's undergarments, his tap shoes,

14 and the other items that I specified in letter after

15 letter, and we can go through each of those letters

16 if you want to see me specifying them, over and over

17 and over again, asking for only those items.

18 And as to the materials, the items that were

19 stored, asking for a list of items that were stored,

20 information as to where they were stored, who had

21 the key, who had control, so that we could dispose

22 of those items as my clients wished.

23 Q. And your client, Mrs. Arvizo, told you she

24 had very little furniture that anybody could have

25 taken, correct?

26 A. Again, I -- she hasn't waived the

27 attorney-client privilege, so for me to say anything

28 that isn't in these letters would be beyond what I'm 4355

1 ethically and legally allowed to tell you.

2 Q. Well, if there is a privilege that you were

3 honoring, why did you write on April 8th the

4 following to Mr. Geragos: "She tells me that

5 contrary to what you said about there being a

6 truckload, she had very few possessions, since she

7 lived in a bachelor apartment. She does not believe

8 that much, if any, furniture was removed"?

9 A. Well, to write a letter to an attorney is

10 not a violation of the attorney-client privilege.

11 Otherwise, one lawyer could never write a letter to

12 another lawyer making any demand on behalf of his

13 client, because then you'd be waiving the

14 attorney-client privilege, which I cannot. It's

15 impossible for me to waive her privilege.

16 And in order to get things done, obviously

17 I've got to describe certain things that I'm told,

18 otherwise there could be no communication.

19 Q. You wrote a letter to Mr. Geragos on April

20 3rd, 2003, correct?

21 A. Yes.

22 Q. In that letter, you never mention anything

23 about molestation, correct?

24 A. That's correct. The only purpose of the

25 letter was to get the items that I had written about

26 before.

27 Q. In the April 3rd letter, 2003, you mention

28 nothing about alcohol, correct? 4356

1 A. That's correct.

2 Q. You mention nothing about false

3 imprisonment, correct?

4 A. Correct.

5 Q. You mention nothing about any alleged

6 kidnapping, correct?

7 A. That is correct.

8 Q. You mentioning nothing about any alleged

9 extortion, correct?

10 A. Correct.

11 Q. And as of April 3rd, 2003, you have never

12 called the police on behalf of the Arvizos, correct?

13 A. Not correct.

14 Q. You didn't call the police to report false

15 imprisonment, molestation, or extortion?

16 A. That's not what you asked. You'd asked if I

17 had ever called the police.

18 Q. When did you call the police?

19 A. I was interested to find out what was

20 happening with the investigation, and I called, I

21 guess it was the sheriff's office, spoke to -- I

22 don't know. I know I called. I don't know if I

23 spoke to Sergeant Robel.

24 Q. Not during this time period, sir.

25 A. No. I never called the police to report

26 anything about the Arvizos.

27 Q. You're talking about calling the police at a

28 much later date to find out about this case, 4357

1 correct?

2 A. Right. But your question wasn't limited,

3 and I wanted to make sure that I'm exactly accurate,

4 to the extent that I can.

5 Q. When did you call Mr. Robel, if you know?

6 A. It seems to me it was sometime after June

7 '03. Maybe October.

8 Q. October of 2003?

9 A. Maybe June, maybe October. I know I've

10 produced for subpoena a sheet of something regarding

11 a phone call to him.

12 Q. And this would have been after you entered

13 into a legal fee arrangement with Attorney Larry

14 Feldman, correct?

15 A. Yes.

16 Q. Approximately when did you enter into the

17 fee arrangement with Attorney Larry Feldman?

18 A. Probably early May.

19 Q. So you enter into a fee arrangement with

20 Attorney Larry Feldman in May, and possibly a month

21 later, you called the sheriffs to find out about an

22 investigation; is that correct?

23 A. I -- I should probably take back the "June."

24 I recall, I think October. But you've got the

25 notes. So if it's June, it's there.

26 Q. Okay. But right now we're on April 3rd.

27 A. Let me clear up something, though, if I

28 might. I don't know what the significance is of a 4358

1 fee arrangement with Larry Feldman. I previously

2 had fee agreements with the Arvizos that were

3 substantially more lucrative to me than they were

4 later on, and what they did was they retained both

5 of us. It was not they retained Feldman, who then

6 agreed to give me a share of whatever recovery there

7 was.

8 Q. Up to this very date, as you sit here today,

9 you have a fee arrangement with Mr. Feldman, as you

10 testified, correct?

11 A. As far as I'm concerned, yes.

12 Q. Okay. You then wrote a letter to Mr.

13 Geragos on April 8th, 2003, correct?

14 A. Yes.

15 Q. Again, you discussed your clients'

16 possessions, right?

17 A. Yes. And other things as well.

18 Q. You talk about allegations of harassment,

19 correct?

20 A. Right.

21 Q. You say that the harassment has not ceased,

22 correct?

23 A. Yes.

24 Q. But in your internal memo to yourself of

25 March 31st, 2003, you say that Janet has told you

26 the harassment has ceased, right?

27 A. As of that day, she said she was no longer

28 being harassed. I guess it picked up after that, or 4359

1 it was a lull in the harassment.

2 Q. You just got that information from Janet,

3 true?

4 A. Just got what information?

5 Q. The information about harassment resuming

6 comes from Janet, correct?

7 A. Perhaps other of the family as well.

8 Q. And nowhere in that letter of April 8th,

9 2003, do you mention molestation, correct?

10 A. I think I can short-circuit this. I never

11 mentioned molestation, kidnapping, alcohol or any of

12 those.

13 Q. False imprisonment?

14 A. Or false imprisonment to Mr. Geragos. That

15 was not the purpose of any of these letters. All of

16 these letters were for the purpose of him getting

17 things back to my clients and stopping the

18 harassment.

19 Q. So in all of these letters, you represent --

20 excuse me, you identify various claims against Mr.

21 Jackson, like harassment, and wanting property

22 returned, and not wanting unauthorized use of the

23 Bashir material, but in none of them do you mention

24 the things I've just described, molestation,

25 alcohol, false imprisonment, extortion, kidnapping,

26 correct?

27 A. I've just said that.

28 Q. Okay. When you mentioned requests for 4360

1 clothes, you're talking about shirts, tap shoes,

2 underwear, socks, et cetera, right?

3 A. Yes.

4 Q. Obviously, you're told by your client that

5 that stuff's missing, right?

6 A. Right.

7 Q. When you were retained by the Arvizos, was

8 it your understanding that there was litigation

9 going on in Great Britain?

10 A. Well, I don't know exactly where, if that is

11 on the timeline. Assuming that February 21st is

12 when I was first retained, because I was, according

13 to my understanding of the law, their attorney when

14 they came to talk to me on that date, I'm sure I did

15 not know -- I shouldn't say "I'm not sure" -- I

16 shouldn't say "I'm sure." I don't know. I don't

17 recall being told about it.

18 Q. You were considering filing a lawsuit on

19 behalf of the Arvizos against various studios, if

20 necessary, right?

21 A. Well, again, that goes into the attorney

22 work product, which is privileged from discovery,

23 and so I guess I should decline to answer that.

24 Q. Well, you wrote to ABC in New York on behalf

25 of the Arvizos on April 11, 2003, correct?

