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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

6

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

18

19 TUESDAY, MARCH 29, 2005

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21 8:30 A.M.

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23 (PAGES 3934 THROUGH 3987)

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

28 BY: Official Court Reporter 3934

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

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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 SPINNER, Robert 3937-SA 3980-N

12 (Cont'd)

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1 Santa Maria, California

2 Tuesday, March 29, 2005

3 8:30 a.m.

4

5 THE COURT: Good morning.

6 COUNSEL AT COUNSEL TABLE: (In unison)

7 Good morning, Your Honor.

8 THE JURY: (In unison) Good morning.

9 MR. SANGER: May I proceed? Thank you.

10

11 CROSS-EXAMINATION (Continued)

12 BY MR. SANGER:

13 Q. Good morning.

14 A. Good morning, sir.

15 Q. All right. We were, right at the end of the

16 day, talking about exemplars. And the question

17 about exemplars that I was getting to is, is it

18 important in comparing an exemplar to a known print

19 to determine if there are any dissimilarities?

20 A. Yes, sir, there is.

21 Q. You can have quite a number of Galton

22 points, or points that you identify as being

23 identical, correct?

24 A. Among others, yes.

25 Q. And if you have an unexplained

26 dissimilarity, then you have to reject the

27 comparison; is that correct?

28 A. Yes. 3937

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1 Q. All right. So therefore, it's important to
2 have a good exemplar, so you can see all of the
3 features of the print, correct?

4 A. That's correct.

5 Q. And it's also important to have a good
6 latent print, if possible, to compare to the
7 exemplar, correct?

8 A. Yes, sir, that's correct.

9 Q. All right. In other words, you -- you have
10 what you have. Whatever shows up as a latent is
11 what you get to compare, correct?

12 A. That's -- yes, sir.

13 Q. But the more detail and the more of the
14 print that you have, the better it is to compare to
15 the exemplar, correct?

16 A. The more detail, the more positive the
17 comparison.

18 Q. All right. Now, I think you told us that
19 you were familiar with SWGFST; is that correct?

20 A. Yes, I read their guidelines.

21 Q. All right. And that is a working group
22 which was created in the last few years to deal with
23 fingerprint examination and comparison, correct?

24 A. Yes.

25 Q. All right. One of the things that has
26 arisen in the latent print examiner community is a
27 question of whether or not there are adequate

28 validation studies to support fingerprint 3938

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1 comparisons, correct?

2 A. That's correct.

3 Q. And that's one of the things that SWGFST was

4 formed to address?

5 A. I'm not sure whether they were formed to

6 address the actual lack of a validation study, but

7 they were formed to address latent fingerprint

8 comparison in general.

9 Q. All right. Now, when you're looking at

10 prints on paper, as you did in this case, there are

11 some things that you can -- that you can tell from

12 prints, obviously, and other things you can't,

13 correct?

14 A. Depends how much of the print is available,

15 that's a correct statement.

16 Q. And one of the things, though, that you

17 can't tell from examining fingerprints is when the

18 fingerprints were put on the object; is that

19 correct?

20 A. That's correct.

21 Q. And if you have two sets of prints, for

22 instance, on the same object, there is no way of

23 telling which was placed before the other?

24 A. That's correct.

25 Q. So they could be placed at totally different

26 times, they could be placed at the same time, they

27 could be placed at different times that are close

28 together; correct? 3939

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1 A. That's correct.

2 Q. Or different times but far apart?

3 A. Yes, sir.

4 Q. All right. Now, did you have training from

5 the Spex company, S-p-e-x?

6 A. No, I did not.

7 Q. And were you aware that the sheriff's

8 department had arranged for training from the

9 manufacturer of the Scenescope?

10 A. No, sir, I was not.

11 Q. Did you have any training on the Scenescope

12 yourself?

13 A. No, sir, other than about ten minutes of

14 brief information I got from Detective Lafferty.

15 Q. Okay. And when did you obtain that

16 information from Detective Lafferty?

17 A. I believe it was in August of 2004.

18 Q. All right. Were you advised by Detective

19 Wittenbrock that it was not necessary to fume as

20 extensively with super glue if you're using the

21 Scenescope?

22 A. He may -- he made a comment once that he

23 thought some of the pages were coming out a little

24 heavy, and that we, at that point, pulled back about

25 a minute on the super glue exposure timing.

26 Q. When you say "heavy," the fuming process was

27 then obscuring some of the detail on the prints; is

28 that correct? 3940

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1 A. That was his opinion, but I never got the
2 same opinion from Detective Sutcliffe.

3 Q. All right. Did you form an opinion
4 yourself?

5 A. I never had a chance to really look. I
6 relied on their feedback to adjust the gluing times
7 if it became necessary.

8 Q. All right. I want to clear up a couple
9 details.

10 I'll make my way through here. Excuse me?

11 May I approach the witness, Your Honor?

12 THE COURT: Yes, sir.

13 MR. SANGER: These are in evidence.

14 Q. Okay. I have put before you Exhibit 723,
15 726, and 748.

16 A. Yes, sir.

17 Q. And on direct examination you said that 748,
18 if you put -- take 748. I think it's that one.

19 A. Correct.

20 Q. All right. Can you hold that up - if that's
21 all right with the Court. It's in evidence - so the
22 jury can see it?

23 THE COURT: Yes.

24 MR. SANGER: Just so we all know what we're
25 talking about.

26 Q. 748 was a comparison board that showed your
27 comparison of fingerprints, the exemplar to a latent

28 print. And you testified on direct that that was 3941

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1 the print, the image that was depicted in Exhibit

2 723. Would you pick up 723? That's not 723.

3 That's 723. Okay. Looking at 723, does 748

4 depict the image in 723?

5 A. No, sir.

6 Q. Okay. In fact, if you look at 726, that

7 appears to be a similar image to 748; is that

8 correct?

9 A. That's correct, sir.

10 Q. I take it, in fingerprint examination and

11 comparison, it's extremely important to keep track

12 of the exemplars and the latent prints; is that

13 right?

14 A. Yes, sir.

15 Q. You don't want to be mixing prints up,

16 otherwise it could cause all sorts of problems,

17 right?

18 A. Yes, because you probably couldn't make an

19 identification if you mixed them up.

20 Q. Would it cause problems if you mixed up your

21 latent prints and your exemplar prints?

22 A. If things are not kept in the correct

23 numerical order and name order, yes.

24 Q. Okay. Now, let's talk about -- a little bit

25 about your training and experience. You had

26 mentioned that you had -- this case accounted for,

27 at one point you said about a quarter, and then you

28 said maybe a fifth or a sixth of the total number of 3942

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1 prints that you compared, correct?

2 A. Yes, sir.

3 Q. And how long have you been a latent print
4 examiner?

5 A. I started working with latent prints in
6 1987.

7 Q. Were you a latent print trainee for some
8 period of time?

9 A. Yes, sir, I worked under William Moore, who
10 was a latent print examiner in our office at the
11 time when I started. And that's when we also
12 started working with CAL-ID Systems.

13 Q. All right. Now, Detective Moore, was he a
14 detective or an I.D. tech?

15 A. He was a senior I.D. technician.

16 Q. Okay. I.D. Tech Moore was somebody who had
17 pretty much learned the job of being a latent print
18 examiner on the job; is that correct?

19 A. I'm not sure where he got all his training.

20 He was in the bureau when I got there, and he was
21 filling the position of I.D. technician and doing
22 latent print examinations, and he was the one that I
23 started training under.

24 Q. Okay. And how long did you train under I.D.
25 Tech Moore?

26 A. Probably about eight years. He was in the
27 office approximately eight or nine years before he

28 retired. 3943

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1 Q. And during that period of time, did Mr.

2 Moore do most of the latent print examination for

3 the sheriff's department?

4 A. He did a great deal of the latent print

5 exams. And also he was the CAL-ID Systems operator

6 when it was installed.

7 Q. Okay. Let's not go too far afield on that.

8 But since you brought it up, CAL-ID is -- is that a

9 computerized system to match prints?

10 A. It's a computerized -- yes, that's the

11 simple definition, yes.

12 Q. Okay. And now you have some other systems

13 like AFIS?

14 A. Well, that's what CAL-ID originally was, was

15 an AFIS system. We have a second or third

16 generation of searchers and submitters now.

17 Q. Okay. In any event, you did not use the

18 AFIS system or the CAL-ID System here?

19 A. No, sir. We had supplied exemplars for the

20 three individuals who we were doing the latent print

21 comparisons against.

22 Q. So again, not to go too far afield, but just

23 to understand what you said, the computer system is

24 a way to take prints, latent prints, and see if you

25 can find an exemplar somewhere in the system; is

26 that right?

27 A. It's taking -- to clarify, it's taking an

28 unknown print, run it through a set of computer 3944

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1 matchers to determine if there's a match in the
2 system.

3 Q. You could also take an exemplar print, a
4 rolled print, and run it through the system, right?

5 A. Yes, sir, you can.

6 Q. So if you arrest somebody and you want to
7 see if their fingerprints match somebody else in the
8 country, you could send it to the federal AFIS
9 system to have a fingerprint search; is that
10 correct?

11 A. No, we don't have that capability. We send
12 it to Sacramento DOJ or Department of Justice. And
13 I believe at that point it could be routed through
14 the Department of Justice to the FBI I-AFIS.

15 Q. Okay. And the FBI system is called
16 "I-AFIS"?

17 A. That's correct, sir.

18 Q. So again, you could go to the state
19 Department of Justice, and they may route it on to
20 federal. But you have access, basically, to the
21 whole fingerprint bank that exists in the country;
22 is that correct?

23 A. In one form or another, yes, sir, we do.

24 Q. All right. Now, again, in this particular
25 case, you weren't doing that, you were -- you were
26 attempting to compare exemplar prints to latent
27 prints that were found on these various objects?

28 A. That's correct. 3945

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1 Q. Okay. Now, from -- in 1987, you started
2 working with Mr. Moore. When did you become a
3 latent print examiner as opposed to a latent print
4 trainee?

5 A. I would suppose that I probably graduated
6 into a journeyman in -- sometime in the early '90s.
7 '91, '92, possibly.

8 Q. Okay. Now, is that -- was there some
9 official designation? Did you get a certificate, or
10 a letter of recognition or something, or is it just
11 a point that you get to where you feel you're an
12 examiner as opposed to a trainee?

13 A. I believe it was a point where the other
14 examiners in the office, Mr. Moore, and Doug Coleman
15 was still there, they felt that I was sufficient in
16 my job, that I could perform latent examinations
17 and form conclusions.

18 Q. And Doug Coleman was also an I.D. tech; is
19 that correct?

20 A. He worked for the Santa Barbara County
21 Sheriff's Department about that time before moving
22 to the Santa Maria Police Department.

23 Q. Okay. But he was an I.D. tech as opposed to
24 a technician?

25 A. No, he was an I.D. technician also.

26 Q. Right. Now, I think you said on direct
27 examination that you're not certified by any

28 organization as a latent print examiner; is that 3946

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1 correct?

2 A. That's correct.

3 Q. You belong to the Southern California

4 Association of Fingerprint Officers?

5 A. That's correct.

6 Q. That's a membership organization, right?

7 A. Yes, sir.

8 Q. Send in your dues, and if you're a peace

9 officer, you can belong to it; is that correct?

10 A. It's about -- it's more civilian than law

11 enforcement officers or sworn officers. But it's --

12 you have to make an application, you have to go to

13 three meetings. If anybody has an objection to your

14 membership, you will not be installed. And after

15 the third meeting, then you're installed. And then

16 you're a member until you quit.

17 Q. All right. Now, you mentioned that I.D.

18 Tech Moore and I.D. Tech Coleman had indicated that

19 they felt you were ready to do examinations on your

20 own at some point in the '90s; is that correct?

21 A. I think that's a correct statement, sir.

22 Q. Were you ever subjected to proficiency

23 testing?

24 A. Not officially. However, every time we do a

25 latent print examination we get a validation. That

26 can be a form of proficiency testing.

27 Q. Sir, you know what I mean by "proficiency

28 testing," is that correct? 3947

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1 A. Yes, sir. There are agencies which send in
2 blind tests and then you do the tests and send it
3 back and they're graded.

4 Q. Were you ever subject to proficiency
5 testing?

6 A. No, sir.

7 Q. The Santa Barbara Sheriffs does not submit
8 itself to proficiency testing in fingerprint
9 examination; is that correct?

10 A. That's correct, sir.

11 Q. And they're -- are you familiar with the
12 agencies that do proficiency testing?

13 A. No, sir, I don't know any right now who are
14 actually doing proficiency testing from personal
15 knowledge.

16 Q. All right. You've indicated, though, that
17 you have gone to a number of meetings and some
18 training sessions with regard to latent print
19 examination, correct?

20 A. Yes, sir.

21 Q. And so you attempt to keep up with the
22 literature, as it were, in the field; is that right?

23 A. As much as possible, yes, sir.

24 Q. And in the course of your training and
25 experience, you're aware that the Law Enforcement
26 Assistance Administration, the LEAA, federal agency,
27 did proficiency testing; is that correct?

28 A. No, I'm not sure. 3948

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1 Q. Were you aware that Collaborative Testing
2 Service, a private company, was contracted to do
3 proficiency testing from 1995 to 2003?

4 A. I know they do proficiency testing. I don't
5 know who they did it for or if they were ever
6 contracted through anybody.

7 Q. Okay. In the course of your studies with
8 regard to latent print examination, you're aware
9 that the proficiency testing across the country
10 turned up a number of misidentifications, a
11 significant number, correct?

12 MR. NICOLA: I'm going to object, lack of
13 foundation, Your Honor.

14 THE COURT: Foundation, sustained.

15 MR. SANGER: Okay.

16 Q. Are you aware that there have been issues
17 with regard to -- let's just take false positives
18 coming up in proficiency testing in this country.

19 A. I don't know what the rate of any
20 proficiency testing was per agency or per test, no,
21 I don't.

22 Q. Okay. And your agency doesn't have any
23 percentage or rating because it doesn't submit to
24 proficiency testing; correct?

25 A. That's correct, sir.

26 Q. All right. Now, what I'm asking about, is
27 you're aware in the proficiency testing, the blind

28 testing that you have talked about, there have been 3949

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1 a number of instances of false positives showing up;

2 is that correct?

3 MR. NICOLA: Objection, lack of foundation,

4 Your Honor.

5 THE COURT: Sustained.

6 Q. BY MR. SANGER: Are you aware of whether or

7 not -- are you aware of any results -- I'm not

8 talking about the specific numerical results, but

9 generally in your reading, in your training and

10 experience, any results of the proficiency testing

11 over the last few years?

12 MR. NICOLA: Objection, lack of foundation,

13 Your Honor.

14 THE COURT: Overruled.

15 THE WITNESS: The only tests that I am aware

16 of --

17 THE COURT: Just a minute.

18 THE WITNESS: Excuse me.

19 THE COURT: There's a question that just

20 requires a "yes" or "no" answer.

21 Read the question back to him.

22 (Record read.)

23 THE WITNESS: Yes.

24 Q. BY MR. SANGER: And were you aware that

25 false positives have shown up in that proficiency

26 testing?

27 A. I can't remember if there were false

28 positives brought up or whether it was just -- they 3950

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1 just didn't send the test back. I know there was a
2 problem.

3 Q. Okay. Now, is this part of the problem --
4 or let me withdraw that. Is this problem that you
5 just described part of the mission of SWGFST to try
6 to remedy?

7 MR. NICOLA: I'm going to object as to
8 vagueness, Your Honor.

9 MR. SANGER: Let me rephrase it, because it
10 was an odd sentence at best.

11 THE COURT: Go ahead.

12 Q. BY MR. SANGER: Is SWGFST attempting to
13 remedy problems associated with proficiency testing
14 results?

15 A. I don't know.

16 Q. You're also aware that in the last five, six
17 years, there have been a number of particularly
18 notable cases in which there have been false
19 positives; is that correct?

20 A. That's correct.

21 Q. There was one in 1999 in Scotland involving
22 a police officer by the name of Shirley McKee; is
23 that correct?

24 A. I'm aware of that case, yes, sir.

25 Q. And that's a case where the Scotland
26 criminal records office, which is their law
27 enforcement or I.D. tech agency, formed an opinion

28 that there was a positive match; is that correct? 3951

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1 A. That's correct.

2 Q. And the police officer, Miss McKee, was
3 prosecuted for murder based on that print
4 identification; is that correct?

5 A. No, I believe she was prosecuted for
6 perjury.

7 Q. Okay. And at the -- after the case was
8 over, 170 other print examiners looked at the print
9 and said they didn't match; is that right?

10 A. I know a great number looked at the print.

11 I don't know the exact number. But almost everybody
12 agreed that it did not match.

13 Q. Almost everybody in the Scottish records
14 office to this day maintains that it's a positive
15 I.D., correct?

16 A. That's my understanding.

17 Q. This is part of what you described as a
18 subjective aspect of making print identifications,
19 correct? In other words, people form an opinion,
20 and that's the basis for a positive identification,
21 correct?

22 A. Yes, it's -- yes.

23 Q. And you're also aware of the case last year
24 involving Brandon Mayfield; is that right?

25 A. That's correct, sir.

26 Q. Brandon Mayfield was a lawyer in Oregon,
27 correct?

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1 Q. And he was placed in custody for two months
2 based on a fingerprint identification, correct?

3 A. I thought it was two weeks. That was my
4 reading.

5 Q. All right. Well, he was placed in custody
6 long enough to be an interference with his life; is
7 that correct?

8 MR. NICOLA: Objection. That's
9 argumentative, Your Honor.

10 THE COURT: Sustained.

11 Q. BY MR. SANGER: He was placed in custody for
12 some period of time?

13 A. Correct.

14 Q. And he was accused of being involved in the
15 Madrid bombing; is that correct?

16 A. Correct.

17 Q. And that was based on the FBI making a
18 positive identification of his fingerprint on
19 something associated with that bombing; is that
20 correct?

21 A. That's correct.

22 Q. And they had three FBI fingerprint -- latent
23 print examiners who compared the print and agreed
24 that it was positive; is that correct?

25 A. That's correct.

26 Q. And they had -- they identified in excess of
27 16 points of identification; is that correct?

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28 A. I don't think it was a number quite that 3953

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1 high, but I don't know the exact number, sir.

2 Q. All right. And eventually the Spanish
3 police identified the fingerprint to an Al Qaeda
4 member; is that correct?

5 A. I know they did identify it. I wasn't quite
6 sure -- I don't know who they identified it to, but
7 I believe it was somebody involved in an
8 organization over there.

9 Q. And Mr. Mayfield -- it turns out at this
10 point Mr. Mayfield had absolutely nothing to do with
11 it; is that right?

12 A. I don't know if he did or not. I don't know
13 if he was totally exonerated or whether he's still
14 waiting.

15 Q. Okay. You're aware that the fingerprint --
16 you're aware that the FBI has indicated that they
17 made a mistake and it was not his fingerprint,
18 correct?

19 A. That's correct, sir.

20 Q. And they, in part, blamed it on digital
21 imaging?

22 A. Initially, yes, sir.

23 Q. And then they changed that opinion about
24 digital imaging after the fingerprint community
25 became concerned that that would undermine digital
26 comparisons, correct?

27 A. I don't know the answer to that question.

28 Q. You're also aware of Judge Pollack's 3954

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1 decisions in the - I don't know how you say it -
2 Llera Plaza -- it's L-l-e-r-a Plaza - case; is that
3 correct? It's an Eastern District of Pennsylvania.

4 A. I know -- I read about Judge Pollack, but I
5 don't recognize that particular case by that name.

6 Q. All right. In any event, there was a case
7 in Pennsylvania that Judge Pollack had made a
8 determination with regard to fingerprints,
9 admissibility of fingerprints, correct?

10 A. In 1999, yes, sir.

11 Q. Are you aware of the opinions in January and
12 March of 2002?

13 MR. NICOLA: Objection. Relevance and calls
14 for hearsay.

15 THE COURT: Overruled.

16 You may answer "yes" or "no."

17 THE WITNESS: I can't say "yes" to that.

18 I don't remember.

19 Q. BY MR. SANGER: All right. In any event,
20 these matters that we talked about, Shirley McKee,
21 the Mayfield, Judge Pollack's ruling, whenever it
22 was, those have been the subject of conversations,
23 debate and concern in the latent print examination
24 community; is that correct?

25 A. That's correct.

26 Q. Now, you said that you had taken a couple of
27 courses from Sergeant Ashbaugh; is that right?

28 A. That's correct. 3955

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1 Q. In fact, one course you took was actually in
2 January of 2005, this year; is that correct?

3 A. That's correct.

4 Q. And Sergeant Ashbaugh is a sergeant with the
5 Royal Canadian Mounted Police; is that correct?

6 A. That's correct.

7 Q. He coined the phrase "ridgeology"; is that
8 right?

9 A. That's correct.

10 Q. Okay. And actually wrote a book about
11 ridgeology; is that right?

12 A. "Quantitative-Qualitative Friction
13 Analysis," yes, sir.

14 Q. And he calls it "ridgeology"?

15 A. That's what he calls the system.

16 Q. All right. And his -- without going into --
17 you can go into as much detail as you want, but
18 without going into unnecessary detail, his theory is
19 to get away from simply matching Galton points to do
20 something more sophisticated in analyzing prints; is
21 that correct?

22 A. The fingerprint community started getting
23 away from just using strictly Level II detail or
24 Galton points some time ago.
25 What Mr. Ashbaugh said was that -- he coined
26 the phrase "ridgeology" in an attempt to explain how
27 latent fingerprint examiners do their work, because

28 nobody had done this up to this time, because a lot 3956

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1 more takes place in the latent fingerprint
2 examination than just counting, as you say, Galton
3 details.

4 Q. All right. So he was trying to explain how
5 latent fingerprint examiners can come up with an
6 opinion, an ultimate opinion, that there's either a
7 positive identification, or there's no
8 identification, or it's inconclusive; is that
9 correct?

10 A. Yes.

11 Q. It all goes back to a couple basics, though.

12 Whether you go back to Galton in 1886 or you talk
13 about Sergeant Ashbaugh, the first thing you're
14 talking about with fingerprints is the permanency?

15 A. That's correct.

16 Q. The idea that a fingerprint is permanent
17 from birth to death absent some of the things you
18 talked about, I mean mutilation, or something else,
19 correct?

20 A. That's correct.

21 Q. The second is that two fingerprints -- no
22 two fingerprints will be identical; is that correct?

23 A. The uniqueness theory, yes, sir.

24 Q. So it's unique. Now, it turns out, based on
25 experiences in the last few years in particular,
26 that two prints can be quite similar, correct?

27 A. Two prints can be similar, but they cannot

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28 be the same. 3957

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1 Q. Well, that's the theory.

2 A. I think that's a proven fact over 100 years.

3 Q. In other words, over the last 100 years your
4 position is that no two full prints have ever been
5 found to be absolutely identical, right?

6 A. That's correct.

7 Q. But there are prints, you would agree, that
8 match on numerous Galton points, or points of
9 identification, and yet are not, in fact, from the
10 same person, correct?

11 A. I have seen four match before. I found a
12 dissimilarity. But there can be similarities, yes.

13 Q. Some of these cases involved quite a lot
14 more than four points; is that right?

15 A. I'd have to see -- I have seen the Mayfield
16 prints, and I -- I don't agree with the FBI's -- the
17 number of prints they got. In fact, I would not
18 even have done that examination, because I don't
19 feel that the latent print is of enough quality to
20 even deal with.

21 Q. And that's a point I was going to get to in
22 just a minute, but let's pick it up right now.
23 And that is, that you don't generally have a
24 full print when you're dealing with latent prints to
25 compare to the exemplar, correct?

26 A. Most of the time, no. But sometimes you get
27 lucky and you do.

28 Q. In this particular case, the 19 prints that 3958

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1 you have here, were any of them a full print?

2 A. Some of them were, yes.

3 Q. All right. When you say "full," it wasn't a

4 rolled print?

5 A. It wasn't a rolled print. But if we have

6 the pattern area, the delta area, the ridge flow

7 behind the re-curves up from the core and down from

8 the core, so we had quite a substantial portion of

9 that print visible.

10 Q. So, what you're saying is if you had a

11 partial print, but you thought it was a substantial

12 partial print?

13 A. That's correct.

14 Q. All right. And we'll get to some of those

15 in a second.

16 Let's talk about the ACE-V process that Mr.

17 Ashbaugh's talked about, and I believe you say you

18 use; is that correct?

19 A. As far as I know, the basic -- the

20 fingerprint community uses that methodology.

21 Q. All right. And when you're talking about

22 ACE-V -- we've gone through it so I don't want to

23 bore everybody to tears -- I'm hearing twittering

24 behind me. It may be too late.

25 (Laughter.)

26 MR. SANGER: All right.

27 Q. But this is important, so we want to try to

28 get through it as best we can. 3959

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1 On the ACE-V, basically "A" is analysis?

2 A. Correct.

3 Q. So you have to look at the big picture and
4 see if there's anything there that would disqualify
5 the latent print from comparison, correct?

6 A. You want to analyze the latent print for
7 quality and quantity of detail and clarity, see
8 whether it's even usable, how much detail is
9 available in that particular latent print.

10 Q. And then you go to comparison, and that
11 simply means that you compare the exemplar print to
12 the latent print; is that correct?

13 A. That's a simplified version, yes.

14 Q. We're trying to be simple, but we can make
15 it more complicated.

16 A. What you would do, you would find your
17 target group in the latent print and see if it
18 exists in the known print, and then work from the
19 latent print to the known print.

20 Q. Okay. Now, after you do all of that, you
21 get to the "E," which is evaluation, right?

22 A. That's correct.

23 Q. And that's a subjective part, right?

24 A. No, that's still your objective part.

25 Q. Well, when you're comparing, during
26 evaluation, that's when you form your opinion,
27 right?

28 A. At the end, yes. 3960

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1 Q. Okay. So when you form your -- let's put it
2 this way: At the end of the "E" part, evaluation,
3 you form your opinion?

4 A. Okay, yes, sir, that's correct.

5 Q. And that's subjective?

6 A. Yes, based on what you found out during the
7 objective form of the evaluation.

8 Q. So you're basically saying, "I got to call
9 it, it's a ball or a strike. It's a positive or
10 it's not," right?

11 A. You're attempting to determine whether there
12 is sufficient detail in the friction ridges and
13 sequence and characteristics to individualize that
14 particular print to your suspect or the person that
15 you're comparing it to.

16 Q. And that is an opinion, correct?

17 A. That's correct.

18 Q. And people's opinions can differ --

19 A. That's correct.

20 Q. -- correct?

21 And we've given some prominent examples of
22 where opinions differ, right?

23 A. Correct.

24 Q. In other words, you differ with the FBI on
25 the Mayfield case, correct?

26 A. Correct.

27 Q. I take it you didn't analyze it while he was

28 still in custody, did you? 3961

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1 A. I saw that print initially a couple of
2 months ago on the Internet.

3 Q. Okay. So you weren't in a position to call
4 them up, and say, "Hey, you guys screwed up on
5 this"?

6 A. I'd like to have been, but, no.

7 Q. And in fact, in Santa Barbara, in this
8 particular case, you decided to do this fingerprint
9 analysis essentially in-house; is that correct?

10 A. That's what I was told to do, yes.

11 Q. Okay. And you could have -- I say "you."

12 Let me withdraw that. A determination could have
13 been made by somebody in the chain of command from
14 the District Attorney's Office down through the
15 chain of command, somebody could have made a
16 determination to send the prints out to be analyzed
17 by some other agency, correct?

18 A. That's correct.

19 Q. The Department of Justice, California
20 Department of Justice has latent print examiners,
21 does it not?

22 A. That's correct.

23 Q. And you have in the past sent prints to the
24 DOJ to do latent print comparison, have you not?
25 When I say "you," I mean your agency.

26 A. If we did, it was some time ago. I don't
27 recall anything recently that we -- that I know that

28 was sent to the Department of Justice. 3962

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1 Q. Okay. But you're aware that today and in
2 the fall of last year, 2004, the Department of
3 Justice would provide latent print analysis services
4 at the request of the Santa Barbara Sheriff's
5 Department; is that correct?

6 A. Yes, sir.

7 Q. Okay. And you could have sent the prints to
8 the FBI; is that right?

9 A. I could have. But that option was most
10 likely available. I don't know.

11 Q. Okay. And again, I don't mean you
12 personally. But if it was decided in the chain of
13 command, somewhere from the District Attorney down
14 through your chain of command, somebody could have
15 made that request of the FBI; is that correct?

16 A. I would assume so.

17 Q. Okay. Excuse me one second.

18 Did you have any discussion with your
19 superiors or colleagues about sending the prints in
20 this case to the Department of Justice in
21 Sacramento?

22 A. I, at one time, said it might be an option
23 because of the volume of material that we were
24 dealing with.

25 Q. I take it you were overruled or it was
26 determined that would not happen?

27 A. As far as I know, yes.

28 Q. Were you involved in any discussions about 3963

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1 sending the prints to the FBI?

2 A. No.

3 Q. Now, we had Dr. Cantu from the Secret

4 Service come to court here a little while ago. Do

5 you know him?

6 A. I met him a week ago, yes.

7 Q. He came out here to testify, and you had a

8 chance to talk to him?

9 A. About the Scenescop, yes.

10 Q. Other than his coming out here to testify

11 for this jury, did he have any other involvement or

12 provide any other assistance to your office in

13 evaluating the evidence in this case?

14 A. As far as I know, he did not.

15 Q. And I take it the United States Secret

16 Service also had no role in this until Dr. Cantu

17 came out to testify here; is that correct?

18 A. That is my understanding.

19 Q. Now, I'm not going to go through everything,

20 but what I'll do -- let me come over here.

21 What I'm going to do, if the Court will

22 permit me very loudly for just a moment, I'm going

23 to hold up one of the boxes. Remember these boxes

24 with the white notebooks?

25 A. Yes, sir.

26 Q. And I think there were three or four of

27 these boxes that you went through; is that correct?

28 A. I wasn't counting the boxes. I was looking 3964

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1 at the magazines.

2 Q. All right. But you went through quite a
3 number of these notebooks?

4 A. Yes, sir, I did.

5 Q. All right. And after spending a couple of
6 hours going through those boxes here for the Court,
7 the fact of the matter is, that out of all of those
8 boxes, there were 12 magazines from which you
9 performed a comparison that resulted in your opinion
10 that there was an identification; is that correct?

11 A. I'd have to look at my notes to count the
12 number of magazines.

13 Q. Do you have your notes here?

14 A. Yes, sir, I do. I have a sheet right here.

15 Q. Yes. Take a look at that.

16 A. That's correct, sir.

17 Q. Okay. And before you started going through
18 each one of those, you knew which 12 were the 12
19 that you actually formed an opinion that there was a
20 positive identification; is that correct?

21 MR. NICOLA: I object as to vague, Your
22 Honor.

23 MR. SANGER: The witness looks like he
24 doesn't understand it, so let me rephrase it, Your
25 Honor.

26 THE COURT: All right.

27 MR. SANGER: Thank you.

28 Q. In other words, before we started going 3965

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1 through -- Mr. Nicola got up and went through each
2 one of those binders one at a time?

3 A. That's correct.

4 Q. Several boxes?

5 A. Yes, sir.

6 Q. Before he did that, you would have been able
7 to say, "Well, look, there's 12 of those binders in
8 which there was a positive identification in my
9 opinion," would you not?

10 A. That's correct.

11 MR. NICOLA: Objection. What's the
12 relevance to that question?

13 THE COURT: Overruled.

14 Q. BY MR. SANGER: Now, you testified on direct
15 examination that you used Adobe Printshop to work
16 with I.D. Tech Hemman in making comparisons of
17 prints; is that correct?

