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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 MONDAY, MARCH 28, 2005

20

21 8:30 A.M.

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23 (PAGES 3726 THROUGH 3787)

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

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1 Santa Maria, California

2 Monday, March 28, 2005

3 8:30 a.m.

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5 (The following proceedings were held in

6 open court outside the presence and hearing of the

7 jury:)

8

9 THE COURT: Good morning.

10 COUNSEL AT COUNSEL TABLE: (In unison)

11 Good morning, Your Honor.

12 THE COURT: I'll say that again. Good

13 morning.

14 MR. SANGER: Good morning.

15 THE COURT: Let's see, the moving party here

16 is the People.

17 MR. SNEDDON: Good morning, Your Honor.

18 What I would like to do in my presentation

19 this morning is to proceed by setting a little bit

20 about the legal framework for which the discussion

21 on the 1108 motion in particular, and begin with the

22 1108 motion.

23 And I think the simplest way to begin with

24 this discussion is the fact that in 1995, the

25 legislature, in enacting Penal Code Section 1108,

26 significantly changed the law in California and the

27 practice of criminal law in California. It's clear

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28 from the legislative intent of Section 1108 that it 3728

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1 was a recognition that crimes such as child  
2 molestation are secretive, they're serious,  
3 children are particularly and uniquely vulnerable,  
4 and that oftentimes, and in most cases in fact, it's  
5 the credibility of the victim that is at issue.  
6 The Supreme Court in Falsetta that upheld  
7 Section 1108 against the constitutional attacks made  
8 it very clear that these types of crimes are  
9 committed in seclusion, without third-party  
10 witnesses, and without substantial corroborating  
11 evidence. And it's precisely for that reason that  
12 the legislature enacted Penal Code Section 1108.  
13 Secondly, there was a legislative finding  
14 that has been repeated over and over and over again  
15 by the courts of this state in recognizing the  
16 validity of that particular -- this particular  
17 legislative finding; that is, that the willingness  
18 to commit sexual offenses is not common to most  
19 individuals, and therefore propensity evidence is  
20 uniquely probative and necessary in determining the  
21 credibility of witnesses.  
22 There's a further legislative intent  
23 reflected in 1108 that has again been repeatedly  
24 confirmed by the courts of this state, and that is  
25 that Evidence Code Section 1108 evidence should be  
26 liberally admitted. Indeed, cases now recognize  
27 that it's established principle that it is

28 presumptive to be admissible in criminal cases. 3729

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1 We feel for this reason that the evidence,  
2 and the pro-offer of proof that we've indicated to  
3 the Court we intend to present would be in this  
4 case, is consistent with the legislative intent and  
5 consistent with the judicial interpretation of  
6 Section 1108 and be uniquely admissible as to  
7 corroborating the victims in this particular case.  
8 Now, in that connection, Your Honor, the  
9 Court is in a much better position now than it would  
10 have been to hear this motion before trial started  
11 because the Court's now had an opportunity to see  
12 the testimony and the evidence of Gavin Arvizo, that  
13 of the sister and of the brother.  
14 But more importantly, the Court has had an  
15 opportunity to hear Mr. Mesereau's opening statement  
16 and Mr. Mesereau's cross-examination of the family  
17 members in this particular case, and including Gavin  
18 Arvizo. There's no question that they have  
19 presented squarely the fact that the issue -- that  
20 the family's credibility, and Gavin Arvizo's  
21 credibility, and in fact indeed the mother's  
22 credibility, is central to the defense case, and  
23 that is precisely -- precisely the reason that 1108  
24 was enacted.  
25 Pursuant to their theory, I don't think it's  
26 been any secret, it's been a scorched-earth process,  
27 there's a take-no-prisoners approach to these

28 children and to this mother who is going to testify 3730

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1 in the next couple of weeks. And while this  
2 approach is hardly unique, it's hardly unexpected  
3 and it's hardly novel, the point is that these are  
4 precisely the kind of tactics that the legislature  
5 recognized where propensity evidence should be  
6 admitted in order to balance the scales in  
7 situations where an accused has exhibited propensity  
8 to commit similar types of crimes.

9 Now, I don't intend to go through the offers  
10 of proof in detail, because the Court already has  
11 the information before it. But I would like to  
12 summarize what it is for the Court that we're  
13 seeking to admit.

14 First, we're asking the Court's permission  
15 to allow us to have one prior child victim testify  
16 to three separate incidents of molestation by the  
17 defendant. The molestations are very similar in  
18 nature. They involved the genitalia of the kid --  
19 of the child, and they involve instances where --  
20 two instances outside the clothing of the child on a  
21 prolonged basis, and a third incident where the  
22 child -- where the hand was thrust up inside the  
23 pants of the child, onto the skin of the child.  
24 We're seeking to admit no less than five  
25 third-party witnesses of inappropriate molestations  
26 and touchings by the defendant as to four separate  
27 children. Again, the conduct is similar in nature.

28 Some of it is kissing, hugging. And other parts of 3731

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1 it involve, again, insertion of the defendant's hand  
2 into the genitalia of the particular children  
3 involved.

4 I think it's noteworthy to bring to the  
5 Court's attention, as I will also cover in certain  
6 parts of my other presentation to the Court, all of  
7 these children are basically between the ages of 10  
8 and 13 at the time that the offenses occurred or  
9 were observed by third parties.

10 Thirdly, there is -- there are some  
11 witnesses who have direct observation by third-party  
12 witnesses that involve multiple incidents involving  
13 the same child. So we not only have witnesses that  
14 are multiple, but we have multiple incidents  
15 involving observations of the third party.

16 We have an additional incident -- an  
17 additional witness who will testify to incidents  
18 involving the defendant with children, four other  
19 children, observing the defendant in bed with four  
20 other children, and on three of those occasions  
21 observing the child and the defendant in bed, and  
22 that the child and the defendant's underpants were  
23 lying next to the bed.

24 We have a sixth incident that involves the  
25 same child that has already been observed by at  
26 least two other witnesses that are on our list to be  
27 called as being -- that observed acts of molestation

28 by the defendant. And this witness observed the 3732

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1 defendant licking the head of a child in the  
2 identical manner to that described by Star Arvizo,  
3 as will be described by Janet Arvizo. We think this  
4 is particularly probative in light of the  
5 defendant's contention filed by papers in this court  
6 that this is an example of Janet Arvizo's delusional  
7 state that she saw this, when, in fact, we have  
8 another witness who saw this very conduct occur by  
9 the defendant as to another child about the same age  
10 as Gavin Arvizo.

11 Lastly, we have two witnesses that will  
12 testify to the fact that the defendant encouraged  
13 children to call him "daddy," children other than  
14 the children in this case, and that he talked about,  
15 with the mother of one of the children, how it was  
16 important that the mother think of him and the  
17 children and them as being all one big family, and  
18 they were like family together. Again, conduct and  
19 statements which have been, to this point in the  
20 trial, alleged to have been uniquely responsible to  
21 the Arvizo family, when, in fact, there's evidence  
22 indicating that the defendant has used this approach  
23 with children and families prior to the commencement  
24 of the trial of this particular case and in other  
25 instances involving families that are not -- have  
26 not have been a party so far.

27 With regard to the 1108, of course, the

28 central issue is the balancing of the probative 3733

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1 value versus the substantial undue prejudice to the  
2 defendant. I think that it is -- it is important to  
3 keep in mind what the courts have said about undue  
4 prejudice and what the courts have said about a  
5 substantial prejudice, because these are concepts  
6 that are unique in the legal profession and they are  
7 unique to cases such as this.

8 And I think the first starting point for us  
9 in this regard, Your Honor, is the language that is  
10 found in cases that recognize that the unique stigma  
11 of a child sexual abuse case, the danger is one that  
12 all propensity evidence -- it is the same in all  
13 propensity evidence in such trials. It is for this  
14 reason that the evidence was previously excluded but  
15 is precisely the reason now that it's admitted into  
16 evidence.