26 A. I don't know.

27 Q. I can show you the letter, if it's easier.

28 A. Sure, why don't you. 4361

1 MR. MESEREAU: May I approach, Your Honor?

2 THE COURT: Yes.

3 THE WITNESS: Okay.

4 Q. BY MR. MESEREAU: Have you had a chance to

5 look at that letter?

6 A. Yes.

7 Q. Is that a letter you wrote to a lawyer in

8 ABC in New York named Zucker?

9 A. Yes.

10 Q. That was on April 11th, 2003, correct?

11 A. I didn't look at the date, but if you say

12 so, that's fine.

13 Q. You made the statement, "My clients do not

14 wish to make a claim against ABC if one is not

15 founded," right?

16 A. Right.

17 Q. That means they were contemplating making

18 one if it had any justification, correct?

19 A. Right. And that claim was to get Gavin's

20 face off television and other media, to stop the

21 exploitation.

22 Q. You wrote to Mr. Geragos again on April

23 11th, 2003, right?

24 A. Yes.

25 Q. The subject of that letter is your desire

26 that no footage involving the Arvizos be used by

27 anyone associated with Michael Jackson, right?

28 A. Well, it was with regard to a contemplated 4362

1 program by FOX.

2 Q. How did you learn that FOX was going to

3 broadcast something about Michael Jackson?

4 A. I don't recall.

5 Q. But what you told Mr. Geragos was that if

6 there was any such program, they were not to use

7 your clients' footage without their consent, right?

8 A. No. It said that there was no consent and

9 therefore they may not use that footage.

10 Q. The reason for all of this, Mr. Dickerman,

11 was the Arvizos wanted to be paid if the footage was

12 used, right?

13 A. I can't say what was in their head. That

14 was never communicated to me --

15 Q. Okay.

16 A. -- ever, under any stretch of the

17 imagination.

18 If -- I'll tell you, if I thought so, I

19 would have been demanding money. I would have said,

20 "Give me a call, and let's talk about what can be

21 done," or we would have had a phone conversation.

22 If you want money, this is not the way to go about

23 it.

24 Q. Mr. Dickerman, the way to go about getting

25 money is to tell people not to use the footage and

26 start the process of negotiation right there,

27 correct?

28 A. That's not the way that I would do it. 4363

1 Q. Okay. All right.

2 A. Especially with a fellow who was as hostile

3 as Mr. Geragos was. That's not at all how I would

4 do it.

5 Q. But you were writing to other lawyers around

6 the country, including Mr. Zucker in New York, and

7 lawyers in England, and lawyers in Los Angeles, in

8 Burbank, right?

9 A. I did write to other lawyers. But I can

10 tell you this: There was never a request for money.

11 And the reason there was no request for money is

12 because I was never told -- in fact, much to the

13 contrary. I was never told to seek money for any

14 purpose from anyone with regard to Michael Jackson,

15 period.

16 Q. Did Mr. Masada, your client for many years,

17 ever say words to the effect to you, "They're making

18 millions and these poor people are getting none of

19 the money"?

20 A. I don't recall.

21 Q. Okay. But obviously he's the one that

22 brought them to you, right?

23 A. I don't know what you mean by "obviously,"

24 but Mr. Masada brought them to me, yes.

25 Q. Okay. All right. You got a letter from Mr.

26 Geragos on April 15th asking you where to deliver

27 the items in storage, right?

28 A. Yes. 4364

1 Q. At that point you certainly knew they were

2 in storage, correct?

3 A. I knew that he was saying that they were in

4 storage.

5 Q. Well, were you representing Jay Jackson at

6 this point?

7 A. No.

8 Q. On April 16th, Mr. Dickerman, you wrote to

9 the head of legal affairs at Granada Media Group in

10 England, correct?

11 A. Yes.

12 Q. You continued to complain about use of the

13 footage involving the Arvizos, correct?

14 A. I wouldn't say "complain." I set forth the

15 facts, drew conclusions and made a suggestion to

16 Granada that their position was not right, and

17 demanded that they cease and desist using "Living

18 with Michael Jackson," et cetera.

19 Q. Now, you also wrote to the Globe newspaper

20 on behalf of the Arvizos, correct?

21 A. Sounds familiar.

22 Q. You complained about their taking

23 photographs of the Arvizos, right?

24 A. I don't recall specifically what I said in

25 the letter. But if you show me the letter, I can

26 answer the question.

27 Q. I don't have that letter, but I have their

28 response to you. Do you have your letter you wrote 4365

1 regarding the Globe newspaper?

2 A. Give me a minute or two. I --

3 Q. Yes.

4 A. What's the date?

5 Q. I have a letter from them of April 16th,

6 2003. It references a letter you wrote to Michael

7 Kahana, Esquire.

8 A. That letter sounds familiar, and I don't

9 seem to be able to put my hands on it.

10 Q. Were you claiming that the Arvizos had a

11 copyright interest in photographs taken of them that

12 appeared in the media?

13 A. I don't know. Depends on what the letter

14 said.

15 Q. Okay.

16 A. I do recall writing to, I thought it was

17 either The Globe or The National Enquirer regarding

18 a photograph of Janet Arvizo that I believe to have

19 been improperly obtained and published.

20 MR. ZONEN: May I have a moment with

21 counsel?

22 THE COURT: Let's take a break.

23 MR. MESEREAU: Oh.

24 (Recess taken.)

25 THE COURT: You may proceed.

26 MR. MESEREAU: Thank you, Your Honor.

27 Q. Mr. Dickerman, Larry Feldman is known as one

28 of the -- 4366

1 THE BAILIFF: Can you turn your microphone

2 on?

3 MR. MESEREAU: Sorry. Sorry. Let me start

4 again.

5 Q. Mr. Dickerman, Larry Feldman is known as one

6 of the top plaintiff's civil litigators in America,

7 correct?

8 A. I don't know about America, but I would say

9 certainly California.

10 Q. And typically, a plaintiff's civil litigator

11 will file a lawsuit on behalf of a plaintiff,

12 correct?

13 A. Yes.

14 Q. And try to seek damages -- excuse me, try to

15 seek monetary damages in that lawsuit, right?

16 A. Yes. But I should say, while he's known as

17 a plaintiff's lawyer, I know him also to have

18 defended major lawsuits, and he's now with a major

19 New York firm, so he is certainly doing a lot of

20 defense work.

21 Q. He started doing a lot of defense work in

22 recent years, did he not?

23 A. I don't know.

24 Q. But he became very well known in Los Angeles

25 for winning huge financial damage awards in civil

26 cases, correct?

27 A. I would say that's probably true.

28 Q. A lot of them were types of personal injury 4367

1 cases, correct?

2 A. I don't really know, beyond the '93 case,

3 and I've been reading his name, and I think he was

4 the -- the president -- I don't know if it was

5 California State Bar or the L.A. County Bar. I

6 don't know the specific cases. I know of one

7 railroad case that was a big deal, but -- if I

8 were -- if my memory were refreshed, I would know

9 some of these other cases. But offhand I don't.

10 Q. Typically in a plaintiff's civil case, the

11 lawyer gets a percentage of whatever the lawyer

12 recovers for the client, correct?

13 A. Only if it's a contingency case. If that's

14 the arrangement, for a percentage. That's typical

15 in auto accident cases. It's typical in other

16 accident cases usually.

17 I can't say what's typical in a molestation

18 case, or any other particular case. It just depends

19 on whether the plaintiff has the money to pay the

20 fees or prefers to go on a contingency.