18 A. The correct name of the program is Adobe
19 Photoshop, and I.D. Tech Hemman was the computer
20 operator.

21 Q. Okay. "Photoshop."

22 A. Yes, sir.

23 Q. Sorry. That's undoubtedly very important to
24 the Adobe company. All right.

25 The point of the story is, as I understand
26 it, you're saying that you were able to use two
27 different layers; is that right?

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1 Q. And I think you referred to them as

2 "layers"; is that right?

3 A. That's what they call them in the program,

4 yes, sir.

5 Q. All right. And so basically you can sit

6 down, compare prints, find what you consider to be

7 points of identification, and then you can leave,

8 and I.D. Tech Hemman could come in and sit down and

9 do the same thing and find points of identification,

10 correct?

11 A. That's correct.

12 Q. And then you took your two layers and you

13 compared your analysis with her analysis; is that

14 correct?

15 A. Correct.

16 Q. Did you both identify the exact same points

17 on each fingerprint?

18 A. The exact same basic points were identified

19 most. Sometimes she may have identified a point

20 more than I did. Or I may have identified a point

21 more than she did.

22 Q. And is it your testimony that you varied by

23 one point on these fingerprint comparisons?

24 A. I don't know if exactly one. It could have

25 been several, sometimes. Sometimes we were dead-on

26 exact.

27 Q. So did you save the layers?

28 A. I believe they may still be in the computer 3967

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1 in Santa Barbara.

2 Q. So you haven't printed them out or given
3 them to the District Attorney or to defense counsel
4 in this case?

5 A. No, sir.

6 Q. All right. Now, you testified to a
7 timeline, and I'm going to ask the clerk if she has
8 that. I don't have the number written down right
9 here.

10 Do you have the timeline?

11 THE CLERK: Mr. Nicola has that.

12 MR. SANGER: Oh, Mr. Auchincloss has it.

13 All right. That's 622.

14 Q. And your timeline --

15 Can I put this up, Your Honor? I believe it
16 was received.

17 THE COURT: Yes.

18 MR. SANGER: And let me see.

19 Q. Your timeline starts in January of -- the
20 printed timeline starts in January of 2004, correct?

21 A. Yes, sir.

22 Q. And you basically show your involvement
23 commencing in August of 2004, correct?

24 A. That's when I first -- obtained the first
25 piece of evidence, yes.

26 Q. And you're aware that the seizure of the
27 evidence in this case was, for the most part,

28 November 18th of 2003, correct? 3968

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1 A. That was my recollection from reading the
2 newspapers. I wasn't working at that time.

3 Q. All right. Is that part of the time that
4 you were retired?

5 A. I believe I may have been working as a
6 part-time bailiff a day or two a week down in the
7 Santa Barbara courts, or I was basically retired.

8 Q. There you go. But you were aware that the
9 search in this case occurred November the 18th of
10 2003, right?

11 A. I was aware that there was a search warrant
12 served, yes, sir.

13 Q. Were you aware that Detective Lafferty had
14 viewed some of the evidence in this case that you
15 ultimately did a latent print examination on?

16 A. No, sir.

17 Q. Were you aware that there was a -- well, let
18 me ask you this: Did you review the reports of
19 other officers?

20 A. No, sir.

21 Q. Not even people involved in -- in the print
22 identification aspect of the case, preservation?

23 A. If I had a question, I went directly to the
24 officer or the person involved and asked.

25 Q. All right. So were you aware that in
26 December of 2003, that Detective Lafferty wrote a
27 report requesting that the Forensics Bureau please

28 do a fingerprint analysis of this same evidence? 3969

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1 A. No, I am not.

2 Q. Now, I understand that you were essentially
3 retired and coming back and doing some part-time
4 work during that period of time. But based on your
5 training and experience working in the Forensics
6 Bureau, when somebody makes a request, another
7 officer makes a request for a fingerprint analysis,
8 is that something that the Forensics Bureau is
9 supposed to attend to?

10 A. The Forensics Unit is a more -- I would say
11 is more of a reactionary unit than an offensive
12 unit. So he would have run his request up the chain
13 of command, and then it would be up to whoever's up
14 making those decisions, and then decide how the unit
15 was to proceed.

16 Q. Based on your experience -- forget about
17 this case for a moment.

18 Based on your experience, you said you
19 worked other cases where there were fingerprints,
20 correct?

21 A. Yes, sir.

22 Q. And you actually did fingerprint analysis
23 and comparison, correct?

24 A. That's correct, sir.

25 Q. All right. And in cases where there are
26 fingerprints on objects, or there may be
27 fingerprints on objects that are seized, is it

28 customary for somebody in law enforcement to say, 3970

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1 "Preserve this so that it can be checked for
2 prints"?

3 A. When prints -- I don't know how to answer
4 this. Not all the time, no. It depends. It's up
5 to the investigating officer as to what action he
6 wants to take with his evidence, I guess would be a
7 way to put it.

8 Q. All right. If an investigating officer
9 looks at items out at the scene at the time of the
10 seizure, and forms the opinion that somebody ought
11 to check these things for prints, do you expect that
12 to be communicated to the Forensics Unit?

13 A. Yes, sir. Normally they would write up a
14 work request on one of our forms. Send it in. The
15 evidence would be booked in, and then we'd deal with
16 it.

17 Q. And ordinarily that would occur very early
18 in the proceedings, correct?

19 A. Sometimes -- this is the first time I've
20 seen it where it's come up a year later.

21 Q. It came up a year later here, didn't it?

22 MR. NICOLA: Objection; argumentative.

23 THE COURT: Sustained.

24 Q. BY MR. SANGER: Other than this case, have
25 you seen prints analyzed by your department a year
26 later that were intended to be analyzed at the time
27 the item was seized?

28 A. I did one two and a half years later, but I 3971

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1 don't know what the intent was when it was seized.

2 But sometimes there's a timeline that runs.

3 Q. All right. So I'm talking about a case

4 where you're investigating out in the field, the

5 lead detective or the detective assigned to seize

6 the evidence, says, "Yeah, we better check that for

7 prints." Isn't it the policy and procedure of your

8 office, the sheriff's office, to have those items

9 sent to the Forensics Unit within a reasonably short

10 period of time to do the print analysis?

11 A. Again, that's up to the investigator in

12 charge of that particular case as to what time, when

13 they want to run, or what they want to do, what

14 tests, or what's done.

15 Q. And you would expect that there would be

16 some request, there would be a forensic request; is

17 that right? Let me withdraw that so we can be

18 clear.

19 There's a form that you have in your office

20 that can be filled out by the lead detective, or

21 whoever seizes the evidence, to request forensic

22 analysis of an item of evidence; is that correct?

23 A. That's correct, sir.

24 Q. All right. Did you see any such forms in

25 this case?

26 A. I received a work form filled out in, I

27 believe it was -- July was the date on it.

28 Q. July of 2004? 3972

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1 A. Yes, sir.

2 Q. So you did not see a forensic request for
3 fingerprints that was dated before July of 2004; is
4 that correct, sir? In this case.

5 A. No. And I had very little contact with the
6 unit prior to July of 2004.

7 Q. I'm asking if you saw -- I'm not asking
8 whether or not you had contact. The question is,
9 did you see a forensic request form that was dated
10 anytime prior to July of 2004?

11 A. No, sir, I did not.

12 Q. All right. Let me get the --

13 May I approach, Your Honor?

14 THE COURT: Yes.

15 Q. BY MR. SANGER: I'm going to show you 743,
16 744 and 745. You were looking at those.

17 Can I put them right here?

18 MR. NICOLA: Sure.

19 Q. BY MR. SANGER: All right. You've got 743,
20 744, 745, and whose prints -- these are exemplar
21 prints, correct?

22 A. Yes, sir.

23 Q. And whose prints on are on which board?

24 A. Okay. On Item 743, we have Mr. Jackson's
25 fingerprints. On Item 744, we have Star Arvizo's
26 fingerprints. And on 745, we have Gavin Arvizo's
27 fingerprints.

28 Q. All right. Now, you talked about basic 3973

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1 class characteristics; that is, whorls, loops, and
2 arches, correct?

3 A. Correct, sir.

4 Q. Can you tell us, with regard to 743, those
5 fingerprints, what configuration do those
6 fingerprints show?

7 A. Do you want me to read all ten off?

8 Q. You can do that.

9 A. Well, the right thumb is a right slant loop.

10 The right index is a right slant loop.

11 THE COURT REPORTER: Slow down, please.

12 THE WITNESS: Excuse me.

13 The right middle is a right slant loop. The
14 right ring is a right slant loop. The right little
15 is the right slant loop.

16 The left thumb is a left slant loop. The
17 left index is an arch. The left middle is an arch.
18 The left ring appears to be a central pocket loop
19 whorl. And the left little is a left slant loop.

20 Q. BY MR. SANGER: Okay. Go to 744. Now,
21 that's the one where you've got two sets; is that
22 correct?

23 A. That's correct, sir.

24 Q. So you're going to pick your best set and
25 tell us from that, correct?

26 A. Okay. The right thumb is a right slant
27 loop. The right index appears to be a left slant

28 loop, or a tented arch. The right middle is a right 3974

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1 slant loop. The right ring is a right slant loop.

2 And the right little is a right slant loop.

3 The left thumb is a left slant loop. The

4 left index appears to be either a tented arch or a

5 right slant loop. The left middle is a left slant

6 loop. The left ring appears to be a left slant

7 loop. And the left little appears to be a left

8 slant loop, but they're somewhat hard to see.

9 Q. All right. All right. And then on 745?

10 A. On 745, the right thumb is a right slant

11 loop. The right index is a left slant loop. The

12 right middle is a right slant loop. The right ring

13 is a right slant loop. And the right little appears

14 to be a right slant loop.

15 The left thumb is a left slant loop. The

16 left index is a left slant loop. The left middle is

17 a left slant loop. The left ring is a left slant

18 loop. And the left little is a left slant loop.

19 Q. All right. So the predominant feature of

20 all of the fingerprints and cards are that these

21 fingers are looped fingerprints; is that correct? I

22 think you said there were a couple on Mr. Jackson's

23 where it was an arch or a tented arch.

24 A. Mr. Jackson has two arches and a central

25 pocket loop whorl. I think everything else is a

26 loop pattern.

27 Q. All of the exemplar prints, except for

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28 those, are loops, correct? 3975

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1 A. Appear to be, yes, sir.

2 Q. And what percentage of the population has
3 looped fingerprints?

4 A. About 65 percent.

5 MR. SANGER: All right. Your Honor, what
6 I'd like to do is go to the Power Point version of
7 the exhibits. And let me just see if I have the
8 right number here.

9 All right. What this should be --

10 You can have that back, if you want. I
11 think you wanted it.

12 With the Court's permission, I'm going to
13 put up 758. And I'm not going to go through all of
14 these. They're in evidence, and -- but just to do
15 it quickly.

16 Q. This is No. 13 of the 19 cards; is that
17 correct, sir?

18 A. It's from 317-YY. The exact number I'm not
19 sure. Oh, 13 at the bottom, yes, sir.

20 Q. Down at the bottom.

21 Basically, so we don't get any more confused
22 than we need to, there are 19 of these cards?

23 A. That's correct.

24 Q. And these are the 19 cards where you showed
25 your comparisons, your points of comparison, and --
26 correct?

27 A. Yes, sir.

28 Q. All right. So I'm just taking this one. 3976

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1 Now, if you look at 317-YY, if you look at the
2 latent print that's contained in this exhibit, that
3 is a partial print, correct?

4 A. Correct.

5 Q. And it appears that there may be some
6 torquing or there may be actually another print
7 involved in the latent; is that correct?

8 A. There's distortion and it could actually --
9 yes, there's distortion in the print, which has
10 caused it to distort somewhat, yes.

11 Q. All right. Now, in order to rule out the
12 dissimilarities, you have to account for the
13 dissimilarities as distortion, correct?

14 A. There is a difference between a
15 dissimilarity and a distortion.

16 Q. Precisely.

17 And you have to make that determination,
18 right?

19 A. That's correct.

20 Q. Because if something doesn't look the same,
21 putting it in very basic terms, it either is going
22 to eliminate that print from the comparison, or you
23 have to explain it as a distortion, correct?

24 A. Yes, sir. But at the same time, you're
25 looking for dissimilarities that come up in the
26 wrong spot in regards to ridge flow and spatial
27 alignment.

28 Q. Okay. I'm going to go to 759. Now, here 3977

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1 you have another partial print, 759. And it
2 actually looks like whoever did the location of this
3 print actually wrote over part of the ridge detail
4 with a black marker; is that correct?

5 A. There is a black marker pen on the lower
6 right of the latent print, yes. However, whether it
7 obliterated any usable ridge detail, I'd have to
8 examine that print closely to determine that.

9 Q. Now, either I'm looking at it backwards or
10 something.

11 A. Lower left.

12 Q. Lower left and then across the top; is that
13 right?

14 A. Correct. There's a ruler on the right side.

15 Q. And I'm going to go to 762, which I believe
16 is that. Once again, there you have -- somebody has
17 used a black marker pen to note the location of a
18 print, and has actually obliterated a part of the
19 latent print; is that correct?

20 A. They've marked through it. But, again, it
21 doesn't appear that they have, for the most part,
22 disturbed any usable friction ridge detail.

23 Q. Well -- and that's because the usable
24 friction ridge detail is only what you can see. If
25 you can't see under it, you don't know what's under
26 there, right?

27 A. Well, in that blurred area on the right

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28 would be an unusable area anyway. 3978

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1 Q. Let's talk about that. The blurred area on
2 the right is not shown in the exemplar print,
3 correct? In other words, that is not identical to
4 the exemplar print, the blurred area on the right?

5 A. I can't tell.

6 Q. Okay. As you look at it, you cannot
7 identify it as being identical to the exemplar
8 print, correct?

9 A. Yes, sir, but -- go ahead.

10 Q. Okay. And can you tell what caused the
11 blurred area on the right?

12 A. It was probably either distortion, or there
13 was a slippage when the print was laid on the paper,
14 or something else touched the paper. Not knowing
15 what exactly happened to this, I can only make some
16 assumptions.

17 Q. All right. And similarly here on No. 764,
18 there are some marks, striations, or whatever they
19 are, at the top of the print that are not shown in
20 the exemplar print, correct?

21 A. That's correct, sir.

22 Q. And you account for that as distortion; is
23 that correct?

24 A. That would be slippage at that point.

25 Q. And that's your assumption, is that that's
26 slippage?

27 A. Yeah, it appears that the finger had touched

28 the page and pulled down slightly, and then the rest 3979

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1 of the finger sat down on the page, creating a
2 latent fingerprint.

3 MR. SANGER: All right. Okay, Your Honor,
4 we can turn the screen off, if that's all right.

5 All right. And I have no further questions
6 at this time.

7 THE COURT: Counsel?

8 MR. NICOLA: Thank you, Your Honor.

9 May I approach the witness, Your Honor?

10 THE COURT: Yes.

11

12 REDIRECT EXAMINATION

13 BY MR. NICOLA:

14 Q. Detective Spinner, I'm going to approach you
15 with Exhibit 726, Exhibit 748.

16 Do you recall examining both of those
17 exhibits on Friday?

18 A. Yes, sir.

19 Q. Okay. And during that examination, which I
20 believe I conducted, did I ask you to check the
21 fingerprint depicted in Exhibit 726 and compare it
22 to the fingerprint board, which is Exhibit 748?

23 A. Yes, sir.

24 MR. SANGER: I'm going to object as hearsay
25 as to what was asked.

26 THE COURT: Sustained.

27 Q. BY MR. NICOLA: Now, Defense Attorney Sanger

28 showed you Exhibit 723 this morning. 3980

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1 A. Correct.

2 Q. Do you recall that?

3 A. Yes, sir.

4 Q. Do you recall ever being shown this exhibit
5 during your testimony on Friday?

6 A. I don't believe I was, no.

7 Q. Could you take a look at Exhibit 723 and
8 describe what it is for the jury, please?

9 A. Item 723 is a printout of the Power Point
10 demonstration created by the sheriff's department
11 for protocol for latent fingerprint processing.

12 Q. Would you flip through all the pages,
13 please?

14 Do you have a recollection whether you
15 presented that information to the jury on Friday?

16 A. No, I did not.

17 Q. And when was the first time you were asked
18 any questions about testifying as to that exhibit?

19 A. This morning.

20 Q. By Mr. Sanger?

21 A. Yes, sir.

22 Q. Do you recall ever pointing to a fingerprint
23 in Exhibit 723 and saying, "Well, that's the same
24 one that's in Exhibit 748"?

25 A. No, sir.

26 Q. Okay. I think what we'll do is try to work
27 backwards.

28 Your Honor, if I may have "Input No. 4," 3981

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1 please.

2 Dim the lights, please. Thank you.

3 I'm placing on the Elmo machine Exhibit No.

4 622.

5 Now, Mr. Sanger asked you some questions

6 about when and if you knew when a request for

7 forensic testing came in regarding the magazine

8 seized from the defendant's ranch.

9 A. Correct.

10 MR. SANGER: I'm going to object. Actually,

11 that misstates the evidence. It was fingerprint

12 examination.

13 MR. NICOLA: I believe he used the words

14 "forensic testing," Your Honor.

15 THE COURT: The objection's overruled.

16 Q. BY MR. NICOLA: Does forensic testing

17 include sending items out for DNA analysis?

18 A. Yes, it does.

19 Q. Okay. And in the grand scheme of things, if

20 you were going to do a DNA analysis on the same

21 magazines that you would later check for

22 fingerprints, which analysis would be conducted

23 first?

24 A. The DNA analysis.

25 Q. And why is that?

26 A. Because the testing process for fingerprints

27 and the development process could contaminate or

28 destroy possibly any DNA. 3982

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1 Q. And by "contaminate" what do you mean?

2 A. Possibly alter the structure. Since
3 ultraviolet light was being used, it could have
4 damaged the DNA.

5 Q. And is contamination essentially
6 destruction?

7 A. It can be.

8 Q. Okay. With respect to fingerprint analysis,
9 if you contaminate a fingerprint, what have you done
10 for its usefulness as a print that you can make any
11 conclusions about?

12 MR. SANGER: I'm going to object. That's
13 vague as phrased.

14 THE COURT: Sustained.

15 Q. BY MR. NICOLA: Let me reask. With respect
16 to a fingerprint, if you contaminate it, what have
17 you done to its usefulness?

18 A. It could possibly make it unusable.

19 Q. Okay. And what kind of -- forms of
20 contamination can affect a fingerprint in that
21 respect?

22 A. Any activity which would destroy the ridge
23 detail or blur the ridge detail so it could not be
24 observed or traced or used for a latent comparison
25 purpose. Cloud the clarity of the print.

26 Q. Okay. With respect to the DNA testing, do
27 you have experience sending items to the Department

28 of Justice laboratory in Goleta for that very 3983

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1 purpose?

2 A. I have sent a few out, but it's been several
3 years.

4 Q. Okay. In your experience, does DNA testing
5 or screening from potential DNA testing take some
6 period of time?

7 A. To my recollection --

8 MR. SANGER: Objection; lack of foundation.

9 THE COURT: Sustained.

10 Q. BY MR. NICOLA: Sergeant Spinner.

11 A. Yes.

12 THE COURT: The objection was sustained.

13 Q. BY MR. NICOLA: Do you have knowledge of how
14 long the items that you've sent to the Department of
15 Justice for DNA testing have taken to come back?

16 MR. SANGER: Objection, lack of foundation
17 and relevance.

18 THE COURT: The foundation objection is
19 sustained.

20 Q. BY MR. NICOLA: You have sent items to the
21 DNA lab in Goleta, correct, for testing?

22 A. Yes, sir.

23 MR. SANGER: Asked and answered.

24 THE COURT: Overruled. Next question.

25 Q. BY MR. NICOLA: You requested that DNA
26 examination be done on the items that you've sent?

27 A. We sent items to the DOJ at the request of

28 detectives for DNA analysis. 3984

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1 Q. Okay. And in your experience, do you find
2 the turnaround time for when you receive the items
3 back to be a long period or a short period?

4 MR. SANGER: Objection. Vague and lack of
5 foundation, relevance to this case.

6 THE COURT: Overruled.

7 You may answer.

8 THE WITNESS: Depending on which lab was
9 used, it could take quite some time.

10 Q. BY MR. NICOLA: With respect to the
11 magazines and other sexually explicit content that
12 you were asked to conduct fingerprint experiments,
13 or fingerprint examinations on, do you know whether
14 any of those items had been sent to DOJ in early
15 February of 2004 for DNA testing?

16 MR. SANGER: Objection. This was asked and
17 answered on direct. Beyond the scope.

18 THE COURT: Overruled.

19 Q. BY MR. NICOLA: You may answer.

20 A. I knew that items were at the DOJ lab for
21 testing. I don't know when they were actually sent
22 out.

23 Q. Okay. So you knew the time frame they had
24 been sent out was --

25 A. Prior to my attempting to --

26 MR. SANGER: Excuse me. I'm going to
27 object. It's not a question. No question pending.

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1 MR. NICOLA: Okay.

2 THE COURT: Let's take our morning break.

3 (Recess taken.)

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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 3937 through 3986

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 29, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 29, 2005.

24

25

26

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

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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

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 TUESDAY, MARCH 29, 2005

20

21 8:30 A.M.

22

23 (PAGES 3988 THROUGH 4173)

24

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26

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

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2

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1 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 SPINNER, Robert 3993-A

12 MASADA, Jamie 3997-Z 4052-M 4132-Z 4146-M

13 BELL, Cynthia Ann 4149-A 4160-M

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28 3990

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1 E X H I B I T S

2 FOR IN

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

4 623 Copy of check to David Arvizo 4029 4138

5 624 Copy of check to David Arvizo 4028 4138

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1 THE COURT: Counsel? Go ahead.

2 MR. NICOLA: Thank you, Your Honor.

3 Q. It's still morning. Just a few more

4 questions, Sergeant Spinner.

5 With respect to the 19 fingerprint

6 comparisons that you've testified to in court over

7 the past few days, was there anything about the

8 exemplars which prevented you from making the

9 specific positive identifications that you've

10 testified in front of the jury about?

11 A. No, sir.

12 Q. Okay. And I believe Mr. Sanger asked you

13 whether you had sent the fingerprints out for

14 independent verification. Did you, in fact, do

15 that?

16 A. Yes, sir, I did.

17 Q. And whom did you send those prints to?

18 A. Mr. Pat Wertheim.

19 Q. Who is he?

20 A. He's an internationally recognized

21 fingerprint expert. He basically started the McKee

22 case in Scotland when he recognized the bad

23 fingerprint comparison which was conducted by the

24 Scotland office. And he's on the SWGFST committee.

25 And he is a very learned individual, and I consider

26 him a mentor and a teacher.

27 Q. Did he verify the 19 results that you've

28 testified to in court? 3992

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1 A. Yes.

2 MR. SANGER: Objection. Calls for hearsay;

3 move to strike.

4 THE COURT: Sustained. It's stricken.

5 Q. BY MR. NICOLA: Did he disagree with any of

6 your comparison work?

7 MR. SANGER: Objection; calls for hearsay.

8 THE COURT: Sustained.

9 Q. BY MR. NICOLA: Typically in a fingerprint

10 case, the defense has the opportunity to reexamine

11 any of the work that you've done by their own

12 experts, correct?

13 A. That's correct.

14 MR. NICOLA: I have no further questions.

15

16 RE-CROSS-EXAMINATION

17 BY MR. SANGER:

18 Q. Okay. Just a few things. You talked about

19 723 and 748. And it's your position that 723 is not

20 the fingerprint depicted in Exhibit 748, right?

21 A. If I remember correctly, 723 is not a

22 fingerprint exhibit.

23 Q. Right. So if you testified to that earlier,

24 that would have been a mistake on your part,

25 correct?

26 MR. NICOLA: Objection. That question

27 assumes facts not in evidence.

1 You may answer.

2 THE WITNESS: Yes, sir.

3 Q. BY MR. SANGER: And you indicated that your
4 experience involved 80,000 fingerprints, and then
5 you said, "Well, it may have been 120,000." That's
6 a 50 percent increase in the number of fingerprints.

7 MR. NICOLA: Objection. Beyond the scope of
8 redirect and it's argumentative.

9 THE COURT: Sustained on beyond the scope.

10 Q. BY MR. SANGER: Now, you talked about DNA
11 testing. My understanding is that you haven't sent
12 anything out for DNA testing yourself for a number
13 of years, correct?

14 A. The last time I was involved with sending
15 anything out for DNA testing was prior to August of
16 2003.

17 Q. Okay. So you don't know how long DNA
18 testing -- let me withdraw that. You don't even
19 know what DNA testing was done in this case, if any,
20 correct?

21 A. I do know that some items were sent to the
22 Goleta DOJ lab.

23 Q. Do you know what testing was done?

24 A. They were sent for DNA analysis, as far as I
25 know.

26 Q. But you don't know what testing was done?

27 A. No, I do not know what DOJ did with those

28 items. 3994

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1 Q. And you don't know for how long they held
2 them and for what reason?

3 A. That's correct.

4 Q. Now, Exhibit 470, I'll just hold it up here.

5 Exhibit 470 is that briefcase, right?

6 A. That's correct, sir.

7 Q. All right. And the items that you formed an
8 opinion on involving your opinion that the prints
9 were from Gavin and Star Arvizo, all were derived
10 from this briefcase; is that correct?

11 MR. NICOLA: Objection. Misstates the
12 evidence; lack of foundation.

13 THE COURT: Overruled.

14 You may answer.

15 THE WITNESS: Part of the items came -- of
16 the prints that were made came from the items that
17 we got back from Department of Justice on 8-3. And
18 the rest of them, I believe, came out of the black
19 briefcase, which I got on 10-5.

20 Q. BY MR. SANGER: Okay. They were all 317,
21 correct?

22 A. They were all 317, yes.

23 Q. So your understanding is, based on your
24 experience in your office, that they're all Item No.
25 317. They would have come out of Item No. 317,
26 right?

27 A. Correct.

28 Q. And this briefcase was Item No. 317. It's 3995

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1 now Exhibit 470, but it was Sheriff's Item 317,
2 right?

3 A. That's correct.

4 Q. All right. And you have no way of knowing
5 if and when or whether or not Star or Gavin Arvizo
6 opened this briefcase and looked through it, do you?

7 A. I have no knowledge what happened to that
8 briefcase prior to 10-5.

9 MR. SANGER: All right. I have no further
10 questions.

11 THE COURT: Anything else?

12 MR. NICOLA: No, Your Honor.

13 THE COURT: All right. Thank you. You may
14 step down.

15 Call your next witness.

16 MR. ZONEN: We'll call Jamie Masada to the
17 stand.

18 THE COURT: Come to the front of the
19 courtroom, please. When you get up to the witness
20 stand here, please remain standing.

21 When you get to the witness stand, face the
22 clerk and raise your right hand.

23

24 JAMIE MASADA

25 Having been sworn, testified as follows:

26

27 THE WITNESS: I do.

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28 THE CLERK: Please be seated. State and 3996

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1 spell your name for the record.

2 THE WITNESS: My name is Jamie, J-a-m-i-e;

3 and my last name is Masada, M-a-s-a-d-a.

4

5 DIRECT EXAMINATION

6 BY MR. ZONEN:

7 Q. Mr. Masada, good morning.

8 A. Good morning, sir.

9 Q. What do you do for a living?

10 A. I do -- I have a Laugh Factory Comedy Club.

11 BAILIFF CORTEZ: Sir, I need you to speak

12 into the microphone.

13 THE WITNESS: Oh, I'm sorry, I apologize.

14 Q. MR. ZONEN: We have to do this with

15 everyone.

16 A. I'm sorry, I apologize.

17 I own The Laugh Factory Comedy Club. And I

18 do a couple of different kind of charities. I'm

19 involved with different charities to help kids and

20 homeless people and different stuff.

21 Q. Let's start with The Laugh Factory. What is

22 The Laugh Factory?

23 A. The Laugh Factory, sir, is a comedy club

24 that some of the people, well-known comic or unknown

25 comic, they come up there, they get their break.

26 And we bring studio people, or somebody come see

27 them and look at them. Maybe some of them, they

28 have a talent, they get a break on, they become 3997

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1 famous.

2 And it's people that come in, ordinary

3 people that come, they pay admission to come in to

4 watch the talent.

5 Q. How many Laugh Factories do you have now?

6 A. I have -- I did have another one in Hawaii,

7 closed for temporary. Right now two, sir.

8 Q. Okay. One is in New York City?

9 A. Yes, sir.

10 Q. And the one in Hawaii is temporarily closed?

11 A. Yes, because of the hotel remodeling.

12 Q. Where in Hawaii is it?

13 A. In Waikiki.

14 Q. Okay. Now, the original one is the one in

15 Los Angeles; is that correct?

16 A. Yes, sir.

17 Q. When did you open The Laugh Factory in Los

18 Angeles?

19 A. 1979.

20 Q. How did that come about? How did you come

21 up with such an idea?

22 A. Oh, God. Okay. Let's see where I can

23 start. It was -- at that point I was a comedian.

24 There was a strike going on about comedian. And the

25 comedian that wasn't getting paid. And one of the

26 comedian, John, from the Hyatt House, jump down, and

27 he actually kill himself. And I was very disturbed

28 and upset. And I thought, I got to do something. 3998

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1 So at that point, I walking down the street
2 and I saw a place for lease, and -- I find that
3 place, and I came up with the name "Laugh Factory."
4 I started Laugh Factory, and it was the first club
5 where I paid the comedians.

6 Q. Mr. Masada, how old were you when you leased
7 that space and opened The Laugh Factory?

8 A. I wasn't even 16. I put it under name of
9 Neil Israel at that point, because he was -- he
10 backed me up and he was the person -- he actually --

11 Q. You were 16 years old?

12 A. Yes, sir. About almost 17, and a half, yes.

13 Q. Did you actually speak English at the time?

14 A. I don't know. I'm still -- I think I still
15 am not speaking that good English anyway.

16 (Laughter.)

17 Q. When you came to this country, did you speak
18 English?

19 A. Not much. "Hello, how are you?" That's
20 about it.

21 Q. How old were you when you came to this
22 country?

23 A. 14.

24 Q. From where?

25 A. Directly from Israel. Iran, Israel and
26 here.

27 Q. And to the United States?

28 A. Yes, sir. 3999

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1 Q. Excuse me. Tell us what the comedy camp is.

2 Well, before I do that, let me go back to The Laugh
3 Factory.

4 A. Yes, sir.

5 Q. It has been in existence for a number of
6 years now?

7 A. Yes, sir.

8 Q. Would it be safe to say that a number of
9 well-known comedians have passed through The Laugh
10 Factory?

11 A. I mean, the number of well-known comedians,
12 they still come through The Laugh Factory all the
13 time.

14 Q. Tell us who. Who are some of the guests who
15 have come through The Laugh Factory?

16 A. Last couple of weeks, Jon Levitz. Chris
17 Rock. Robin Williams. I could name many, many
18 people that come.

19 Q. Name a few more.

20 A. Bob Saget. Chris Tucker. God, George Lopez
21 sometime. Paul Rodriguez. Paul Mooney. They all
22 stop by.

23 Q. Okay. Now, tell me about the comedy camp.

24 What is that?

25 A. The comedy camp is for underprivileged kids,
26 the kids that they don't -- the kids that are
27 disturbed or underprivileged, and that's how I

28 created for. 4000

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1 Q. And what is it?

2 A. It's bringing the kid in, and bringing --
3 asking all of the well-known comedian to come in to
4 teach them a little bit of confidence and give them
5 a little bit of confidence through life. Some of
6 them, they might become a comedian. Some of them
7 might not become a comedian. But you give them
8 confidence. You give them this big star teaching
9 them how to perform, how to go through life and be
10 confident in life.