17 So simply the fact that it is a child molest  
18 prior charge or uncharged offense in and of itself  
19 doesn't answer the question as to whether it's  
20 prejudicial. In fact, the language that we've  
21 quoted to the Court in our moving papers of the  
22 Branch court, the Branch case made it very clear  
23 that where the conduct of the defendant in the case  
24 before the Court and the conduct of the defendant in  
25 the charged or uncharged acts is very similar in  
26 nature, that that is found not to be what the courts  
27 would consider inflammatory or prejudicial under the

28 concept of 1108. 3734

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1 And that is precisely the situation that we  
2 have here. The conduct is very similar, if not  
3 identical, in many of the instances, and therefore  
4 in the balancing of the 352 criteria, under the  
5 doctrines of those cases that have analyzed the  
6 balancing process, that has not been found one that  
7 would cause the Court concern in allowing this  
8 evidence to come before a court.

9 I think it's also important, Your Honor, to  
10 recall the language in the Soto case that we cited  
11 to the Court with regard to prejudice. And if the  
12 Court would allow me, I'd like to read just a little  
13 bit from that decision at page 989:

14 "Prejudice, as contemplated by Section 352,  
15 is not so sweeping as to include any evidence the  
16 opponent finds inconvenient. Evidence is not  
17 prejudicial, as that term is used in Section 352  
18 context, merely because it undermines the opponent's  
19 position or shores up that of the proponent. The  
20 ability to do so is what makes evidence relevant.  
21 The code speaks in terms of undue prejudice. The  
22 prejudice referred to in Evidence Code 352 applies  
23 to evidence which uniquely tends to evoke an  
24 emotional bias against a defendant as an individual  
25 which has very little effect on the issues. In  
26 applying 352, prejudice is not synonymous with  
27 damaging."

28 I think that's important in this case, 3735

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1 particularly in light of what I've just said about  
2 how the Branch case and the Falsetta case and some  
3 of the others have applied the principle that when  
4 the case is similar in nature and the conduct is  
5 similar in nature, that that doesn't rise to be  
6 inflammatory under the balancing process.

7 The second balancing issue for the Court as  
8 outlined in the cases is remoteness. This  
9 particular case -- in this particular case, at the  
10 time that the charges were actually filed two years  
11 ago, the incidents involved would have been  
12 somewhere between 10 to 12 years prior to this case.

13 We have cited to the Court in our moving  
14 papers a number of cases involving remoteness. And  
15 of those cases, there are 11 of them that I  
16 believe -- at least 11 that have been indicated,  
17 been cited to the Court. Some, like Branch, are 30  
18 years old. Seven of the cases involve uncharged  
19 prior offenses. Four of the cases involve charged  
20 prior offenses where there was either a trial or an  
21 admission -- a trial finding of guilt or an  
22 admission of guilt. In those cases, we have cases  
23 like Frazier, which is 15 and 16 years old. Soto  
24 case, uncharged, 20 years old. Davis case, 13  
25 years, uncharged. Branch, 30 years, uncharged.  
26 Fitch, the case was seven years, uncharged. Waples,  
27 W-a-p-l-e-s, 20 years, uncharged.

28 And some of the charged ones, again, like 3736

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1 Pierce, they were 23 years old. And Falsetta, they  
2 were 14 and 12 years old. And in Britt, the priors  
3 were 13 and 22 years old. And in a murder case,  
4 where they admitted evidence under 1101 where  
5 remoteness was at issue in a murder case, the  
6 uncharged crime was 17 years old.

7 So I think the Court can see that with  
8 regard to the remoteness issue, the balance on the  
9 scale is far in favor of admissibility of the  
10 charges of the uncharged cases and priors that we  
11 seek to admit. The cases make it very clear that  
12 this is not something that would cause a Court  
13 concern in allowing the admissibility of prior  
14 uncharged acts.

15 Now, I think where the problem arises in  
16 this area, Your Honor, is with the Harris case. And  
17 I think the Court is familiar with the Harris case.  
18 It's been cited by both sides. And it is the only  
19 published case that we have found that actually  
20 deals with a situation where a lower court was  
21 reversed on an abuse of discretion where they  
22 allowed 1108 evidence in. There are several other  
23 cases that reversed, but most of those were for  
24 instructional error before the Court came down with  
25 guidance as to what instructions to be given to the  
26 jury with regard to these particular issues.  
27 But Harris is the only case that I've been

28 able to find and it's the only case that's been 3737

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1 cited by either side where a Judge was reversed on  
2 appeal. And I think Harris illustrates the  
3 difference here between remoteness and the  
4 connection between remoteness and the confusion,  
5 which is the third factor that the Court has  
6 considered with the jury.

7 The problem with the Harris case was, it  
8 involved a tremendous amount of violence. As you  
9 may recall from that case, Your Honor, the victim  
10 was attacked. She was mutilated in the genitalia  
11 area. She was stabbed multiple times. The knife  
12 was left in her body at the time. There was  
13 evidence at the time that the defendant, Harris, was  
14 found, that he had blood on his private parts and in  
15 a size that, in essence, the woman had been raped as  
16 well as mutilated. And the charging offense was a  
17 288 without any violence in it at all.

18 And the Court found on appeal that that case  
19 simply was one of those cases where the Court should  
20 have exercised its discretion and not allowed it in  
21 because of the fact that the conduct was so  
22 dissimilar and the conduct was inflammatory because  
23 of the nature of the violence involved.

24 And the other factor that the Court pointed  
25 out was how, in attempting to try to balance the  
26 inflammatory nature, the Court basically redacted  
27 the way the crime was committed in such a fashion

28 that it was absolutely impossible for the jury to 3738

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1 understand what really happened.

2 And of course that's not -- that's not a  
3 problem that this Court is faced with. We're not  
4 faced with a Harris, because the crimes are not  
5 different. We're not faced with a Harris, because  
6 we're not dealing with violence. We're not faced  
7 with Harris, because there's no reason for this  
8 Court to redact anything, because of the very, very,  
9 very similar nature of the conduct involved with the  
10 defendant and Gavin Arvizo and the ones that we're  
11 attempting to put in as uncharged prior acts.

12 So I say to the Court that the confusion to  
13 the jury in this case is simply not present. And  
14 for whatever -- whatever hay that the defense wants  
15 to make of it in their argument to the Court, the  
16 fact of the matter is, it is clearly distinguishable  
17 from the instant case.

18 Now, the last factor we want to talk about  
19 is undue consumption of time. And we've indicated  
20 to the Court in our moving papers what our estimate  
21 of the direct examination of the witnesses would be;  
22 that basically almost all of the cases, the direct  
23 examination would be less than an hour, and in some  
24 cases significantly less than that. That's not  
25 accounting for the defense's right for  
26 cross-examination.

27 But I will indicate to the Court to the

28 Court, as pointed out in the Frazier case, and this 3739

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1 is a 2001 case, 89 Cal.App.4th, at page 42, in that  
2 particular case, 182 pages of the transcript, in  
3 other words, 27 percent of the trial, in other  
4 words, the Court said in the decision, one quarter  
5 of the trial was devoted to the priors, that that  
6 was not, in their opinion, undue consumption of  
7 time.

8 Now, given the length of time of this trial,  
9 and given what we're seeking to admit, and the  
10 tightness of the issues that we're talking about,  
11 clearly our case is not even going to come close to  
12 consuming 25 percent of the trial time in this case.

13 And the second one that the Court -- if the  
14 Court wants to review another case that also  
15 examined the same issue of undue consumption of time  
16 is the Mullens case, M-u-l-l-e-n-s. And that's a  
17 2004 case. It's a very recent case, 119  
18 Cal.App.4th, 648 at 661, where the defense in that  
19 particular case made the same or similar remarks as  
20 the defense in this case; that we'll end up with a  
21 series of mini-trials over the uncharged acts.

22 Well, that of course, is exactly what happened in  
23 the 11 cases that we cited to you where multiple  
24 uncharged or charged offenses were admitted into  
25 evidence. And the Court, in those cases, as well as  
26 this recent case, indicated that's really not an  
27 appropriate reason in and of itself to reject 1108

28 evidence in light of the very, very strong 3740

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1 legislative intent that this kind of evidence be  
2 admitted in trials of this very nature.  
3 So I indicate to the Court that all of the  
4 balancing factors that have been traditionally  
5 looked to by courts for the issue of 1108  
6 admissibility not only tend to favor the prosecution  
7 in this case, but I think on balance favor, in a  
8 very strong way, that this Court should admit the  
9 evidence that we seek to bring before the jury in  
10 this particular case.