21 Very often I have turned people away from

22 contingency fees, because I tell them, "You got a

23 strong case and you're going to be very unhappy if

24 you pay me a percentage after I don't do \$100,000

25 worth of work. You're better off, if you got the

26 money, to pay me hourly to do that." And so it

27 varies from case to case.

28 Q. If the client doesn't have a lot of money to 4368

1 pay the lawyer in a plaintiff's civil case,

2 typically what the lawyer does is pay the costs,

3 litigate the case, and if money comes in, either

4 through a settlement or a judgment in a trial, the

5 lawyer gets a percentage of that recovery, right?

6 A. That's right.

7 Q. And even though you're aware of Mr. Feldman

8 doing defense work, you're also aware of him

9 pursuing large multi-million-dollar damage claims on

10 behalf of civil plaintiffs, correct?

11 A. Yes.

12 Q. And you're aware of him doing that on behalf

13 of plaintiffs who can't afford to pay legal fees,

14 correct?

15 A. I don't know. I don't know who pays him

16 what or how it's done.

17 Q. Now, you produced some handwritten notes,

18 which you were subpoenaed to produce in this case,

19 true?

20 A. Yes.

21 Q. Some of the notes you produced mention the

22 J.C. Penney case, right?

23 A. I know at least one of the pages says that,

24 yes.

25 Q. Were you involved in the J.C. Penney

26 litigation on behalf of the Arvizos?

27 A. Not at all.

28 Q. Okay. Do you know why you refer to the J.C. 4369

1 Penney case in your notes?

2 A. Do you want to refer to some specific notes?

3 Q. I have a page I can show you.

4 A. I've got my originals here of a conversation

5 that I had with Mr. Sneddon on January 9th. Is that

6 the one you're referring to?

7 Q. I think it's more like January 8th. It says

8 "Liebler" in the corner.

9 A. Well, at the top of that previous page it

10 says 1-8, but near the middle it says 1-9. So I'm

11 assuming that's a conversation I had on the 9th.

12 Q. To your knowledge, had the J.C. Penney case

13 concluded by the time you were hired?

14 A. I know nothing about the J.C. Penney case.

15 I know it arose, there was some conversation about

16 it, and I have no involvement in it. It seems to me

17 that it resolved some time ago. I don't know. One,

18 two years or more. I don't know.

19 Q. Was it your understanding that that was a

20 plaintiff's contingency fee case where the lawyer

21 gets a percentage of the recovery?

22 A. I have no idea what their fee arrangement

23 was.

24 Q. Okay. When was the last letter you sent

25 Mark Geragos regarding the Arvizos?

26 A. Well, if Exhibit 625 has all my letters to

27 Geragos, that would be May 29, 2003.

28 Q. And you continued to communicate with 4370

1 Michael Jackson's lawyer named David LeGrand,

2 correct?

3 A. Yes.

4 Q. And your letters to David LeGrand went

5 through July of 2003, correct?

6 A. I don't have the date memorized. But if

7 you've got a letter that says that, then that would

8 be the case.

9 Q. I have a letter July 9th. Do you want to

10 see that?

11 A. I have a letter of July 9th from him. I

12 don't know if I wrote to him after that or not.

13 Q. Okay. You're continuing to write letters on

14 behalf of the Arvizos through July of 2003, right?

15 A. Yes.

16 Q. And to make a long story short, none of your

17 letters ever discussed the subjects I identified

18 before, molestation, false imprisonment, kidnapping,

19 harm to children, that kind of thing, correct?

20 A. They never did. That wasn't the purpose of

21 any of the communications. All these communications

22 were for the purpose of getting things done, not for

23 making allegations about something that would be

24 handled in some other form.

25 Q. Well, you mentioned harassment in some of

26 your early letters, correct?

27 A. Right.

28 Q. But you never mentioned anything about 4371

1 alcohol in any of them, correct?

2 A. Well, first of all, the Arvizos were gone

3 from Neverland by March 26th, is my understanding.

4 And the letters regarding humiliation, intimidation,

5 surveillance on March 26th and thereafter was about

6 continuing behavior after they left Neverland.

7 Q. Okay.

8 A. I was writing -- seeking for him to get

9 Jackson and his people to stop doing what they were

10 doing. To do affirmative things. Stop, return

11 things, provide lists. Not to make allegations of

12 things that Geragos would have nothing to do with in

13 any event.

14 Q. Was it your understanding at some point that

15 furniture and material was returned to the Arvizos

16 by Brad Miller?

17 A. I -- I don't have any personal knowledge of

18 any return of those things.

19 Q. Did you ever see a receipt from a storage

20 locker?

21 A. I don't recall seeing one.

22 Q. Was it your understanding that while you

23 were representing the Arvizos, Mr. Geragos paid rent

24 for the Arvizos in East Los Angeles?

25 A. I have no such understanding.

26 Q. Did you ever hear anything about that?

27 A. About Geragos paying rent?

28 Q. Yes. 4372

1 A. No.

2 Q. Did you ever hear about anybody associated

3 with Mr. Jackson paying the Arvizo rent in East Los

4 Angeles?

5 A. I don't recall hearing of any such --

6 Q. Did you ever communicate about that to

7 anybody?

8 A. To the extent that I communicated about

9 anything with my clients, that would be protected by

10 attorney-client privilege. But I don't recall

11 communicating about that with anybody else.

12 Q. Have you referred any clients to Mr. Feldman

13 since you referred the Arvizos?

14 A. No.

15 Q. When did you last talk to Mr. Feldman about

16 this case?

17 A. Yesterday.

18 Q. Did you talk about what you were going to

19 say in court?

20 A. No. I think all we talked about was whether

21 Miss Arvizo had waived the attorney-client

22 privilege.

23 Q. And that discussion was yesterday?

24 A. And I think we said something about the --

25 about the fee arrangement. Specifically I can't

26 recall. I was sitting upstairs, and I was returning

27 calls from the office.

28 Q. Now, as a civil litigator, you're aware that 4373

1 if you obtain a criminal conviction in a case of

2 alleged child molestation, any parallel civil case

3 is automatically won on liability, right?

4 A. Actually, I've heard that recently. But not

5 having ever been involved in such a case, I can't

6 say that I know that for sure. I haven't researched

7 the law on it.

8 Q. But you certainly know that if someone has a

9 judgment of a criminal conviction against them for

10 sexual assault, you can use that in a civil court to

11 establish liability and not have to incur the

12 expenses and the time involved in a trial on

13 liability, right?

14 A. I would assume that to be the case.

15 Q. The only issue at that point would be how

16 much money you get in a civil courtroom, correct?

17 A. I don't know if there are other issues, but

18 I think as the judgment, that's true of any criminal

19 action, that you don't then have to go, once again,

20 and prove exactly what was proved with a higher

21 burden of proof.

22 MR. MESEREAU: No further questions, Your

23 Honor.

24

25 REDIRECT EXAMINATION

26 BY MR. ZONEN:

27 Q. Mr. Dickerman, before we took the break, Mr.

28 Mesereau had asked you about a letter that you had 4374

1 sent to Michael Kahan, or Kahana, and we took the

2 break and we came back and he didn't follow up on

3 that document.

4 Have you had a chance to see that document

5 dated April 3rd, 2003?

6 A. I did. I found it in my file.

7 Q. Mr. Dickerman asked you if, in fact, you

8 made a demand for royalties for photographs

9 published in the Globe; is that correct?