11 Q. Are these principally underprivileged
12 children?

13 A. Most of them underprivileged children, yes,
14 sir.

15 Q. And what does that mean? I mean, what is
16 the criteria for somebody to get into the comedy
17 camp?

18 A. If -- you know, if I see the kid, for
19 example, they are shy, they don't have -- they
20 cannot -- like, they don't have ability to talk in
21 public.

22 Or I see people that they really come from
23 very poor family, or single family, or -- most of
24 them they come out there, they don't even have
25 family. They are living in group home. They
26 live -- stay in foster homes. And that's the type
27 of kid we get in comedy.

28 But sometime, you know, you get a few of 4001

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1 them that they are -- you know, they are -- what you
2 call them? They're talented and they're kids, and
3 their parents push them in, and you bring them in,
4 and they are -- you know, we don't -- we overlook
5 that they are not poor. But most of them, they are
6 underprivileged people.

7 Q. All right. Do you do the evaluation to
8 decide who gets into the comedy camp?

9 A. Yes, sir.

10 Q. Do you meet with every child who comes
11 through the comedy camp?

12 A. Yes, sir.

13 Q. Have you maintained relationships with many
14 children who have passed through the comedy camp?

15 A. Most of the time. Yeah, most of them. Some
16 of them, all of a sudden I don't hear from them.

17 But 90 percent of the kids always talk to -- they
18 call me back anytime they are in trouble or anytime
19 they are in any kind of problem, they call me. They
20 ask me for help, you know.

21 I mean, like last night before coming here,
22 one of the kids, you know, has -- he walked out of
23 the foster home, and he comes by, you know, the
24 place. And he was -- I don't know if he was on
25 drugs, whatever, whatever. You try to help him out.
26 You try to give him direction. Give him a little
27 bit of financial. "Hey, you got to go back. If you

28 don't go back to your foster home, you're going to 4002

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1 get arrested," that type of stuff.

2 Q. Tell me how the comedy camp is structured.

3 A child who comes into the camp, how often do they
4 come? How regularly? Who do they work with? What
5 do they do?

6 A. Most of the kids that come to the comedy
7 camp, the structure of the comedy camp is we usually
8 take about 30, 40, maybe -- sometime if -- we have
9 none; sometime have gone over 40 kids; 45, 48 kids.

10 And they usually come in, a lot of them come
11 in from Los Angeles County Department of Children
12 Family Services. They bring a lot of kids that they
13 need they help. They bring them to me.

14 And they usually -- the comedy camp meet
15 once a week, on Saturdays. We provide them lunch,
16 and they get -- I call some of the people that --
17 one of my greatest -- one of the best person was
18 coming to comedy camp that always encourage a lot of
19 kids, it was Richard Pryor. He would come in
20 always. He was one of the greatest. He came in,
21 and he always encouraged kids. And he encouraged
22 that. He came from a whorehouse. "Look at what I
23 made, what I made of myself. You guys can do the
24 same thing."

25 Q. Mr. Masada, how many kids do you think have
26 gone through the comedy camp since you founded it?

27 A. I think around -- I am not sure. I think

28 over 400; 400 people. 4003

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1 Q. Is there actually a graduation ceremony of
2 sorts?

3 A. Yes, sir.

4 Q. What do you do?

5 A. We prepare the comedian -- we take the kids,
6 we gave them to one of -- another comedian,
7 well-known comedian. Well-known comedian take that
8 kid and coach them in last few days.

9 And then we have a night, and we going to
10 try in front of real audience. They go on, and they
11 get paid for it, and they become a real comedian.
12 They get a flag. They get gifts. They get -- a lot
13 of stuff they get. And they are very cheerful. We
14 have a cake for them. And it's kind of like a
15 little ceremony, our own ceremony.

16 Q. Do kids stand up and do a comedy routine?

17 A. Yes, they do.

18 Q. For how long? How many minutes do they get
19 to be up there?

20 A. They usually do three minute. Sometimes the
21 kid is very, very talented. I seen them, they go on
22 as much as seven, eight, ten minutes. I mean, it
23 depends on the kid, how much talent it is.

24 And we try to teach them -- they have a
25 little light. We have a red light we give them.
26 And if the red light goes on, they got to get off,
27 and sometimes they don't see it.

28 Q. Do they write their own material? 4004

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1 A. They usually write their own material.

2 Except celebrity type of comic help them out last
3 few days, help them out to, say, punch up their
4 lines or punch up their material.

5 Q. Are they encouraged to do material that
6 they're familiar with, things about themselves or
7 their lives?

8 A. Yes, sir. We are always encourage them to
9 talk about the pain, because I -- personally, I
10 believe laughter is the healing. Laughter is, you
11 know, something that could heal, and it could -- I
12 work with a Norman Cousins quote, and he wrote a
13 book called "Laughter is the Best Medicine," and I
14 believe in that.

15 I believe in, because this kid, they never
16 got a chance to be a kid. So I think by expressing
17 themselves and talking about the pain they going
18 through, they heal the whole thing. And that's --
19 that's what's comedy camp.

20 Q. The child who enters the comedy camp will
21 come how many weeks before graduation?

22 A. Ten to twelve weeks, sir.

23 Q. Is it always during the summer, or is it
24 year-round?

25 A. No, it's always in the summer.

26 Q. And what day of the week is it that they
27 come?

28 A. Saturday, sir. 4005

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1 Q. Do they ever come on a Monday?

2 A. No. They come in maybe -- on Monday they
3 come in if it's -- for example, a celebrity want to
4 meet with them on Monday before graduation.

5 Q. Uh-huh.

6 A. They might do that --

7 Q. Okay.

8 A. -- on Monday, coming in. For example, some
9 big celebrity comes in and said, "I don't have to
10 come in -- I don't have time to come in on Saturday
11 or Sunday, but I'll meet you Monday. Let's go over
12 material in the club and I help you out." That has
13 happened.

14 Q. Do you try to make sure that a celebrity is
15 with every child?

16 A. Define what's the "celebrity."

17 Q. Somebody who's a working, practicing
18 stand-up comedian, earns a living doing that.

19 A. Yes, the person making a living out of it,
20 yes. I try to find some people that they are
21 mostly, you know, known.

22 Q. So it is, in effect, a mentorship of sorts?

23 A. Some type, yes, sir.

24 Q. Do you know the Arvizo family?

25 A. Yes, sir, I do.

26 Q. And how did you become familiar with the
27 Arvizo family?

28 A. I think, if I'm not mistaken, the first time 4006

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1 I met Arvizo family was -- was the first time we had
2 a comedy camp at the club. And I believe, if I'm
3 not mistaken, is a gentleman called Eric Site. He
4 was from Los Angeles County Dis -- the Los Angeles
5 County Children and Family Services.

6 He recommend them, or teacher recommended to
7 him, and he brought them in, or he told the mother
8 to bring them in, and they came in.

9 And the first time I met them, they went on
10 the stage and I watched them, what they doing,
11 what's going on. And it was at that point was I
12 believe on the time that I was doing interview.
13 Eric Site was present, a lady called Julia Now was
14 present. It was Robert Harper was present. It was
15 Jo-Jo was present.

16 Q. Who are you talking about? These are people
17 who evaluated their entry?

18 A. These are the people that sit back watching
19 and seeing it. And it's a gentleman called Patrick
20 Press (sic) from FOX TV was there that year, was
21 doing a -- what you call -- was doing a documentary
22 about comedy camp. His name is Patrick Press (sic).
23 And he was with his filmmaker, with a cameraman.

24 Q. Did you interview the Arvizo family to
25 determine whether they should come into the camp?

26 A. Yes, sir, I did.

27 Q. And how many kids were there?

28 A. Three. 4007

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1 Q. Can you name them for us?

2 A. Yes. It was Star. It was Davellin. It was
3 Gavin.

4 Q. Okay. Did you meet their mother?

5 A. Yes, I did.

6 Q. And what is her name?

7 A. Janet.

8 Q. Did these kids come for the entire camp
9 academy, from the beginning to the end, and
10 graduate?

11 A. I think they came in except one time, as I
12 recall, because they did not have enough money to
13 get bus to come in. They were coming in with bus.

14 Q. Coming with what?

15 A. Except one time they did not have money, or
16 something to get the bus to come in.

17 Q. Oh, take the bus.

18 A. Take the bus to come in.

19 Q. So you think they may have missed one
20 session?

21 A. I think I -- may I take some water, if you
22 don't mind? I'm sorry. I've got a cold. I'm
23 trying --

24 Q. You're not alone.

25 A. If you wanted some Cold-Eze, I have some
26 Cold-Eze for you.

27 (Laughter.)

28 A. All right, sir. 4008

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1 Q. As long as we don't give it to the jury.

2 A. No, I won't.

3 I'm sorry, I'll talk this way. I'm not

4 talking that way, I'm sorry.

5 Q. Mr. Masada, was it your understanding that

6 they would commute each time they came to The Laugh

7 Factory by public transportation or by bus?

8 A. Yes, sir.

9 Q. And on each of those occasions, did Janet

10 Arvizo bring the three children there?

11 A. Yes, sir.

12 Q. Did you get to know them during the period

13 of time that they were at The Laugh Factory comedy

14 camp?

15 A. Yes, I did.

16 Q. All right. Did you develop a friendship or

17 closeness with any of the children?

18 A. I usually -- you know, all of them, I look

19 at them the same way. You know, I don't look at one

20 kid is better than another kid. You know, all of

21 them, to me, they were all like my own kids. So all

22 38, 40 of them, whatever were there, all of them --

23 I looked at them the same way. I didn't make

24 special effort to be more friendly with them than

25 the other different people.

26 Q. What year was the academy that they went to,

27 the comedy camp that they went to?

28 A. The Laugh Factory comedy camp was on 1999. 4009

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1 Q. Do you have a sense of how old the children
2 were when they went?

3 A. Yes.

4 Q. Tell us.

5 A. I believe one of the kids was eight. One of
6 them was nine. One -- no, one of them was eight.

7 One of them was nine. One of them was 13.

8 Q. 13 being the daughter?

9 A. The daughter. Yes, sir.

10 Q. And who was eight and who was nine? Do you
11 remember who was older?

12 A. Yeah, I believe Gavin was nine. Star was
13 eight.

14 Q. All right. At some point in time, did you
15 learn that one of the children became ill?

16 A. Not after I heard -- they graduated.

17 Everything went perfect. The documentary was on FOX

18 TV. Everything was perfect. Then I keep in touch,

19 you know, for their birthday, or giving something,

20 or if they need some money, or anybody needs

21 something, they always call me they need some help.

22 And the next time I heard, I was keeping

23 contact with them, the mother called me, said that

24 Gavin have cancer, and he's sick, he's ill.

25 And I kind of was in shock. "What's

26 happened? What's going on? Where we going?"

27 "Tomorrow we going to see another doctor,"

28 this, this. 4010

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1 They call me. I don't know when I was
2 called.

3 And then I got another call that they going
4 to go operate. I said, "When they go operate?"
5 They said such and such. And I said, "I'll be
6 there."

7 Q. Mr. Masada, who was it who called you?

8 A. Janet.

9 Q. Did she ask anything of you, any favor of
10 you, or ask you to do anything on her behalf?

11 A. Yes, she did.

12 Q. What was that?

13 A. She said I should pray. She ask me if I can
14 pray, and thank you for all of the help I did. If I
15 can pray. And I said, "Okay, I'll go to church
16 tomorrow and do some prayer."

17 Q. And did you go visit Gavin at the hospital?

18 A. Yes, I was there the time they operate, and
19 I went there every day afterwards.

20 Q. Who was Gavin's mentor while he was at the
21 comedy camp?

22 A. God, the time -- the graduation you mean?

23 Q. Yes.

24 A. Or the time -- or the whole thing?

25 Q. If there was more than one, tell us.

26 A. Oh, yeah, there was -- I believe, if I'm
27 not mistaken, Paul Rodriguez was one of them. Bob

28 Saget was one of them. Rob Schneider was one of 4011

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1 them. Eddie Griffin was one of them. Dave Chappell
2 was one of them.

3 Oh, God. Let me think. My memory is not
4 that great. Forgive me. Especially cold.

5 Who else was -- I believe Howie Mandell was
6 one of them. And who else was it? Come on. Paul
7 Mooney was one of them. Oh, God, come on. How many
8 did I call? How many names I say?

9 Q. Well, let me ask it this way. You've
10 mentioned a whole bunch of names. Are these people
11 that came in during the course of the entire camp?

12 A. Yes, they came through the whole camp. And
13 each time they came in, they become a mentor to them
14 for that week.

15 Q. Oh, I see. Okay. Do you know if there was
16 one in particular that worked with the Arvizo
17 children on more than one week?

18 A. Oh, yeah, George Lopez.

19 Q. George Lopez?

20 A. Yes, I'm sorry.

21 Q. And you do recall that at this time?

22 A. Yes, sir, I do.

23 Q. When you went to see Gavin at the hospital
24 the first time, how did you find him? I mean, in
25 what condition did you find him?

26 A. I -- oh, God. After operation or before
27 operation?

28 Q. When was the first time? Before the 4012

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1 operation or after?

2 A. Before operation. He was -- he was kind of

3 like a -- his stomach was big. He was yellow, and

4 his -- he looked like a -- very, very sick, like

5 something was -- you know, all with -- his face was

6 all white and yellow. He had no color in the face.

7 And after operation, I kept on going, and --

8 ooh, God, don't bring that memory back.

9 I kept on going. And anytime I go up there,

10 I see a poor kid every day, he's deteriorating. All

11 of a sudden, I see he lost his hair, because they

12 were -- you know, after a while they -- the

13 operation and everything, they gave him chemo. And

14 all of a sudden he lost his hair. He kept on losing

15 weight. I think -- I'm -- without exaggeration, I

16 think he was -- one time he was -- weighed about 60,

17 65 pounds. He was bone and skin.

18 And then I would watch. I would go every

19 morning, I would take some doughnut for the nurses

20 up there and to go see them, and to see her -- to

21 see him every day, every morning. And he was

22 deteriorating to the point of -- it was

23 unbelievable. I would go there, I would walk out

24 tear in my eyes, because I didn't know what to do.

25 What do you do with a kid like that?

26 And at one point --

27 MR. MESEREAU: I'm going to object to the

1 THE COURT: Sustained.

2 THE WITNESS: I'm sorry. I'm sorry.

3 MR. ZONEN: Let me move on.

4 THE WITNESS: What did I do wrong?

5 MR. ZONEN: We have our own rules here.

6 It's a little bit different.

7 Q. When -- you were visiting him on a regular

8 basis; is that right?

9 A. Yes, sir. Yes, sir.

10 Q. Would you bring things for him?

11 A. I would -- I don't -- I'm not very good --

12 I'm sorry. I'm not very good with giving gifts.

13 And I give them financial. You know, I go up there,

14 "Hey, if you eat, for example, today, if you eat, if

15 you keep what you doing, I give you 50 bucks."

16 This, this.

17 I kept on encouraging to give them. "If you

18 save your money, I put all of your money together.

19 When you get better, me and you, we go shopping.

20 Here's \$50. Here's that, that." I give him every

21 week some money, a \$50 bill.

22 Q. A \$50 bill?

23 A. Yes, sir.

24 Q. Did you do that more than once?

25 A. Oh, yeah.

26 Q. How many times do you think you gave him \$50

27 bills?

28 A. Oh, God, I think about six, seven times. 4014

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1 Q. Was encouraging him to eat an important
2 thing at that time?

3 A. Yeah, the doctor -- one time, the doctor --
4 you got to picture, this kid is dying. The doctor
5 told me he has two, three weeks to live.

6 So me, I was trying to do everything I can
7 in my power. And the doctor told me, "He's --
8 he's -- right now, he's deteriorating. If he don't
9 eat anything, if he doesn't" -- they were feeding
10 him food from his wing. "And if he doesn't eat, if
11 he doesn't eat - encourage him - he's going to die."

12 So what I would do every morning, I would
13 have a comedian with me, different comic every
14 morning, different comic would go with me and cheer
15 him up, tell him a joke. And beside that, I would
16 go up there in the hospital, I tried to give him
17 food, you know, to eat, to feed him.

18 Q. Mr. Masada, you really grabbed comedians out
19 of the club, took them to the hospital and said,
20 "Start telling him jokes"?

21 A. Yeah, I --

22 MR. MESEREAU: Objection; leading.

23 THE WITNESS: What did I do now?

24 THE COURT: It's not leading. But it's
25 something. I'll sustain it.

26 (Laughter.)

27 THE WITNESS: I'm sorry. Did you say

28 something to me? 4015

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1 THE COURT: It's not to you, no.

2 THE WITNESS: No? I'm okay?

3 THE COURT: I'm talking to the attorneys.

4 THE WITNESS: All right.

5 MR. ZONEN: Would you like me to do that

6 differently?

7 THE COURT: Yes.

8 Q. BY MR. ZONEN: Tell us how you did that,

9 please. Tell us what you did with comedians.

10 A. A comedian always have -- say Bob Marley,

11 Dane Cook, Frazier, me, I say to any of them, "Guys,

12 meet me in the morning. We got to go to" -- each

13 one of them, they would -- wake them up in the

14 morning, I would drag them with me to the hospital.

15 And they would go up, and just kind of make

16 a little scene for him, "Bah, bah-bah," whatever he

17 did, little joke, like a clown, make a little smile

18 on his face. That's what we tried to do.

19 Q. Did this go on for months?

20 A. Yes, sir.

21 Q. Did you give him other gifts during that

22 time?

23 A. Not -- not gifts. The example, I give him

24 money, you know how I give him money all the time.

25 Q. Was there a point when he was well enough to

26 go home and then begin the chemotherapy treatments?

27 A. No, he would -- he didn't go home right

28 away. It was sometime we were trying -- you know, 4016

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1 one time, point, it was almost that he was dying and
2 he's -- you know, we were trying to feed him food.
3 And his mouth -- because he was taking chemotherapy,
4 when you take chemotherapy, your mouth is all
5 bleeding. It's like your skin in mouth is gone.
6 You -- your mouth has no skin or anything go in your
7 mouth, it's like bleeding.

8 So I was encouraging, trying to give him ice
9 cream. I chopped -- what they call it? --
10 cantaloupe in his mouth. "If you eat, I'll do this,
11 I'll do this, I'll do that." And I keep on
12 encouraging him for different stuff to eat. And I
13 do anything I could do, clowning around, doing
14 anything I can to make him eat. At one point he --

15 Q. Mr. --

16 A. I'm sorry. At one point he had an O
17 negative blood, too.

18 Q. That's what I was going ask you.

19 A. Oh.

20 Q. Did you commence a blood drive or do
21 something to facilitate a blood drive?

22 A. Yeah.

23 Q. What did you do?

24 A. He had O negative, I heard, from -- what's
25 the name of that, the blood drive that they do? The
26 blood drive. It's not Salvation Army. No, what's
27 the blood drive? Come on. Red Cross.

28 Q. Red Cross? 4017

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1 A. I'm sorry. Red Cross.

2 I heard from Red Cross that they were --

3 didn't have enough blood, blood for him. So what I

4 did, I put on my marquee, I put the sign on the

5 door, "Anybody go give blood to the kids, they can

6 come in and get -- come in the club, get free in the

7 club," and they get food free.

8 The people, they went -- actually, I have

9 like a one night of like a gathering for them. They

10 come to the club and they have everything on the --

11 I have some good comedians, watch good comedians,

12 all of them, for me to encourage people to go give

13 blood.

14 And one time Red Cross came in the club

15 actually and they did a blood drive in the club. At

16 the time we encourage people, comedian, go on the

17 stage, tell jokes at the time the people give blood.

18 So we got creative. And I encourage -- and I got a

19 couple of radio station and a couple of T.V.

20 station. Mostly T.V. station. I got ABC, I got

21 NBC, to do a little promo about the blood, if they

22 can get somebody with blood coming in, if they can

23 do something about the blood.

24 And they did. As a matter of fact, Phil

25 from -- from ABC came in -- he came in the hospital

26 with a camera and he talked to me, and he showed

27 me -- I feed him the blood -- I'm sorry, feed him

28 the food, and -- sorry. So -- 4018

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1 Q. Let's move on.

2 Did you ever do a fund-raiser on behalf of

3 Gavin Arvizo out of The Laugh Factory?

4 A. Yes, we did.

5 Q. All right. Were you working with anybody in

6 particular on that?

7 A. What do you mean, did I work with anybody

8 particular?

9 Q. Well, were you the one organizing?

10 A. Yes, sir.

11 Q. Do you know how many fund-raisers you did?

12 A. I think I -- you know, with blood drive,

13 everything, financial one was couple of them. I

14 think we did two, yes.

15 Q. And that's separate from your efforts to

16 encourage blood donation?

17 A. Yeah, the blood donations was kept another

18 thing. We did different things for them, yes.

19 Q. How does it work that you do a benefit,

20 financial benefit for somebody through The Laugh

21 Factory? How does that work?

22 A. The way it works is we -- we have a person,

23 for example, if it's charity, if it's not a charity,

24 somebody else it is that they want a fund-raiser, we

25 give them -- we say, "Here is the door. Whatever

26 people that come in, you collect the money." If

27 it's charity, they collect the money. And the money

28 goes to them. 4019

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1 My employee instructions are, "Do not touch
2 their money. Their money is their money."
3 Whatever -- some poor people come in and give them
4 \$20, some people give them 50, whatever they want to
5 give them, and that's what we do. And they take the
6 door. If there's anybody -- people they want to buy
7 a drink or they want to buy anything else, we keep
8 it. We don't give it back. But the rest of it all
9 go to the charity.

10 Q. Okay. Mr. Masada, do you know David Arvizo?

11 A. Yes, I do, sir.

12 Q. And how did you meet him?

13 A. I met him in the hospital. First time I met
14 him in the hospital.

15 Q. All right. You had already known Janet
16 Arvizo; is that correct?

17 A. Yes, I did.

18 Q. Was it your understanding that David was
19 Janet's husband?

20 A. That's what I was introduced by.

21 Q. And the father of the three children?

22 A. Yes. Yes, sir.

23 Q. Did you become involved with David Arvizo in
24 fund-raising efforts in some fashion?

25 A. Yes, sir.

26 Q. All right. Was he involved in the two
27 fund-raisers at The Laugh Factory?

28 A. Yes, sir. 4020

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1 Q. Was Janet Arvizo there at either of those
2 two?

3 A. As far as I remember, I don't recall Janet
4 be there at all.

5 Q. Do you know how the money was collected on
6 either of those two occasions, those two
7 fund-raisers?

8 A. Yes. I believe first time was David and --
9 David and -- David and the kids. I told them, you
10 know, "Here is the table. Sit in here." And I
11 wanted somebody else sit with them. I don't know
12 who was it, but they sit by the door. Whatever they
13 came in -- you know, most of my audience, they come
14 in, they gave them money, whatever they gave them.

15 Q. Do you know approximately how much money
16 would have been raised on either of those two
17 fund-raisers based on your experience in the past?

18 A. Oh, God. I don't think it was anywhere --
19 you know, I don't think it was -- any of them was
20 more than 2,000 bucks. I don't think so. Never to
21 near 2,000 bucks. Maybe, eight, 900, 1200. I have
22 no idea.

23 Q. Okay. Do you think that 2,000 would be the
24 maximum they would have received?

25 A. Yeah, maximum. Maximum, I would think.

26 Q. On either of those two occasions, did you
27 collect the money or somebody working with you

28 collect the money? 4021

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1 A. No. They did it. They did it. I think one
2 time, as I recall, David had sat down with one of
3 the employees that collect the money. And the
4 employee that sat down, David and the employee sat
5 down, and David was very upset because George Lopez
6 was supposed to be there, and George Lopez didn't
7 come out. And George Lopez had an argument with
8 him, whatever, and he was kind of like upset. And I
9 took the money, I brought it up, I gave it to him
10 upstairs.

11 Q. Okay. Do you know how much money that was?

12 A. I think it was about 800, thousand dollars,
13 or something like that. 800, 900.

14 Q. During the time that you knew George -- that
15 you knew David Arvizo, did he ever ask you for
16 money?

17 MR. MESEREAU: Objection; hearsay.

18 THE WITNESS: What do I do?

19 THE COURT: Just a moment.

20 Sustained.

21 MR. MESEREAU: I'll withdraw the objection.

22 I'll withdraw it.

23 Q. BY MR. ZONEN: Did David Arvizo ever ask you
24 for money?

25 A. Yes, he did.

26 Q. How often?

27 A. Many time.

28 Q. How often is "many"? Give us a sense. 4022

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1 A. Anytime he was bringing the kids in, in to
2 visit me in the office, or I would go, he would walk
3 out with me. He said, "Well," you know, something,
4 "We haven't had soup, we haven't had lunch."
5 I mean, poor guy. You know, I gave it to
6 him, because I wanted to give it to him. Poor guy,
7 he needed money for eating, whatever. He was
8 unemployed. And I gave him whatever. You know,
9 anytime he asked me, I gave him some cash.

10 Q. Did he tell you he was not working?

11 A. Yes, he did.

12 Q. Did he tell you why he was not working?

13 A. No, he did not. I mean, I assumed, but I
14 didn't ask, "Why you not working?" Because his kid
15 was sick in the hospital.

16 Q. Did you ever see Gavin's mother, Janet
17 Arvizo, at the hospital when you visited?

18 A. Yes, several times I saw her.

19 Q. Okay. Was she there as often as David was
20 there, could you tell?

21 A. No -- the time I was going there, no, she
22 wasn't at often. But I was going early in the
23 morning usually, because my days start in the
24 morning, early in the morning. And, no -- I mean,
25 several times I saw her, but, no, not that often.

26 Q. Did you maintain communications with Janet
27 Arvizo during the time that her child was sick?

28 A. Yeah. 4023

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1 Q. You would talk to her?

2 A. I talked to her once a while. She call me
3 once in a while. Yes, she does.

4 Q. Did Janet Arvizo ever ask you for money?

5 MR. MESEREAU: Objection; hearsay.

6 THE COURT: Sustained.

7 Q. BY MR. ZONEN: Did you ever give Janet
8 Arvizo money?

9 A. No.

10 Q. But you gave David Arvizo money; is that
11 correct?

12 A. Yes.

13 Q. How much money do you think you gave him
14 during the period of time his child was sick?

15 A. You are going to think I'm crazy, but I have
16 no idea. You know, I had money in my cash -- in my
17 pocket, you know. I go out there, you know, he
18 asked me for some money, I gave him, 50 bucks, 40
19 bucks, 70 bucks. And sometime he asked me for gas
20 for car, because he had a car now. He have a
21 "sudan" car that Michael Jackson gave it to him, and
22 he was -- he said he was losing a lot of gas and he
23 need more money for gas. You know, I just gave him
24 the money.

25 Q. Did you ever see the vehicle he was talking
26 about?

27 A. Yes, I did.

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28 Q. And what was it, what kind of vehicle? 4024

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1 A. One time he came in the office with a kid,
2 with his two kids, he say, "Oh, Jamie, you got to
3 come see."
4 "What's going on?"
5 "Come on, I want to show you something."
6 And I went, "Okay."
7 And I went outside in -- on Laurel, and I
8 saw his car was parked in front of the fire hydrant.
9 I said, "Man, this is your car?" He say, "Yes." I
10 say, "You're in front of the fire hydrant." And he
11 parked there, and he opened -- it was a white car,
12 like a -- what you call it? A su -- a "sudan" car,
13 SUV -- what you call it?

14 Q. An SUV, sport utility vehicle?

15 A. Sport utility car.

16 And I remember one thing particular about
17 the car, a T.V. was on the dashboard. A T.V. was on
18 the dashboard. And he said -- I said, "Well,
19 what -- why did Michael give you that car?" He
20 said, "Michael gave me the car so I can take the kid
21 to Neverland." I said, "Oh, that's very nice.
22 That's very generous of him."

23 And that's -- that's the conversation I had
24 with him.

25 Q. Do you know how long he had that car?

26 A. I have no idea.

27 Q. At some point in time, did you have a

28 falling-out with David Arvizo? 4025

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1 A. Not really. I never had a fall-out with
2 him.

3 Q. All right. Was there an incident that took
4 place involving a wallet, a conversation with him
5 about a wallet?

6 A. Yes.

7 Q. All right. What was that?

8 A. It was -- the first time happen, it was in
9 my club. He came in my office one time. And I
10 remember precisely that whole thing, because I did
11 not have money, cash in my pocket.

12 He came in my office, and he ask that -- he
13 said that Gavin went to George house and somehow he
14 left his wallet with 300, \$350 in it, in George
15 house. He lost it in George Lopez's house.

16 And I said, "Oh, really?" I said, "Gavin,
17 this happened?" And Gavin didn't say anything. And
18 I just kind of like, "Gavin, this happened? He
19 said, "No." I said -- and David went near Gavin and
20 he said, "Tell him that happened." And Gavin didn't
21 say anything.

22 And I just -- my phone rang. And I tried to
23 pick up the phone, and then I realized Gavin said,
24 "Oh, dad," like some -- kind of like David elbowed
25 Gavin, or something.

26 And I knew that his face -- Gavin's face got
27 all red, like the -- the time David hit him, his

28 face was red, and, "Dad," and something like that. 4026

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1 And at that point, I said, "Wait a minute,
2 wait a minute, wait a minute. Guys, come on,
3 let's -- let me -- what was it? 350?" Whatever.
4 I wrote him a check. I said, "Here's the
5 check. Go -- here." I gave him a check for \$350.
6 I said, "Don't even mention it. First, the money
7 was from me. I gave you guys the money. Don't even
8 get that."

9 Because I got really upset, because this kid
10 is sick. He elbowed him or something. I didn't see
11 what's happened, but I could see from the face of
12 the kid, he did something to him.

13 Q. Did Gavin ever say anything to you to
14 confirm that 300 or \$350 was missing from his
15 wallet?

16 MR. MESEREAU: Objection; hearsay.

17 MR. ZONEN: State of mind, Your Honor, and
18 explains the behavior.

19 THE COURT: The objection is overruled.

20 Go ahead.

21 THE WITNESS: I answer?

22 THE COURT: You may answer.

23 THE WITNESS: What was the question again?

24 I'm sorry.

25 THE COURT: I can have it read back for you.

26 THE WITNESS: Oh, thank you. Thank you,

27 sir.

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1 THE WITNESS: No, never said that.

2 MR. ZONEN: May I approach the witness,

3 Your Honor?

4 THE COURT: Cross-examine?

5 MR. ZONEN: No, I'm not done. I said, "May

6 I approach the witness?"

7 THE COURT: I'm sorry. Yes, you may.

8 (Laughter.)

9 MR. ZONEN: I'm losing my voice.

10 THE COURT: I was just trying to hurry it

11 along. I'm sorry.

12 (Laughter.)

13 Q. BY MR. ZONEN: I'd like to show you an

14 exhibit. This exhibit is marked as Exhibit 624 for

15 identification. Not yet in evidence. Take a look

16 at that, please, and both pages of it. I'll leave a

17 second exhibit here as well.

18 A. Okay.

19 Q. Do you recognize that?

20 A. Yes, sir, I do.

21 Q. And please tell us what that is.

22 A. That's a check for \$350 to David Arvizo.

23 Q. All right. Is that, in your opinion, the

24 check that you wrote him at that time?

25 A. In my opinion, yes.

26 Q. And the date that's on there, what is the

27 date?

28 A. 10-13-00. 4028

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1 Q. All right. Would that date have been
2 written on that check accurately? In other words,
3 would you have written the same date on the check as
4 was the date that you wrote it?