11 Let me just say one last thing in that  
12 connection, Your Honor, and that is one of the  
13 things that the Court has looked at in factors of  
14 admissibility in this area in terms of the probative  
15 value. And I've talked a lot about the prejudicial  
16 effect. But the probative value, that there are  
17 three principles I think that can be distilled from  
18 the cases in this area.

19 From the Ewoldt case, E-w-o-l-d-t, which is  
20 one of the leading cases on 1101 evidence, but  
21 clearly the language is probative on this particular  
22 issue, and that is the probative value of uncharged  
23 offenses increases when the source is of independent  
24 evidence. And by the way, that very language has  
25 been cited in some of the 1108 cases, and so that's  
26 the reason I went back to the seminal case on it.  
27 But the fact of the matter is, that's exactly what

28 we have here is uncharged offenses which are of an 3741

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1 independent source and independent witnesses.

2 In the Yavanov, Y-a-v-a-n-o-v, case, which  
3 is cited in our brief, and the language is found at  
4 page 405, another factor on the probative value is  
5 the frequency of the uncharged acts bolsters the  
6 relevance. And again, we have -- as I've indicated  
7 to the Court, the frequency and the number of  
8 individuals involved who observed things as well as  
9 the different number of victims that were observed.

10 And lastly, the Frazier case at 89  
11 Cal.App.4th, page 30 at page 41, indicated insofar  
12 as 1108 evidence goes that the pattern as to the  
13 same type of children is significant in the  
14 balancing process.

15 And we submit to the Court that in this  
16 case, of course, the pattern in the similarities;  
17 that the victims are similar in age, the manner in  
18 which the victims were cultivated is similar, and  
19 the crimes are similar. And under these doctrines,  
20 I think, are all the more reason why this evidence  
21 should be admissible.

22 At this point, Your Honor, I'd like to just  
23 shift gears, if I might, to deal a little bit with  
24 the 1101 issue before the Court. And again, I'll  
25 try not to go over things I've already covered and  
26 that have been briefed, but I want to highlight some  
27 of the things that are more relevant to the Court's

28 decision here this morning. 3742

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1 I think it's important to start again with  
2 the cases that are responsible for developing the  
3 guidelines under Section 1101 of the Evidence Code.  
4 And, you know, those two cases are -- came down at  
5 the same basic time, and that was Ewoldt and Balcom,  
6 B-a-l-c-o-m. Balcom's at 7 Cal.4th, and the  
7 language I'm citing is around 424. But they make it  
8 very clear -- that decision made it very clear that  
9 when Courts are faced with evidence admissibility  
10 under 1101, that they are usually and traditionally  
11 divided into three camps. There's the identity, the  
12 modus operandi and intent. And there are different  
13 standards for the Court with regard to reviewing the  
14 admissibility.  
15 And we have indicated to the Court that we  
16 are seeking to admit the evidence that we put in our  
17 offer of proof under at least three, if not four,  
18 separate exceptions that are noted in 1101(b) of the  
19 Evidence Code. And the first, of course, is the  
20 intent. And by intent, we're talking about the lewd  
21 and lascivious act and the sexual gratification for  
22 which the acts were done in this case. And  
23 particularly I think if you look at the language in  
24 the Branch case at 91 Cal.App.4 at 274, you'll see  
25 in an analysis of that case how the intent or the  
26 sexual gratification is a key issue in cases of  
27 288(a), which is the kind of offense that we have

28 before the Court here. 3743

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1 Again, we indicated to the Court a second  
2 reason for the admissibility is the motive. And the  
3 motive has been recognized by the Thompson case,  
4 which we also cited to the Court, is the incentive  
5 to criminal behavior. And here it's a propensity,  
6 proclivity for the defendant to be involved in  
7 relationships with children between the ages of 10  
8 and 13.

9 And lastly -- well, in addition to  
10 opportunity, we indicated the modus operandi, and I  
11 want to point out just a couple of things on modus  
12 operandi. Modus operandi on the scale of the issues  
13 on both the Ewoldt and Balcom cases is in the  
14 middle. And when it's intent, there needs to be  
15 less similarities. When it's identity, there needs  
16 to be almost like a hand print. And for modus  
17 operandi, it's sort of in the middle. But both  
18 Balcom and Ewoldt make it very clear that when  
19 you're dealing with modus operandi, it does not have  
20 to be distinctive necessarily, nor does it have to  
21 be unusual.

22 Now, I would submit to the Court, on the  
23 other hand, in this particular case we have both a  
24 distinctive one and an usual one, and that is that  
25 we have a series of acts involved on male children  
26 between the ages of 10 and 13. And we have pointed  
27 out to the Court in our points and authorities a

28 number of cases that have found, in evaluating the 3744

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1 admissibility of 1101 evidence, critical  
2 similarities that are far less unique than the ones  
3 I've suggested to the Court here.  
4 I won't go through the whole litany, but  
5 I'll direct the Court to page 46 of our brief  
6 between lines 20 and 28, and we indicated to the  
7 Court there are no less than, looks like, eight  
8 cases in which the courts of the state have admitted  
9 evidence under 1101 where the similarity involved  
10 things just like I have suggested to the Court.  
11 Victims: Close relatives, white, young, females,  
12 all white males between the ages of 18 and 25. I  
13 mean, how close can you get? Two 12-year-old  
14 children. So I think the Court is on very firm  
15 ground in evaluating the admissibility of evidence  
16 that we seek under 1101(b) to rely on those cases  
17 and rely on the distinctive nature of the uncharged  
18 offenses in this particular case.  
19 Of course in the 1101 field, the balancing  
20 test, the four factors that were outlined in 1108  
21 also apply to 1101(b), and I -- without reiterating  
22 them -- and I won't reiterate the factors that I've  
23 gone through, but I see nothing in the evidence that  
24 we seek under 1101(b) that my remarks to the Court  
25 would be any different than the remarks I made under  
26 1108. And, in fact, probably, in many cases, would  
27 follow even stronger in the area of admissibility

28 than they would have been in the 1108 area. 3745

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1 I would like to point out to the Court,  
2 however, the case of Dancer, D-a-n-c-e-r, which is a  
3 case that we cited in our brief, and in particular  
4 we cited -- that's at 45 Cal.App.4th 1677. And on  
5 page 486 -- 485 of our brief, we indicated in the  
6 Dancer case they found something like 12 or 13 items  
7 of similarity in that case. And we contrasted that  
8 and compared that to our particular case where we  
9 identified for the Court at least 17 similarities,  
10 much of the same -- paralleled the same kind of  
11 information that was available in Dancer. And it's  
12 for those reasons, Your Honor, we believe that that  
13 case is very pertinent to the admissibility of the  
14 evidence presented here.

15 I would like to reiterate that I think  
16 there's a couple of things that need to be said  
17 here. The defense has made a big thing about the  
18 fact that the defendant -- in fact, Mr. Mesereau  
19 stood up in his opening statement and read off a  
20 list of things that the defendant, Michael Jackson,  
21 has bought the mother of the victim in this case.  
22 And I think it's illustrative of the fact  
23 that this is not unique to the mother in this  
24 particular case, but that -- to other mothers  
25 involved with other children, that we intend to put  
26 evidence on that this was a rather standard  
27 procedure for the defendant to buy gifts and to do

28 things for the mothers in those cases to keep them 3746

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1 preoccupied so the defendant would have free rein  
2 with the child involved.

3 And again, the other part of the 1108 is to  
4 establish that the nature of the relationship with  
5 these children, that there was nothing unique about  
6 the relationship that was developed between Gavin  
7 Arvizo and the defendant in this case, that it was  
8 precisely -- precisely like the kind of relationship  
9 that he developed and had with a number of special  
10 friends over a period of a number of years that were  
11 witnessed by the witnesses that we've indicated to  
12 the Court, that have observed that kind of  
13 relationship between the defendant and children  
14 between the ages of 10 and 13. And by "that kind of  
15 relationship," I want to make it clear to the Court  
16 what I'm talking about. It's a relationship  
17 different from that, from kids who are visiting that  
18 ranch for purposes of riding the rides, going to the  
19 movies, enjoying the facilities, and then leaving,  
20 on a day basis.