10 A. Do you mean Mr. Mesereau?

11 Q. I'm sorry, Mr. Mesereau asked that of you.

12 A. I don't recall if he asked that or not.

13 Q. Did you, in fact, make a demand for

14 royalties in this letter?

15 A. No, I -- I -- I never made a demand for

16 money on behalf of the Arvizos in any letter, in any

17 communication, for any purpose under the sun.

18 Q. What did you ask the Globe newspaper to do

19 in this case? I'm assuming the Globe is a

20 newspaper.

21 A. Yeah, it's a tabloid.

22 Q. What did you ask them to do in this letter?

23 A. I'll quote the last paragraph. "Unless the

24 Globe and American Media can provide valid consents,

25 as described above," that's referring to consent by

26 my clients to be in the Globe, "the Arvizos demand

27 that the Globe and American Media immediately cease

28 and desist from using or in any other way exploiting 4375

1 photographs of any of my clients.

2 "My clients further demand the Globe and

3 American Media cease and desist from any further

4 mention of them in any publications," close quote.

5 Q. You asked that they take them out of the

6 newspaper and not put them back in again, is that

7 right?

8 A. That was it. That was -- the concern was to

9 stop exploiting them, period.

10 Q. Did not ask for money?

11 A. No.

12 MR. ZONEN: No further questions.

13 MR. MESEREAU: No further questions, Your

14 Honor.

15 THE COURT: Thank you. You may step down.

16 Call your next witness.

17 MR. SNEDDON: The witness is on his way

18 down, Your Honor.

19 THE BAILIFF: He is on his way.

20 MR. SNEDDON: He's on his way.

21 MR. MESEREAU: Who is the next witness?

22 MR. SNEDDON: Jeff Klapakis.

23 THE COURT: You know, I was thinking that

24 between the comedians and the lawyers, I kind of

25 like the comedians better.

26 (Laughter.)

27 THE COURT: You don't have to respond.

28 (Laughter.) 4376

1 MR. AUCHINCLOSS: Your Honor, while we're

2 waiting, there are a couple of exhibits that have

3 not yet been admitted that I'll ask to be admitted

4 at this time.

5 THE COURT: All right.

6 MR. AUCHINCLOSS: The first one is the

7 notebook. Madam Clerk has it. It's Exhibit No.

8 769. That was the one notebook that counsel had an

9 objection to, but we researched it, and I believe

10 found sufficient foundation was laid for that.

11 THE COURT: No. 769?

12 MR. AUCHINCLOSS: Yes. And I can show Madam

13 Clerk the exhibit.

14 THE COURT: I'm sorry, are you objecting to

15 this exhibit or just remaining --

16 MR. SANGER: I'll submit it.

17 THE COURT: All right. It's admitted.

18 Come forward, please.

19 You're already under oath. You may be

20 seated.

21

22 JEFF KLAPAKIS

23 Having been previously sworn, resumed the

24 stand and testified further as follows:

25

26 DIRECT EXAMINATION

27 BY MR. SNEDDON:

28 Q. Lieutenant, you previously testified in this 4377

1 case?

2 A. Yes, I have.

3 Q. And you understand you're still under oath?

4 A. Yes.

5 Q. All right. And just as a refresher, since

6 it's been a couple of weeks probably since you were

7 back, would you tell the ladies and gentlemen of the

8 jury, you are employed by the sheriff's department

9 in what capacity?

10 A. I am the lieutenant currently in charge of

11 the North County Investigations Division.

12 Q. And with regard to this particular case

13 against the defendant in this case, Michael Jackson,

14 what is your particular assignment or role?

15 A. I am in charge of the overseeing of the

16 entire investigation.

17 Q. And so Sergeant Robel, then, would work

18 underneath you, correct?

19 A. That's correct.

20 Q. And under your direction?

21 A. Yes.

22 Q. Now, with regard to -- we're going to talk a

23 little bit about forensics, okay?

24 A. Okay.

25 Q. And of the decisions that were made in this

26 case with regard to the processing of certain

27 exhibits.

28 A. All right. 4378

1 Q. Now, generally what's the relationship

2 between how items are sent for processing for

3 forensic purposes in the office? Who makes that

4 decision?

5 A. Well, generally the investigator who seizes

6 an item, say pursuant to a search warrant, will --

7 once packaging and booking it, will fill out a form

8 for the forensic unit to do a latent comparison, or

9 whatever type of forensic science they want on the

10 evidence.

11 Q. In this particular case, who made those

12 decisions?

13 A. I did.

14 Q. Now, with regard to forensic examinations,

15 are some examinations -- some items done --

16 forensically examined within the sheriff's

17 department?

18 A. Yes.

19 Q. And are some done and sent to outside

20 agencies?

21 A. Yes.

22 Q. Can you give the jury just a general idea of

23 what kind would be sent out and what kind would be

24 done inside?

25 A. Well, certainly an examination of items for

26 latent fingerprints, we have that expertise within

27 the sheriff's department. An examination of an item

28 of evidence for biological fluids we would send out 4379

1 to the Department of Justice, who has that

2 experience, where we don't.

3 Q. Now, with regard to this particular case,

4 the Michael Jackson case, People versus Michael

5 Jackson, after -- you were present when the search

6 warrant was executed on November the 18th of 2003,

7 correct?

8 A. Yes, I was.

9 Q. And in conjunction with that search warrant,

10 a number of items were taken and brought back to the

11 sheriff's department, correct?

12 A. Yes.

13 Q. And shortly after that, some plan was put in

14 effect to basically document or inventory what it

15 was that was taken; is that correct?

16 A. Yes.

17 Q. And who did you assign that particular task

18 to?

19 A. Well, when we seized those items, that was

20 part of the -- I'm not quite sure I understand

21 exactly what point in time you're talking about.

22 Q. Right after you got back from the search

23 warrant, okay? There were certain items that were

24 placed into bags and certain containers that had

25 items that hadn't been looked at yet, correct?

26 A. Correct.

27 Q. And did you assign somebody the

28 responsibility of going through those items and 4380

1 seeing what there was inside and documenting that

2 through reports?

3 A. Yes.

4 Q. And who did you assign that responsibility

5 to?

6 A. Detective Bonner.

7 Q. And that particular process, from -- let's

8 say from the day of the search till -- how long did

9 that take?

10 A. Well, it's -- it's -- it's always been an

11 ongoing process. There's lots of items of evidence.

12 Q. Well, let me go back. Only as to the stuff

13 taken from Neverland Valley Ranch, not as to any

14 subsequent search warrants.

15 A. I would say it's taken Detective Bonner

16 probably a couple of months to go over all that

17 material and examine it.

18 Q. Now, were you involved in developing a --

19 what might be called a forensic game plan for the

20 processing of the items that were taken from the

21 Neverland Valley Ranch on November 18?

22 A. Yes, I was part of that.

23 Q. And what was your role in that plan?

24 A. As well as providing input and asking

25 questions, I was the ultimate person to make the

26 last decision on what we were going to do.

27 Q. And with regard to the particular plan, what

28 did you do in your capacity as the person in charge 4381

1 of making these decisions to help you make those

2 kinds of decisions? Did you do any research? Did

3 you do any checking? Did you have people do things

4 so they could give you advice as to what the

5 decision should be?

6 A. Yes, I conferred with my forensic unit. We

7 talked about the type of materials that we had, and

8 that we had seized from the ranch.