5 A. I think so.

6 Q. Okay. Okay. There's a second exhibit,
7 which I think is 623, right next to you. Go ahead
8 and grab that one and take a look at that.

9 A. Okay. This one?

10 Q. Yes, please.

11 A. All right.

12 Q. And confirm that number. That little kind
13 of pumpkin-colored tag on the bottom should have a
14 number on it.

15 A. This is 623. Case No. 1133603.

16 Q. That's fine.

17 A. People --

18 Q. That's fine. It is 623.

19 What is that document that you're holding?

20 A. It's a copy.

21 Q. Of what?

22 A. A copy of a check.

23 Q. Okay. What is that check? Is that your
24 check?

25 A. That's Laugh Factory check.

26 Q. Made out to whom?

27 A. To David Arvizo.

28 Q. For how much? 4029

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1 A. For \$800.

2 Q. What do you believe that was for? Do you
3 have a recollection of it?

4 A. Yes, I do.

5 Q. What was that?

6 A. I think it's, again, another time he came,
7 ask me for money that I didn't have cash with me, so
8 I had to write him a check for his rent.

9 Q. And that was what that check was for?

10 A. That's what he said for.

11 Q. Do you have a sense of how much money you
12 gave David Arvizo during the time that Gavin was
13 ill?

14 A. Not really.

15 Q. On one of the two occasions that you were
16 having a benefit at The Laugh Factory --

17 A. Yes, sir.

18 Q. -- did you have an argument with David, or
19 did he have an argument with you?

20 A. Not really. I don't recall argument.

21 Q. Did he ever throw money on the floor?

22 A. Oh. One time -- the second, I think, if I'm
23 not mistaken, it was the second time that the money
24 I gave -- we did a fund-raising for David. And we
25 went upstairs, and somehow he was downstairs
26 collecting the money.

27 And we went upstairs, giving the money to

28 David Arvizo. And David all of a sudden -- we gave 4030

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1 him the money. And I ask him about -- again, one
2 more time about -- because Gavin was up there.
3 Somebody was there. I can't recall who was there.
4 Somebody was -- few people that were up there, they
5 ask me about the wallet. Somehow the wallet came
6 up. And David was trying to tell Gavin to talk
7 about the wallet. And Gavin did not want to say
8 anything about it. He said he didn't know what
9 wallet he's talking about.

10 And because of he wasn't -- kid was not
11 confirming what he was saying, and he throw the
12 money at me. And I'm kind of like -- you know, I
13 was kind of like insulted; I say how unappreciated
14 person he is, so I start walking away.

15 Q. You walked away?

16 A. Yes, sir.

17 Q. All right. What happened to the money?

18 A. I have no idea. Maybe somebody picked it
19 up. I have no idea.

20 Q. You left it behind, though?

21 A. Yes.

22 Q. You didn't pick it up?

23 A. No, I was upset at that time.

24 Q. Was this the money that was the door money
25 to one of those benefits?

26 A. Yes, sir.

27 Q. All right. What was it that you said to Mr.

28 Arvizo prior to him doing that? 4031

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1 A. I think was something to do -- I mean,
2 again, it's -- God, it's five years, four years ago.
3 I can't remember word by word. But it was something
4 to do with wallet.

5 Q. Whose wallet?

6 A. The wallet of Gavin, because I believe I
7 spoke to Ann Lopez. Ann Lopez said they find the
8 wallet and was only \$50 in it or something.

9 And I'm trying to ask him, "Wasn't that what
10 you told me you got a check for, 350 from me?

11 What's going on in here? Can you explain something
12 here? Something is not kosher in here. Hello?"

13 And he's kind of like -- he said -- he ask Gavin,
14 "Gavin, confirm what's happened," and Gavin would
15 not say anything.

16 Q. That's the conversation we just had already?

17 A. Yeah.

18 Q. Did you have any other dealings with David
19 Arvizo thereafter?

20 A. Yeah, he would come by the club once in a
21 while. He would come in, you know. I mean, at that
22 point after that, you know, it was kind of like, you
23 know, you try to help people, and the time people
24 become a little bit, you know, not truthful, you
25 just kind of like -- you know, you're not as
26 friendly as you're supposed to be.

27 So I wasn't that much friendly with him. I

28 mean, we were still -- we still talk anytime he 4032

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1 calls me. I pick up his phone, I talk to him.

2 Q. At some point in time, did you become aware
3 of the fact that the Arvizo -- or any members of the
4 Arvizo family were visiting Neverland, Michael
5 Jackson's ranch?

6 A. Yes, I did.

7 Q. Were you involved in some way in introducing
8 Gavin to Michael Jackson, to your knowledge?

9 A. To my knowledge, I don't know if it was me
10 doing or so many -- I was in the hospital. The kid
11 was -- you know, he needed help. And his wish
12 was -- looking at a T.V. on the -- in the hospital,
13 he saw Michael Jackson on the T.V., and he said he
14 wanted to meet Michael Jackson. I didn't know
15 Michael Jackson. I never met Michael Jackson. And
16 I want to bring his wish through like Make a Wish.
17 So I say, "Okay, if you eat, I do anything
18 you want. You want to meet Adam Sandler, all those
19 guys you told me, I'll introduce him to."

20 I didn't know Michael Jackson, but at that
21 point I made several phone calls to different
22 places. I called Paul Mooney, David Salzman. I
23 called Quincy Jones' office. I called anybody I
24 could to get some kind of number. Somebody say call
25 some -- some -- some studio in Vine Street, called
26 The Studio on Vine Street. I was doing that in the
27 hospital, call The Studio on Vine Street. I tried

28 to call -- they gave me number, they said it's 4033

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1 Neverland. I don't know if it was Neverland.
2 So I left a message for everybody I could,
3 "Hey, if anybody get this message, please tell
4 Michael to watch this ABC show and this thing, and
5 if he can watch it, please call him tomorrow.
6 There's this kid dying."
7 And I left a message. I don't know if my
8 message got to him or he called next day by chance,
9 by will of God. I have no idea.

10 Q. But in any event, you became aware that
11 Gavin had started having conversations with Mr.
12 Jackson?

13 A. Yes.

14 Q. Did Gavin ever talk about that when you
15 visited him at the hospital?

16 A. Yes. The next day when he was so impressed
17 and so grateful and so happy to hear from Michael.
18 Michael call him. And he said, "Do you have
19 anything?" I said, "I don't know." I made a few
20 phone call. I don't know if anything came from me.
21 Maybe somebody else call him. I have no idea.
22 But at that point, he was very happy, and he
23 was very excited about it. And you could see his
24 face, he was cheered up a little bit.

25 And what else?

26 Q. Are you aware of whether or not he ever
27 visited Michael Jackson at Neverland Ranch?

28 A. Yes. Father told me Michael invite them to 4034

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1 go to Neverland. And they were going to go to
2 Neverland. So I said, "Oh, great. Wonderful. Have
3 a good time."

4 And father said, "Do you want to go?" And I
5 said, "I got three other kids dying. I got to go
6 take care. I wish I could go. I can't go to
7 Neverland. I wish I could. But go ahead. You guys
8 enjoy."

9 Q. At some point in time, did you view or watch
10 the television documentary entitled "Living with
11 Michael Jackson"? Did you ever see that?

12 A. Yes, I did. The second time they showed it.

13 Q. In the United States?

14 A. In United States, yeah.

15 Q. Were you aware that Gavin was going to be
16 featured in that documentary prior to your viewing
17 it?

18 A. I was aware of it because Janet called me
19 about that.

20 Q. All right. When Janet called you, do you
21 remember when that was?

22 A. No idea. The date -- I'm very bad with
23 date. I'm telling you now, don't go to the date.

24 Q. Was Gavin -- was Gavin already well at that
25 point?

26 A. Gavin was not well, but he was -- you know,
27 I mean, still have a problem with the kidney,

28 because, you remember now, he had one kidney, and he 4035

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1 have no spleen, and he got to take medication for
2 his spleen, because he goes through any room that
3 have a germ, he could get sick immediately. And he
4 had one kidney. And at the time he have one kidney,
5 you know, he got to go for his blood being, you
6 know, changed or dialysis, or whatever it is. Once
7 in a while he got to do that, all kinds of stuff
8 like that. So he's not still well.

9 Q. When Janet called you, was she upset?

10 A. She said -- yes, she was upset.

11 MR. MESEREAU: Objection; hearsay.

12 MR. ZONEN: I was just asking whether --

13 THE COURT: The objection is overruled. And

14 the answer was, "Yes." Next question.

15 MR. ZONEN: All right.

16 Q. You then viewed the documentary "Living with

17 Michael Jackson"; is that right?

18 A. Yes, I did.

19 Q. And you watched Gavin in that film?

20 A. Yes, I did.

21 Q. Were you aware of whether or not that film

22 itself caused Gavin some problems?

23 MR. MESEREAU: Objection. Hearsay;

24 foundation.

25 MR. ZONEN: The question is whether he knew.

26 THE COURT: I'll allow the question, but you

27 can only answer it "yes" or "no." And I'll have it

28 read back to you. 4036

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1 THE WITNESS: Okay. Please.

2 (Record read.)

3 THE WITNESS: Yes, it did.

4 Q. BY MR. ZONEN: What were the nature of those
5 problems, to your understanding?

6 MR. MESEREAU: Objection; foundation.

7 THE COURT: Sustained.

8 Q. BY MR. ZONEN: Were you told by anybody the
9 nature of those problems?

10 MR. MESEREAU: Objection; foundation.

11 MR. ZONEN: State of mind. Not for the
12 truth of the matter.

13 THE COURT: The objection is sustained.

14 MR. ZONEN: All right.

15 Q. Did you do a presentation of any kind or
16 were you filmed in any way on behalf of Michael
17 Jackson?

18 A. Yes, I did.

19 Q. All right. Tell us about that. When did
20 that happen?

21 MR. MESEREAU: Objection; foundation.

22 THE COURT: Overruled.

23 Q. BY MR. ZONEN: When did that happen? Go
24 ahead.

25 A. It was -- I don't know, again, the day. It
26 was sometime that -- after Martin Bashir show, that
27 film. And the people, they called -- Janet called

28 and said they needed to do -- 4037

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1 MR. MESEREAU: Objection; hearsay.

2 Q. BY MR. ZONEN: Just tell us what you did.

3 A. What I did. They came in my club and they
4 ask me if I can talk on the T.V. And they talked to
5 me if I can talk about Martin Bashir. I start
6 talking about Martin Bashir, that Martin Bashir --
7 what I thought, that he did something wrong, because
8 showing a kid, underage kid, on his T.V -- on a T.V.
9 for -- he make millions of dollar, and he put this
10 poor kid on a tape, and he didn't even digitize his
11 face, and people in the school, they call him
12 "faggot" by it. And I -- I felt terrible for him.
13 I really felt horrible about it.

14 Q. Who was it who asked to you do something on
15 tape on behalf of Michael Jackson? Do you know who
16 the person was?

17 A. I think, if I'm not mistaken -- I'm not
18 hundred percent sure, maybe I shouldn't answer it,
19 but I think it started with Janet.

20 MR. MESEREAU: Objection; calls for
21 speculation.

22 THE WITNESS: Oh, don't answer it?

23 THE COURT: Don't answer.

24 THE WITNESS: I don't recall.

25 Q. BY MR. ZONEN: Did that person --

26 (Laughter.)

27 MR. ZONEN: Well, that was a more concise

28 answer. 4038

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1 THE WITNESS: Well, that was bad?

2 Q. BY MR. ZONEN: No, no, no.

3 How many people showed up?

4 A. They showed up about, oh, God, three, four
5 people, five people.

6 Q. Cameramen included?

7 A. Cameramen.

8 Q. Where did they do the filming?

9 A. In Laugh Factory in Los Angeles.

10 Q. All right. Were any of them introduced to
11 you?

12 A. I'm sure they were.

13 Q. Do you remember any of their names?

14 A. None.

15 Q. How long was the filming?

16 A. The filming, they said they going to do
17 about two, three minutes, just talk about Martin
18 Bashir. But afterwards, they -- I understood that
19 my mike was on, and they kept on talking to me about
20 Michael. They talked to me about different stuff.
21 I don't know if they tape all of that. I'm not
22 sure. But they said, "I want to pick up the spot I
23 talk about Martin Bashir, what he did was wrong."

24 Q. All right. Did you ever see the production
25 that was done that featured you, among other people?

26 A. No, I did not.

27 Q. Do you know if it was ever shown on

28 television? 4039

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1 A. I think it was, because people told me it
2 was on T.V.

3 Q. To this day, have you ever seen it?

4 A. No, I got a tape of it, but I never got a
5 chance. I wish I had time to go see it. I have a
6 tape of it. And I know -- I'm -- I don't look at
7 myself too much.

8 Q. But you've never looked -- you've never
9 viewed it in its entirety?

10 A. No.

11 Q. And you've never viewed the portion that you
12 recited?

13 A. No.

14 Q. And you don't know if it contains the part
15 that was filmed after you thought you were done, or
16 during the part?

17 A. I have no idea, but the people, they told me
18 what they said. I says, "Well, that's the press.
19 Let it go." I didn't even --

20 Q. Did somebody tell you what to say?

21 A. The people that were there, they were
22 encourage me to talk about Michael. If Michael
23 helped the kid, what my thought was. Who else
24 helped the kid, if Adam Sandler helped the kid, if
25 anybody helped the kid. And I was very open. I was
26 talking about it.

27 Q. What did you understand to be Mr. Jackson's

28 assistance to this child at the time that you did 4040

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1 this video?

2 A. I thought Michael, Adam Sandler, everybody
3 really -- they helped the kid. That's my belief.
4 Everybody, they did help the kid. At that point I
5 believed that.

6 Q. Did you have any personal information at
7 that time on what Mr. Jackson did on behalf of Gavin
8 Arvizo at the time you did this video?

9 A. What -- I'm sorry.

10 Q. Did you have -- when you made statements on
11 behalf of --

12 A. Yeah.

13 Q. -- Michael Jackson and other people --

14 A. Yeah.

15 Q. -- did you have a sense of what it was that
16 Michael Jackson did on behalf of Gavin Arvizo?

17 A. I'm not still clear. I'm sorry.

18 Q. Were you encouraged to say good things about
19 Michael Jackson?

20 A. Yeah. The people ask me, "Hey," you know,
21 "Can you say that?" And I say, "Yeah." I believed
22 it. I said it, yeah.

23 Q. Did you believe the reason for your presence
24 on that video was to say something about Martin
25 Bashir?

26 A. Yes, that's what I believed.

27 Q. At some point in time did you get a phone

28 call from Janet Arvizo calling from Neverland? 4041

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1 A. Yes, I did.

2 Q. Did she sound upset to you?

3 A. Uh --

4 MR. MESEREAU: Objection; hearsay.

5 THE COURT: Overruled.

6 Q. BY MR. ZONEN: Did she sound upset to you?

7 MR. MESEREAU: And leading.

8 THE COURT: Overruled.

9 You may answer "yes" or "no."

10 THE WITNESS: Yes.

11 Q. BY MR. ZONEN: All right. What did she tell

12 you?

13 MR. MESEREAU: Objection; hearsay.

14 MR. ZONEN: State of mind and spontaneous

15 declaration and excitable utterance, the last being

16 the exception to the hearsay.

17 MR. MESEREAU: No foundation for that

18 justification.

19 THE WITNESS: What do I do?

20 THE COURT: That's true for the spontaneous

21 declaration and the excitable utterance. There is

22 no foundation. The state of mind, I think that

23 would depend on a further foundation also, so I'll

24 sustain the foundation objection.

25 MR. ZONEN: All right.

26 Q. You said she was upset. Describe that to

27 me. You've had other conversations with her prior

28 to that. 4042

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1 A. I had many conversations with her. She was
2 kind of like in a state of, you know, like crying,
3 "Oh, my God." You know, her voice, you could see
4 like -- "Oh, my God, they hold" -- "They are holding
5 me here."

6 MR. MESEREAU: Objection. Objection.

7 Hearsay; move to strike.

8 THE COURT: The -- I'll strike that.

9 The foundation I was looking for was time

10 frame foundation, because her state of mind is only
11 relevant at a certain time, so I think you missed --

12 Q. BY MR. ZONEN: Can you tell us approximately
13 when that call was taking place? If you can't tell
14 us a date, then in comparison to other events.

15 A. It was -- in my recollection, it was
16 sometime later after Martin Bashir type of stuff.

17 Q. Can you tell us approximately how long after
18 Martin Bashir?

19 A. I have no idea.

20 Q. I mean, would it be measured in weeks or
21 measured in months?

22 A. Few weeks maybe.

23 Q. All right. All right. And then you
24 described her as crying; is that correct?

25 A. Yes.

26 Q. All right. And you've heard her crying
27 before?

28 A. Yes. 4043

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1 Q. At the time she had that conversation with
2 you about her child being ill?

3 A. The time he was ill, a couple of different
4 times I heard her crying. It was in the hospital I
5 saw her crying, and her voice.

6 Q. And describe her emotional state as you
7 talked to her on that telephone call after the
8 Martin Bashir screening. Describe her emotional
9 state in comparison to those other occasions.

10 A. She was upset. She was crying, the same way
11 was before. Her voice was the same as like her
12 child was sick.

13 Q. And what did she tell you?

14 MR. MESEREAU: Objection; hearsay.

15 THE COURT: I'm going to admit this for the
16 state of mind only.

17 MR. ZONEN: Thank you.

18 Q. What did she tell you?

19 THE COURT: That means that it's not -- I'm
20 going to let you answer in a minute.

21 THE WITNESS: Okay.

22 THE COURT: (To the jury) That means that
23 I've limited the use of this testimony not for the
24 truth of the matter asserted, not for the truth of
25 the matter of what she says, but to show her frame
26 of mind.

27 All right. You may answer the question. Do

28 you want it reread? 4044

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1 THE WITNESS: Please.

2 THE COURT: Okay.

3 (Record read.)

4 THE WITNESS: I mean, depends what
5 conversation. I mean, now I have several
6 conversations.

7 Q. BY MR. ZONEN: This first one.

8 A. Oh, God, I don't know which one was first.

9 Q. As best you can recall.

10 A. Which one was first, which one was second.

11 Four, five years ago. I have no idea. But I could
12 say what conversation I had. I don't know which one
13 was what.

14 Q. The one that you most remember where she was
15 crying. That one.

16 A. She was -- that one was from Neverland. She
17 said, "They are holding me here with my kid against
18 my will. I need to get out of here. Please do
19 something."

20 I said, "Why don't you call the police?" We
21 talked about all kind of stuff like that.

22 You want to --

23 THE COURT: Hold it. Hold it. Next
24 question.

25 Q. BY MR. ZONEN: All right. Did you make an
26 effort to introduce her to a lawyer?

27 A. Yes, I did.

28 Q. And who was the lawyer that you introduced 4045

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1 her to?

2 A. Bill Dickerman.

3 Q. All right. Do you remember what that was?

4 A. It was after the Martin Bashir taping was
5 going on. The people, they were calling Gavin all
6 kind of bad names. And I took her to -- and the kid
7 to -- to Bill Dickerman to stop, if they can stop.

8 ABC was running it. VH-1 was showing his picture,
9 MTV. All of them. The way I understood, everybody

10 was showing his picture. And the people, they
11 recognize him, and they would call him bad names.

12 And he was really upset. And we were going
13 to try to see if -- if Bill Dickerman could write a
14 letter to those people, tell them stop using the
15 tape of -- showing his face.

16 Q. All right. Were you the one, then, who took
17 her to Bill Dickerman?

18 A. Yes, I did.

19 Q. And was the purpose for that to get her
20 child off television?

21 A. Yes.

22 Q. Was there any other reason that you took her
23 to Bill Dickerman?

24 A. No, that was the reason we took her, because
25 didn't want to be -- her child be called "fag," or
26 whatever was calling.

27 Q. Were you present during any of those

28 conversations? 4046

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1 A. I --

2 Q. By "those conversations," I mean between
3 Janet Arvizo and Bill Dickerman, Attorney Dickerman.

4 A. Yes, I was, on four occasion. I remember
5 four occasion I remember I was present.

6 Q. Okay. And did you participate in the
7 conversations?

8 A. First one, participate.

9 Q. I'm not asking you the content. I'm just
10 asking if you were actually contributing in some
11 fashion to these conversations.

12 A. Yes.

13 Q. All right. What -- where did the
14 conversations take place? Were they at multiple
15 locations?

16 A. Yes, sir.

17 Q. What were the multiple locations?

18 A. One time was in my office. No, no, it was
19 in the Bill Dickerman -- I took them Bill Dickerman
20 office. And it was in Bill Dickerman office. They
21 talk to the -- to Bill Dickerman.

22 And second time it was in my club. And I

23 believe third time it was in my club.

24 Fourth time it was -- I was present with

25 Bill Dickerman. We took them to -- we took -- we
26 took the kids and the mother, they were going with
27 Jay, they were going to play baseball, and we took

28 them to baseball, and I was going watch the kids to 4047

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1 play baseball. So those four times I was present.

2 Q. All right. There was one meeting at The

3 Laugh Factory; is that right?

4 A. Two meetings at Laugh Factory, sir.

5 Q. Do you know if Janet was accompanied by

6 anybody from Neverland?

7 A. I understood that's what she told me. I was

8 inside the club. She said we -- came in, and she --

9 MR. MESEREAU: Objection; hearsay.

10 THE COURT: Sustained.

11 Q. BY MR. ZONEN: All right. Did you ever

12 offer money to Janet Arvizo?

13 A. Did I ever offer money to Janet Arvizo?

14 Q. Uh-huh.

15 A. Yes.

16 Q. Okay. Did you ever tell her that there was

17 somebody prepared to give her a substantial amount

18 of money?

19 A. Yes, I know where you're going now. Yes.

20 Q. You're troubled by something, are you not?

21 A. Yes. Yeah.

22 Q. The person --

23 MR. MESEREAU: Objection. Leading; move to

24 strike the comments.

25 THE COURT: Sustained; stricken.

26 MR. ZONEN: All right.

27 Q. The person -- there is a person who was --

28 let me back off a little bit. 4048

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1 The conversation that you had with Janet
2 Arvizo about somebody having money for her --

3 A. Yeah.

4 Q. All right. Tell us what you told Janet
5 Arvizo.

6 A. It was after Martin Bashir and all of that
7 stuff happened. And I told Janet, I said, "Janet,
8 particular person wants to give you -- actually,
9 offered to give me a check, as much as amount of
10 money you want, and wants you to just take care of
11 your kid and family, and feels bad for all of that
12 stuff. And if you need money, whatever money you
13 need, I know this particular person he would give
14 you whatever money you need," you know. "You need
15 to buy a house, whatever you need, he would get you
16 the money. Whatever money you need, he would give
17 it to you."

18 Q. What did she say?

19 MR. MESEREAU: Objection; hearsay.

20 MR. ZONEN: State of mind. Particularly
21 given counsel's opening statement.

22 THE COURT: All right. The objection is
23 sustained.

24 MR. ZONEN: Could we approach sidebar?

25 THE COURT: All right.

26 (Off-the-record discussion held at counsel
27 table.)

28 THE COURT: All right. Would -- excuse me. 4049

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1 (To the jury) What I'm going to do is,
2 again, I'm going to change the ruling that I made a
3 moment ago, and I'm going to allow the answer to
4 this question.
5 But again, I'm going to give you the
6 cautionary instruction that this answer that is
7 about to be given to this question is -- is offered
8 for a limited purpose, which is Mrs. Arvizo's state
9 of mind only. So that would be Janet's state of
10 mind only, not for the truth of the matter asserted.

11 And I'll have the question reread to the
12 witness, and then he may answer.

13 (Record read.)

14 Q. BY MR. ZONEN: With regards to your
15 conveying that comment about a person prepared to
16 give her money, what did she say?

17 A. She said, "No, tell them all I need friend.
18 I don't need money. I just need pray. And I don't
19 need money. Thank you very much, but tell them we
20 need a friend. That's all we need."

21 And I say, "You sure you don't want money?

22 If you need any money, you know, let me know."

23 MR. MESEREAU: Objection; nonresponsive.

24 THE COURT: I'll strike the last sentence.

25 Q. BY MR. ZONEN: When did this conversation
26 take place? I know your difficulties with dates,
27 but in comparison to some other time.

28 A. After Martin Bashir. 4050

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1 Q. Do you know if Janet Arvizo was still with
2 David Arvizo at the time of that conversation?

3 A. No. Martin Bashir happened, David -- they
4 were separated. No, they were not together.

5 Q. Did you ever see Janet Arvizo with bruises
6 on her?

7 A. Yes, I did.

8 Q. Do you know where those bruises were on her
9 body?

10 A. One time I saw bruises upper -- like nearby
11 by her neck, near upper chest, like somebody tried
12 to -- what they call -- I don't know what was it.

13 Looked like somebody tried to choke her or
14 something. And there was make-up on it, and the
15 make-up was coming off. And I said, "What's this?"

16 She'd hide it. She didn't want to let me know --

17 MR. MESEREAU: Objection; nonresponsive.

18 THE COURT: I'll strike after he -- "And
19 there was make-up on it," from there on, I'll
20 strike.

21 Q. BY MR. ZONEN: Did you see bruises on any
22 other occasion on her?

23 A. Yes, I did.

24 Q. How many occasions do you think?

25 A. Another time I saw bruises was -- it was
26 on -- one side of her face was swollen and her eyes
27 were swollen. It was like black and blue. Again,

28 make-up was on it. 4051

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1 MR. ZONEN: Thank you. I have no further
2 questions.

3

4 CROSS-EXAMINATION

5 BY MR. MESEREAU:

6 Q. Good morning.

7 A. Good morning, sir.

8 Q. Mr. Masada, we haven't met. My name is Tom
9 Mesereau. I speak for Michael Jackson.

10 A. All right, sir.

11 Q. Mr. Masada, do you remember receiving a
12 phone call from an investigator for the Santa
13 Barbara District Attorney's Office in December of
14 2003? He said his name was Tim Rooney. Do you
15 remember that?

16 A. I don't recall it, but if he said he did, I
17 did.

18 Q. Do you remember talking to someone in
19 December, around December 9th, 2003, from the Santa
20 Barbara District Attorney's Office?

21 A. No, I don't recall.

22 Q. Do you remember telling this person that
23 Gavin's parents came to you and wanted financial
24 help? He repeated, "Who asked you that?" You said,
25 "The parents"?

26 A. I meant "husband." I never said "mother."

27 Q. Would it refresh your recollection to show

28 you a police transcript of your -- 4052

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1 A. I don't need to see the police --

2 Q. You didn't know the phone call was being
3 recorded?

4 MR. ZONEN: May the witness be allowed to
5 answer the question in its entirety before counsel
6 steps in with his next question?

7 THE COURT: Yes.

8 Q. BY MR. MESEREAU: You didn't know your phone
9 call --

10 MR. ZONEN: He hasn't answered the question.

11 THE COURT: He started to answer it. He's
12 allowed to finish it.

13 THE WITNESS: What was the question again?

14 MR. MESEREAU: I'm not sure even I know at
15 this point.

16 THE COURT: The question was whether it would
17 refresh your recollection to show you a police
18 transcript, and you said, "I don't need to see it,"
19 and you were interrupted.

20 THE WITNESS: Yeah, because it is "parents."
21 I meant "father."

22 Q. BY MR. MESEREAU: Okay. Well, you didn't
23 know your phone call was being recorded, correct?

24 A. I don't know any of my phone call was
25 record.

26 Q. No one has ever told you that that phone
27 conversation was recorded by the District Attorney's

28 Office of Santa Barbara, correct? 4053

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1 A. I don't know if they did. I'm not -- they
2 never told me anything.

3 Q. You did tell them that the parents wanted
4 financial help. You were then asked, "Who asked you
5 that?" And you replied, "The parents," right?

6 A. Yeah. "The parents" means "father." Let me
7 correct it.

8 Q. Oh, I see.

9 How many meetings have you had with anyone
10 related to the prosecution before you testified in
11 this case?

12 A. How many meeting with what?

13 Q. With anyone related to the prosecution
14 before you testified in this case.

15 A. I had a meeting this morning. They came in,
16 they say, "You sit in the room."

17 And meaning the people that came
18 investigating my office? What are you talking
19 about, sir? Explain it to me.

20 Q. Please identify every meeting you had with
21 anyone related to the prosecution before you
22 testified today.

23 MR. ZONEN: I'll object as vague and
24 compound.

25 THE WITNESS: Oh, God.

26 THE COURT: Overruled.

27 Q. BY MR. MESEREAU: A lot of them, right?

28 A. Yes. A lot of them, yes, I do. 4054

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1 Q. How many do you think?

2 A. I have no idea. They came in my office, say
3 they want to talk. They came, I don't know, two,
4 three, four, five times. I didn't write them down.
5 They call me.

6 Q. And have you ever discussed what you were
7 going to say in court today with anyone associated
8 with the prosecution?

9 A. Only thing I have spoken to, I spoke to

10 Mr. -- I spoke to you (indicating) one time. And
11 there was a -- I believe -- no, just one time I've
12 spoken to.

13 Q. Do you remember ever telling a Santa Barbara
14 sheriff's investigator that Janet wanted a watch, so
15 you bought her a watch?

16 A. Janet want a watch?

17 Q. Yes.

18 A. Um, not as far as I remember.

19 Q. Would it refresh your recollection if I just
20 show you a transcript?

21 A. No, because I didn't buy a watch for Janet.
22 I don't know what you're talking about.

23 Q. You never told them she wanted a watch and
24 you bought a watch, correct?

25 A. Maybe it was something for Davellin. I got
26 a watch for Davellin.

27 Q. Okay.

28 A. For the girl. The daughter. 4055

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1 Q. When did you give the watch to Davellin?

2 A. Huh?

3 Q. When did you get a watch for Davellin?

4 A. Davellin, she came in -- we do, at The Laugh

5 Factory, every Christmas and Thanksgiving, we do

6 feed homeless. And Davellin came out there to help

7 me to do -- to help the serving the homeless.

8 And we were giving the gifts for the kids,

9 homeless kid, and Davellin, at that point I remember

10 she said something about she need -- that watch was

11 nice, was giving to the kids, and I said, "I get you

12 one." That's what happened.

13 Q. Now, you knew that Louise Palanker had given

14 \$20,000 to the Arvizos, correct?

15 A. Yes, I did.

16 Q. And you knew that she had written a \$10,000

17 check to Janet, correct?

18 A. I didn't know it. What do you mean,

19 "correct"? No, I did not know she wrote it to

20 Janet. How would I know?

21 Q. Well, did you ever discuss with her where

22 she was getting that money?

23 MR. ZONEN: Who is "her"? Objection; vague.

24 MR. MESEREAU: That's okay. I'll withdraw

25 it and rephrase.

26 Q. Did you ever discuss with Louise Palanker

27 who she was writing her checks to?

28 MR. ZONEN: Objection; hearsay. 4056

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1 THE COURT: You may answer "yes" or "no."

2 THE WITNESS: No, I didn't ask her who write
3 check to, because I'm not -- I have nothing to do
4 with her checkbook.

5 THE COURT: I just said "yes" or "no." I'll
6 strike the balance.

7 THE WITNESS: Oh, sorry.

8 Q. BY MR. MESEREAU: Okay. Did you know
9 whether or not Louise Palanker wrote a \$10,000 to
10 Janet?

11 A. Yes, I do. For --

12 MR. ZONEN: Objection. Lack of foundation;
13 and hearsay.

14 THE COURT: I'll allow you to answer this
15 question either with a "yes" or a "no." It's --

16 THE WITNESS: Yes. Yes.

17 Q. BY MR. MESEREAU: Do you recall ever telling
18 anyone --

19 THE COURT: I'm sorry, I misdirected. You
20 need -- I'm going to strike the question and the
21 answer. That couldn't be answered "yes" or "no."
22 Go back and rephrase. You asked him whether
23 or not, so it can't be "yes" or "no."