21 These are relationships that were developed  
22 on an ongoing basis where the children came, they  
23 visited, oftentimes they visited without their  
24 parents. They visited other locations where the  
25 defendant was living at other times, and developed  
26 the kind of relationship that we have heard  
27 testimony about with Gavin Arvizo. And I think,

28 again, that this is the kind of evidence precisely 3747

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1 that this jury ought to hear, that this is not the  
2 first time that the defendant has approached a child  
3 in this manner and in this respect and think that  
4 it's a unique experience for Gavin Arvizo. That, in  
5 fact, this is the way that the defendant operates.  
6 And that's precisely why I believe that the modus  
7 operandi exception is uniquely applicable to this  
8 particular case.

9 I'm assuming, Your Honor, that just about,  
10 I think, wraps up what I wanted to draw the Court's  
11 attention to. Of course, I don't want to repeat the  
12 things we put in our brief. And I'll reserve, of  
13 course, my remarks.

14 I think the Court would like to -- I'm  
15 assuming the Court would like to handle the  
16 admissibility of the evidence of the civil  
17 settlements after the Court finishes this evidence,  
18 and I'm not addressing that now.

19 THE COURT: That's fine.

20 MR. SNEDDON: I'm open to any questions that  
21 the Court has at this point, if you have any.

22 THE COURT: No.

23 MR. SNEDDON: Thank you very much, Your  
24 Honor, for listening to me.

25 MR. MESEREAU: Good morning, Your Honor.  
26 Your Honor, my approach is going to be quite  
27 different from that of the prosecutor. And my

28 approach is based upon comments made by this Court 3748

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1 at a prior hearing on this issue.

2 When the issue initially surfaced in open  
3 court, this Court very courageously and honorably  
4 described a prior incident where Your Honor was the  
5 trial judge in a case brought by prosecutors against  
6 a defendant alleging child molestation. The  
7 defendant pled not guilty. The Court used all of  
8 the cases, I'm sure, that Mr. Sneddon has cited to  
9 justify the admission of 1108 evidence. The Court  
10 heard that 1108 evidence, then the Court heard the  
11 underlying case, and as I interpreted what the Court  
12 said, Your Honor, you found the underlying case so  
13 lacking in credibility and substance and so  
14 problematic that you declared a mistrial, even  
15 though you had, under the technical law cited by  
16 Mr. Sneddon repeatedly this morning, allowed in 1108  
17 evidence.

18 THE COURT: Counsel, that -- actually, I  
19 granted a new trial after conviction, but the same  
20 point.

21 MR. MESEREAU: Okay.

22 THE COURT: Based on that point.

23 MR. MESEREAU: I have no doubt that every  
24 case and authority cited by Mr. Sneddon could have  
25 been used to justify the admission of that evidence.  
26 But the Court did not just rely on those cases. The  
27 Court did not just rely on those authorities. The

28 Court had a concern for justice, and fairness, for 3749

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1 which we commend the Court. And the Court was not  
2 going to allow the 1108 statute to supersede  
3 fairness, justice, the presumption of innocence and  
4 the burden of proof.

5 And I think the Court crystallized the issue  
6 before it this morning when you related that event.  
7 What I believe the Court was concerned with, and I'm  
8 putting it in slightly different terms, is that this  
9 Court, despite that statute, did not want to see  
10 either the burden of proof or the presumption of  
11 innocence reduced or eliminated by the introduction  
12 of that evidence. And what I believe the Court  
13 said, in different words, was the following: The  
14 weaker the case, the more problematic the 1108  
15 evidence. The stronger the underlying case, the  
16 less a possibility of prejudice and injustice by  
17 admitting it.

18 And indeed, no matter what the prosecutor  
19 may cite in his arguments to the Court, the statute  
20 does allow the Court to exercise discretion under  
21 Evidence Code 352, and that discretion is  
22 significant.

23 That gets us to the question, what has the  
24 Court seen in this courtroom? Is the case strong on  
25 credibility and substance or is it weak on  
26 credibility and substance? If it's really powerful,  
27 the Court probably is less worried. If there are

28 credibility problems with their case and their 3750

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1 witnesses, the Court has great concern to worry  
2 because the potential for lessening the burden of  
3 proof on the prosecution in this case would be  
4 great.

5 Now, the Court is dealing with some unique  
6 situations. First of all, you have a celebrity. A  
7 celebrity who has been subjected to all kinds of  
8 innuendo, scandalous reporting and rumor, and a  
9 celebrity who has attracted all kinds of claims for  
10 money, who has developed a lifestyle at Neverland  
11 which he has advertised to the world, which he  
12 believes and contends, and many believe, is a  
13 benefit to society. The prosecution has come in to  
14 try and turn all this on its head and suggest that  
15 Neverland is some magnet for molestation and  
16 criminal behavior. Well, that's going to be an  
17 issue for the jury. But certainly at this point the  
18 Court knows, based on the evidence alone, that Mr.  
19 Jackson has developed Neverland as a Disney-like  
20 type of world that he uses to help children from the  
21 inner city, children around the world, et cetera.  
22 There's a bigger problem than the uniqueness  
23 of the case, and none of the cases cited by Mr.  
24 Sneddon deal with celebrities or anyone remotely  
25 close to Mr. Jackson in terms of notoriety and  
26 attraction for greed and misuse of the legal  
27 process.

28 The Court has seen three witnesses who the 3751

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1 Court -- who the prosecution suggests are victims.  
2 And without going into a lot of the details, which I  
3 don't think the Court wants me to give a closing  
4 argument at this point, but there is no question all  
5 three of those witnesses have been riddled with  
6 problems in their testimony. All have agreed they  
7 lied repeatedly. All were caught lying on the  
8 witness stand. All were caught in notorious and  
9 repeated inconsistencies and all contradicted  
10 themselves repeatedly. Every witness was a problem.  
11 Now, if the Court agrees there are  
12 significant credibility problems with Gavin Arvizo,  
13 Star Arvizo, and Davellin Arvizo -- and I believe  
14 the Court does, because I don't see how anyone  
15 watching the cross-examination could disagree with  
16 that. If the Court thinks there are issues to worry  
17 about, I would ask the Court to add to that concern  
18 the following: Gavin alleges two acts of alleged  
19 molestation. There is no eyewitness to either one.  
20 And there is no DNA to support it. In fact, there's  
21 no forensic evidence at all to support it. Star,  
22 along with his credibility problems, alleges -- it  
23 changes, the number. But he appears to allege two  
24 acts of molestation, separate from those of Gavin  
25 that he watched. There is no eyewitness. There is  
26 no DNA. There is no forensics to support it.  
27 So as the Court looks at the evidence so

28 far, what do you really have? You have what, in 3752

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1 effect, is a very problematic case, and I submit the  
2 prosecutors know that. It's extremely problematic.  
3 It's filled with credibility issues. And those  
4 credibility issues I submit to the Court at this  
5 point are compounded by the evidence they've tried  
6 to introduce so far about conspiracy.

7 Now, I realize we're talking this morning  
8 about the molestation claims, but certainly the  
9 Court, and any jury, when gauging credibility, if  
10 the Court thought the conspiracy claims were  
11 problematic, filled with credibility issues, that  
12 would most certainly and rationally spill over into  
13 other claims and vice versa.

14 Now, the Court at this point has heard the  
15 prosecutors talk about the mother. You've seen the  
16 rebuttal tape. You've seen the demeanor of the  
17 witnesses. You've seen the three witnesses get up  
18 and say, "We all were lying repeatedly." The Court  
19 at this point has its own conclusions about what  
20 that rebuttal tape suggests and whether these  
21 answers were spontaneous or whether they were  
22 scripted and rehearsed. And I don't think anyone  
23 looking at that tape is even going to imagine that  
24 these are all rehearsed answers. The Court knows  
25 that the family were sending cards to Mr. Jackson  
26 way before they made their glowing statements on the  
27 rebuttal tape calling him "daddy" and how he had

28 helped Gavin with his cancer, et cetera. 3753

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1 The Court has seen witnesses come in who  
2 have tried to downplay what Mr. Jackson did for them  
3 and get caught in notorious lies repeatedly. The  
4 Court has seen notorious differences between what's  
5 said on the witness stand, what's said in police  
6 interviews, et cetera.