9 One of the things we decided to do was to go

10 out and get a similar type of material, adult

11 material magazine, and practice with it. Again,

12 we're talking about different forms of paper. We

13 wanted to make sure that any processes that we did

14 to develop and stabilize latent prints would not be

15 destroyed by a previous process. So, that was one

16 of the things that we went out and did, and

17 practiced with that.

18 Q. When did you commence that portion of your

19 planning stages on the game plan?

20 A. Well, the first part of the game plan was to

21 photograph some of the materials. And we started on

22 that process. At that point in time, I stopped the

23 forensic unit, and I asked them to go over the

24 materials with an alternate light source in hopes of

25 developing or finding any biological fluids.

26 Q. And when specifically do you recall, in

27 terms of from November the 18th of 2003, was it that

28 the alternative light source was used to process the 4382

1 materials that still remained in the sheriff's

2 department custody?

3 A. I'd say December or January. December '03

4 to January '04.

5 Q. And were you aware of the fact, in your

6 capacity as the lead person in making these forensic

7 decisions, that certain items were taken to the

8 Department of Justice in the month of February?

9 A. Yes, they were.

10 Q. Was that under your -- your direction that

11 they be taken there?

12 A. Yes.

13 Q. Now, let's go back just a second to the

14 testing protocol. You told the ladies and gentlemen

15 of the jury one of the things that you directed

16 staff to do was to buy various magazines and to

17 experiment with them; is that correct?

18 A. Yes.

19 Q. Now, was that particular experimentation or

20 process development directly related to a particular

21 type of forensic examination, or to more than one

22 type that you anticipated?

23 A. Multiple types.

24 Q. And what would be the multiple types that

25 you had in mind?

26 A. Certainly super gluing, and using other

27 types of -- I'm not a forensic scientist, but super

28 gluing those would be one of them. Using a process 4383

1 called ninhydrin would be another one. Certainly

2 fingerprint powder, to see if that developed any.

3 We wanted to do -- also examine it with the

4 naked eye as -- without any powders or anything on

5 it by using a -- what we refer to as a Scenescop.

6 Q. So most of the things that you just talked

7 about were the processes directly related to the

8 latent print examination, correct?

9 A. Yes.

10 Q. Now, in connection with developing the

11 process that was eventually used to process latent

12 prints or process the magazines that may or may not

13 have developed latent prints, did you consult with

14 any outside agencies in the development of that

15 protocol?

16 A. Yes.

17 Q. Who did you consult with?

18 A. The FBI.

19 Q. Now, the jury's heard a lot about several

20 organizations, and I want to just digress for just a

21 moment and talk about this a little bit.

22 The FBI is a federal agency, correct?

23 A. Correct.

24 Q. Or as Mr. Mesereau would call them, they're

25 the government?

26 A. Yes.

27 Q. Now, where are their labs that deal with the

28 fingerprint and latent examinations? 4384

1 A. Quantico, Virginia.

2 Q. Now, we've also heard another branch of

3 government called the Department of Justice,

4 correct?

5 A. Correct.

6 Q. And when you use the Department of Justice,

7 what are you talking about?

8 A. That's a state lab. California state lab.

9 Q. And with regard to that particular lab, do

10 they have local facilities?

11 A. Yes. Small, but yes.

12 Q. Do they provide a full range of forensic

13 assistance at the local lab?

14 A. No.

15 Q. Are there certain things that are sent to

16 the local lab, but then have to be sent up to the

17 Department of Justice elsewhere?

18 A. Yes.

19 Q. And to your knowledge, does the Department

20 of Justice do latent fingerprint examinations?

21 A. I don't believe they do those. At least we

22 have never used them for that.

23 Q. Do they do DNA work?

24 A. Yes, they do the preliminaries. And then I

25 believe that they send those out to Richmond, I

26 believe.

27 Q. In a lab in Richmond?

28 A. Yes. 4385

1 Q. Now, after the -- you've told the ladies and

2 gentlemen of the jury that certain materials were

3 sent to the Department of Justice locally for a

4 forensic examination in February?

5 A. That's right.

6 Q. Those materials, particularly those

7 materials that were contained within the Exhibit

8 470, which is the briefcase --

9 A. Okay.

10 Q. -- that you refer to as 317. You have the

11 briefcase in mind?

12 A. Yes, I do.

13 Q. And the materials in it that I'm talking

14 about in mind?

15 A. Right.

16 Q. Okay. Now, those particular materials, what

17 happened to them between the time that the -- some

18 of those materials were removed in February, what

19 remained in the briefcase, and the other materials?

20 Where were they, to your knowledge?

21 A. Well, a lot of the materials were kept at

22 DOJ, and I believe they were locked up in a safe.

23 Q. Those are the items removed from 317?

24 A. That's correct.

25 Q. Or 470, in our case here.

26 A. Yes.

27 Q. And the ones that remained in your custody

28 and control, what happened to those? 4386

1 A. I believe that those were entered into

2 evidence in the grand jury.

3 Q. And to your knowledge, were those retained

4 by the grand jury?

5 A. Yes.

6 Q. Now, at some point, you received the items

7 back from the Department of Justice, the local

8 Department of Justice, that had been sent in

9 February. Do you recall that?

10 A. Yes.

11 Q. Do you recall when you got them back?

12 A. The latter part of July, almost August.

13 Q. And when you got those materials back, most

14 of those were magazines; is that right?

15 A. Yes.

16 Q. And was a decision made at some point after

17 that as to how, and in what priority, certain

18 materials would be processed?

19 A. Yes, based on the testing protocol that we

20 had done, plus our conferring with the FBI, we

21 developed our own protocol to what would work best

22 in trying to develop and stabilize any latent prints

23 on the magazines. And then that, I believe, was in

24 August '04. In conference with your office, my

25 office, we developed prioritizations of which

26 magazines to do first.

27 Q. Do you have an estimate of how many

28 magazines were involved here? 4387

1 A. Hundred-plus.

2 Q. Have you ever had a situation to do latent

3 examination on 100 magazines in a case?

4 A. Not every page.

5 Q. Now, you said that there was a meeting

6 between your department and the District Attorney's

7 Office --

8 A. Right.

9 Q. -- with regard to prioritization.

10 What decisions were made with regard to

11 how -- what month was that?

12 A. August, '04.

13 Q. And with regard to that, what prioritization

14 was developed for the processing of the magazines in

15 this case that were seized from Neverland Ranch on

16 November the 18th?

17 A. Prior to -- the priority was placed on Item

18 317, the magazines from the briefcase.

19 Q. And thereafter, what was the priority to be?

20 A. I believe -- and any other magazines found

21 within Mr. Jackson's bedroom. Bedroom, den, room.

22 Q. Upstairs or downstairs?

23 A. Yes. Bathroom as well.

24 Q. Now, did you or anybody under your direction

25 take steps to obtain the release of the magazines

26 and the briefcase that we refer to in this case as

27 470, and you refer to as 317 from the grand jury?

28 A. Yes. 4388

1 Q. And what occurred in that connection?

2 A. Detective Bonner -- we had to get a court

3 order to get it out of the grand jury. In order to

4 do that process, we -- I believe the Court requested

5 that we replace what we took out with photographs.

6 Detective Bonner -- and I believe the defense had to

7 review that as well, before we can get the court

8 order. I sent Detective Bonner to the Court, who

9 took photographs of the items from the grand jury.