24 Q. BY MR. MESEREAU: Were you ever aware that
25 Louise Palanker wrote a \$10,000 check to Janet
26 Arvizo?

27 A. Yes.

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28 Q. When did you learn about that? 4057

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1 A. Oh, Gavin was going to go home, and they
2 want him to have a kind of room that was sanitized,
3 and that's what hospital said. And I was looking
4 for finding an apartment for them, to find an
5 apartment.

6 And then next thing I know, I heard from
7 David that Louise wrote the check. They going to
8 take the money in the grandmother's house and make
9 one of the rooms become sanitized for the kid. I
10 don't need to look for apartment anymore.

11 Q. Do you remember ever telling any police
12 investigator that, after talking to Janet on the
13 phone, you wrote checks to pay for judo and karate
14 school for the kids?

15 A. No, it was Jay and Janet. Yes, Jay and
16 Janet.

17 Q. Jay and Janet asked you to pay for judo and
18 karate school, correct?

19 A. No, they didn't ask me to do it. I
20 volunteer to do it, sir.

21 Q. After they told you they couldn't pay for
22 it, correct?

23 A. No, they were telling -- no, don't put words
24 in my mouth. Let me say -- if you want to know the
25 truth, let me tell you the truth, what happened.

26 Q. I would like to know the truth for sure.

27 A. That's what I'm going to tell you. That's

28 what I'm going to tell you. If you want me to say 4058

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1 it, I say it.

2 They were suggesting that they were going to
3 take the kid, because the kid was bothering -- all
4 of the kids, they were bothering him. And they want
5 to take him to put him on other school. They said
6 they -- Jay said, "We don't have enough money." And
7 I said, "How much you guys short?" They said,
8 "\$400." I said, "I could help that." I said, "I
9 will have no problem to write the check for \$400."

10 That's what I did.

11 And the other occasion about judo you ask.

12 Judo -- I went to their house. I went up there, and
13 the kids were talking about they wanted protection.

14 I suggested -- I said, "Can I go" -- "You guys
15 should go to judo or something."

16 And Jay and Janet was up there. They said,

17 "Oh, thank you very much. God bless you. You're
18 helping us out."

19 MR. MESEREAU: Okay

20 THE COURT: Okay. We're going to take a

21 break.

22 Let me tell the jury what we're going to do.

23 I'm going to give a little longer break to you

24 because we need to address a couple of issues

25 outside of your presence, so we're going to take our

26 regular break for 15 minutes. And then we'll come

27 back, and it will be about another 10 or 15 minutes

28 longer than our normal break at this time, just so 4059

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1 you know. So you probably won't be back in until

2 12:00.

3 THE JURY: (In unison) Okay.

4 THE WITNESS: Am I excused?

5 THE COURT: I want to see everybody here at

6 the end of the regular break.

7 MR. ZONEN: Quarter to?

8 THE COURT: Yeah.

9 (Recess taken.)

10

11 (The following proceedings were held in

12 open court outside the presence and hearing of the

13 jury:)

14

15 THE COURT: Yes, I just want to take up a

16 couple of the issues.

17 I was told earlier that Dr. Katz was going

18 to be the next witness, so I thought I better clean

19 this up before we start with him. I've been told

20 now that that may not be the case, but we've set the

21 time aside, so let's just do this.

22 The first issue that's before me on Dr.

23 Katz's testimony was a motion by Mr. Mesereau

24 that Mr. Oxman actually wrote, which seeks to limit

25 the psychologist from being able to testify to the

26 ultimate fact, the credibility of the children,

27 pointing out that that was done in the grand jury

28 hearing. 4060

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1 And my ruling on that is that, in accord
2 with the request, he is not to give his opinion as
3 to their credibility.

4 I think that covers that, doesn't it, Mr.
5 Oxman?

6 MR. OXMAN: Yes, sir. And I think it also
7 reflects --

8 THE BAILIFF: You have to speak up.

9 MR. OXMAN: It also -- it also reflects to
10 ultimate facts, Your Honor, as to whether or not it
11 occurred.

12 THE COURT: Turn on your mike.

13 MR. OXMAN: Also reflects the ultimate facts
14 as to whether or not the incident occurred.

15 THE COURT: Yes. So he's not allowed to give
16 his opinion as to credibility or his opinion as to
17 whether the actual things happened.

18 MR. ZONEN: Your Honor, we have no intention
19 of asking either of those questions about his view
20 of the credibility --

21 THE COURT: I don't think your mike's on. Is
22 it?

23 Can you hear back there?

24 MR. ZONEN: All right. We have no intention
25 on asking either of those questions, nor will we.

26 THE COURT: All right. The next issue is
27 the -- Mr. Mesereau has submitted a limited waiver.

28 I saw a copy of the limited waiver of 4061

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1 confidentiality signed by Bradley Miller. Have you
2 seen that?

3 MR. ZONEN: Yes, I have it in front of me.

4 THE COURT: And do you wish to speak to that?

5 MR. ZONEN: Yes.

6 THE COURT: All right.

7 MR. ZONEN: I don't believe you can have a
8 limited waiver of a nature like this to be able to
9 ask a therapist two questions about a person who is

10 presumably his patient. And, of course, Dr. Katz

11 has never acknowledged that this person --

12 THE COURT: I never let him. It cost Mr.

13 Oxman a thousand dollars, as I recall.

14 (Laughter.)

15 MR. ZONEN: Now, let's assume --

16 THE COURT: You don't have to say anything.

17 MR. ZONEN: Not without a lawyer at his

18 side.

19 THE COURT: But so your issue is the -- he

20 now has a waiver, Mr. Mesereau, Mr. Oxman, they have

21 a waiver as to the very issue that I was saying they

22 couldn't address, which is whether or not he was a

23 patient.

24 MR. ZONEN: Well, actually, it doesn't do

25 that. It specifically is a waiver to a conversation

26 involving two questions. I don't know that Dr. Katz

27 would be comfortable even acknowledging that he's a

28 patient, given the limited nature of this waiver. I 4062

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1 don't believe that -- that's one objection I have to
2 it.

3 But the principal objection I have to it is
4 that unless there is a more extensive waiver that
5 would cover any related conversations -- let's
6 assume that this conversation did take place. And I
7 think you're going to find out it didn't, but let's
8 assume that something similar took place to it.

9 Would I be entitled to ask Dr. Katz questions about
10 the nature of that communication and other
11 communications relevant to it? And let me give you
12 an example.

13 Let's assume Dr. Katz was treating Brad
14 Miller, assuming he was his patient, for some malady
15 that involved honesty. Let's assume that he was
16 treating him for some malady that involved his
17 workplace relationship with his employer, Mark
18 Geragos, in which case this could be in the context
19 of much greater conversations, conversations between
20 Dr. Katz and Brad Miller, and even conversations
21 between Brad Miller and Mark Geragos over a much
22 greater period of time. How does Dr. Katz
23 necessarily defend himself from these two statements
24 without talking about the other conversations that
25 may be directly related to this issue?
26 I also know of no authority for a partial
27 waiver, and they haven't cited any.

28 THE COURT: You can look at Brett vs. 4063

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1 Superior Court, 1978 case, 20 Cal.3d 844.

2 I guess the problem I'm having -- I think

3 I've got past the partial waiver problem.

4 MR. ZONEN: May I add one more thing to it?

5 And that is relevance.

6 THE COURT: That's where I'm having the

7 problem is the relevance.

8 What is the possible relevance, Mr.

9 Mesereau?

10 MR. MESEREAU: I'll be examining Dr. Katz,

11 Your Honor.

12 There's definite relevance, because Dr. Katz

13 has been -- has had a financial motivation to be a

14 celebrity psychologist. In fact, he finally got a

15 T.V. show recently. It's a reality show on one of

16 the networks. Dr. Katz wants to be in a celebrity

17 case. Dr. Katz found a way to be in a celebrity

18 case, this one.

19 And according to his former patient, who has

20 waived the privilege, this man kept telling him, "I

21 want to meet celebrities. I want to be in a

22 celebrity case." That would suggest a motivation to

23 want to see this thing go forward.

24 THE COURT: Let me see your copy of the --

25 MR. MESEREAU: The waiver?

26 THE COURT: What I'm going to do at this

27 point is to agree that there is a possibility of a

28 limited waiver and I'll accept the limited waiver. 4064

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1 I'm still not convinced of the relevancy based on
2 what you represent -- well, excuse me, what Bradley
3 Miller represents is that Dr. Katz said he wanted to
4 be a celebrity therapist. I'm not sure that the --
5 I have to think about the inference you want to have
6 made from that.

7 MR. MESEREAU: It would suggest financial
8 motivation, Your Honor. And the scope of
9 cross-examination for financial motive is very
10 broad. You're talking about a Beverly Hills
11 psychologist who has desperately wanted to be
12 involved with celebrities for a long time. And he
13 was very clear with his patient, Brad Miller, that
14 he wanted to meet celebrities and get involved in
15 celebrity cases. That's what it really comes down
16 to.

17 THE COURT: All right. I'll give a little
18 more thought on that.

19 MR. ZONEN: Is there an offer of proof that
20 Bradley Miller will be testifying as a witness for
21 the defense?

22 MR. MESEREAU: Yes, there is. He will be
23 testifying for the defense.

24 THE COURT: In the -- the limited waiver, as
25 I see it, as far as the District Attorney's
26 concerned, you were giving some hypotheticals, and
27 before you could address that type of thing, before

28 you could go beyond the cross-examination limited to 4065

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1 that conversation, you'd have to have my permission.

2 You'd have to be able to make the same sort of --

3 have a witness make a declaration, and I'm going

4 to -- if I allow it in, it will be narrowly

5 construed as to any conversations. This is a really

6 important privilege that's being protected here.

7 So, I'm not saying you can't do it, but you

8 were just giving me hypotheticals; what if this, and

9 what if that, and that's not where we are.

10 MR. ZONEN: I, of course, don't know,

11 because --

12 THE COURT: I'm just saying, to go beyond --

13 there's cross-examination here that you can clearly

14 make about this, you know, what was really said, and

15 get the whole conversation out on that issue.

16 Obviously you're not limited to the two statements

17 that are represented here. But to go into why he's

18 in treatment or any of that, you can't touch that.

19 MR. ZONEN: I understand that, but here's my

20 concern. If it's true that Bradley Miller is Dr.

21 Katz's patient, and assuming for this argument that

22 he is, if it's true that Mark Geragos is Bradley

23 Miller's employer, and Dr. Katz is a psychologist

24 treating Bradley Miller, I would assume that among

25 their discussions, perhaps multiple discussions, is

26 his workplace relationship with his employer.

27 THE COURT: Well, you would assume that, but

28 we don't know that. That's why I'm saying, whatever 4066

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1 else you want to go into, you're going to have to
2 provide me with some sort of statement signed, as --
3 as they did with Bradley Miller. Although, this is
4 not a statement under penalty of perjury, but it
5 gives me the information that I need to know whether
6 I'm going to let you go into it. That's all I'm
7 telling you. Okay?

8 MR. ZONEN: Okay.

9 THE COURT: All right. At the -- I think

10 what you'll have to do is to file the waiver when --
11 the original waiver when you're ready.

12 I'll give it back. I've got a copy of it.

13 I just didn't have an original.

14 MR. MESEREAU: I only have an e-mailed
15 waiver. That's all I have at the present.

16 MS. YU: It's been faxed.

17 MR. MESEREAU: A faxed waiver.

18 MS. YU: We'll get the original.

19 MR. MESEREAU: We will get the original,

20 Your Honor.

21 THE COURT: All right. I think we're ready,

22 then, to go forward with the testimony.

23 Do you want to bring in the jury, please?

24

25 (The following proceedings were held in

26 open court in the presence and hearing of the

27 jury:)

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1

2 THE COURT: All right. You may proceed.

3 MR. MESEREAU: Thank you, Your Honor.

4 Q. Mr. Masada, when Jay Jackson and Janet

5 Arvizo called you and --

6 MR. ZONEN: Objection; vague.

7 MR. MESEREAU: He's only testified to one

8 call, Your Honor. Your Honor --

9 MR. ZONEN: And two people placing it?

10 MR. MESEREAU: -- I'll rephrase it.

11 Q. Mr. Masada, approximately when did Jay

12 Jackson and Janet Arvizo call you and discuss the

13 issue of the judo club or karate club, if you know?

14 A. I don't recall.

15 Q. Okay. Obviously it was your impression that

16 Janet Arvizo was involved with Mr. Jay Jackson at

17 that point, right?

18 A. Yes, sir.

19 Q. Did you know that Jay Jackson was making

20 \$8,000 a month?

21 A. No, I didn't.

22 MR. ZONEN: Objection. Assumes facts not in

23 evidence; hearsay.

24 THE COURT: Sustained.

25 Q. BY MR. MESEREAU: Did you know whether or

26 not Janet was collecting welfare at that point and

27 giving it to Jay?

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28 MR. ZONEN: Objection. Assuming facts not 4068

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1 in evidence, and hearsay.

2 THE COURT: Sustained.

3 Q. BY MR. MESEREAU: Did Janet ever discuss the

4 J.C. Penney lawsuit with you?

5 MR. ZONEN: Objection, irrelevant and

6 hearsay.

7 THE COURT: Overruled.

8 You may answer.

9 THE WITNESS: Yes.

10 Q. BY MR. MESEREAU: And when did you have a

11 conversation with Janet about the J.C. Penney

12 lawsuit?

13 A. After I heard it on the news.

14 Q. And when did you hear about it on the news?

15 A. I don't recall.

16 Q. Was it recently?

17 A. No, it was a couple, few months ago. I

18 don't know how many months ago it was. It was in

19 the news.

20 Q. So you're in touch with Janet these days,

21 right?

22 A. Yes, sometimes I am.

23 Q. When did you last talk to her?

24 A. Before Christmas.

25 Q. Okay. Now, you indicated that you had a lot

26 of meetings with either the prosecution or somebody

27 connected with the prosecution, correct?

28 A. The detective -- the detective, they came to 4069

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1 my office many times, yeah.

2 Q. Okay. When was the last time you had an
3 in-person discussion with anybody associated with
4 the prosecution?

5 A. This morning.

6 Q. Okay. And where was that?

7 A. It was in the room where the witnesses sit.

8 Q. Okay. And did you have a discussion with
9 anybody in that room this morning?

10 A. The discussion, Mr. Ron Zonen, he said,
11 "It's going to be easy. Just relax. I'm going to
12 go to a room and we're going to call you in a few
13 minutes. I have a witness on this side. I'm going
14 to talk to them, and they're going to bring you in."

15 Q. Now, when you had a discussion with Janet
16 Arvizo about the J.C. Penney case --

17 A. Yes.

18 Q. -- without telling me what she said, did
19 you learn approximately when that case was resolved?

20 MR. ZONEN: Objection. Irrelevant; hearsay;
21 lack of foundation.

22 THE COURT: Sustained.

23 Q. BY MR. MESEREAU: Do you know whether or not
24 the J.C. Penney case was ever resolved?

25 MR. ZONEN: Objection. Irrelevant and
26 hearsay; lack of foundation.

27 THE COURT: Sustained.

28 Q. BY MR. MESEREAU: Have you had discussions 4070

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1 with Janet Arvizo about this case?

2 A. About this case, not really.

3 Q. And what do you mean by "not really"?

4 A. I mean, the only thing she -- at one time --

5 Q. I'm not asking you what she said. I'm just

6 asking you if you've discussed this case with Janet.

7 A. Yeah, maybe. Yeah, maybe I did one time.

8 Q. Maybe one time?

9 A. Yes. Yes, I did.

10 Q. And when was that maybe one time?

11 A. Maybe one time about -- God, I don't know

12 when it's about. The case was on the sheriffs and

13 the District Attorney and everybody else. Was maybe

14 about six, seven months, eight months ago.

15 Q. Okay. When did you last see Janet?

16 A. I guess, approximately, maybe about seven,

17 eight -- six months, seven months ago.

18 Q. Months ago?

19 A. I don't know exact -- I'm very bad with

20 time, so don't corner me on that.

21 Q. And where did you see her?

22 A. I saw her in her apartment.

23 Q. And where was that?

24 A. It was in West L.A. somewhere.

25 Q. Okay.

26 A. It was Jay's apartment, or their apartment,

27 or whatever.

28 Q. So you visited Janet and Jay in their 4071

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1 apartment in West Los Angeles, correct?

2 A. Yes, I did.

3 Q. I'm not asking you the address. I don't

4 think that's relevant. But West Los Angeles is very

5 different from East Los Angeles, isn't it?

6 A. Yes, it is.

7 Q. Much more affluent, correct?

8 A. Some of the places. Some of the places.

9 Q. But generally, as an area of Los Angeles,

10 it's one of the most affluent areas of Los Angeles,

11 isn't it?

12 A. Yes. They have poor places and rich places,

13 yes.

14 Q. It is considered one of the most affluent

15 parts of L.A., correct?

16 MR. ZONEN: Objection. Irrelevant and lack

17 of foundation. He's not a --

18 THE COURT: Asked and answered.

19 MR. MESEREAU: Okay. All right.

20 Q. And who arranged for you to meet with Janet

21 Arvizo and Jay Jackson at an apartment in West Los

22 Angeles?

23 A. Nobody arranged it.

24 Q. Somebody must have, right?

25 A. No. I mean, I call up --

26 Q. You just ended up there?

27 A. Do you want me to tell you how I did? I

28 called. I wanted to find out how Gavin -- how he's 4072

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1 doing. So I want to see his physical -- how his
2 face, everything is okay. I said, "I'll come and
3 drop by. I have time to drop by and come see you."

4 Q. Without saying what anybody told you, did
5 you discuss this case in Jay Jackson's apartment
6 with Jay and Janet?

7 A. No.

8 Q. This topic never came up?

9 A. No.

10 Q. How did you know where to call to arrange
11 the meeting?

12 A. I have Janet's cell number, and I have Jay's
13 number.

14 Q. Okay. Now, in 1993, you told the sheriffs
15 that you had introduced the Arvizos to Adam Sandler,
16 correct?

17 MR. ZONEN: I'll object as vague. 1993?

18 THE WITNESS: 1993?

19 MR. MESEREAU: Pardon me, pardon me, pardon
20 me. I'm sorry. Counsel is correct.

21 Q. In 2003 --

22 A. Yes.

23 Q. -- you told the sheriffs you had introduced
24 the Arvizos to Adam Sandler, correct?

25 A. Yes, I did.

26 Q. Okay. And when did you do that?

27 A. Now, let's define a couple of things,

28 because I don't want to get in a corner again. 4073

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1 Arvizo, what do you mean by "Arvizo"? Describe what
2 you mean by "Arvizo." I mean, who you mean. Give
3 me the name of the people you want to know so I can
4 give you direct answer, if you don't mind, please.

5 Q. Any Arvizo that you introduced to celebrity
6 Adam Sandler.

7 A. Gavin.

8 Q. Okay. And when did you introduce Gavin to
9 Adam Sandler?

10 A. The date? I don't know the date.

11 Q. Approximately when?

12 A. God, I know I drove him to Sony Studio. I
13 talked to Adam, and he said, "Bring him over." I
14 took him to Sony Studios. Adam took him to lunch,
15 took me and Gavin to lunch, and then after that we
16 went to his office. Do you want to know more?

17 Q. Sure.

18 A. Okay.

19 (Laughter.)

20 A. I'll go ahead.

21 Then we went to his office. Then we played,
22 sit down on the couch, played basketball with Gavin.
23 And Rob Schneider was there.

24 And then at that point Adam Sandler gave
25 Gavin a little T.V., a Sony T.V. with a little
26 battery and everything on it.

27 And Gavin said, "Oh, God, he gave me a T.V."

28 I said, "Go ahead and say thank you to him," and 4074

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1 that was it.

2 Q. To your knowledge, did Gavin ever see Adam
3 Sandler again?

4 A. Not as far as I know.

5 Q. Okay. Now, you indicated that you organized
6 a blood drive for Gavin, right?

7 A. Yes, sir.

8 Q. Did that take place at The Laugh Factory?

9 A. We put a name on marquee. We put a sign in
10 the door. Anybody comes in, if they have 0
11 negative, that they go give blood, they tell me they
12 did it, we let them come in free. They can have
13 free drinks, whatever, all of that stuff.

14 Q. Now, at some time did you ever learn that
15 Michael Jackson had arranged a blood drive for Gavin
16 as well?

17 MR. ZONEN: Objection. Assumes facts not in
18 evidence, and lack of foundation, and hearsay.

19 THE COURT: Overruled.

20 THE WITNESS: That's the first time I heard.

21 Q. BY MR. MESEREAU: You didn't know about
22 that?

23 A. No, sir, I'm sorry.

24 Q. Do you know someone named Philip Palmer from
25 KABC in Los Angeles?

26 A. Yes, I do.

27 Q. And did you ever introduce Philip Palmer to

28 any of the Arvizo family? 4075

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1 A. Yes.

2 Q. Approximately when was that?

3 A. The time Gavin was in bad need of blood, and
4 he came to hospital. I was interviewed by Philip
5 Palmer, and we talk about he needed blood. And
6 Phillip Palmer show that thing on ABC.

7 Q. Okay. And did you introduce any of the
8 Arvizos to any other newscaster that you can recall?

9 A. Newscaster. God, there were a few of them.

10 Maybe Patrick Press (sic), Patrick Press (sic) from
11 FOX TV, they did a documentary. PBS, they did a
12 documentary on Laugh Factory comedy camp. Their
13 newscasters or producer of all of that, they were
14 there. They were introduced.

15 Who else? A lady from FOX was introduced to
16 Janet. And Fritz Coleman. I forgot his name.
17 Fritz Coleman.

18 Who else? Really I'm going blank. There
19 might be more people.

20 Q. You said that Mr. Press (sic) had something
21 to do with a documentary for PBS, correct?

22 A. What?

23 Q. Mr. Press (sic) had something to do with a
24 documentary for PBS, right?

25 A. No, he did not.

26 Q. You did mention a documentary, didn't you?

27 A. Yes, he did a documentary on the comedy camp

28 for FOX, for FOX T.V. 4076

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1 Q. Okay.

2 A. And his name was Patrick Press (sic), and he
3 did it on the family. He did it on the -- if you
4 want to get the tape, he did the whole thing on the
5 family, where they were living, and what they were
6 doing, what trouble they had, all of that. He did a
7 whole -- you could get the tape. It's a wonderful
8 tape. I saw --

9 Q. This is the Arvizo family, correct?

10 A. Yes, sir. Yes, sir.

11 Q. And approximately what year did this
12 documentary on the Arvizo family appear on
13 television?

14 A. You're asking a question that I don't know.

15 Q. Just approximately.

16 A. Huh?

17 Q. Just approximately. I'm not asking for a
18 specific date.

19 A. Maybe -- maybe in -- in '99, 2000. I'm not
20 sure.

21 Q. To your knowledge, was Gavin ill when that
22 documentary was produced?

23 A. I know PBS, the documentary they did, Gavin
24 was sick, because PBS -- Carol Thompson went with me
25 to the hospital and taped Gavin in the hospital. I
26 know that. That's, what, in 2000, I think or 2001.
27 Or 2000. Yeah, 2000. And Patrick Press (sic) --

28 now, let me -- I want to make sure I'm -- you know, 4077

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1 get my date -- Patrick Press (sic) start doing the
2 documentary in the club --

3 Q. Okay.

4 A. -- for FOX TV. And I believe he did some
5 add-up to it later on for FOX from -- from when
6 Gavin was sick. I'm not sure. You get the tape,
7 you can see better than me. I'll tell you about it.
8 Get the tape and all of you can review it --

9 Q. Okay.

10 A. -- instead of asking me about it.

11 Q. I want to ask you what you know about it.

12 Okay?

13 A. Yeah.

14 Q. So the PBS documentary on the Arvizos is
15 something separate from the FOX documentary you just
16 discussed, correct?

17 A. PBS, they did a documentary, two hours
18 documentary.

19 Q. Right.

20 A. On The Laugh Factory comedy camp that is
21 going to be -- let me give a plug to everybody
22 watching. It's going to be on the Comedy Central or
23 E! TV, so watch it. It's two hours documentary on
24 Laugh Factory comedy camp.

25 Q. Right.

26 A. And wasn't only to Arvizo, but Arvizo -- and
27 Gavin was part of that as he was sick. And he was

28 part of following me, what I do all day, where I go, 4078

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1 what I do, all of that stuff, with the comedy camp.

2 Q. Okay.

3 A. And FOX TV was particularly on Arvizo.

4 Q. Yes, okay. Now, part of the -- of the PBS
5 documentary included you visiting the hospital to
6 see Gavin, right?

7 A. Yes. Yes.

8 Q. And it also included other material on the
9 Arvizo family, correct?

10 A. No, I think you're getting everything
11 confused. You're getting like me.

12 Q. I'm just --

13 (Laughter.)

14 Q. All right. All right. Did the -- did the
15 PBS documentary -- maybe you should ask me
16 questions, I think.

17 A. At this point I should.

18 (Laughter.)

19 Q. Did the PBS documentary --

20 A. Yes.

21 Q. -- include anything about the Arvizo family,
22 other than your visits to the hospital to see
23 Gavin --

24 A. No.

25 Q. -- to your knowledge?

26 A. No.

27 Q. Okay. Then you had the FOX documentary,

28 correct? 4079

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1 A. Yes, sir.

2 Q. And that was filmed after the PBS

3 documentary, right?

4 A. No, you're getting confused. Before.

5 Q. Before it?

6 A. Yeah. Because the '99 --

7 Q. Yes.

8 A. -- Gavin and Star and Davellin, they were

9 all in the comedy camp.

10 Q. Right.

11 A. And Patrick Press (sic) came in to do the

12 documentary; "Let us show on the news" what I do

13 about the comedy camp.

14 Q. Okay.

15 A. And that's -- he start it. But I think PBS

16 documentary started 2000. Year 2000, we were doing

17 the comedy camp, so don't get them confused. So PBS

18 is different from -- what you call -- Patrick

19 Press (sic). It happened the year the Arvizo, they

20 were in the comedy camp.

21 Q. Okay. And that's before Gavin got ill?

22 A. Yes, sir.

23 Q. Okay. Okay. Did you arrange for Press

24 (sic) to do that documentary?

25 A. I really don't know how we came about. My

26 office did. I have no idea how it came about. I

27 really don't know.

28 Q. How did the Arvizos end up in that 4080

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1 documentary, if you know?

2 A. I have no idea.

3 Q. Did you recommend that they be in that

4 documentary?

5 A. I think I have a vague idea. No, I didn't.

6 Q. Do you know how many of the Arvizo family

7 members were in that documentary?

8 A. It was all three of them, they were.

9 Q. All three of the children?

10 A. The children, yes.

11 Q. And were they performing in that

12 documentary?

13 A. Yes, they were a little bit performing, as I

14 recall. Now, don't corner me. As I recall.

15 Q. You're in the documentary, too?

16 A. Yes, sir. I'm the star.

17 Q. That's what I figured. Okay. The second

18 documentary --

19 A. Okay.

20 Q. Excuse me. There are a lot of documentaries

21 going on here, because there are a few more also,

22 right?

23 A. Hopefully. God willing. Why not?

24 Q. One of the documentaries involving the

25 Arvizo family came about because Janet asked you to

26 do it, correct?

27 A. Janet asked me to do it?

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28 Q. Yes. 4081

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1 MR. ZONEN: I'll object as vague as to which
2 documentary he's referring to.

3 THE COURT: Overruled.

4 You may answer.

5 THE WITNESS: I really don't recall if Janet
6 asked me anything. If she did, I don't recall it.

7 Q. BY MR. MESEREAU: You don't know one way or
8 the other?

9 A. Really, I don't. At this point, I don't
10 recall it.

11 Q. Okay. Now, did Philip Palmer --

12 A. Yes.

13 Q. -- on KABC announce a blood drive only, or a
14 fund-raiser, to your knowledge?

15 A. To my knowledge -- oh, God, you get me
16 cornered again here. What -- I really don't -- I
17 think it was mostly blood drive. I'm not sure.

18 Again, don't quote me on it.

19 Q. And -- I would never quote you. Don't worry
20 about it.

21 A. Good.

22 Q. It was your idea --

23 A. Yes.

24 Q. -- to introduce the Arvizos to Michael
25 Jackson, correct?

26 A. No, it wasn't my idea.

27 Q. Was it Gavin's idea?

28 A. It was Gavin's idea. 4082

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1 Q. Okay. And because Gavin asked you, you
2 called Neverland, correct?

3 A. Gavin was -- I was encouraging him to eat.

4 Q. Yes.

5 A. And he asked me -- he was watching T.V. He
6 said, "Michael is my idol. How can I meet him? Can
7 you arrange it?"

8 And I want -- at that point I want to say,
9 "I'll make a wish come true. Yeah, I could do
10 anything. You want me to help, I'll help."

11 And I want to encourage him, "Eat, eat,
12 eat." I say, "Yeah, I'll go do it, I'll go do it."

13 Q. And you told the Santa Barbara Sheriffs in
14 your telephone -- excuse me. You told the District
15 Attorney investigator in December of 2003 that you
16 did it because Michael does good stuff for kids,
17 right?

18 A. I believe so. Did I say that? If I said
19 it, I believe him.

20 Q. I can show you the transcript.

21 A. No, I'm sure I did.

22 Q. Okay. Okay. And was it your understanding
23 that you were the first person to make any contact
24 between the Arvizos and Michael Jackson?

25 A. No way. I do not know was the first person.
26 God knows who did. Maybe Michael just watched the
27 T.V. and felt good in his heart. He call him. I

28 have no idea. 4083

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1 Q. To this day, you have never met Michael
2 Jackson?

3 A. No. This is the first time I've seen him.

4 (To the defendant) How are you?

5 THE DEFENDANT: (Indicating).

6 Q. BY MR. MESEREAU: Okay. Now, you learned at
7 some point that the Arvizos made contact with
8 comedian Chris Tucker, right?

9 A. Yes, sir.

10 Q. And how did you learn about that?

11 A. I didn't -- I didn't learn about it. I
12 introduce him to Gavin.

13 Q. When was that?

14 A. In my club.

15 Q. Approximately when; do you know?

16 A. I have no idea of the date again.

17 Q. Did you learn at some point that Janet and
18 Davellin were calling and asking for Chris Tucker's
19 car?

20 MR. ZONEN: I'm going to object as assuming
21 facts not in evidence, as well as relevance, as well
22 as lack of foundation and hearsay.

23 THE COURT: Sustained.

24 Q. BY MR. MESEREAU: Do you know anything about
25 any efforts by any Arvizos to obtain a car from
26 Chris?

27 MR. ZONEN: Objection. Irrelevant and

28 hearsay; lack of foundation. 4084

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1 THE COURT: Sustained.

2 MR. MESEREAU: Okay.

3 Q. You told the D.A. investigator in '93 that

4 Chris Tucker took -- I mean in --

5 MR. ZONEN: '93?

6 MR. MESEREAU: I keep saying that.

7 Q. 2003; you kept --

8 A. You --

9 Q. Let me rephrase that.

10 You told the District Attorney investigator

11 in 2003 that Chris Tucker took the Arvizos shopping,

12 correct?

13 A. Yes, I did.

14 Q. Okay. Do you know when that happened?

15 A. I have no idea the date. And I remember

16 what Chris Tucker told me.