7 Now, the Court hasn't seen the mother yet.

8 And we wish the Court would see the mother before it  
9 makes its decision, because everything I'm arguing  
10 to the Court is going to be magnified a million  
11 times when she testifies.

12 What the Court has seen the prosecution do  
13 is the following: They have desperately tried to  
14 prove to this jury why their witnesses would tell  
15 repeated lies, why they would contradict themselves,  
16 why they were caught in numerous inconsistencies.  
17 They are reduced, as prosecutors, not to just  
18 proving a case beyond a reasonable doubt, but trying  
19 to prove to a jury why their witnesses lied. And  
20 they've gotten so desperate they're now trying to  
21 differentiate the mother from the ex-husband, which  
22 is simply not going to work, because one of their  
23 witnesses, Louise Palanker, when she wrote her first  
24 check for \$10,000, was asked by the husband to write  
25 it to Janet Arvizo. It was received by Janet,  
26 endorsed by Janet into her mother's account. And of  
27 course, as the Court knows, the next check which Ms.

28 Palanker wrote, because she didn't want to pay a 3754

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1 gift tax, wanted it to go to another individual, was  
2 written to David. It was then also endorsed by him  
3 and deposited into Janet mother's account.

4 The prosecution is reduced now to trying to  
5 prove that Janet Arvizo did not always directly ask  
6 for money, and yet the overwhelming proof is going  
7 to be that she didn't directly ask for it, she  
8 indirectly did, and received it. And that's going  
9 to be absolutely proven beyond any doubt when the  
10 case is finally to the jury. Because we have  
11 witnesses coming in our case that nobody has seen  
12 yet.

13 I submit to this Court that the introduction  
14 of 1108 evidence is very problematic, given the weak  
15 nature and the contradictory nature of their case.

16 I submit that the introduction of 1108 evidence  
17 could easily reduce the burden of proof the  
18 prosecutors have, could easily jeopardize the  
19 presumption of innocence in this case and could  
20 render an unfair trial.

21 Again, I understand what the cases say and  
22 what they cite, but this Court has very honorably  
23 suggested its concern for fairness, as it was in  
24 another case, and that's why the Court waited to see  
25 what some of their witnesses looked like. I wish we  
26 would defer it, because every time they put a  
27 witness on, it gets worse. But nevertheless, here's

28 where we are. 3755

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1 Now, what is 1108 evidence essentially?

2 Essentially it's character evidence. And when the  
3 debate was going on in legislature about whether or  
4 not to create an exception, tremendous concerns were  
5 raised about allowing the prosecution to simply  
6 introduce evidence of -- what appears to be evidence  
7 of bad character.

8 Now, they can phrase it in any terminology  
9 they want, they can say it's evidence of modus  
10 operandi, intent, blah blah. But the reality is,  
11 they're trying to bring in character evidence to  
12 bolster a separate charge. And any time you do  
13 that, the Court has to be concerned with the  
14 possibility of prejudice.

15 Now, I don't need to recite the cases to the  
16 Court on prejudice. I know the Court's familiar  
17 with them. But every time they define prejudice,  
18 they define it in terms of emotion. Will it have an  
19 emotional effect on the jury that is improper? Will  
20 it have an emotional effect on the jury that results  
21 in unfair prejudice to the defendant? And if, in  
22 fact, that emotional effect is there, will it also  
23 spill over into the other factors like confusion of  
24 issues, et cetera?

25 The evidence they're trying to introduce is  
26 evidence of a highly inflammatory and emotional  
27 nature. There's no question about that. But I

28 think the Court also has to look at the substantive 3756

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1 part of the evidence that they want to introduce,  
2 because from what we can see in the cases that we've  
3 looked at, every time they've introduced 1108  
4 evidence in a case like this, they have had a  
5 separate alleged victim describe something similar.  
6 Nowhere can we find they are just  
7 willy-nilly bringing in third-party witnesses to say  
8 they saw something without bringing the alleged  
9 victim in. Yet that is exactly what 99 percent of  
10 the evidence they plan to bring in is. And I submit  
11 the potential for prejudice there is overwhelming.  
12 They probably couldn't win a civil case if they were  
13 pursuing a civil case based on nothing but third  
14 parties. Yet they want to do it in a criminal case  
15 without any of these alleged victims coming in, with  
16 the exception of one, who is problematic, and I will  
17 explain that to the Court.  
18 So I submit the very substance of what  
19 they're trying to do is wrong, and it's potentially  
20 very prejudicial to Mr. Jackson particularly given  
21 the weak nature of the case.  
22 Now, let's look at what they're trying to  
23 do. They have an alleged prior victim named Brett  
24 Barnes who tells us he never was touched improperly.  
25 They want to bring in four witnesses to talk about  
26 Brett Barnes. They don't want to bring him in.  
27 Because the moment they bring him in, they're done.

28 So they want to bring in allegedly four honest 3757

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1 witnesses - I guess they're vouching for their  
2 credibility - to testify that Mr. Barnes was  
3 improperly touched.

4 Who are their main witnesses? Their main  
5 witnesses sued Mr. Jackson in the mid '90s, and for  
6 the first time Mr. Jackson decided, "I'm tired of  
7 settling these stupid cases, I'm actually going to  
8 defend this one." It resulted in the longest civil  
9 trial in the history of this courthouse. And the  
10 Court, I'm sure, knows a lot more about that case  
11 than I do. At numerous times during that six-month  
12 trial, the trial Judge made findings that the  
13 plaintiffs were lying, not being candid, changing  
14 their stories, even leaving the bench on a couple of  
15 occasions. And when the dust settled, the jury  
16 returned a verdict for Mr. Jackson, awarded Mr.  
17 Jackson damages, because the plaintiffs had stole  
18 from him. The Judge then awarded not only costs,  
19 but legal fees, and in the end Mr. Jackson obtained  
20 a judgment for over a million dollars against these  
21 lying plaintiffs.

22 They want the Court to allow these lying  
23 plaintiffs to come in now again and try and testify  
24 to improper acts, when there is no alleged victim  
25 they intend to call. That's just plain wrong. And  
26 if they suggest it wouldn't be time-consuming to  
27 litigate that issue, all the Court has to do is look

28 at the six-month trial and its length to know that's 3758

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1 not true, because they sold stories to tabloids,  
2 they were caught lying, and they had a big judgment  
3 against them.

4 Then we have Jordie Chandler, who everyone  
5 tells us, and apparently was announced on television  
6 this morning, is not going to testify. So who do  
7 they want to bring in to testify to that? First of  
8 all, Your Honor, I would note that in their motion,  
9 they mention someone named Bob Jones. And in very

10 graphic -- in a very graphic manner they told the  
11 Court that Mr. Jones had worked for Mr. Jackson for  
12 years, had traveled internationally with him, and  
13 would testify to all sorts of improprieties with  
14 children. We just were produced a police report by  
15 the prosecution where Mr. Jones flat out denies  
16 virtually everything they said in their motion. He  
17 has told the Santa Barbara Sheriffs, with counsel,  
18 that he never saw anything inappropriate happen when  
19 Mr. Jackson was in the company of any of these  
20 children.

21 They haven't told that to the Court in any  
22 of their papers, to my knowledge, but they just gave  
23 us that report.

24 Now, what happens if you allow third-party  
25 testimony about Mr. Chandler without allowing Mr. --  
26 forcing them, or ordering them, or requiring them to  
27 have Mr. Chandler, the alleged victim, testify? You

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28 then have people come in to say what they saw 3759

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1 without any victim to confirm it.

2 And what happened back in those days? In

3 summary, this is what happened: Chandler's parents

4 had been divorced in 1986. The father had given up

5 custody of the child. When these alleged events

6 happened, the father jumped on the bandwagon and

7 wanted to become a multimillionaire, and he fueled

8 litigation. And all of a sudden, you had the

9 parents suing Mr. Jackson, you had -- the mother's

10 new husband then decided to sue Mr. Jackson for

11 allegedly interfering with his business. He had an

12 auto company, and he claimed that the publicity had

13 interfered with his business. He wanted millions.