10 And then in October we received a court order and

11 got the magazines out.

12 Q. Now, you've indicated to the jury that

13 certain materials were returned to your possession

14 and control from the Department of Justice in around

15 July of 2004.

16 A. Yes.

17 Q. And you've indicated to the jury that you

18 got some -- you got the other materials from 470

19 from the grand jury in October of '04?

20 A. Right.

21 Q. Had some processing of latent prints begun

22 before you actually got the remaining materials from

23 the grand jury?

24 A. No. We were doing other phases of the

25 forensics. Photographing, splitting the pages,

26 putting them into separate binders. We were doing a

27 lot of preprocessing before we went into the

28 magazine. 4389

1 Q. Okay. So it was part of the protocol

2 process for examination, but it wasn't the actual

3 examination process. It was the prep process?

4 A. Yes.

5 Q. But you had begun that process before you

6 got the materials back from the grand jury?

7 A. I believe we had started that process in

8 January, with some items that neither went to DOJ or

9 neither went to the grand jury. So....

10 Q. So it was just an ongoing situation?

11 A. Yes.

12 Q. Now, just to give the ladies and gentlemen

13 of the jury some idea, you're a head -- your title

14 is what?

15 A. Lieutenant.

16 Q. And you're in charge of what?

17 A. Criminal Investigations Division.

18 Q. Now, during the time from, let's say,

19 January of 2004 till the time of October of 2004,

20 were there other major events that required you to

21 take personnel off this case to become involved in

22 major investigations?

23 A. Especially my forensics personnel, yes.

24 Q. And what was that?

25 A. We -- in July, we had a homicide. In

26 September -- and this is '04. September '04, we had

27 had an officer-involved shooting that resulted in a

28 justifiable homicide. And in October '04, we had 4390

1 a -- another homicide.

2 Q. Now, with regard to the process of beginning

3 the examination of the magazines that you've already

4 described, the prep, and you've already indicated

5 when the actual latent comparison process began, did

6 you learn at some point that there was a deadline

7 set for the completion of the project?

8 A. Yes.

9 Q. And do you recall when it was you learned

10 that there was a deadline set?

11 A. Yes.

12 Q. When was that?

13 A. When we discussed the magazines, I believe

14 in October, '04. But that wasn't the date. I was

15 given December 12th, I believe.

16 Q. So you basically had ten weeks to complete

17 the process?

18 A. Yes.

19 Q. When you found that out, did you have to

20 bring extra personnel in to help process all these?

21 A. Yes, I did.

22 Q. Now, the FBI has a lab in Quantico that

23 you've said does do latent print examinations,

24 correct?

25 A. It's quite a big lab, yeah.

26 Q. And was any discussion had with regard to

27 sending some or all of these materials to FBI?

28 A. We talked about it. 4391

1 Q. And was there a reason why it wasn't done?

2 A. Yes. I felt that we had already begun some
3 processes with some of the materials. And by
4 sending -- piecemealing out things to do, I would
5 lose control over the evidence. And I -- I wanted
6 to have accountability over this evidence. So I had
7 the utmost confidence in my staff, given the time
8 constraints, and -- to handle the job. And so I
9 chose to keep it in-house.

10 Q. In your experience over the years that
11 you've dealt with the FBI in fingerprints, does it
12 take them a while -- did they have to prioritize

13 your request with other requests from other

14 agencies?

15 A. Yes, they did.

16 Q. And you indicated that you didn't think that

17 the Department of Justice, the State Department of

18 Justice, did latent examinations at this point in

19 time?

20 A. I'm sure they will do them for smaller

21 agencies. But again, it's a prioritization process,

22 and we have -- we're a mid level agency, and we're

23 fully capable of doing that kind of work.

24 MR. SNEDDON: Thank you. I have no further

25 questions.

26 CROSS-EXAMINATION

27 BY MR. MESEREAU:

28 Q. Good afternoon. 4392

1 A. Good afternoon.

2 Q. Approximately 69 personnel did a search on

3 Neverland Ranch, correct?

4 A. Approximately 69 persons were involved in

5 the operation, yes.

6 Q. And how many were sheriffs, if you know?

7 A. I would say 90 percent.

8 Q. Have you ever done a search with that many

9 sheriffs before?

10 A. I was involved in a peripheral investigation

11 with the City of Guadalupe where we basically took

12 over the town, so, yes, I'd have to say.

13 Q. Your typical homicide investigation in Santa

14 Barbara County, you don't use 69 sheriffs for a

15 search, do you, of a home?

16 A. No.

17 Q. And your typical homicide investigation in

18 Santa Barbara County, you don't even come close to

19 using that number in a search of a home, right?

20 A. That's correct.

21 Q. It was done here because Mr. Jackson is a

22 celebrity, correct?

23 A. That's not why it was done.

24 Q. The fact that Mr. Jackson is known as a

25 megastar around the world has nothing to do with

26 taking 69 people to search his home?

27 A. There were a lot of other operations going

28 on in regards to the search that required additional 4393

1 personnel.

2 Q. Were you in charge of the search?

3 A. Yes, sir, I was.

4 Q. And isn't it true that your office contacted

5 the media before the search?

6 A. That is not correct.

7 Q. Do you remember an operations plan you put

8 together to have people read before the search?

9 A. Yes.

10 Q. Did it talk about media observing the

11 search?

12 A. One of the personnel that we had there was a

13 public information officer; that the sole purpose of

14 having him there was, once we conducted the search,

15 we thought the word might get out.

16 Q. Before you conducted the search, did you

17 make plans for any type of press conference?

18 A. I -- I believe the sheriff's department was

19 involved in that process, yes. I didn't. Your

20 question was did I.

21 Q. Let me rephrase it.

22 A. Okay.

23 Q. Before approximately 69 people searched Mr.

24 Jackson's home and surrounding location --

25 A. Uh-huh.

26 Q. -- plans were already in effect by the Santa

27 Barbara Sheriff's Department to conduct a press

28 conference, right? 4394

1 A. I believe that they planned that.

2 Q. Did that have anything to do with the fact

3 that Mr. Jackson is a megastar?

4 A. I believe that we do that for all newsworthy

5 stories that we become involved in.

6 Q. You haven't answered my question. Let me

7 rephrase it.

8 A. The answer is no, then.

9 Q. So the planning of a press conference by the

10 sheriff's department before the search of Mr.

11 Jackson's home and the plans specifically directed

12 at a press conference had nothing to do with the

13 fact that Mr. Jackson is perceived as a megastar,

14 correct?

15 A. You know, I -- maybe it was. I'm not -- I'm

16 not sure I can answer that. I mean, it was involved

17 with who it was and the case, the type of case that

18 we were investigating. It's a newsworthy item.

19 Q. Did the fact that Mr. Jackson is perceived

20 as a well-known celebrity internationally have

21 anything to do with the number of people involved in

22 the search?

23 MR. SNEDDON: Objection as asked and

24 answered, Your Honor.

25 THE COURT: Sustained. Sustained.

26 Q. BY MR. MESEREAU: Who planned the press

27 conference prior to the search?

28 A. Well, I'd have to say Sergeant Chris Pappas 4395

1 was involved in that, but I'm not -- I'm not sure.

2 I was involved in a different aspect of it. I think

3 that they were talking about the potential of the

4 media getting involved in this and so they wanted to

5 have a plan in place.