17 Q. How did you learn about that?

18 A. Chris Tucker has told me, he said, "Jamie, I

19 love those kids" --

20 MR. ZONEN: I'm going to object as hearsay.

21 THE COURT: Sustained.

22 THE WITNESS: So I don't answer it, Your

23 Honor?

24 THE COURT: No.

25 THE WITNESS: Okay. Good.

26 Q. BY MR. MESEREAU: Did you ever go on one of

27 those shopping trips with Chris Tucker and the

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1 A. No. I didn't have time.

2 Q. Okay.

3 MR. ZONEN: Objection, assumes facts not in
4 evidence that there were shopping trips with Chris
5 Tucker and the Arvizos.

6 THE COURT: Sustained.

7 MR. ZONEN: Motion to strike the answer.

8 THE COURT: Stricken.

9 Q. BY MR. MESEREAU: Do you recall Rob

10 Schneider ever giving gifts to the Arvizos?

11 MR. ZONEN: That's a "yes" or "no" question,

12 I believe.

13 THE COURT: Counsel, if you have an

14 objection, make it.

15 MR. ZONEN: Lack of foundation, Your Honor.

16 THE COURT: Foundation; sustained.

17 Q. BY MR. MESEREAU: Did you introduce the

18 Arvizos to comedian Rob Schneider?

19 A. Arvizo -- you got to identify. Meaning

20 Gavin?

21 Q. Any Arvizo.

22 MR. ZONEN: I'll object as vague.

23 THE WITNESS: Yeah. Yeah.

24 Q. BY MR. MESEREAU: Did you introduce Gavin

25 Arvizo to comedian Rob Schneider?

26 A. Yes, I did.

27 Q. To your knowledge, did any other member of

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28 the Arvizo family meet Rob Schneider at any time? 4086

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1 A. Yeah, I remember Louise and David, they came
2 to -- they wanted to meet all the celebrity. They
3 want to meet Rob Schneider and -- what was the name?
4 Adam Sandler. They came, "Oh, can we get introduce
5 him? And I said, "Guys, this is for the kids.
6 That's not for you guys. You're grown up. Come
7 on."

8 Q. Were you ever present when comedian Rob
9 Schneider was with Gavin Arvizo?

10 A. Yes, I was.

11 Q. And where was that?

12 A. It was at lunchtime. We had a lunch, three
13 of us, four of us together. And then we went to his
14 room at Sony and we played -- we sat on the couch
15 and played ball, basketball towards the wall. We
16 throw balls to the wall.

17 Q. On that occasion, did you see Rob Schneider
18 give gifts to Gavin of any kind?

19 A. I saw Adam give him. No, I don't remember
20 if he gave him, no.

21 Q. Well, that's the day that Adam Sandler and
22 Rob Schneider were with Gavin, right?

23 A. Yes.

24 Q. You were there. And somebody gave him a
25 television, right?

26 A. I told him Adam Sandler.

27 Q. Did you see Rob give him anything?

28 A. Rob gave him a hug. 4087

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1 Q. Anything else?

2 A. I don't know. I don't think so.

3 Q. Now, at some point, you paid for the Arvizo
4 rent on their home, correct?

5 A. Yes. Not Arvizo home, David's home, yeah.

6 Q. Well, David was married to Janet at the
7 time, correct?

8 A. Yes, sir.

9 Q. So why do you want to single out David and
10 not Janet if you're paying both of their rent?

11 A. I don't single out. Because Janet wasn't
12 asking me. David asked me for rent.

13 Q. David asked you; said they didn't have rent
14 money?

15 A. Yes, sir.

16 Q. And you paid rent for Janet, David and the
17 children, correct?

18 A. Yes, sir.

19 Q. Okay. How many times did you do that?

20 A. A couple of times -- a couple of times I
21 think I gave him cash. I don't recall. I'm not
22 sure. A couple of times.

23 Q. In total, how much cash do you think you
24 gave the Arvizos?

25 MR. ZONEN: Objection; "the Arvizos."

26 MR. MESEREAU: Well, Your Honor --

27 MR. ZONEN: Vague.

28 MR. MESEREAU: I'll withdraw. I'll lay a 4088

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1 better foundation.

2 Q. During the time that Janet and David were
3 married and living together --

4 A. Yeah.

5 Q. -- and during the approximate time that you
6 paid their rent, for Janet, David and the children,
7 how much money in total do you think you gave the
8 Arvizo family?

9 MR. ZONEN: Objection; "Arvizo family."

10 It's who he gave the money to.

11 THE COURT: Overruled. He asked for a total
12 of all of them.

13 THE WITNESS: I very openly -- I don't do
14 charity for tax write-offs so I have a count of how
15 much to give. I give money from my heart. I never
16 write them as a tax write-off.

17 So I don't know how much I gave him. I gave
18 him money whenever they ask me. It's not a tax
19 write-off. I do it from my heart. Some people,
20 they know how much they give to this, how much they
21 give to that. I have no idea.

22 Q. BY MR. MESEREAU: Can you estimate in total
23 how much you gave the Arvizo family?

24 A. I have no idea. You know, I mean the time
25 they come in the office, "I need money for my gas, I
26 need money for food, I need this," and you give them
27 50, 20, 30, 40, 50. Whatever you have in your

28 pocket, you give to them. You don't sit down, "How 4089

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1 much was that? How much was that?" I don't count
2 that. I go out there, I give to another person the
3 same thing.

4 Q. Obviously you were generous with them quite
5 often.

6 A. Yes, I was.

7 MR. ZONEN: Objection as to "them" as vague.

8 THE COURT: Sustained.

9 Q. BY MR. MESEREAU: Obviously you were very
10 generous to the Arvizo family.

11 MR. ZONEN: Objection to "the Arvizo family"
12 as vague.

13 MR. MESEREAU: Your Honor, with all due
14 respect, they're married and are living together.

15 MR. ZONEN: That assumes facts not in
16 evidence.

17 THE COURT: There has been an issue drawn in
18 this case about who asked for money and who gets
19 money. And that's why we have the objection. And I
20 will sustain the objection, have you ask
21 specifically who.

22 Q. BY MR. MESEREAU: When you paid for the
23 Arvizo rent, who did you give the money to?

24 A. Always to David.

25 Q. When you paid for the karate and judo
26 school, who were you helping out?

27 A. Gavin and Star.

28 Q. And that was as a result of a phone call 4090

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1 from Jay Jackson and Janet Arvizo, correct?

2 A. It was -- yes, a conversation with Jay

3 Jackson, yes.

4 Q. And Janet Arvizo, as you've already

5 testified, was in the phone call, right?

6 A. Yes.

7 Q. David Arvizo was not in that phone call,

8 correct?

9 A. No, he was not.

10 Q. Okay. Now, you did testify that David often

11 asked you for money, right?

12 A. Yes, sir.

13 Q. And how many times, if you know, do you

14 think he asked you for money?

15 A. I have no idea.

16 Q. Was it a lot?

17 A. He would come in -- you know, I mean -- you

18 know, the people didn't know -- you got to picture

19 something here. The kid -- the family out of work.

20 The kid is sick. You know, and they react. They

21 don't have no money, they have no mean of living,

22 and you try to help. You don't ask how many. I

23 mean, if you give them -- you've been in that

24 situation, the same as me, you help out, whatever it

25 is. You don't count them, how many time, how many

26 year, how many this. You give help to people and

27 that's what it's about.

28 Q. All right. And if they obtained a large sum 4091

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1 of money from any civil settlement, you didn't know
2 about it, right?

3 A. No, I did not.

4 Q. Okay. The only message you were getting was
5 these people are poor, right?

6 A. That's what I got, yes, sir.

7 Q. Okay. Now, at any time did you learn that
8 David Arvizo worked for the Teamsters?

9 MR. ZONEN: Objection. Assumes facts not in
10 evidence; lack of foundation.

11 THE COURT: Sustained.

12 Q. BY MR. MESEREAU: Did you ever learn what
13 David Arvizo's occupation was?

14 A. He said he used to work in a supermarket.

15 Q. Anything else he told you about?

16 A. No, he said supermarket.

17 Q. Okay. He never told you he worked as a
18 Teamster, did he?

19 A. No. What's a Teamster?

20 Q. You don't know, right?

21 A. I have no idea.

22 Q. Okay. Okay. When do you think you
23 introduced the Arvizos to George Lopez?

24 A. I have no date. I have no idea.

25 Q. Okay. And is George Lopez a friend of
26 yours?

27 A. Yes.

28 Q. Still? 4092

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1 A. Yes.

2 Q. Okay. And is Ann Lopez a friend of yours?

3 A. Yes.

4 Q. When did you last talk to them? Excuse me,

5 let me rephrase that.

6 When did you last talk to George Lopez?

7 A. I haven't talked to George Lopez almost

8 maybe three, four, five months. I was in a wedding.

9 I saw him. Martin Leasak wedding. His agent was

10 getting married. I was the best friend for his

11 agent at UTA, and George Lopez was there and a bunch

12 of other stars were there. We sat down; hello, how

13 are you; hug. The same thing.

14 Q. You testified that you thought someone had

15 made millions of dollars on the Bashir documentary,

16 but that the Arvizo family had gotten nothing,

17 right?

18 A. Yes, I did.

19 Q. And you didn't think that was right,

20 correct?

21 A. That was right?

22 Q. You didn't think that was right?

23 A. No, my whole thing was, I saw they

24 exploiting some underprivileged, underaged people

25 that people in the media made a fortune out of that

26 documentary. That was my personal belief. And they

27 show this poor kid's face on that documentary, and

28 the kids in the school calling him "fag," "faggot," 4093

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1 I thought that was unfair.

2 Q. Right.

3 A. That was not fair there.

4 Q. You thought that Bashir did an injustice?

5 A. I thought that Bashir did injustice.

6 Q. Right. And you told Janet --

7 A. Yeah.

8 Q. -- that she should go to a lawyer because

9 "They're making millions and your family is getting

10 nothing"?

11 A. No.

12 Q. Well, that's certainly what you suggested

13 earlier, wasn't it?

14 A. No. You got to listen to me or read it back

15 what I said, okay?

16 Q. Okay.

17 A. What I said, I want to stop the people

18 calling him names.

19 Q. Uh-huh.

20 A. I did not say anything about money or

21 anything. Don't bring that up. We were talking

22 about what was injustice was done. He used that and

23 showed his picture on the T.V, every newspaper,

24 every print media, from electronic to, you know,

25 print media, they all have his picture.

26 I said that was very unfair. I want to stop

27 that, because I didn't want the kid go to gas

28 station, the guy in gas station say, "Here is that 4094

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1 faggot. He slept with Michael." I did not want
2 that happen to any of my kid, and I think that's
3 injustice.

4 Q. Do you remember telling a District Attorney
5 investigator that Martin Bashir made millions and
6 these underprivileged kids didn't get a cent?

7 A. Yeah, I did. I still say it.

8 Q. And one of the reasons you referred Janet to
9 Attorney Bill Dickerman was you learned she had

10 signed some document relating to the Bashir
11 documentary, correct?

12 A. It was -- maybe was later on. Don't mix it
13 up. Maybe it was later on that she said she
14 signed -- the first time we went to Bill Dickerman,
15 it was all about that kid show the picture on the
16 documentary was injustice. I wanted to stop
17 newspaper, everywhere it is, we -- "Can we stop
18 that?"

19 Q. Now, did you learn at some point that
20 Michael Jackson and Janet Arvizo had sued the
21 British company that did the documentary in England?

22 A. I did not know that.

23 Q. And did you ever learn that Michael Jackson
24 had sued for a number of reasons, including they put
25 his children on the documentary?

26 MR. ZONEN: I'm going to object as lack of
27 foundation, and hearsay, and relevance.

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1 Q. BY MR. MESEREAU: Did Janet ever inform you
2 that she was involved in a lawsuit with Michael
3 Jackson against a British production company?

4 MR. ZONEN: Objection. Hearsay, lack of
5 foundation, relevance.

6 THE COURT: Sustained.

7 Q. BY MR. MESEREAU: Do you remember telling a
8 District Attorney investigator they made money and
9 they didn't give anything to the Arvizos?

10 MR. ZONEN: Objection; hearsay.

11 THE COURT: Overruled.

12 THE WITNESS: Again, you got to question
13 again.

14 MR. MESEREAU: Sure.

15 Q. Do you remember telling a District Attorney
16 investigator in 2003 that with respect to Bashir's
17 company, they made money, and didn't give the
18 Arvizos anything?

19 A. How could I make that comment? I'm still
20 making that comment, too. How could I?

21 Q. And you felt that Bashir and his company had
22 taken advantage of an underprivileged kid, right?

23 MR. ZONEN: Objection; asked and answered.

24 THE COURT: Overruled.

25 You may answer.

26 THE WITNESS: Yes, I do.

27 Q. BY MR. MESEREAU: Okay. How many meetings

28 with Janet and Attorney Bill Dickerman did you 4096

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1 attend?

2 A. Hmm, God. I think maybe about four or --

3 maybe four, five, or three. Four. I think I

4 remember four of them.

5 Q. And when did you first meet Attorney Bill

6 Dickerman?

7 A. When did I ever met him?

8 Q. Yes.

9 A. He became my attorney a long time ago. He

10 represent me, and I thought he did a very good job.

11 Q. And how many years had he represented you

12 before you introduced the Arvizos to him?

13 A. I would say over five, six, seven, eight.

14 Q. Had he represented you in various lawsuits?

15 A. Yes, sir.

16 Q. How many lawsuits?

17 MR. ZONEN: Objection; irrelevant.

18 THE COURT: Sustained.

19 Q. BY MR. MESEREAU: How many times have you

20 testified under oath before today?

21 A. Testify under -- maybe three times. Three

22 times, four times.

23 Q. Do you remember a case where you sued

24 someone named Roy Kavin?

25 A. Yes, I did.

26 Q. And approximately when was that?

27 A. God, that was my neighbor in my club, who

28 came in, he did something to my club. I don't know. 4097

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1 I can't remember the date.

2 Q. You testified under oath in a deposition in
3 that case, correct?

4 A. Yes, I did.

5 Q. Do you remember you were asked questions
6 about when you became an American citizen?

7 MR. ZONEN: I'm going to object as
8 irrelevant.

9 THE COURT: Sustained.

10 Q. BY MR. MESEREAU: Do you remember your not
11 recalling when you went to high school?

12 MR. ZONEN: Objection; irrelevant.

13 THE COURT: Sustained.

14 Q. BY MR. MESEREAU: Do you remember your not
15 knowing where you worked?

16 MR. ZONEN: Objection; irrelevant.

17 THE COURT: Sustained.

18 Q. BY MR. MESEREAU: Do you remember testifying
19 under oath you didn't know when you became a
20 comedian?

21 MR. ZONEN: I'm going to object to the
22 content of this deposition in total. Irrelevant.

23 THE COURT: Sustained. No further questions
24 unless you make an offer of proof to the Court.

25 MR. MESEREAU: Your Honor, I can prove that
26 this witness --

27 THE COURT: Outside the presence of the jury.

28 MR. MESEREAU: Okay. Okay. 4098

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1 Q. Do you recall at any time talking to

2 Attorney Larry Feldman?

3 A. I don't think I spoke to him personally. I

4 don't think I met him, spoke to him. I went to his

5 office.

6 Q. You went to his office?

7 A. Yes, I did.

8 Q. When did you go to Attorney Larry Feldman's

9 office?

10 A. One time Bill Dickerman call me. He said he

11 have -- he and Larry Feldman, they was going to meet

12 with Arvizo and if I would be kind enough to, you

13 know, bring them there. I say, "Yeah, I will be

14 more than happy to do it."

15 Q. Did you participate in any meeting between

16 any of the Arvizos and Attorney Larry Feldman?

17 A. No, I did not.

18 Q. By the way, you've testified about your

19 concern that Gavin was being made fun of by

20 schoolmates after the Bashir documentary, right?

21 A. Yeah.

22 Q. And do you remember telling a District

23 Attorney investigator that, as a result of that,

24 Janet wanted her kids to go to a private school, and

25 you told her you would help send them?

26 A. They were thinking about to send him, the

27 kid, to a school that they would not make fun of

28 him. And they were -- they did -- they were 4099

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1 deciding to do it. And I said, "What's holding you
2 guys back? If you guys need any money for private
3 school, I volunteer, give you whatever you need."

4 Q. Okay. But Janet at that point wanted her
5 kids in a private school, correct?

6 A. Didn't want a private school. Want him to
7 be somewhere, the people, they don't make fun of her
8 son, calling him "faggot."

9 Q. But you told the D.A. investigator that
10 Janet wanted her kids in a private school, told you
11 about it, and you said you would help send them,
12 correct?

13 MR. ZONEN: Objection; asked and answered.

14 THE COURT: Sustained.

15 Q. BY MR. MESEREAU: Did you ever help send the
16 Arvizo children to a private school?

17 A. Yes, I did.

18 Q. When was that?

19 A. I have no idea. After Martin Bashir, and
20 the kids, they call him "faggot."

21 Q. Was that when she was in a relationship with
22 Major Jay Jackson, to your knowledge?

23 A. Yes. Yes.

24 Q. Did you know what his income was at that
25 point?

26 MR. ZONEN: Objection; asked and answered.

27 THE COURT: Overruled.

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28 THE WITNESS: No idea. 4100

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1 Q. BY MR. MESEREAU: Did you ever ask Major Jay

2 Jackson, "How much do you make?"

3 A. No, it is not my business --

4 Q. Okay.

5 A. -- how much he makes.

6 Q. How long did you help with the private

7 school?

8 A. I just wrote him one check. It was very

9 little money. Very, very little money. I just give

10 them one check.

11 Q. And again, that was after the Bashir

12 documentary, right?

13 A. Yeah. Yes.

14 Q. And would it be safe to say that was in the

15 year 2003?

16 A. If that's what's -- the year it happened,

17 yes.

18 Q. Okay. Okay. Now, you talked to an

19 investigator for the Santa Barbara District

20 Attorney's Office about Maury Povich. Do you

21 remember that?

22 A. I don't recall it, but if you said so.

23 Q. Do you recall doing that?

24 A. I said I don't recall it, but if you said

25 so.

26 Q. No, I'm not telling you what to say.

27 A. I don't recall.

28 Q. You don't recall ever discussing Maury 4101

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1 Povich?

2 A. I might have. I have hundred things going
3 every day. Do you remember three years ago what you
4 did, what you said, who you talked to? No.

5 Q. Do you want to cross-examine me?

6 (Laughter.)

7 A. No, I'm just saying reality. Let's look at
8 reality of things. We are human beings. You don't
9 remember what you said every day. We are human
10 beings.

11 Q. I understand. But if you don't remember --

12 A. No, I'm saying probably I did, but I don't
13 remember.

14 Q. Okay. How long were you in Larry Feldman's
15 office?

16 A. Maybe about -- not even his office. I was
17 never in his office. I was never in his office.

18 Describe his office. What do you mean by "office"?

19 Q. What do you think "office" means?

20 A. "Office" meaning if I go to Judge office, he
21 have his office up there. This is courtroom. This
22 is waiting room. I was in waiting room. I never
23 went to Judge office. That's why I call it Judge
24 office.

25 That's a waiting room. I was in the waiting
26 room. I never went to his office. That's what I
27 meant by "office."

28 Q. Okay. So you were in Larry Feldman's 4102

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1 waiting room while the Arvizos were in Larry

2 Feldman's office, right?

3 A. No, they were sitting waiting with me.

4 Q. Okay.

5 A. We waited there.

6 Q. At some point did Attorney Larry Feldman

7 come out and see all of you?

8 A. No, somebody, I don't know who, what,

9 somebody came out, said, "We going to take you to

10 conference room."

11 They take me to conference room. And after

12 we went to conference room, I -- I told Janet that I

13 felt uncomfortable, I want to leave, and then at

14 that point they went -- they went to talk. And

15 somebody came, I don't know if it was Larry.

16 Whoever it was, they said, "Jamie, you could leave."

17 Q. Did you leave?

18 A. Yes, sir. Yes.

19 Q. Did you ever see Attorney Larry Feldman

20 again?

21 A. On T.V.

22 Q. Did you ever personally see him again?

23 A. No, I never saw him personally.

24 Q. Okay. Now, let me just go back to your

25 meetings with Attorney Bill Dickerman and the

26 Arvizos, okay?

27 A. Yes, sir.

28 Q. The first meeting at Bill Dickerman's 4103

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1 office, correct?

2 A. Yes, sir. No, not in his office. Again, in
3 a conference room. Let me make a correction.

4 Q. The first meeting is in the offices of
5 Attorney Bill Dickerman in a conference room,
6 correct?

7 A. Yes, sir.

8 Q. And present are Attorney Bill Dickerman and
9 the Arvizos, correct?

10 A. Yes, sir.

11 Q. Did anyone call the police at that meeting?

12 A. Not as far as I knew.

13 Q. Okay. The second meeting you had with the
14 Arvizos and Attorney Bill Dickerman was at The Laugh
15 Factory, correct?

16 A. Yes, sir.

17 Q. And nobody called the police at that
18 meeting, correct?

19 A. No, sir. It was suggested.

20 Q. Nobody called the police at that meeting,
21 correct?

22 A. And I said it was suggested. Not called.

23 Q. The third meeting between Attorney Bill
24 Dickerman and the Arvizos was at The Laugh Factory,
25 right?

26 A. Yes, sir.

27 Q. Nobody called the police at that meeting,

28 correct? 4104

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1 A. No, sir.

2 Q. Did you say there was another meeting with
3 Attorney Bill Dickerman and the Arvizos that you
4 were somehow involved in?

5 A. Yes, sir.

6 Q. And where was that?

7 A. That was -- I was going to -- I was going to
8 watch Gavin and Star. They were playing on the
9 baseball team --

10 MR. MESEREAU: Your Honor, I'd request the
11 witness just respond to the question.

12 THE WITNESS: What was -- did I say wrong?

13 THE COURT: The question was, "And where was
14 that?" You had another meeting.

15 MR. MESEREAU: Where was the --

16 I'm sorry, Your Honor. I'll rephrase.

17 THE COURT: All right.

18 Q. BY MR. MESEREAU: Where did the fourth
19 meeting involving you, the Arvizos and Attorney Bill
20 Dickerman take place?

21 A. It was in the restaurant in Farmers Market
22 in Los Angeles, California. And then from there, we
23 went to baseball team behind farmers market.

24 Q. So the meeting between you, the Arvizos and
25 Attorney Bill Dickerman took place in farmers market
26 in Los Angeles?

27 A. Yeah. Again, can you describe what you mean

28 "meeting"? To clarify that. 4105

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1 Q. Did you meet with Attorney Bill Dickerman
2 and the Arvizo family at the farmers market in Los
3 Angeles?

4 A. Yes, I did.

5 Q. That meeting occurred after the three prior
6 meetings between the Arvizos and Bill Dickerman that
7 you've described, true?

8 A. I think so. I'm not sure.

9 Q. And nobody called the police at that
10 meeting, correct?

11 A. No, sir. No, sir.

12 Q. At some point you learned that Attorney Bill
13 Dickerman had contacted Attorney Larry Feldman,
14 right?

15 A. Yes, sir.

16 Q. And that was because Dickerman told you --

17 MR. ZONEN: I'll object as speculative or
18 hearsay.

19 MR. MESEREAU: State of mind, Your Honor.

20 MR. ZONEN: Well, again, he's speculating as
21 to another person's belief.

22 THE COURT: He told you he was going to use
23 that state of mind on you quite a bit, remember?

24 I didn't get the whole question. So I can't
25 tell. You interrupted him, actually.

26 MR. MESEREAU: Okay.

27 THE COURT: Do you want to rephrase?

28 MR. MESEREAU: Sure, Your Honor. 4106

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1 Q. At some point in time, you learned that
2 Attorney Bill Dickerman, who had represented you for
3 many years, had referred the Arvizos to Attorney
4 Larry Feldman, right?

5 MR. ZONEN: Objection. Hearsay; lack of
6 foundation; also relevance as to this witness's
7 testimony.

8 THE COURT: The objection's overruled.

9 Did you learn that?

10 THE WITNESS: Did I learn Bill Dickerman
11 introduce -- was talking to Larry Feldman?

12 THE COURT: And introduced the Arvizos.

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay. Next question.

15 Q. BY MR. MESEREAU: Yes. Now, Mr. Masada, in
16 one of your sheriff's interviews, you said you were
17 involved in several fund-raising efforts on behalf
18 of the Arvizo family, right?

19 A. I said -- I don't recall how many times. I
20 said about two, three of them, yeah.

21 Q. Was it two or three?

22 A. I think it was two. After I was thinking
23 about it, it was two.

24 Q. And did both of those take place at The
25 Laugh Factory?

26 A. Yes, sir.

27 Q. Now, you told the Santa Barbara Sheriffs

28 that you made arrangements with the Arvizo family to 4107

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1 receive door charge moneys on several occasions,
2 right?

3 A. "On several occasions." Maybe I said twice.

4 Q. You told them "several occasions," didn't
5 you?

6 A. Maybe I made a mistake.

7 Q. Okay. And you arranged for the Arvizos to
8 be at the entrance to The Laugh Factory and allow
9 them to get door charge moneys, correct?

10 A. Yes, sir.

11 Q. You told the Santa Barbara Sheriffs that it
12 was four nights in total, right?

13 A. I counted the blood drive and all of that
14 stuff. It was two nights.

15 Q. Okay. You said on each occasion David and
16 the children would man the front door and personally
17 collect the entry fees from customers, right?

18 A. Yes, sir.

19 Q. You don't know how much they collected, do
20 you?

21 A. Not really. I remember one particular one,
22 the first one it actually was. At the time they
23 have nurses and everybody from hospital coming in,
24 and one of the nurses came in back door, and knocked
25 the door, and she told me, she said, "Well, I want
26 to come to the club, but I don't have money with me.
27 I thought they didn't -- I didn't know it was going

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28 to cost money to come in." 4108

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1 And I remember that I gave her some cash. I
2 said, "Go ahead. For you, here's some cash. Go in
3 front and walk in, and here's the money."

4 I remember that. Some of the stuff like
5 that stands out in my mind.

6 Q. You told the Santa Barbara Sheriffs that the
7 Arvizo family kept all of the money collected at the
8 door, right?

9 A. Yes, sir.

10 Q. You said that you and the Laugh Factory
11 absorbed the operating, employee and performer
12 costs, right?

13 A. Some of the performers, they are -- most of
14 the time they are -- if I ask them -- they are big
15 comics, like Bob Saget, Howie Mandell, all of these
16 guys. They come in, they don't get money. But
17 sometime you pay them, see the money. Pay some of
18 the people, they need money. You know, you give
19 them money.

20 But usually those -- those costs is covered
21 by the time -- one person, you know, decide to come
22 to the club, they are thirsty, they want to have a
23 drink, watch the show. They have a drink, and that
24 costs usually covers that.

25 Q. But just to get back to my question, you and
26 the Laugh Factory, which you own --

27 A. Yes, sir.

28 Q. -- absorb the operating, employee and 4109

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1 performer costs for those evenings, right?

2 A. Yes.

3 Q. And you told the Santa Barbara Sheriffs

4 there was no accounting for how much money was

5 gathered on any of the evenings in question, right?

6 A. Meaning Gavin, or what are you talking

7 about? The money, how much they got?

8 Q. Yes. You told the sheriffs there was no

9 accounting for what they got, correct?

10 A. No. Yes, absolutely.

11 Q. You told the sheriffs you didn't think any

12 of the fund-raisers exceeded \$3,000, right?

13 A. He asked me, he said, "What do you think? A

14 thousand? 2000? 3,000?" I said, "I don't think it

15 was ever more than 3,000." That's what I said to

16 him.

17 Q. And you also told the Santa Barbara Sheriffs

18 that you thought the family may have received

19 monetary donations from media exposure through

20 people you knew, correct?

21 A. On one occasion, yes.

22 Q. Which occasion was that?

23 A. I remember Fritz Coleman, he did something

24 on -- for blood drive, and somehow had said

25 something about some kind of financial aid or

26 something. It was a bank account or something. But

27 I'm not sure. I wasn't involved with it. I don't

28 know anything about it. 4110

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1 Q. When you say "bank account," what are you
2 referring to?

3 A. Something -- I have no idea. Some kind of
4 thing with Fritz Coleman. I don't know. He put it
5 on the screen or something. I have no idea. I
6 heard about it. I'm not 100 percent sure. I'm just
7 talking about it. I don't know exactly. Maybe I
8 should say I don't really exactly know.

9 Q. Do you remember telling anyone that you had
10 gone to the hospital and paid some of Gavin's
11 medical bills?

12 A. No. There was a person from press. They
13 did that, and I find out about it. Somebody told me
14 about it. And I called there, she said she's going
15 to retract it. And she never retracted. She kind
16 of mislead me. But I never said that.

17 Q. So you were misquoted by someone in the
18 press to that effect?

19 A. Yeah, the press, they want to get attention
20 to another paper or television, they say stuff like
21 that. You are aware of, right?

22 Q. You're saying you never told anyone in the
23 press that you had personally paid for medical bills
24 for Gavin?

25 A. I never -- I helped them out. I never paid
26 for medical.

27 Q. Okay. And never told that to anybody in the

28 press, correct? 4111

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1 MR. ZONEN: Objection; asked and answered.

2 THE COURT: Sustained.

3 Q. BY MR. MESEREAU: You told the Santa Barbara
4 Sheriffs that on more than one occasion Janet and
5 Jay Jackson approached you for assistance, correct?

6 MR. ZONEN: Judge, I'm going to object as
7 hearsay. Unless it's a prior inconsistent
8 statement.

9 THE COURT: I'll sustain the objection.

10 Q. BY MR. MESEREAU: Periodically, Jay Jackson
11 and Janet would ask you for assistance, right?

12 A. No, only twice Jay ask me. And he didn't
13 ask me for assistance. I volunteered. Don't change
14 it around.

15 Q. Well, you just said he asked you, didn't
16 you?

17 A. We were talking about it. He said they
18 didn't have enough money to pay for the thing. And
19 I said, "I'll pay for it." He didn't say, "Give me
20 the money." This is a different thing. If you ask
21 me for money, it's different.

22 Q. What do you think he was suggesting when he
23 told you he didn't have money to pay for these
24 things?

25 A. Meaning maybe they didn't have money. You
26 don't know. I don't know. How do you know if they
27 didn't have money? Maybe they didn't have. Maybe

28 they were broke by that point. I have no idea. 4112

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1 Q. Did you issue checks to Gavin, Star and
2 Davellin?

3 A. Yes, I did.

4 Q. And how many checks did you issue to Gavin,
5 if you know?

6 A. I think one time they performed, the time to
7 make them become -- the only -- you know, a lot of
8 people, they go around, they say, "I'm a comedian.
9 I'm a this. I'm an actor. I'm a this, that, and
10 that." They just call themselves. They never get
11 paid for it.

12 But to make performance, like Gavin, Star,
13 and Davellin, to make them a performer, you pay them
14 as a comic. And I did pay them as a comic one time.

15 Q. Now, the government prosecutor, Mr. Zonen,
16 showed you two checks --

17 A. Yes.

18 Q. -- that you had written to David Arvizo,
19 correct?

20 A. Yes, sir.

21 Q. But you told the Santa Barbara Sheriffs that
22 you wrote a check to Janet or Jay on one occasion,
23 correct?

24 A. Yeah, I think so. I did to Jay or Janet,
25 I'm not sure which one, yeah.

26 Q. And you told them the check was endorsed by
27 Janet Arvizo?

28 A. I never said it was endorsed. I don't look 4113

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1 at the back of the check, whose endorsement.

2 Q. Would it refresh your recollection if I show
3 you the police report?

4 A. The check? The police report, I don't care
5 what -- I don't look at the back of the check. I
6 don't look at the back of the check. Maybe you
7 misunderstood.