14 After the settlement, the father then filed a new

15 lawsuit against Mr. Jackson wanting 30 million more

16 dollars. That was litigated and he lost. You have

17 all sorts of collateral litigation, and eventually

18 Mr. Chandler filed papers in Superior Court seeking

19 legal emancipation from his parents.

20 Where is the justice in this case of

21 allowing parents to come in who collected lots of

22 money because Mr. Jackson wanted to get this case

23 behind him and pursue his music career? And indeed,

24 all kinds of advisors were telling him to do that.

25 You have parents playing each other off with the

26 child and pursuing collateral litigation, all of

27 that will obviously have to be explored, because the

28 potential for financial interest, financial bias in 3760

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1 a situation like that, is enormous, the motives for  
2 financial gain were enormous, and indeed, there was  
3 never any criminal prosecution despite Mr. Sneddon's  
4 noble efforts to try and do one.

5 So there's no alleged victim with Brett  
6 Barnes. There's no alleged victim with Jordie  
7 Chandler. Then we come to Macaulay Culkin, who has  
8 repeatedly made statements that he's a friend of Mr.  
9 Jackson and has never been molested. But they want  
10 to bring in evidence that he was molested. And they  
11 want to bring in witnesses who also were part of the  
12 gang that sued Mr. Jackson, and lost, with findings  
13 that they had lied and with enormous damages awarded  
14 against them.

15 Now, the fourth alleged victim is Jason  
16 Francia. Jason Francia and his mother were  
17 interviewed by the sheriffs and a deposition of the  
18 mother was taken. Money was paid to settle that  
19 case, again because Mr. Jackson didn't want the  
20 press, didn't want his family going through it, and  
21 wanted to pursue his music career. There never was  
22 a criminal prosecution, even though the alleged  
23 victim was interviewed by the Los Angeles District  
24 Attorney and the Santa Barbara District Attorney  
25 together. And after their interview with Jason  
26 Francia - which was so wishy-washy about what  
27 happened, they never decided to pursue a criminal

28 case, because there wasn't one. We have that taped 3761

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1 interview - the mother, in a civil deposition in the  
2 Chandler litigation, began by saying she saw  
3 something and ended by saying she saw nothing. And  
4 indeed, stories were sold to tabloids, and money was  
5 paid to settle. He appears to be the only alleged  
6 victim they want to bring in.

7 Five, Wade Robeson, who tells us nothing  
8 ever happened to him. And they don't propose to  
9 bring him in as an alleged victim. They want to  
10 bring in the gang that basically has tried to accuse  
11 Mr. Jackson and get money from him for years,  
12 generally unsuccessfully, with the exception of  
13 Miss -- Mr. Francia's mother, and I've just talked  
14 about the problems in her sworn statement in  
15 discovery. The deposition is clear, she begins by  
16 saying, "I think I saw something." She ends by  
17 saying, "I didn't see anything."

18 Six, Jimmy Safechuck, who we are informed  
19 says nothing happened. They don't propose to call  
20 him as an alleged victim either, but they've got the  
21 same old gang again coming in to try and capitalize  
22 on the case, people who have been adjudged to be  
23 liars, and they are. People who asked for money  
24 from tabloids, who've asked for money from Mr.  
25 Jackson, et cetera.

26 Seven, Jonathan Spence, who we are informed  
27 says nothing happened and doesn't intend to come in

28 to support them at all. What do they want to do? 3762

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1 Bring in the same crew again. Third-party witnesses  
2 with an axe to grind, all of whom have wanted money  
3 in the past, none of whom can substantiate that  
4 anything happened because the alleged victim says  
5 nothing happened.

6 The bulk of their 1108 evidence, Your Honor,  
7 are third parties with axes to grind, and who have  
8 tried to get money, and gotten money, and had the  
9 problems I just identified. Where is the fairness  
10 in allowing that kind of testimony, that kind of  
11 evidence, when their underlying case looks so weak  
12 and so problematic?

13 I submit that the Court's concern for  
14 fairness has to be squarely addressed in this  
15 situation.

16 If the Court saw witnesses who the Court  
17 felt had complete integrity, had never lied, never  
18 told inconsistencies, never contradicted themselves,  
19 never contradicted each other, if there were  
20 forensics to support any of them, or eyewitnesses to  
21 support any of them, the Court might say to himself,  
22 you know, "I'm really not giving Mr. Jackson an  
23 unfair trial if I let some of this in." But it's  
24 just the opposite.

25 And I submit the weakness and the problems  
26 in their case have made the Court's decision much  
27 more difficult.

28 There is an issue, Your Honor, that Mr. 3763

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1 Sneddon has raised by proposing to call third-party  
2 witnesses without the alleged victims. And that has  
3 to do with what is an offense. Because the statute,  
4 1108, talks in terms of an offense. And every  
5 definition we can find of an offense talks in terms  
6 of a crime.

7 And I submit to the Court that if you look  
8 at what the legal definition of an offense is, or  
9 you look at what the legal definition of proving a  
10 crime is, how can you just allow a parade of  
11 third-party characters to come in without any  
12 alleged victim? How can you do that? Because even  
13 though they didn't charge it as a crime, they still  
14 have to prove an offense. And I submit this Court,  
15 in the interests of fairness, given the problems  
16 with their case, I think has a duty to say to  
17 itself, "Can they really prove some type of offense,  
18 or some type of uncharged crime, based on what  
19 they've told us?" And the Court knows they can't.  
20 They can't do it.

21 According to the statute, and I'm talking  
22 about 1108, sexual offense means a crime under the  
23 law of the state or of the United States. How do  
24 you prove a crime in these cases without any alleged  
25 victim? And maybe that explains why there never was  
26 a criminal prosecution in those cases, because the  
27 alleged victim say it didn't happen.

28 I submit, Your Honor, that Evidence Code 352 3764

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1 is extremely broad. Just because Mr. Sneddon  
2 parades a lot of cases where the introduction of  
3 1108 evidence has been upheld, doesn't mean there  
4 haven't been many instances where trial judges  
5 didn't use their discretion and either eliminate or  
6 whittle down what the prosecution would allow,  
7 because 352 is very, very clear. The Court must be  
8 concerned with all the issues raised in 352.  
9 And I would like to just briefly talk about  
10 the People v. Falsetta case, where the California  
11 Supreme Court upheld Evidence Code 1108. Here are  
12 the issues the Court said the trial judge must  
13 consider: Possible remoteness. Now, if you listen  
14 to Mr. Sneddon, the words "possible remoteness" mean  
15 nothing. They don't require any common sense  
16 approach. They don't require any common sense  
17 consideration. If you listen to Mr. Sneddon, he  
18 cites appellate cases which basically say possible  
19 remoteness just doesn't have any meaning, and that's  
20 not what the California Supreme Court said. The  
21 fact is, the issue of possible remoteness is in the  
22 discretion of you, Your Honor. And they can't  
23 eliminate it by citing what other Appellate Court  
24 decisions have done.  
25 Now, they're trying to bring in evidence of  
26 many, many years ago, '92, '93. This is the year  
27 2005. The statute is clear and the Supreme Court's

28 language is clear. If the Court thinks that these 3765

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1 alleged acts are too remote in time to really create  
2 real evidence of a pattern, and particularly if the  
3 Court says, "I think their case has enough problems,  
4 to bring in evidence of a remote nature is going to  
5 tip the scales away from their burden of proof, away  
6 from the presumption of innocence," I think the  
7 Court has every right and every duty to consider if  
8 these acts appear to be remote. And acts from the  
9 early '90s, uncharged, unproven, where everyone had  
10 their hand out for a buck, and where alleged victims  
11 aren't even willing to come forward and say anything  
12 happened, in fact, they're saying the opposite, I  
13 think all of that put together gives the Court a  
14 good basis to use its discretion in deciding whether  
15 or not these alleged acts are too remote in time.  
16 In *People v. Falsetta*, our Supreme Court  
17 then talked about the degree of certainty of its  
18 commission. How can they possibly stand before this  
19 Court and say, "We can establish a degree of  
20 certainty of the commission of these alleged  
21 offenses," when no alleged victim is even willing to  
22 come forward and say it happened? How do you  
23 possibly convince this Court that their claims are  
24 certain when there is no victim to say they're  
25 certain? I submit this Court must consider not only  
26 the possible remoteness in time, but the degree of  
27 certainty of its commission, particularly when they

28 have no alleged victims to come forward. 3766

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1 Then there's the issue of the likelihood of  
2 confusing, misleading or distracting the jurors from  
3 their main inquiry. Obviously the evidence they  
4 want to bring in has nothing directly to do with the  
5 Arvizo family, who, yes, Mr. Sneddon is correct, by  
6 the time the trial ends, their reputations and their  
7 fraudulent acts will be all over the courtroom. The  
8 best is yet to come, because the mother hasn't  
9 testified to her perjury in depositions, and her  
10 perjury on welfare applications, and her defrauding  
11 disability, and her defrauding welfare and not  
12 telling either one what they're doing, where she put  
13 the money, what she said to newspapers, what she  
14 said to certain celebrities, et cetera. The best is  
15 yet to come.