6 Q. How fast after the search began was there

7 any press conference?

8 A. Mr. Mesereau, I couldn't tell you that. I

9 was so engrossed in the events on the ranch that I

10 wasn't paying attention to what was going on

11 outside.

12 Q. Do you recall your participating in any

13 press conference related to the search of Mr.

14 Jackson's home?

15 A. No, I don't believe I was.

16 Q. Was anyone from your office involved in that

17 press conference, to your knowledge?

18 A. There was a press conference with -- with,

19 I believe, the public information officer outside of

20 our office.

21 Q. Before you conducted your search, press

22 releases had already been printed regarding the

23 search, true?

24 MR. SNEDDON: Your Honor, I'm going to

25 object. No foundation.

26 THE COURT: Foundation is sustained.

27 Q. BY MR. MESEREAU: Do you know whether or

28 not, before you conducted the search of Mr. 4396

1 Jackson's home with approximately 69 personnel, any

2 press releases had already been prepared regarding

3 the search?

4 A. No, I do not know that.

5 Q. Did you ever see such a press release at any

6 time that you've been involved in this case?

7 A. It's possible I have. I can't tell you

8 when. Certainly -- I don't believe I saw one prior

9 to the service of the search warrant.

10 Q. Were the people who searched Mr. Jackson's

11 residence instructed in advance how to handle the

12 media?

13 MR. SNEDDON: Your Honor, I'm going to

14 object to this as immaterial, irrelevant, and beyond

15 the scope of the direct examination.

16 THE COURT: Did you go into the search on

17 direct?

18 MR. SNEDDON: I just asked him if he was

19 there. I didn't go into any of the details of it.

20 Just to lay the foundation for what he did to

21 process the stuff forensically.

22 MR. MESEREAU: He did go into the search,

23 Your Honor. Not the media issue, but he did go into

24 the search.

25 THE COURT: All right. I'll allow the

26 question.

27 Do you want it reread?

28 THE WITNESS: Please. 4397

1 (Record read.)

2 THE WITNESS: Yes.

3 Q. BY MR. MESEREAU: Who did the instructing,

4 if you know?

5 A. Probably myself, Sergeant Koopmans, possibly

6 Sergeant Robel.

7 Q. Did you say probably yourself?

8 A. Probably my -- we had an operations briefing

9 where several persons involved in different aspects

10 of the operation gave briefings on their aspect.

11 Q. Did you engage in any such briefing?

12 A. Yes, I did.

13 Q. When was that?

14 A. The morning of the search.

15 Q. When you arrived at Neverland to commence

16 the search, did you see any representatives of the

17 media present?

18 A. I saw a car on the side of the road. There

19 wasn't an insignia on it.

20 Q. Did you see any helicopters flying above?

21 A. No.

22 Q. At some point did you see them?

23 A. At some point there were several helicopters

24 there.

25 Q. Do you have any idea who notified them about

26 the search?

27 A. I have no idea.

28 Q. No clue at all, right? 4398

1 A. I have none.

2 Q. Do you have any knowledge that anyone in the

3 sheriff's department notified the media about the

4 search of Mr. Jackson's home?

5 A. I have no knowledge of that.

6 Q. Okay. Regarding forensic work at Mr.

7 Jackson's home, did you put into place any

8 safeguards to avoid contamination of evidence?

9 A. All of our personnel are trained, so that is

10 a safeguard in and of itself. We proceeded as

11 cautiously as we could through this large estate.

12 We put people in charge who had more experience than

13 the others who directed them. And from that

14 standpoint, I believe our investigators who were

15 doing the actual searching were wearing gloves.

16 Q. Is there any other safeguard that you recall

17 putting into place before the search regarding

18 possible contamination?

19 A. None -- it escapes me at this point.

20 Q. Do you know what people were wearing on

21 their shoes before they walked through his home?

22 A. I don't believe they were wearing anything

23 other than the shoes.

24 Q. What kind of shoes were they wearing?

25 A. I -- I couldn't tell you.

26 Q. Were you in Mr. Jackson's home during the

27 day of the search?

28 A. Yes, I was. 4399

1 Q. How many people were in Mr. Jackson's home

2 on the day of the search that were part of your

3 operation?

4 A. Inside his main house?

5 Q. Yes.

6 A. I would say inside his main house, we had -

7 it changed - anywhere from 15 to 25 at any one

8 particular time.

9 Q. How many people in total out of the 69 that

10 were involved in the search of Mr. Jackson's

11 residence entered his house that day, if you know?

12 A. Again, the main house?

13 Q. Yes, please.

14 A. Well, we kept a log of people that were

15 entering in the house. I myself entered and exited

16 several times. So I cannot give you an adequate

17 answer to that question.

18 Q. It was more than 25, was it not?

19 A. That were conducting the search in the main

20 house?

21 Q. That went into his house at any time during

22 the day.

23 A. I'd have to say yes.

24 Q. Was it more than 45, to your knowledge?

25 A. I'd say that possibly could be correct. We

26 were conducting interviews in the house, so, yes.

27 And you're talking just our personnel or perhaps

28 ranch employees as well? 4400

1 Q. No, your personnel.

2 A. Then I'd say you're probably -- somewhere

3 around that.

4 Q. Close to 45?

5 A. I'm assuming, yes.

6 Q. You have never been in an investigation

7 where 45 people were allowed to walk into someone's

8 home, correct?

9 A. In a home, no.

10 Q. This was the first time, correct?

11 A. It's the first time I've been involved in

12 something, or an estate this size, that we had that

13 many people.

14 Q. Did the fact that Mr. Jackson is a

15 well-known celebrity have anything to do with the

16 number of people you allowed into his home on that

17 day?

18 A. No.

19 Q. In your typical homicide investigation, 45

20 people don't enter a residence, correct?

21 A. No, they do not.

22 Q. What were the hours you conducted that

23 search during the first day?

24 A. I believe eight or nine o'clock in the

25 morning till 11:30 at night.

26 Q. You then conducted a second search of Mr.

27 Jackson's home, correct?

28 A. In, I believe, November '04. 4401

1 Q. And what were the hours that you kept in

2 that search?

3 A. I believe we entered about nine o'clock in

4 the morning and left in the afternoon time.

5 Q. That search was actually in December, wasn't

6 it? December 4th sound right?

7 A. It could. It's possible, yes.

8 Q. Now, both of those searches were done by

9 surprise, correct?

10 A. Yes.

11 Q. Special efforts were taken to make sure that

12 Mr. Jackson or his family did not know the search

13 was going to be conducted, right?

14 A. We didn't publicize it.

15 Q. But special efforts were taken to make sure

16 Mr. Jackson and his family didn't know about either

17 of these searches in advance, correct?

18 A. No more special than we do in any other

19 search warrant. So I don't -- if you're -- I didn't

20 do anything different.

21 Q. Let me ask the question again.

22 A. Okay.

23 Q. I don't think I've gotten an answer, but --

24 MR. SNEDDON: Your Honor, I'm going to

25 object to counsel's comments, and it's

26 argumentative.

27 THE COURT: Sustained.

28 Q. BY MR. MESEREAU: Were you in charge of the 4402

1 second search on or about December 4th, 2004?

2 A. Yes.

3 Q. Would you agree that within minutes of the

4 search of Mr. Jackson's residence on December 4th,

5 2004, the press knew about it?

6 A. I wouldn't say minutes. I'd say that the

7 press eventually found out.