8 Q. Let me just ask the question. You just have
9 to answer it. It's being recorded.

10 A. Sorry.

11 Q. Would it refresh your recollection --

12 A. Yes.

13 Q. -- about your telling the Santa Barbara

14 Sheriffs --

15 A. Yeah.

16 Q. -- that Janet Arvizo endorsed that check if
17 I show you the police report?

18 MR. ZONEN: I'll object to references and

19 statements to Santa Barbara Sheriffs as hearsay,
20 unless they're prior consistent statements.

21 THE COURT: The objection is overruled. He's
22 asking about refreshing his memory.

23 THE WITNESS: I don't recall that. I do not
24 recall that.

25 Q. BY MR. MESEREAU: Would it refresh your
26 recollection if I show you what they say you said?

27 A. No, it doesn't make any difference. I know

28 what I said. I don't recall it. So you can say 4114

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1 anything you want.

2 Q. Do you recall ever writing a check for Shana
3 Traunfeld?

4 A. Yes, I did.

5 Q. And that check was to purchase a bed for the
6 Arvizo children, correct?

7 A. "Arvizo children." Describe what "Arvizo
8 children" means.

9 Q. What do you think it means?

10 MR. ZONEN: I'm going to object as vague.

11 THE WITNESS: My --

12 THE COURT: He's asking for more specific
13 names, please.

14 Q. BY MR. MESEREAU: Did you ever issue a
15 check --

16 A. Yeah.

17 Q. -- to Shana Traunfeld --

18 A. Yeah, who was my assistant.

19 Q. -- for the purpose of purchasing a bed for
20 any of the three Arvizo children?

21 A. Yes, I did.

22 Q. When was that?

23 A. The time we went up there for Christmas. I
24 went up there to see them, give them something for
25 Christmas. I saw the kid, half of his face was
26 swollen up. He had a lot of scar on his face, and
27 they were sleeping on the floor.

28 I felt bad. I went and told them 4115

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1 immediately, "Buy them a bunk bed. At least get
2 them something going." They were living on the
3 floor. God.

4 Q. Did you ever give any member of the
5 prosecution team a copy of that check?

6 A. I don't -- my office supposed to give it.

7 Q. Did Prosecutor Zonen ever ask you if you
8 could give him a copy of that check?

9 A. Mr. Zonen himself? Never.

10 Q. Does Prosecutor Zonen ever ask you to give
11 him copies of any other checks that you wrote to any
12 member of the Arvizo family besides David?

13 A. Okay. No. The prosecution, Mr. Zonen
14 himself, or all of the guys? You got to declare.
15 Mr. Zonen you're talking about? Only Mr. Zonen?
16 Or of his team?

17 Q. Only Mr. Zonen.

18 A. Mr. Zonen, no, I don't think so. I don't
19 recall he called me asking me that.

20 Q. Do you recall any member of the prosecution
21 team ever asking you for copies of checks you wrote
22 to members of the Arvizo family other than David?

23 A. Yes. They're people, they ask me.

24 Q. Who?

25 A. I don't remember his name.

26 Q. Did you give copies of those checks to them?

27 A. I think I -- I told my office to give them

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28 whatever they need. 4116

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1 Q. Do you know if that ever happened?

2 A. I think it happened. I'm not sure. I think
3 it did happen.

4 Q. Did any of these prosecutors sitting at the
5 table ever ask you for copies of those checks?

6 A. Those three people? No.

7 Q. Okay. They only wanted checks involving
8 David, correct?

9 MR. ZONEN: Objection as to what they wanted
10 as speculative.

11 MR. MESEREAU: I'll rephrase it, Your Honor.

12 THE COURT: All right.

13 Q. BY MR. MESEREAU: In truth, Mr. Masada --

14 A. Yes.

15 Q. -- the prosecution in this case only wanted
16 copies of checks you wrote to David?

17 MR. ZONEN: Objection as to what they wanted
18 and speculative on his part.

19 THE COURT: Sustained.

20 Q. BY MR. MESEREAU: You said you told someone
21 at your office to give members of the prosecution
22 checks you'd written to the Arvizos, is that
23 correct?

24 A. Yes, sir.

25 Q. Who did you ask at your office to do that?

26 A. I told my assistant or my accountant to find
27 the checks and, you know, make a copy and give it to

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1 Q. Now, you wrote other checks to members of
2 the Arvizo family that you can't locate, correct?

3 A. I don't know what you mean by that.

4 Q. Do you remember telling the Santa Barbara
5 Sheriffs that there were other checks you wrote as
6 gifts to the Arvizos that you can't find?

7 A. That was the three checks of the \$50, I
8 think it was, that I did put them -- I don't know if
9 they ever found them.

10 Q. Didn't you say you could not retrieve copies
11 of those checks?

12 A. Yeah, I did. I ask -- I ask my accountant,
13 and he said, "I don't know. I don't know where they
14 are." And he said, "Wherever they are, I can't find
15 them." And I said, "Go find them."

16 Q. Did you ever find them?

17 A. I really -- I think they did. I'm not sure.
18 I'm not going to say something. I'm not sure.

19 Q. In his direct examination, the prosecutor
20 didn't refer to any of those checks, did he?

21 MR. ZONEN: I'll object as irrelevant.

22 THE COURT: Sustained.

23 Q. BY MR. MESEREAU: You indicated that you
24 owned more than one Laugh Factory; is that correct?

25 A. Yes, sir.

26 Q. And where are The Laugh Factories you own
27 located?

28 A. One is in Los Angeles. One is in New York 4118

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1 City.

2 Q. Any others?

3 A. One we building in Long Beach. One we did

4 have in Hawaii.

5 Q. Any others?

6 A. No, sir.

7 Q. So how many do you own at the present?

8 A. Two.

9 Q. And you're building a couple of others?

10 A. No. I said --

11 Q. What did you just say?

12 A. You got to listen.

13 Q. Okay.

14 A. One we building in Long Beach. And one

15 is -- in Hawaii is closed.

16 Q. Okay.

17 A. So we have right now, present time, two.

18 Q. Okay. All right.

19 A. Do you want the address for them?

20 Q. I'll talk to you after court. We can

21 give --

22 A. You are there. Me and you can have a comedy

23 team.

24 Q. Okay. All right. All right.

25 (Laughter.)

26 Q. When did you last talk to Jay Jackson?

27 A. Jay Jackson. God. God, Jay Jackson, maybe

28 about three, four -- three months, four months ago. 4119

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1 How am I -- Christmas was -- I will say about three,
2 four months ago.

3 Q. And where did you talk to him?

4 A. On the phone.

5 Q. Okay. Did he call you?

6 A. He might have. I'm not sure if I call him,
7 you know. You get on a day's routine, you don't
8 remember, if he call me or I call him.

9 Q. Did you discuss this case?

10 A. No, I did not.

11 Q. Said nothing about it?

12 A. No, sir.

13 Q. Never came up?

14 A. No.

15 Q. Okay. Was Janet involved in that
16 discussion?

17 A. No.

18 Q. Okay. And when did you last talk to Janet
19 by phone?

20 A. I think you asked me that already.

21 Q. When did you last talk to Janet by phone?

22 MR. ZONEN: Objection; asked and answered.

23 MR. MESEREAU: I don't know if I did ask
24 that.

25 THE WITNESS: Yeah, you did, the look on
26 your face.

27 (Laughter.)

28 MR. MESEREAU: If I did, I apologize. 4120

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1 THE WITNESS: You did.

2 Q. BY MR. MESEREAU: When did you last talk to
3 her by phone?

4 MR. ZONEN: Had there been a ruling by the
5 Court, Your Honor?

6 THE COURT: I don't remember.

7 (Laughter.)

8 THE WITNESS: You too. We just go back and
9 forth, you know.

10 THE COURT: Go ahead and answer.

11 THE WITNESS: Three, four months ago. You
12 know, I have no idea. Three, four months. Could be
13 before Christmas, right before Christmas.

14 Q. BY MR. MESEREAU: Let me ask you this: When
15 did you last talk to Janet about this case?

16 MR. ZONEN: Assumes facts not in evidence
17 that he ever talked to Janet about this case.

18 MR. MESEREAU: I'll rephrase it.

19 MR. ZONEN: And vague as to what "this case"
20 is.

21 THE COURT: He did say that he talked to
22 Janet about the case a long time ago. You can
23 rephrase it.

24 THE WITNESS: So where are we?

25 Q. BY MR. MESEREAU: When did you ever discuss
26 this case with Janet?

27 A. It was a long, long time ago. About

28 maybe -- I don't know. 4121

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1 THE COURT: See, I told you.

2 THE WITNESS: I don't recall the date. I'm

3 sorry.

4 Q. BY MR. MESEREAU: I'm not asking you for the

5 date. I'm asking you just to give your best

6 estimate as to when you last talked to Janet about

7 this case.

8 A. And I'm really -- I want to be as open as I

9 can. I can't remember. I spoke to her one time. I

10 don't remember when was it, what month was it, what

11 year was it. I know I spoke to her.

12 Q. Okay. Do you remember discussing with David

13 Arvizo the fact that The Laugh Factory has a charity

14 committee?

15 A. Yes, I did.

16 Q. When did that discussion take place?

17 A. He came to my office and he was -- keep

18 asking me for more money, and more money, and more

19 money, and more money, and more money.

20 And at one point, I said, "Well, if you need

21 more money, what you have to do" -- because I have

22 something, it's called Laugh Factory Academy of

23 Comedy and Arts. That's a -- I put money myself

24 into that account, and I help a -- a comedian, for

25 example, if their father died, if comedian sick,

26 they don't have any money for their doctor bills or

27 something, I write a check for them.

28 And I say, "If you want more money," because 4122

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1 I wanted to try to tell him -- I didn't know how to
2 say no to him. So that's why I say this. I say,
3 "If you want to come to the committee, talk to the
4 committee, and we take it from there."

5 Q. Can I have some?

6 (Laughter.)

7 A. If you are -- with your job, with your
8 earnings, if you get broke. I don't know how much
9 you making.

10 (Laughter.)

11 Q. Okay. You've testified about a truck that
12 you learned that Michael Jackson had given to the
13 Arvizo family, correct?

14 A. I never said "truck." Never used the word
15 "truck."

16 Q. How did you describe the vehicle?

17 A. It was what, a "sudan." What do you call
18 that car? I'm not too much fascinated by cars or
19 monetary stuff. I don't know any of those stuff. I
20 know a car was -- the car is S -- SUV, SIV, whatever
21 it is. And it was a white car, you know. It's a
22 big huge car. So it's a white car it was.

23 Q. And when did you learn about that?

24 A. David came in my office. He was very
25 excited. He said Michael gave him a car. And I
26 said, "Oh, that's wonderful." And he said, "Come
27 on, come on, come on, I show you." And I said, "I'm

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28 in the middle -- I'm helping other kids," this, 4123

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1 this. And he said, "Come on. He waited there.

2 And I went out outside, and we saw him. He

3 park the car right in front of the fire hydrant, and

4 I remember that, because I was, "You can't do that.

5 That's against the law. You're going to get a

6 ticket already."

7 And he show me, open the door, and I

8 remember the car was white. And there was a T.V. on

9 the dashboard. I remember that.

10 Q. Did you get in the car?

11 A. No, I looked in the car. The door, they

12 opened the door, but I didn't get into the car and

13 drive it around, no.

14 Q. How many times did you see that car at The

15 Laugh Factory?

16 A. You know, he would come to my office. A

17 couple of times I saw him drive in that car, drive

18 away, because he was -- he needed money for gas for

19 this car, because he was telling me that particular

20 car, Michael gave it to him, it lose a lot of gas,

21 and he need more money for gas. So that's how he

22 was getting more money from me.

23 Q. Do you remember telling a Santa Barbara

24 Sheriffs officer --

25 A. Yeah.

26 Q. -- that you wrote Janet a check for

27 Christmas?

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28 A. Write Janet a check for Christmas. No, I 4124

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1 don't recall that.

2 Q. Would it refresh your recollection if I show
3 you a transcript of your interview?

4 A. I mean, I'm just saying I don't recall it.

5 Q. Would it possibly help you recall it if I
6 showed you a transcript of your interview?

7 A. I'm telling you, I don't recall. If I don't
8 recall and you show me anything, I don't recall
9 saying that.

10 Q. You don't want to give it a try?

11 A. First of all, I have dyslexia. I can't see
12 very good, so you're going to read it to me. If you
13 want, bring it over.

14 Q. Did you ever tell a Santa Barbara Sheriffs
15 officer during a recorded interview, "I did write a
16 check personally, 800, a thousand dollars, whatever,
17 you know, not this Christmas, Christmas before that
18 to Janet." Do you remember saying anything like
19 that?

20 A. Maybe I meant David. I wrote the check for
21 David, \$800. Maybe that's -- somehow I mix up the
22 name. That could be.

23 Q. You may have written a check to David for a
24 thousand?

25 A. For 800 to a thousand, yes.

26 Q. Do you recall saying you gave Janet a check
27 at any time?

28 A. I might have made a mistake, their name 4125

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1 together.

2 Q. Okay. Okay.

3 THE COURT: Let's take a break.

4 (Recess taken.)

5 THE COURT: Go ahead.

6 MR. MESEREAU: Thank you, Your Honor.

7 Q. You know Louise Palanker, correct?

8 A. Yes, I do.

9 Q. And when did you first meet her?

10 A. Several years ago. She's -- she comes in.

11 She volunteers, you know. She's -- she's a lady,

12 she volunteers, you know, sometimes for charity,

13 different stuff, especially times at Christmas, we

14 do for homeless. She comes in, she dish up some

15 food for homeless people. And she comes in, we do

16 some services for high holidays, Jewish high

17 holidays. That's what we do.

18 Q. And would you call her a regular at The

19 Laugh Factory?

20 A. No, she's not regular, what you describe

21 regular, regular comics or regular --

22 Q. Do you see her often?

23 A. I haven't seen her lately.

24 Q. Is she a good friend of yours?

25 A. She's -- she's one of those ladies, she want

26 to be a comic and you try to help her. And

27 sometimes being -- trying to help them, you got to

28 give them bad news. 4126

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1 (Laughter.)

2 A. Like if I tell them they're not funny, they
3 take it very personal.

4 Q. I gather you told her she's not very funny.

5 A. Well, I -- let me tell you. I find you are
6 more funny than she is.

7 (Laughter.)

8 Q. Could I join your comedy class? I'm in the
9 wrong profession, I guess.

10 A. I think so. You got a job after this case
11 is over. Come see me.

12 Q. When did you learn Louise Palanker had
13 donated \$20,000 to the Arvizo family?

14 A. I think I told you about it. At the time I
15 find out, I was going to find an apartment for
16 Gavin, because he was coming out of the hospital and
17 he needed a sanitized -- meaning the room, it had to
18 be sanitation room, and I find out Louise went and
19 wrote the check. She's a very rich woman. She
20 wrote the check.

21 Q. And when did you learn about that?

22 A. I don't remember. I don't remember the
23 date.

24 Q. Did she ever come to you to talk about it?

25 A. No, she never talked about it. She -- I
26 heard about it. She gave it to them, and I -- I
27 thank her.

28 Q. When did you thank her? 4127

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1 A. I don't remember. Some -- one of the
2 conversations we had. I don't remember.

3 Q. Did you learn at some point that she wrote
4 two checks, not one?

5 MR. ZONEN: I'm going to object as
6 irrelevant, lack of foundation and hearsay.

7 THE BAILIFF: Your microphone's not on.

8 THE COURT: Overruled.

9 You may answer. You may answer.

10 THE WITNESS: You want my answer? I'm sorry.

11 Yes, I did.

12 Q. BY MR. MESEREAU: And approximately when did
13 you learn that?

14 A. I cannot recall. I -- sometime.

15 Q. When did you last see Louise?

16 A. Maybe about year, year and a half ago, two
17 years ago.

18 Q. Did you ever discuss this case with her?

19 A. No. She called me, told me she came to the
20 court and whatever, whatever. She did say that
21 afterwards.

22 Q. When was this?

23 A. I believe she was driving from the court
24 home.

25 Q. Was this last week?

26 A. Last week, yeah.

27 Q. She called you after she left court?

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28 A. I think so. Sometime afterwards. 4128

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1 Q. Did she discuss with you anything she had
2 said in court?

3 A. She said that you have made this court like
4 O.J.'s court or Robert Blake court, and you was
5 changing the words around and you made it -- lied.
6 You lied and you changed the words and took the
7 stuff out of context, and she told me a bunch of
8 stuff.

9 And I said, "Well, hey, you go there, you
10 tell the truth. That's what it's all about," and I
11 didn't want to hear it.

12 Q. She complained to you that she had been
13 secretly recorded by the sheriffs calling you a
14 pathological liar, correct?

15 MR. ZONEN: I'm going to object as
16 irrelevant and argumentative.

17 THE COURT: Sustained.

18 Q. BY MR. MESEREAU: Mr. Masada --

19 A. Yes.

20 Q. -- you've told the jury what she called to
21 tell you about after court, correct?

22 A. Yes.

23 Q. And isn't it true that she called because
24 she was worried that she had been recorded secretly
25 by the sheriffs calling you a liar?

26 MR. ZONEN: I'm going to object as lack of
27 foundation. As well, argumentative and speculative

28 as to what she was worried about. 4129

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1 THE COURT: It's not relevant. Sustained.

2 Q. BY MR. MESEREAU: Your answer to that last
3 question was not truthful, was it?

4 MR. ZONEN: What last question are you
5 referring to? It was sustained, Your Honor, the
6 last two questions.

7 MR. MESEREAU: I'll rephrase it, Your Honor.

8 Q. Your answer to this jury under oath --

9 A. Yes.

10 Q. -- to the question about what Louise
11 Palanker called you about after court was not the
12 truth, was it?

13 MR. ZONEN: Objection; argumentative.

14 THE WITNESS: It was truth. I don't know
15 what you're talking about. That's what she said.

16 THE COURT: I'll let the answer stand.

17 Q. BY MR. MESEREAU: Mr. Masada, do you
18 remember talking to a District Attorney investigator
19 about what Star Arvizo had said to you about
20 Neverland?

21 A. I don't know what conversation you're
22 talking about. Refresh my memory, please, if you
23 don't mind. I spoke to them many times.

24 Q. Let's go back to December 23rd, 2003. Do
25 you remember talking to a District Attorney
26 investigator named Tim Rooney?

27 A. If you said so.

28 Q. Remember telling that investigator that you 4130

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1 had discussed with Star Arvizo what Star experienced
2 at Neverland?

3 A. If you refresh my memory about it. I
4 discussed it -- refresh my memory, if you don't
5 mind, please.

6 Q. Do you remember telling the District
7 Attorney investigator that you had discussed Star
8 Arvizo's claims regarding Michael Jackson's alleged
9 abuse at Neverland?

10 A. I don't recall what I have said. Can you --
11 what was -- again, re -- say it some more, please.

12 Q. Sure. Do you remember telling a District
13 Attorney investigator named Tim Rooney that you had
14 discussed with Star Arvizo what Star experienced
15 with Michael Jackson at Neverland?

16 A. I don't recall it right now.

17 Q. Remember telling a District Attorney
18 investigator that Star told you what he saw Michael
19 Jackson do at Neverland to he and his brother?

20 A. To do to him and his brother in Neverland?

21 Q. Yes.

22 A. No, I don't recall that.

23 Q. Do you remember telling a District Attorney
24 investigator, "Star Arvizo never mentioned wine. He
25 mentioned sleeping pills"?

26 A. Oh, yeah. What he told me. I didn't
27 discuss it. You got to clarify what you're saying.

28 Q. Okay. 4131

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1 A. Okay, let's clarify.

2 Q. You told him, "Star never mentioned wine.

3 He mentioned sleeping pills," correct?

4 A. Let me explain it to you, if you want me --

5 Q. Did you say that? Yes or no?

6 A. I think I did. Yes, I did.

7 MR. MESEREAU: I have no further questions,

8 Your Honor.

9

10 REDIRECT EXAMINATION

11 BY MR. ZONEN:

12 Q. Were you questioning Star Arvizo about what

13 happened at Neverland?

14 A. No, I did not.

15 Q. What was the context of that conversation

16 you just relayed to us?

17 A. They got in my car, and Gavin got in the car

18 and started to --

19 MR. MESEREAU: I'm going to object as

20 hearsay, Your Honor.

21 MR. ZONEN: It's in response to the

22 questions elicited by counsel.

23 THE COURT: You need to be more specific.

24 Q. BY MR. ZONEN: What specifically was the

25 context of the conversation that talked about a pill

26 versus alcohol?

27 THE COURT: Are you -- relating it to Star,

28 right? 4132

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1 MR. ZONEN: Yes, with regard to Star.

2 Exactly.

3 THE WITNESS: Star got in my car and --

4 Gavin got in the car. Star got in the car. He said

5 something about, "I've got pills and I've got

6 sleeping pills."

7 And at that point I have this guilt, this

8 Jewish guilt, I didn't want to know about it. I

9 said, "I don't want to know anything about it."

10 I cut him off. I didn't want to know

11 anything about it. And he was just trying to give

12 me some information that -- I didn't ask him what

13 has happened, what -- any of that. I never ask him

14 anything.

15 Q. BY MR. ZONEN: Did he give you anything more

16 than five or ten seconds' worth of information?

17 A. No, because I -- I cut him off, because I

18 felt that's not my position. I'm not --

19 Q. Did it appear that he wanted to talk to you

20 about what happened?

21 A. I think he wanted to talk to me.

22 Q. Was anybody else present at the time?

23 A. Gavin was present.

24 Q. Was he talking to you about what happened?

25 A. Gavin? No. I remember I felt uncomfortable

26 because Gavin put his head down, he was kind of like

27 almost teary, because something that he said. I

28 looked at Gavin, and I saw Gavin feel uncomfortable, 4133

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1 and I look at Star, "Star, I don't want to know
2 anything. Thank you. Let's talk about another
3 thing. Let's talk about baseball. Let's talk about
4 something else."

5 Q. Was Gavin's behavior different when you saw
6 him after he came out of Neverland?

7 A. He was a little withdrawn. He was -- with
8 me, anytime he saw me before, he hug me; he said, "I
9 love you." Now he was kind of withdrawn. He
10 wouldn't --

11 MR. MESEREAU: Objection; nonresponsive.

12 MR. ZONEN: I think it is.

13 THE COURT: Sustained.

14 Q. BY MR. ZONEN: How was his behavior
15 different after Neverland?

16 MR. MESEREAU: Objection; no foundation.

17 THE WITNESS: I don't know if it was after
18 Neverland. I don't know.

19 MR. MESEREAU: Beyond the scope.

20 THE COURT: Sustained.

21 Q. BY MR. ZONEN: You mentioned three checks
22 for \$50.

23 A. Yeah.

24 Q. What were those three checks for?

25 A. The three checks was for the -- their
26 performance, their endorsement, "You are a comic
27 now." As soon as you get a check, you are -- your

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28 first check, you become a professional. If you 4134

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1 become a professional, anything you do, you are
2 attorney -- if you are attorney, you could go say,
3 "I'm an attorney" because you went and passed bar
4 exam.

5 A lot of people walk around in this room,
6 they say, "I'm a comedian" --

7 MR. MESEREAU: Objection. Nonresponsive;
8 move to strike.

9 THE COURT: Sustained.

10 Q. BY MR. ZONEN: All right. But this was \$50
11 for each of the three Arvizo children?

12 A. Yes.

13 Q. And was this for their performance?

14 A. Yes, sir.

15 Q. Was this the graduation performance?

16 A. It was some kind of graduation performance,
17 before the graduation, yes, sir.

18 Q. Did you give checks to just the Arvizo
19 children or to other children?

20 A. No, all of the children, every children.

21 The children, they went and perform, I endorse them
22 as a performer. As a person, they endorse, "You are
23 a comic now. You have a license to go out there,
24 say 'I'm a comic.'"

25 If somebody go out there, say, "I'm a
26 comic," and they don't get a check, everybody going
27 in this town, they are waiter and waitress, they are

28 comic or they are actress or actor. 4135

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1 Q. All right. So you did this for all of the
2 children --

3 A. Yes, sir.

4 Q. -- you didn't just single out the Arvizo
5 children?

6 A. No, I did it for all the children.

7 Q. I showed you two exhibits, Exhibit No. 624
8 and 623, these photocopies of the checks; is that
9 correct?

10 A. Yes, sir, you did.

11 Q. And you established that these are, in fact,
12 photocopies of the two checks that you gave to Mr.
13 Arvizo, David Arvizo?

14 A. Yes, sir, I did.

15 Q. All right. Are these accurate photocopies?
16 I mean, do they depict the subject matter
17 accurately?

18 A. It look like, but I'm not sure if it's
19 accurate. It's whatever. You know, my accountant
20 sent them. I believe they are accurate.

21 Q. Well, go ahead and take a look at both of
22 them. Let's start with the first one, 624.

23 A. 624, yes.

24 Q. Now, that's in your handwriting; is that
25 right?

26 A. No, it's not my handwriting.

27 Q. Oh, it's not?

1 Q. And have you ever seen that check before?

2 A. That's my signature.

3 Q. But it's -- okay. Your signature is on the
4 check?

5 A. Yes, sir.

6 Q. But the check was made out by whom?

7 A. Could be made out by my assistant. It could
8 be made out by my -- my accountant wasn't, because
9 if my accountant was up there, he would do it on the
10 computer. My assistant or somebody, or somebody --
11 one of my -- the other co-workers that work for me.

12 Any of the employees.

13 Q. Now, as to that check, do you have a
14 recollection of that check?

15 A. Yes, I do.

16 Q. All right. Does that photocopy appear to be
17 an accurate photocopy of the check, as you recall
18 it?

19 A. I believe so.

20 MR. MESEREAU: Objection; asked and
21 answered.

22 THE WITNESS: I believe so.

23 MR. ZONEN: I would move that exhibit into
24 evidence. I believe it's 623.

25 THE WITNESS: No, 624.

26 MR. MESEREAU: May I see it first, Your
27 Honor?

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1 MR. ZONEN: While counsel is looking at that

2 exhibit --

3 Is that what you're doing, Counsel?

4 MR. MESEREAU: Yes.

5 Q. BY MR. ZONEN: Let me direct your attention

6 to 623, then.

7 THE COURT: Wait till he looks. Just give

8 him a chance to look at it.

9 MR. MESEREAU: Okay. Thank you, Your Honor.

10 THE COURT: All right. It's admitted.

11 Q. BY MR. ZONEN: As to the other one, then,

12 623, correct?

13 A. 623, yes, sir.

14 Q. Is that a check that you either signed or

15 had anything to do with?

16 A. I signed it. And then I think -- if it's

17 computer like that, it's my accountant did that.

18 Q. Okay. But did you just say you did sign it?

19 A. Yes, sir, I did.

20 Q. Can I assume if you signed it, you looked at

21 it?

22 A. I'm sure I did.

23 Q. Can you tell us if that photocopy is an

24 accurate photocopy of the check?

25 A. It looks like exactly my check.

26 MR. ZONEN: I would ask to admit that

27 exhibit as well.

28 MR. MESEREAU: No objection. 4138

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1 THE COURT: It's admitted.

2 Q. BY MR. ZONEN: Now, the money that you gave
3 to either Janet or Jay for private school, that was
4 actually a tutorial program, was it not?

5 A. What was it?

6 Q. A tutorial program. Do you know what that
7 is?

8 A. No.

9 Q. Just for private tutoring?

10 A. It could be. I have no idea. Something to
11 do with a school or something; that they were
12 talking about they want to take him out, you know,
13 put him in somewhere that people make -- not making
14 fun of him.

15 And I want -- you know, they had so much
16 money, but they didn't have enough money. And I
17 said, "How much you need to make it up?" And they
18 said that much, and I did.

19 Q. Did they ask you for that money?

20 A. No. I volunteer.

21 Q. Did this come in the course of a discussion
22 about the fact that they needed some extra
23 education?

24 A. It could have.

25 Q. Were you aware that they were out of school
26 for a long period of time when they were at
27 Neverland?

28 A. That's what I understood. 4139

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1 Q. Was that in the context of this discussion?

2 A. I don't recall that.

3 Q. Okay. The money that David Arvizo was given
4 by you for rent, did you pay that money directly to
5 the landlord?

6 A. No.

7 Q. You gave it to whom?

8 A. David. I said, "If you want me write the
9 check for landlord, let me know who is the landlord,
10 and I'll write the check to the landlord." He said,
11 "No, no, no, write it to me." And I said, "Okay."

12 Q. Did you have any assurance that that money
13 actually went to pay the rent?

14 A. I have no assurance, no.

15 Q. Do you --

16 A. No way.

17 Q. Do you know one way or the other?

18 A. I have no idea.

19 Q. Do you believe David Arvizo to be an honest
20 person?

21 A. You know, I can't -- you asking something
22 that -- you know, you don't know people in that kind
23 of situation. They have -- a poor guy, he's losing
24 his kid and all of that stuff. You don't really --
25 you really don't know. I mean, you can't read
26 people. I wish I could read people.

27 The only thing I thought he ever done

28 dishonest, was bad, that money I gave for the 4140

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1 wallet.

2 MR. MESEREAU: Objection; nonresponsive.

3 Q. BY MR. ZONEN: All right. Well, let me ask
4 you this. The money you gave him for rent, was that
5 before or after the whole controversy about the
6 wallet and the \$300 or \$350 being missing?

7 A. I don't know. Can I look at the checks?

8 Q. Would that help you?

9 A. Yeah, because the date's on top.

10 Q. Sure. Go ahead.

11 A. Yeah, that was ten days before the other one
12 happened.

13 Q. All right. Do you have an opinion as to
14 whether or not that representation that George Lopez
15 stole money from Gavin's wallet was true?

16 MR. MESEREAU: Objection; improper opinion.

17 THE WITNESS: I -- I don't --

18 THE COURT: Just a moment.

19 Sustained.

20 THE WITNESS: Shall I answer it? Or --

21 THE COURT: No. Don't.

22 Q. BY MR. ZONEN: Whose idea was it to put the
23 children in a karate school?

24 A. It was the kids. They were talking about
25 it, and I ask Jay and Janet, "We should do something
26 for the kid, get their energy going," and that and
27 that. And they said they did not have the money.

28 I said, "Where's" -- "Let's find out where 4141

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1 it is. I'll go take them there. I take care of
2 it."

3 It was me took them to the karate school.

4 It was on Santa Monica Boulevard somewhere, I think,
5 if I'm not mistaken. Maybe I'm wrong.

6 And we took them there and I talked to the
7 instructor, and I talked to them and I said, "How
8 much it is," and they said so much money, and I
9 said, "Here is the check."

10 Yeah, that's what I did. I give them a
11 check and I enrolled them, so let them go.

12 Q. So you actually paid the money directly to
13 the karate school?

14 A. Yes, sir. Yes.

15 Q. On the bed, did they ask you to buy a bed
16 for them?

17 A. No. No, no, no, no, no.

18 Q. All right. What happened?

19 A. I went there, I saw the kid. Half of his
20 face was swollen because his kidney, he have one
21 kidney, one spleen. And he -- any day he could buy
22 all of this. I don't know what you guys do in this
23 kind of stress. You might put him back in the
24 hospital again. He might go to the hospital. You
25 got to realize what's going on. This kid have one
26 kidney, he have no spleen, and his cancer on
27 submission. It could come back with the stress --

28 Q. Tell me about the bed. 4142

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1 A. The bed, I went up there, I saw the face.
2 He was all swollen. He was -- a couple of scars on
3 his face, and he was like all swollen.
4 I said where it came from? He said from his
5 kidney. The doctor said it was from his kidney.
6 And so I said, "Oh, my God, what's going on? Can I
7 do anything?" I said, "Where you sleeping?" Maybe
8 infection or something.
9 They said they sleeping on the floor there.
10 And I said, "Where's your bed?" They didn't have no
11 bed. And, oh, my God, "You kids have no bed?"
12 And I went -- I leave from there or I
13 went -- yeah, I call my assistant. My assistant was
14 at lunch or wherever it was. And I went to the
15 office, "Go right now, take off. Go get the bed for
16 them, deliver the bed."
17 Q. Nobody asked for that bed?
18 A. No.
19 Q. Did Janet Arvizo ever ask you for money,
20 ever?
21 A. No. Did not.
22 Q. You talked about two documentaries. There
23 was the FOX documentary and then the PBS documentary
24 that followed.
25 A. Yes, sir.
26 Q. Were those documentaries about The Laugh
27 Factory?