16 But nevertheless, why allow them to bring in  
17 disgruntled employees who lost their lawsuit and  
18 actually were found by a jury to have stolen from  
19 Mr. Jackson and found by a Judge that they must pay  
20 over a million in legal fees and costs? Why allow  
21 them to come in when there is no alleged victim to  
22 support anything they say? That would be highly  
23 prejudicial and highly improper, Your Honor. And to  
24 say it would prolong this trial is an  
25 understatement. Because every time one of these  
26 people comes in, we not only cross-examine them, we  
27 have to bring in our own witnesses to contradict

28 what they say. And let's look at the numbers. 3767

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1 One, Brett Barnes, who they say is not  
2 coming in. They want to bring in four witnesses.  
3 Two, Jordie Chandler, they want to bring in five  
4 witnesses. Three, Macaulay Culkin, they want to  
5 bring in four witnesses. Four, Jason Francia, they  
6 want to bring in himself and his mother. Five, Wade  
7 Robeson, they want to bring in five witnesses. Six,  
8 Jimmy Safechuck, they want to bring in one, two,  
9 three, four, five, six, seven -- eight witnesses.  
10 Seven, Jonathan Spence, they want to bring in three  
11 witnesses.  
12 How can they possibly suggest this is not  
13 going to prolong this trial interminably, because as  
14 the Court knows, under the law, the defense has a  
15 right to defend these allegations like it would any  
16 other case. And there's no reason to think these  
17 alleged offenses would not be defended as vigorously  
18 as the case before the Court is being defended,  
19 because you can't deny a criminally accused in a  
20 situation like this the right for a full-blown  
21 opposition and a full-blown defense to these types  
22 of allegations. So how Mr. Sneddon can look at the  
23 Court and say, "Oh, it will just take maybe 25  
24 percent of our time," is absurd. It's going to  
25 prolong this trial interminably because we have to  
26 defend our client's reputation and life in this very  
27 serious situation.

28 I've talked about prejudice, and prejudice 3768

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1 again is always defined in terms of emotion. And  
2 with a problematic case like this, the problem with  
3 the emotional effect of 1108 evidence is vastly  
4 increased. So I think the Court, again, has to come  
5 back to where we started. We start with the Court's  
6 concern for fairness and justice, particularly with  
7 respect to what their case looks like, and I submit  
8 it looks real bad and it's going to get worse.

9 The Supreme Court, in *People v. Falsetta*,

10 Your Honor talked about the Court considering less  
11 prejudicial alternatives to its outright admission.

12 Well, how to fashion a less prejudicial alternative  
13 obviously sounds problematic, because again, you  
14 can't hamstring the defense and not let them put on  
15 a full-blown defense to any allegation, no matter  
16 how flimsy it may seem to be. And when I say, "put  
17 on a defense," I do mean exactly that. Anything  
18 which impeaches the credibility is open season. If  
19 their character or reputation for trustworthiness,  
20 as it is in this courthouse, given the trial judge's  
21 rulings in that civil case is certainly fair game.  
22 Their financial motive is certainly fair game. Who  
23 they sold their stories to is fair game. You're  
24 talking about a full-blown trial where prior  
25 statements, prior testimony, prior transcripts are  
26 all open season for the defense to defend and  
27 protect itself.

28 I think the Court should never allow them to 3769

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1 bring in any of this evidence if they don't have an  
2 alleged victim to support it. And they just don't.  
3 They want to bring in people to say, "I saw  
4 something. I heard something." That simply is not  
5 acceptable. The potential prejudicial impact of  
6 that is far outweighed, far outweighs the benefits  
7 to our justice system, or any benefits the Court  
8 might think they're entitled to under the law,  
9 particularly in a weak case.

10 The Court talks about excluding irrelevant  
11 though inflammatory details surrounding the offense.  
12 Well, they've already -- Mr. Sneddon's argument has  
13 already suggested an avalanche of time-consuming  
14 litigation in this courtroom, because what he's  
15 saying is that if Mr. Jackson spends money on  
16 someone like a mother - and indeed, Mr. Chandler's  
17 mother flew to Europe with him, stayed in luxury  
18 hotels, Monte Carlo, France; big events; buying  
19 jewelry at Cartier, clothes, gifts - yes, indeed,  
20 Mr. Jackson has done that to certain families. He  
21 also has spent millions on children with AIDS. He  
22 has gone to hospitals all over the world and  
23 contributed money to sick children. He even has a  
24 habit of doing that before a concert. He will go to  
25 hospitals and meet injured and sick children. Yes,  
26 he spends lots of money on people.  
27 But they want to suggest that because he

28 spends money on somebody, that he somehow is doing 3770

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1 this with a malevolent criminal, molester's type of  
2 purpose. And we can drown them with examples of  
3 where Mr. Jackson has been so benevolent, so  
4 generous, so charitable, so giving for good causes,  
5 that it will make their theory look silly.  
6 The Court is already faced with a long  
7 trial, Your Honor. You really are. We're talking  
8 about probably months more of testimony. They  
9 haven't essentially, I think, from what I've heard,  
10 really gotten to the crux of their conspiracy  
11 allegations. They've alluded to it by having the  
12 Arvizo children testify that they were falsely  
13 imprisoned three times at Neverland and went back  
14 every time and then just went home. They've alluded  
15 to it by having the Arvizo children testify to what  
16 they knew about a proposed Brazil trip. And of  
17 course when nobody wanted to go, they went home.  
18 And they've already alluded to the Arvizo children  
19 being falsely imprisoned while they went to shopping  
20 centers, while they were at their home where  
21 Miss Arvizo's boyfriend was in the United States  
22 Army, while they had access to phones, while they  
23 went into federal agencies, while they went into a  
24 Brazilian consulate, and nobody ever says, "We have  
25 a problem," or calls the police, or does anything.  
26 Unless -- and I don't think --  
27 MR. SNEDDON: Excuse me, Counsel.

28 I'm going to object, Your Honor. This is 3771

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1 way off the issues that are before the Court in this  
2 particular hearing. Counsel is just making his  
3 final argument in front of the Court or the media.

4 THE COURT: All right. We'll take our  
5 morning break.

6 MR. MESEREAU: Okay.

7 (Recess taken.)

8 THE COURT: The objection was sustained. Go  
9 ahead.

10 MR. MESEREAU: I didn't hear you, Your  
11 Honor.

12 THE COURT: The objection was sustained. Go  
13 ahead.

14 MR. MESEREAU: Your Honor, I just have a few  
15 more points to make, and I will sit down.  
16 On the issue of undue consumption of time,  
17 I'd like to give the Court an example of what I'm  
18 talking about.

19 One of the plaintiffs in that civil case  
20 against Mr. Jackson where the plaintiffs lost and  
21 were awarded -- Mr. Jackson was awarded over a  
22 million dollars in legal fees and costs. But  
23 someone named Adrienne McManus, her deposition, I am  
24 informed, was taken eight times in that case.  
25 That's just one witness. And apparently in her  
26 trial transcripts, which we have, she is changing  
27 her testimony so often that she gets back and forth,

28 the testimony is prolonged, and the point I'm making 3772

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1 is that's just one witness. Eight depositions plus  
2 six months of trial testimony.