8 Q. They seemed to know very quickly, correct?

9 A. Within an hour.

10 Q. Do you have any idea who notified them?

11 A. I have suspicions.

12 Q. Do you think somebody in the sheriff's

13 department notified them?

14 A. No.

15 Q. Was a press release prepared regarding that

16 search?

17 A. I don't believe so, but I'm not sure on

18 that.

19 Q. Have you ever seen a press release regarding

20 that search?

21 A. I have not personally seen it, no.

22 Q. So are you telling the jury that there were

23 efforts made in advance to deal with the media

24 before the first search but not before the second

25 search?

26 A. What I'm telling you is that my job was not

27 involved in that aspect of it. That was turned over

28 to our public information officer. My 4403

1 responsibility was the service of the search at

2 Neverland, and that's where my operation stayed.

3 Q. As the one in charge of both search teams,

4 did you have any involvement with your public

5 information office?

6 A. Just notifying, notifying them that we would

7 be conducting a search on that day, and at Neverland

8 Valley Ranch.

9 Q. Were you ever asked to review in advance any

10 information designed to be published by your public

11 information office about either search?

12 A. I do not recall -- again, I do not recall

13 reading a press release, as you call it, prior to

14 the service of any search warrant at Neverland.

15 Q. What safeguards were taken to preserve

16 evidence that you seized from Neverland on November

17 18th, 2003?

18 MR. SNEDDON: Object as asked and answered.

19 MR. MESEREAU: I asked about contamination,

20 Your Honor. I think my question is broader. But I

21 could rephrase if the Court wants.

22 THE COURT: All right. Rephrase.

23 Q. BY MR. MESEREAU: With the exception of

24 issues of contamination, what safeguards were taken

25 to preserve evidence seized at Neverland on November

26 18th, 2003?

27 A. Well, initially, we videotaped our entry

28 into the residence. We also videotaped and used 4404

1 still photography. We also did that at the

2 conclusion of our search. The people that entered

3 into the residence were logged in, and logged out.

4 Those people entering the residence that were going

5 to conduct searches were wearing gloves on their

6 hands.

7 Q. Anything else you can think of?

8 A. No.

9 Q. Were there any safeguards you put into place

10 to try and preserve any DNA evidence that might

11 exist?

12 A. I -- the only -- other than collecting the

13 materials, the adult material, the magazines and the

14 bedding from Mr. Jackson's bedroom, my only

15 involvement was directing my forensic unit -- was

16 assisting to get the search warrant for that

17 material and directing them what we were to take.

18 They handled the operation themselves.

19 Q. Did you say you were in charge of obtaining

20 evidence from Mr. Jackson's bedroom for possible DNA

21 testing?

22 A. I was aware that there was bedding material

23 and a bed in his bedroom that was not part of the

24 original search warrant. I then --

25 Q. Was that material obtained for DNA testing?

26 A. I believe that it was.

27 Q. When, if you know?

28 A. I do not know the exact date. It was 4405

1 submitted to the DOJ lab, I believe.

2 Q. Was it obtained in the search on November

3 18th, to your knowledge?

4 A. The bedding?

5 Q. Yes.

6 A. Yes. There was other materials too, I

7 believe, that were submitted.

8 Q. And when was this material submitted to DNA

9 testing?

10 A. Again, I can't give you the exact date.

11 Sometime early part of 2004.

12 Q. You never even asked for Mr. Jackson's DNA

13 until December 4th, 2004, correct?

14 A. That's correct.

15 Q. That was over one year after the initial

16 search, correct?

17 A. Yes.

18 Q. To your knowledge, did the FBI do any DNA

19 testing in this case?

20 A. To my knowledge, no.

21 Q. Did you direct the FBI to do any particular

22 kinds of forensic analysis in the case?

23 A. Yes, I did.

24 Q. And what were those types of forensic

25 analysis?

26 A. They assisted us with some of the computers

27 that we had found, particularly the Macs.

28 Q. Anything else you asked them to do? 4406

1 A. I believe I asked them to do some background

2 information on some of the other people involved in

3 this investigation.

4 Q. How much time did the State Department of

5 Justice spend on forensics testing in this case, if

6 you know?

7 A. I do not know that.

8 Q. You made some statements that the FBI

9 assisted you, right?

10 A. Yes.

11 Q. What does "assistance" mean?

12 A. Well, they provided me some information,

13 again, on backgrounds of persons that became

14 involved in this case. They sent out -- I believe

15 that they call it a cart unit. That is their

16 forensic computer examination team that assisted us

17 in forensically examining these Mac computers that

18 we were not able to do ourselves.

19 THE COURT: Counsel, I'd like to stop a

20 couple minutes early, because I've been asked to.

21 The attorneys need to talk to me.

22 Right?

23 MR. MESEREAU: Yes, Your Honor.

24 THE COURT: All right. We're going to stop.

25 (To the jury) Tomorrow, don't come here.

26 (Laughter.)

27 THE COURT: (To the jury) I'll see you

28 Friday morning, 8:30. 4407

1

2 (The following proceedings were held in

3 open court outside the presence and hearing of the

4 jury:)

5

6 THE COURT: All right, Counsel. I was just

7 giving Mr. Oxman some medical advice.

8 MR. SNEDDON: I thought you were giving him

9 his thousand dollars back.

10 MR. MESEREAU: Your Honor, do we go in your

11 chambers? You want to go to chambers?

12 MR. SNEDDON: The matter I'm talking about

13 doesn't need to go into chambers.

14 THE COURT: Did you want to go into chambers?

15 MR. MESEREAU: If it's the issue we talked

16 about, I'd like to go in chambers.

17 MR. SNEDDON: Okay, this should be done in

18 open court.

19 Your Honor, I wanted to tell the Court,

20 because I made some representations to the Court a

21 few days ago, and I notified counsel last night, we

22 have had to juggle the way we're going to put on

23 evidence in this case. And I want the Court to know

24 that we intend to start putting on the 1108 evidence

25 on Monday. Instead of two weeks, like I said

26 originally. And these sort of things are beyond our

27 control.

28 In any case, that's what we're going to do. 4408

1 I wanted the Court to know that, because you asked

2 us about the instructions and stuff.

3 THE COURT: The instructions.

4 MR. SNEDDON: And I wanted to tell the Court

5 that we had -- we reviewed that and we already

6 submitted our instructions in that regard, and

7 specifically the CALJICs, and that's what we --

8 THE COURT: Tell me what ones -- I mean, you

9 have submitted --

10 MR. SNEDDON: I will single them out. I

11 don't -- I just talked --

12 THE COURT: Friday you could give me the ones

13 you're singling out?

14 MR. SNEDDON: I will, Your Honor.

15 THE COURT: And Counsel, you could give me

16 something Friday?

17 MR. MESEREAU: Yes, Your Honor.

18 THE COURT: All right.

19 MR. SNEDDON: That's what I wanted to do.

20 I wanted to make the Court aware of that.

21 Thank you very much.

22 THE COURT: And you wanted to -- is that it?

23 MR. SNEDDON: I -- yeah, I guess so.

24 Mr. Mesereau?

25 THE COURT: All right. Court's in recess.

26 (The proceedings adjourned at 2:30 p.m.)

27 --o0o--

28 4409

1 REPORTER'S CERTIFICATE

2

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 4240 through 4409

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 30, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 30, 2005.

24

25

26

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

28 4410