28 A. Was -- was -- one of them was about The 4143

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1 Laugh Factory comedy camp. Another one was about
2 Laugh Factory comedy camp, but Arvizo was featuring
3 in it.

4 Q. They featured the Arvizo family?

5 A. Yes, I think.

6 Q. Was this before or after Gavin got sick?

7 A. They were before.

8 Q. So they were just three kids in the --

9 A. Yeah, they were three kids, and they were
10 showing them. I think it's a tape. You guys got to
11 watch it. It's a tape that --

12 MR. MESEREAU: Objection; nonresponsive.

13 Q. BY MR. ZONEN: Just tell us what it is.

14 A. It was about the kids, that they were --
15 where is their home, where they were living, how did
16 they take a bus to come there, and how they went
17 to -- what they call it? How they came to comedy
18 camp, how the comedy camp, they get -- they talk
19 about their pain and food they don't have, all of
20 that stuff they were talking about. It was a
21 documentary on that.

22 Q. Which one was that, the PBS or the FOX?

23 A. The FOX, sir.

24 Q. You mentioned a man by the name of Patrick
25 Press. Do you mean Patrick Perez?

26 A. Patrick Perez.

27 Q. P-e-r-e-z?

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28 A. My spelling is terrible, yes. I'm sorry 4144

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1 about spelling.

2 Q. Did you introduce him, Mr. Perez, to the
3 Arvizo family?

4 A. I don't know if my office did or something.

5 I know he was there. I don't know what happened.

6 Q. Do you know if any of the Arvizo children
7 got any money for this documentary?

8 A. I have no idea.

9 Q. Did you get any money for it?

10 A. No. I wish I should. I wish I get some
11 money. I didn't get anything.

12 Q. Did you ask for money?

13 A. No, I didn't. But I should have ask. I
14 didn't ask for anything.

15 Q. Do you know the purpose of the documentary?

16 A. It was something -- they show a lot of
17 people in Hollywood. The people in -- in the
18 community, they know my charity. They know that
19 what I'm doing with the kids, it helps the kids.

20 The whole thing was, purpose of the documentary, to
21 show the success of the comedy -- what does comedy
22 do.

23 And again, it was -- it was all about
24 comedian, thanks to comedians, and comedians made
25 this whole thing happen. It wasn't me. I don't
26 want to take the credit all for myself. Any of that
27 credit goes to the comedians. The comedians, they

28 did that. As a result of the comedians, I wouldn't 4145

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1 have my club. So, it's critical to them. I'm
2 emphasizing to most documentaries, comedians should
3 be --

4 MR. MESEREAU: Objection. Nonresponsive;
5 move to strike.

6 THE COURT: Overruled.

7 Q. BY MR. ZONEN: Did you pay any money toward
8 medical bills that you're aware of for the Arvizo
9 family, or for Gavin specifically?

10 A. Never.

11 Q. Did anybody ask you to pay medical bills?

12 A. Never.

13 Q. Did Janet ever tell you she had medical
14 bills that she had to pay?

15 MR. MESEREAU: Objection; beyond the scope.

16 THE COURT: Sustained.

17 MR. ZONEN: Thank you. I have no further
18 questions.

19

20 RE-CROSS-EXAMINATION

21 BY MR. MESEREAU:

22 Q. You mentioned your computer in response to
23 the prosecutor's questions. Do you recall
24 mentioning a computer?

25 A. I mentioned the check is computer, meaning
26 my accountant have some kind of computer.

27 Q. Right. Do you remember being asked by a

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28 Santa Barbara sheriff if you could provide 4146

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1 accounting records or books about what you had given

2 the Arvizos? Do you remember that?

3 A. I'm sure they did.

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

5 the scope of the redirect examination.

6 MR. MESEREAU: I think it's within the

7 scope, Your Honor.

8 THE COURT: Overruled.

9 You may answer.

10 Q. BY MR. MESEREAU: And do you remember your

11 response was, "Those books are gone because they

12 raise computer viruses"?

13 A. That could have been happened one, two -- or

14 twice. It happened on my office computer, my

15 accountant, yeah.

16 Q. That is what you told the Santa Barbara

17 sheriffs, right?

18 A. I could have. I don't know. If that

19 happened at that time, I would have told them, yes.

20 Q. You said, "Those books are gone because they

21 raise computer viruses," right?

22 MR. ZONEN: Objection; asked and answered.

23 THE WITNESS: That check is not confusing,

24 sir.

25 THE COURT: Just a moment.

26 The objection is sustained.

27 THE WITNESS: Oh.

28 MR. MESEREAU: No further questions. 4147

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1 MR. ZONEN: No further questions.

2 THE COURT: All right. Thank you. You may
3 step down.

4 THE WITNESS: Thank you, sir.

5 THE COURT: Call your next witness.

6 MR. AUCHINCLOSS: People call Cynthia Ann
7 Bell.

8 THE COURT: Come to the front of the
9 courtroom, please.

10 When you get to the witness stand, please
11 remain standing, face the clerk here. Raise your
12 right hand.

13

14 CYNTHIA ANN BELL

15 Having been sworn, testified as follows:

16

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 THE WITNESS: Thank you.

20 THE CLERK: State and spell your name for the
21 record.

22 THE WITNESS: Thank you.

23 My name is Cynthia Ann Bell. C-y-n-t-h-i-a,
24 A-n-n, B-e-l-l.

25 THE CLERK: Thank you.

26 THE WITNESS: Thank you.

27 //

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1 DIRECT EXAMINATION

2 BY MR. AUCHINCLOSS:

3 Q. Good afternoon, Miss Bell.

4 A. Good afternoon.

5 Q. How are you employed?

6 A. I'm a corporate flight attendant.

7 Q. How long have you been a corporate flight
8 attendant?

9 A. Just under seven years.

10 Q. During the year 2003, who did you work for?

11 A. Xtra Jet International.

12 Q. And you were a corporate flight attendant at
13 that time?

14 A. That's correct.

15 Q. Have you ever personally worked on any
16 flights where Xtra Jet provided services to Michael
17 Jackson?

18 A. Yes, I have.

19 Q. And is he in court today?

20 A. Yes, he is.

21 Q. Okay. Would you identify him for the
22 record?

23 A. Yes, I can.

24 Q. He's seated to my right?

25 A. That is correct.

26 Q. Thank you.

27 Madam Clerk, could have I have Exhibits No.

28 31 through 34, if you can find those. 4149

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1 THE WITNESS: I'm so nervous.

2 THE COURT: You can pour yourself some water,
3 if you want.

4 THE WITNESS: Thank you.

5 THE BAILIFF: Miss Bell, is that almost
6 empty?

7 THE WITNESS: Is it what?

8 THE BAILIFF: Miss Bell, is that almost
9 empty?

10 THE WITNESS: Yeah, it's almost empty.

11 Thanks.

12 MR. AUCHINCLOSS: We're zeroing in on it,

13 Your Honor.

14 Q. All right. Miss Bell, I'm going to show you
15 an exhibit marked as People's 31. Can you identify
16 that person?

17 A. Yes.

18 Q. Okay. Who is that, please?

19 A. This woman was on a flight that I had done
20 with Xrtra Jet International. I believe, yeah, she
21 was definitely on that flight.

22 Q. Okay. Was it a flight in which Mr. Jackson
23 was a passenger?

24 A. Yes.

25 Q. And I want -- I'm showing you People's
26 Exhibit No. 49. I'd like you to -- we're having
27 trouble locating the picture I'm looking for, but if

28 you could ignore the woman in the middle. 4150

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1 A. In the center.

2 Q. And just the three children. Have you seen
3 those three children before?

4 A. Yes, I have.

5 Q. Were they also on that same flight?

6 A. That's correct.

7 Q. And do you recall where that flight flew
8 from and where it was headed to?

9 A. Yes, sir. That was from Florida to Santa
10 Barbara.

11 Q. Do you know the date of that flight?

12 A. It was either in February or March.

13 Actually, on the trip sheets, that would tell you
14 the exact dates, or I'm certain that --

15 Q. Do you have some notes that would refresh
16 your recollection about the exact date?

17 A. That's correct.

18 Q. Do you have those with you?

19 A. No, I do not.

20 Q. All right. Now, that flight was you said --
21 what was the month?

22 A. I believe it was either February or March.

23 Q. And the flight started in Miami?

24 A. That's correct.

25 Q. And flew to Santa Barbara?

26 A. Santa Barbara.

27 Q. And do you recall who was on that flight

28 other than those four individuals you've identified 4151

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1 and Mr. Jackson?

2 A. Yes. Mr. Jackson's children were on board.

3 His head governess, Grace. His head of security.

4 The mother of two of the children. And I believe
5 that there were -- there was a medical doctor and
6 two other governesses.

7 Q. Do you know how long that flight took?

8 A. Approximately five hours.

9 Q. And were all the seats full?

10 A. Yes.

11 Q. Can you describe your duties on that flight?

12 A. Certainly. As a flight attendant, of
13 course, to greet the passengers and make certain,
14 upon take-off, that their needs are accommodated.
15 During the flight, continuous food and beverage
16 service.

17 Q. And how busy were you, if you recall, on
18 that particular flight?

19 A. Fairly busy.

20 Q. Did you ever have any breaks or downtime
21 where you were able to relax?

22 A. Typically, as a corporate flight attendant,
23 you don't really have time. You're typically pretty
24 busy. It's a smaller aircraft, with fewer
25 passengers, and you're typically just -- there's
26 never really any downtime.

27 Q. Okay. And how many people fly on a plane

28 like that, in total? 4152

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1 A. Well, depending on the load, you could
2 possibly have 12, depending on the configuration of
3 your Gulfstream aircraft or your aircraft, depending
4 on your passenger load or where they're going.

5 There's times I've flown one passenger to London.

6 There's been times where I've flown 16 passengers.

7 Q. My question, on that particular flight from
8 Miami to Santa Barbara, do you know how many people
9 were on the flight?

10 A. It was a full house. It was a full boat.

11 Q. And how many people would that be?

12 A. I believe it was in between 12 and 13.

13 Q. Do you also provide service to the pilots?

14 A. That is correct.

15 Q. And there are how many pilots?

16 A. Two.

17 Q. And you -- would it be safe to say that
18 pilots and yourself are the only service personnel
19 that are on the plane?

20 A. Pilots do not serve the passengers.

21 Q. Okay.

22 A. Flight attendants only.

23 Q. So other than the pilots and yourself, those
24 are the only Xtra Jet employees on the flight?

25 A. That is correct.

26 Q. On that flight from Miami to Santa Barbara,
27 did you serve Michael Jackson any alcoholic

28 beverages? 4153

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1 A. Yes, I did.

2 Q. And was there anything peculiar about the
3 means or method that you served him alcoholic
4 beverages?

5 A. Yes.

6 Q. All right. Tell us what you mean by that.

7 A. Well, Mr. Jackson is a very private drinker.

8 I went ahead and initiated serving him in a Diet
9 Coke can.

10 Q. How many times in total have you flown where
11 you were a corporate flight attendant for Mr.
12 Jackson?

13 A. Probably about three.

14 Q. Was that with Xtra Jet each time?

15 A. No, sir, it wasn't. I flew him with Pacific
16 Jet once prior.

17 Q. Were you previously employed with Pacific
18 Jet?

19 A. As a contract flight attendant.

20 Q. Was that before you worked for Xtra Jet?

21 A. Yes, as a full-time flight attendant, yes.

22 Q. Why did you serve Mr. Jackson alcohol in a
23 Diet Coke can?

24 A. A couple different reasons. I serve other
25 clients that way also. Why?

26 Q. Yes.

27 A. Because he's a private -- he was a private

28 drinker. 4154

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1 Q. Whose idea was it?

2 A. It was mine.

3 Q. Okay. And when did you formulate that idea

4 to put the wine in a Coke can?

5 A. On the particular trip with Xtra Jet, I had

6 accidentally for -- forgot and placed a wine glass

7 in front of him.

8 Q. You say you accidentally forgot. Did you

9 have some knowledge about the way that Mr. Jackson

10 liked his alcohol served?

11 A. Yes, because I had flown him prior, and he

12 had had alcohol in more of a plastic thermal, like,

13 mug-looking thing. I don't know if that was just a

14 Pacific Jet thing.

15 Q. You served him alcohol previous on the

16 Pacific Jet flight in a plastic mug thing?

17 A. That's correct.

18 Q. And under whose instructions did you serve

19 him alcohol in that method, and by that means, I

20 should say?

21 A. I don't remember. I'm sorry.

22 Q. All right. But did Mr. Jackson ever tell

23 you to serve him wine in a Coke can?

24 A. No, he did not.

25 Q. On that flight, do you know who was seated

26 next to Mr. Jackson?

27 A. At different times, different parties were

28 seated next to Mr. Jackson. For most of the time or 4155

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1 for a lot of the time, there was a young man that
2 was seated next to him.

3 Q. Okay. Was he one of the children that I
4 showed you in the exhibit marked as People's 49?

5 A. Yes, sir.

6 Q. Which young man are you talking about?

7 A. Well, he looks a lot older than that
8 picture, but I believe this, yeah.

9 Q. Okay. Indicating the boy in the blue shirt
10 with the stripe through the middle, the one on the
11 left-hand portion of the photograph?

12 A. That is correct. That is correct.

13 Q. The one where my finger is indicating?

14 A. That is correct.

15 Q. All right. Thank you.

16 A. Thank you.

17 Q. Do you know what his name is? Do you know
18 what that young man's name is?

19 A. You'd have to refresh my memory.

20 Q. All right. That's fine. If you don't
21 recall, that's fine.

22 A. Thank you.

23 Q. Okay. So what type of -- what type of
24 seating arrangement was the area where Mr. Jackson
25 was sitting?

26 A. In that particular Gulfstream, it was club
27 seating, with a dinner table, a fixed dinner table.

28 Q. What's club seating? 4156

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1 A. Club seating is two by two.

2 Q. Two seats facing each other?

3 A. Actually, it's a four-seated club

4 configuration. So two passengers could face

5 forward, two passengers could face aft in that

6 particular seating of the aircraft.

7 Q. We don't apparently have an unmarked

8 diagram, so I'm going to ask you just to explain it

9 as specifically as you can.

10 So you have two seats that are side by side.

11 Is that fair to say?

12 A. Do you want me to sort of give you a

13 demonstration of what --

14 Q. No. Just two seats side by side, normal

15 airplane seats?

16 A. Two seats side by side, yeah, normal --

17 we're not like the airliners, so it's not -- when

18 you say "normal," like normal seats, no. I mean,

19 they're big, overstuffed seats, leather, with

20 armrests, you know, separated armrests, but they are

21 side by side.

22 Q. Is there anything in between the two seats?

23 A. On that particular aircraft, you could lower

24 the armrests --

25 Q. Okay.

26 A. -- to --

27 Q. So you could lower an armrest between the

28 two seats or you could lift it up? 4157

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1 A. That's correct.

2 Q. All right. And then you have another two
3 seats. You have a table and then another two seats
4 that are facing the opposite direction?

5 A. Right. It would almost be like -- seated
6 like if you were at a restaurant. A seat here, a
7 seat here, a seat there, a seat here.

8 Q. That's fine. And you said that Mr. Jackson
9 was seated most of the time near the young boy that
10 you identified?

11 A. For -- yes.

12 Q. Okay.

13 A. Along with Prince and Paris, his children.

14 They were always with Mr. Jackson when -- you know,
15 on the other side or in his lap.

16 Q. Okay. But I'm drawing your attention at
17 this time just to the young boy you've identified.

18 A. Okay. Thank you.

19 Q. And the period of time that he was seated
20 next to Mr. Jackson, at any time during this flight,
21 did you ever see Mr. Jackson share his -- well, let
22 me strike that and start with the question, can you
23 characterize how much wine Mr. Jackson consumed on
24 that flight, if you recall?

25 A. It was a long flight. Yes, we went through
26 our white wine, and so I would say a bottle or two.
27 Perhaps even -- because I know I opened red wine,

28 but I think I was serving red wine also to -- I 4158

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1 was -- actually the medical doctor had rum and Coke

2 and then went to red wine, so I was serving --

3 (Laughter.)

4 A. Well, that makes our flight sound scary.

5 Q. Okay. You said Mr. Jackson -- was he the

6 only person drinking white wine; do you know?

7 A. Yes.

8 Q. And do you know approximately -- you said

9 you opened one or two bottles of wine?

10 A. That's correct.

11 Q. Do you know if you got into a second bottle?

12 A. I believe that I opened -- that I -- yes, I

13 believe that I had opened two bottles of white.

14 Q. Okay.

15 A. And one bottle of red, but they weren't

16 completely consumed. I know the red was not

17 completely consumed.

18 Q. Okay. And the second bottle of white wasn't

19 completely consumed?

20 A. That's correct.

21 Q. Do you know if you served Mr. Jackson any

22 white wine -- or, I'm sorry, any red wine?

23 A. I don't remember.

24 Q. Do you know if you served Mr. Jackson any

25 mixed drinks?

26 A. On that -- I don't believe so.

27 Q. Okay. During this flight, how much of the

28 time, if you can recall, did Mr. Jackson have a 4159

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1 drink at his seat?

2 A. An alcoholic beverage, or --

3 Q. Yes, that's what I mean. I should have been

4 more specific.

5 A. Okay. The can was always there. Where he

6 was in club seating had an actual holder for the

7 can. The can was -- was always present. I would

8 refill the can whether or not he was drinking the

9 beverage, consuming it the entire time. The drink

10 was always there is I guess what I'm trying to

11 maintain.

12 Q. During this flight, did you ever see Mr.

13 Jackson share his can of wine with anyone else?

14 A. No.

15 MR. AUCHINCLOSS: Thank you. I have no

16 further questions.

17 THE WITNESS: Thank you.

18

19 CROSS-EXAMINATION

20 BY MR. MESEREAU:

21 Q. Good afternoon, Ms. Bell.

22 A. Good afternoon.

23 Q. I'm Tom Mesereau. I speak for Michael

24 Jackson.

25 A. Thank you.

26 Q. Now, you've had one interview with the Santa

27 Barbara Sheriffs, correct?

28 A. That is correct. 4160

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1 Q. And you also testified before a grand jury
2 in Santa Barbara about this case, right?

3 A. That is correct.

4 Q. Okay. Now, how many times do you think
5 you've flown with Michael Jackson?

6 A. I believe three; no more than six.

7 Q. And in none of the flights that you shared
8 with Michael Jackson -- let me rephrase that.

9 At no time on any flight you've been on with

10 Michael Jackson have you ever seen him share wine
11 with any child, correct?

12 A. That is correct.

13 Q. You've never seen Michael Jackson share a

14 Diet Coke can with wine with any child, correct?

15 A. That is correct.

16 Q. You never saw the Arvizo children drinking

17 from a Diet Coke can with alcohol at any time,

18 right?

19 A. That is correct.

20 Q. You've never saw those children drinking

21 from a Diet Coke can with wine, correct?

22 A. That is correct.

23 MR. AUCHINCLOSS: Objection; asked and

24 answered.

25 THE COURT: Overruled. The answer is in.

26 Next question.

27 Q. BY MR. MESEREAU: At no time did you ever

28 see any of the Arvizo children appear intoxicated, 4161

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1 right? Let me rephrase that. I think it's --

2 A. I actually served those children, but I

3 I.D.'d the oldest girl.

4 Q. You I.D.'d her?

5 A. I asked her for her identification.

6 Q. Did she give you identification?

7 A. She did, actually.

8 Q. Okay. And did it show she was 18?

9 A. It did not show that she was 18.

10 Q. Okay.

11 A. And I served her in crystal, knowing --

12 knowingly served her alcohol.

13 Q. You did?

14 A. I did.

15 Q. You never saw Michael Jackson give her

16 alcohol?

17 A. Absolutely not.

18 Q. And you've never seen any inappropriate

19 behavior between Michael Jackson and any child on a

20 flight, right?

21 A. That is correct.

22 Q. And you have never seen Michael Jackson

23 caress or touch any minor child in an intimate

24 manner, right?

25 A. That is correct.

26 Q. And, now, you indicated that his children

27 were always around him on the flight the Arvizos

28 were on, right? 4162

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1 A. That is correct.

2 Q. You never observed Michael Jackson at any
3 time when his children weren't around him, right?

4 A. I'm sorry, what?

5 Q. On the flight the Arvizos were on, you
6 always saw Mr. Jackson's children around him, right?

7 A. Absolutely.

8 Q. And we're talking about three children,
9 correct?

10 A. That is correct.

11 Q. And two nannies, correct?

12 A. Three nannies.

13 Q. Okay. Do you recall someone throwing food
14 on the plane when the Arvizos were on board?

15 MR. AUCHINCLOSS: Objection. Relevance;
16 beyond the scope.

17 THE COURT: Overruled.

18 You may answer.

19 THE WITNESS: Yes.

20 Q. BY MR. MESEREAU: You saw one of the Arvizos
21 throwing food on the flight, correct?

22 A. That is correct.

23 Q. Do you know who that was?

24 A. Yes, the older of the children. The --

25 Q. Is that the female?

26 A. No. That was --

27 Q. Was it the mother?

28 A. No, but it could have been. No, it wasn't 4163

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1 her.

2 Q. You saw one of them was throwing food?

3 A. Right.

4 Q. Do you know what that person looked like?

5 A. Yes, I do.

6 Q. What did that person look like?

7 A. Dark hair, lighter skin. It was more sort
8 of a playful interaction that they had going.

9 Q. Was this a male or a female?

10 A. A fe- -- a male, actually.

11 Q. Do you know what the male's name was?

12 A. I'm sorry, I don't. I'm drawing a blank on
13 their names.

14 Q. You described that male as very rude,
15 correct?

16 A. Absolutely. Very rude.

17 MR. AUCHINCLOSS: Objection; relevance.

18 THE COURT: Overruled.

19 Q. BY MR. MESEREAU: Is that correct?

20 A. That is correct.

21 Q. And tell the jury what you mean by "rude."

22 A. The individual was unusually rude,
23 discourteous, very -- I remember him talking about,
24 "I got this watch from Michael, and it's really
25 expensive," and just -- altogether just not -- just
26 loud, obnoxious, like, "Serve me my food. This
27 isn't warm. This isn't the way it's supposed to

28 be." And he was just unintelligent. It was 4164

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1 embarrassing to have him on board, actually.

2 Q. And do you have a picture in front of you?

3 Do you have that exhibit in front of you?

4 A. No, I do not.

5 MR. MESEREAU: Where is that?

6 Okay. May I approach, Your Honor?

7 THE COURT: You may.

8 MR. MESEREAU: Your Honor, I'm showing the

9 witness Exhibit No. 49.

10 Q. Ms. Bell, do you see that picture?

11 A. I do.

12 Q. Do you recognize the person you're

13 identifying as having been rude on the flight?

14 A. I do.

15 Q. And who is that?

16 A. This individual here.

17 Q. Which one is that?

18 A. You know, his name eludes me. I'm sorry.

19 MR. MESEREAU: May I have the witness point

20 out the person to the jury, Your Honor?

21 THE COURT: Yes.

22 THE WITNESS: This individual here.

23 Q. BY MR. MESEREAU: Is it your understanding

24 that person's name is Gavin?

25 A. Yes, sir, that is his name.

26 Q. Okay. Now, you told members of the grand

27 jury that you perceive Michael Jackson as a touchy-

28 feely kind of person, right? 4165

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1 A. That is correct.

2 Q. And you said he was touchy-feely, kind of,
3 to you, right?

4 A. That is correct.

5 Q. What do you mean by that?

6 A. Well, he's very soft-spoken, and typically
7 because of -- he's very polite and very soft-spoken,
8 I would have to kneel and gain eye contact with Mr.
9 Jackson. And, you know, he is very, you know -- you
10 know, would touch my arm when we were communicating.

11 I don't mean touchy-feely like in a weird sort of
12 manner. Just sort of a polite, gaining eye contact,
13 you know, maintaining, you know, communication that
14 way.

15 Q. You never found Mr. Jackson to be rude or
16 impolite, did you?

17 A. Absolutely not, neither him or his children.

18 MR. MESEREAU: Could I have that exhibit?

19 Q. Now, just for the record, Ms. Bell, on
20 Exhibit 49, that's the picture of four individuals I
21 just showed you, correct? And that's the picture
22 that you pointed the individual out to the jury who
23 you found to be very rude and obnoxious, correct?

24 A. That is correct.

25 Q. And you pointed out the fellow to the far
26 left with a blue shirt, correct?

27 A. That is correct.

28 Q. Okay. Thank you. 4166

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1 On that flight, Mr. Jackson was the only
2 person who drank wine out of a Diet Coke can, right?

3 A. That is correct.

4 Q. And everyone else that ordered wine had it
5 served in a flute-like glass, correct?

6 A. That's correct.

7 Q. And you described Mr. Jackson to the Santa
8 Barbara Grand Jury as one of the most nervous flyers
9 you'd ever seen, right?

10 A. That is correct.

11 Q. Please tell the jury what you mean by that.

12 A. Well, Mr. Jackson is just a very nervous
13 flyer. He doesn't like turbulence. He -- he has
14 been known to have -- not on my flights, but flights
15 land if there's too much turbulence. He just does
16 not enjoy flying. It makes him very nervous.

17 Q. And you discussed Mr. Jackson's nervousness
18 on flights with his medical doctor, correct?

19 A. Yes. Actually, his medical doctor discussed
20 it with me before we -- before we launched on our
21 trip to Miami -- or from Miami to Santa Barbara.

22 Q. And the subject of that discussion was the
23 fact that he, the doctor, understood that he wanted
24 alcohol to deal with his nervousness, correct?

25 A. That is correct.

26 MR. AUCHINCLOSS: Objection. Assumes facts;
27 hearsay.

28 THE COURT: Sustained. 4167

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1 Q. BY MR. MESEREAU: How did you learn that
2 Michael Jackson was extremely nervous on air
3 flights?

4 MR. AUCHINCLOSS: Objection. Foundation;
5 hearsay.

6 THE COURT: Sustained.

7 Q. BY MR. MESEREAU: Did you know Michael
8 Jackson was a very nervous flyer?

9 MR. AUCHINCLOSS: Asked and answered.

10 Objection.

11 THE COURT: Sustained.

12 Q. BY MR. MESEREAU: What did Mr. Jackson like
13 to eat on those flights, if you recall?

14 MR. AUCHINCLOSS: Objection. Relevance;
15 beyond the scope.

16 THE COURT: Sustained.

17 Q. BY MR. MESEREAU: Do you remember the young
18 man in Exhibit No. 49, whom you've identified as
19 being rude, the young fellow with the blue shirt,
20 screaming at you that his chicken was not warm?

21 A. Yes, that is correct.

22 Q. You told the grand jury he's a weird kid,
23 correct?

24 A. Yes, I did.

25 Q. Michael Jackson always sat by the window,
26 didn't he? Do you recall?

27 A. I don't recall.

28 Q. Okay. Did you talk to his doctor on that 4168

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1 flight very much?

2 A. I did.

3 Q. Did you know where the doctor was seated?

4 A. Yes.

5 Q. And please tell the jury where Michael

6 Jackson's physician was seated on that flight.

7 A. He was seated in the forward aft-facing

8 seat.

9 Q. Excuse me?

10 A. The forward aft-facing seat.

11 Q. And if you can, describe what you mean.

12 A. As you enter the Gulfstream, if you were to

13 make the right, and the first seat that seats

14 aft-facing, which would be facing the back of the

15 aircraft, that was the seat that he was seated in.

16 Q. And if you're in that seat, what is your --

17 let me rephrase that.

18 If you're sitting in that seat, what are you

19 likely to be able to observe on that plane? I mean,

20 what can you see as you sit in that seat, assuming

21 you're looking forward? What's in front of you?

22 A. That would be the -- the Arvizos' mom was

23 seated in the forward-facing seat, facing him.

24 Q. Okay.

25 A. He would -- he would be able to see in the

26 cabin, but not -- I mean, I probably have the best

27 seat in the house because I'm standing in the

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1 Q. And you were in a position where you could
2 see everything going on on that flight, couldn't
3 you?

4 A. That's correct.

5 Q. And --

6 A. Except for the pilots, because we close the
7 pilots off.

8 Q. Okay. And you would describe that interior
9 of the plane as very close and intimate, right?

10 A. Very much so.

11 Q. You were able to see everything that went on
12 in that plane, couldn't you, other than what the
13 pilots were doing?

14 MR. AUCHINCLOSS: Objection; asked and
15 answered.

16 THE COURT: Sustained.

17 Q. BY MR. MESEREAU: Do you recall if you ever
18 saw Mr. Jackson sleeping on the flight?

19 A. No, sir, he was not sleeping on the flight.

20 Q. Okay. Did you see him eat his meal on the
21 flight?

22 A. Yes.

23 Q. Did you serve his children on the flight?

24 A. I did.

25 Q. What did you serve them?

26 MR. AUCHINCLOSS: Objection; relevance.

27 THE COURT: Sustained.

28 Q. BY MR. MESEREAU: Do you know someone named 4170

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1 Lauren Wallace?

2 A. I do.

3 Q. And who is Lauren Wallace?

4 A. Lauren Wallace is a corporate flight

5 attendant.

6 Q. And you told her about Mr. Jackson's desire

7 to have his alcohol in a Diet Coke can, right?

8 A. I did.

9 Q. And when you served Michael Jackson vodka

10 drinks, they were always in a Diet Coke can,

11 correct?

12 A. That is correct.

13 Q. What you would typically do is go into the

14 lavatory, pour out the Coke, and put some either

15 wine or vodka in the Diet Coke can, right?

16 A. That is correct.

17 Q. And what you typically did was go up to Mr.

18 Jackson and say, "Here's your Diet Coke, Mr.

19 Jackson," right?

20 A. That is correct.

21 Q. You both understood what was in there,

22 right?

23 A. That is correct.

24 Q. And your understanding was Mr. Jackson

25 didn't want children to see him drinking alcohol,

26 right?

27 A. That is correct.

28 Q. You were on some flights where there was 4171

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1 considerable turbulence, right?

2 A. Yes.

3 Q. And would it be accurate to say that when
4 there was a lot of turbulence, Mr. Jackson would
5 drink a little more than normal?

6 A. Yes.

7 Q. Was it your impression he did that because
8 he was nervous?

9 A. That is correct.

10 MR. MESEREAU: I think we're through, Your
11 Honor.

12 THE COURT: We are.

13 All right. We'll start at 8:30 tomorrow
14 morning.

15 THE WITNESS: Do I get to go home?

16 (The proceedings adjourned at 2:30 p.m.)

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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE OF)

5 CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR, CSR

13 #3304, Official Court Reporter, do hereby certify:

14 That the foregoing pages 3992 through 4172

15 contain a true and correct transcript of the

16 proceedings had in the within and above-entitled

17 matter as by me taken down in shorthand writing at

18 said proceedings on March 29, 2005, and thereafter

19 reduced to typewriting by computer-aided

20 transcription under my direction.

21 DATED: Santa Maria, California,

22 March 29, 2005.

23

24

25

26

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

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