3 In the Jordie Chandler civil case, you had  
4 approximately five months of litigation before the  
5 case settled. You had numerous depositions and  
6 numerous pleadings in civil discovery that would be  
7 relevant and usable.

8 Now, I want to emphasize something we said  
9 in our papers. The testimony that the prosecutor  
10 wants to introduce concerns seven alleged victims  
11 with only one scheduled to testify. This testimony  
12 has been presented to two criminal grand juries in  
13 Los Angeles and Santa Barbara, neither of which ever  
14 returned an Indictment, and it's been rejected by  
15 one civil jury in the longest civil trial in the  
16 history of this courthouse.

17 Now, I know the prosecutor likes to say,  
18 "Well, those grand juries were purely investigative  
19 only." But obviously the purpose, from Mr.  
20 Sneddon's point of view, to the degree he controlled  
21 anything, was to see if they could bring criminal  
22 charges. And neither grand jury brought a criminal  
23 charge. And many of the witnesses who -- not  
24 "many," some of the witnesses who sued Mr. Jackson  
25 in the civil case also testified in these grand  
26 juries where no criminal charges were ever brought.  
27 Now, there is evidence -- excuse me, there

28 is case law to the effect that if one is acquitted 3773

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1 of a prior sexual offense, the evidence of the  
2 acquittal is admissible. I haven't seen anything  
3 about whether or not you can bring in the fact that  
4 a grand jury refused to indict, but certainly the  
5 fact that they went to two grand juries, there was  
6 no Indictment, they went to a civil jury, they lost,  
7 and the fact that they don't have alleged victims  
8 with the exception of one, plus you're talking about  
9 lengthy civil litigation, numerous depositions,  
10 numerous pleadings, numerous witnesses, plus the  
11 fact that the defendant has a right to defense as if  
12 it were a separately charged crime, and that means  
13 every type of defense imaginable, including  
14 rebutting the character nature of the evidence,  
15 which would mean opinion evidence, reputation  
16 evidence, and maybe specific instances of conduct,  
17 will unduly prolong the trial.

18 Finally, Your Honor, I will get back to  
19 where I started. Evidence Code Section 352 is  
20 sacrosanct in this courtroom. It is a fundamental  
21 component of the statute of 1108. It gives this  
22 Court enormous discretion to eliminate potential for  
23 prejudice, for bias, for a prolongation of the trial  
24 that would be unproductive and not in the public  
25 interest. It allows this Court enormous discretion  
26 to make sure issues aren't confused. It enables  
27 this Court enormous discretion to make sure that the

28 burden of proof is not fundamentally changed, that 3774

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1 the presumption of innocence remains intact, and  
2 that Mr. Jackson has a fair trial.

3 For the reasons I've articulated, we're  
4 asking that the prosecution's motion be denied in  
5 its entirety.

6 Thank you.

7 THE COURT: Counsel? Rebuttal?

8 MR. SNEDDON: Your Honor, I think that what  
9 we've heard here this morning is something akin to a

10 pattern that we've seen in this case, and that is  
11 reckless, exaggerated and misleading statements on  
12 the part of counsel with regard to what he believes  
13 the evidence and the testimony has produced so far  
14 in this case, and similar to ones he's made in  
15 opening statement, and I say this for this reason.

16 I'm not going to get into a contest of saying what  
17 we believe the evidence has shown or what the  
18 credibility of the witnesses are to this Court,  
19 because this Court's been here and you've seen it  
20 for yourself. But I am going to point out that  
21 since Mr. Mesereau stood up in his opening statement  
22 and made certain assertions to the jury in this  
23 case, we've blown massive holes in his theory of  
24 this case; the witnesses that he said was -- Janet  
25 was going to do that and Janet was going to do that.  
26 The fact of the matter is they're now  
27 shifting gears from the original hypothesis to say,

28 well, "She wasn't directly involved," like I said in 3775

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1 my opening statement, but now she's indirectly  
2 involved. Because we've proved otherwise.  
3 Similarly with the fingerprint evidence, you  
4 know, the fingerprints were on there because the  
5 kids touched it at the grand jury. Now we have the  
6 evidence from the people to show that those  
7 fingerprints were on magazines that weren't even in  
8 the grand jury, so they couldn't have been put on  
9 in the grand jury. Those magazines were at the  
10 Department of Justice being examined for trace  
11 evidence at the very time that the defense alleged  
12 somebody put their fingerprints on them.  
13 It's this kind of stuff that bothers me  
14 about Mr. Mesereau's statements to the Court. But  
15 rather than get in a point-by-point recitation, I'm  
16 going to rely, as I have before, and we will to the  
17 end of this case, that the Court can make up its own  
18 mind about what the Court feels that the evidence  
19 has produced in this case.  
20 I will only say this, and this will be the  
21 only thing I will say: Gavin Arvizo sat on that  
22 witness stand for almost three days. The first day  
23 he was on there for almost 40 minutes, and Mr.  
24 Mesereau was as abusive, was as mean-spirited, and  
25 was as obnoxious, frankly, as you could be to a  
26 child witness in a case. He spent the next two and  
27 a half days with binder after binder after binder

28 coming up here and asking things. That kid didn't 3776

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1 have a piece of paper in front of him. Not a single  
2 piece of paper. And I think it was a remarkable job  
3 that that child did. He was never once tripped up  
4 about the fundamental fact that the defendant in  
5 this case molested him.

6 We produced evidence that have blown holes  
7 in the defendant's case, from Palanker to Coleman,  
8 and we'll have some this afternoon when the Lopezes  
9 testify; that the defense has consistently  
10 exaggerated, and misled the jury in this case, and  
11 the Court.

12 With regard to the second part about the  
13 civil case, I think, again, this is a case where  
14 many of the things Mr. Mesereau said are completely  
15 misleading. The first thing to understand is that  
16 the issue in that case had nothing -- nothing, zero,  
17 zilch, nada, nothing to do with child molestation  
18 charges. That evidence was specifically excluded by  
19 the Court. The depositions that make reference to  
20 that information contain pages of probably less than  
21 100 pages in that deposition devoted to that part of  
22 it. The deposition mostly, and the trial, was  
23 entirely devoted to issues of harassment,  
24 intimidation, of illegal surveillance and monitoring  
25 of conversations. It had nothing to do with the  
26 facts of this case, as we're attempting to put  
27 before the jury the uncharged offenses. Nothing.

28 It lasted six months because the defendant 3777

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1 in that case persistently did not show up for long  
2 periods of time. And unlike this Court, which took  
3 a very firm rein on the defendant's inability to  
4 show up on time, that Court did not. And that's why  
5 that case lasted six months.

6 I think it's also important for this Court  
7 to know that the information that we're putting  
8 before this Court from the witnesses that are going  
9 to testify is information that was produced before  
10 that case was filed. And in fact, part of the  
11 intimidation and the harassment allegations involved  
12 in that lawsuit were the product of what happened  
13 when these people cooperated with the Santa Barbara  
14 District Attorney's Office and the Santa Barbara  
15 Grand Jury. But the fact of the matter is that the  
16 statements that were made, were made prior to the  
17 time of the lawsuit, and were made at or about the  
18 time of the investigation, and to law enforcement  
19 officers.

20 I think once and for all, I would like to --  
21 because I was the one involved in it, to put to rest  
22 the thing that Mr. Mesereau keeps saying over and  
23 over and over again, as if he says it enough times  
24 that somehow it's going to become the truth. It  
25 isn't the truth. It isn't factually correct. And  
26 it's simply false.

27 The grand juries -- there weren't two

28 separate grand juries. They were a grand jury 3778

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1 impaneled to hear some witnesses, for the  
2 convenience of those witnesses, in Los Angeles, and  
3 there were some witnesses that were heard in Santa  
4 Barbara County. None of those witnesses, nor were  
5 there any indications to either one of those grand  
6 juries that an Indictment was being sought. And  
7 never was there any request for an Indictment, or  
8 any charges, or any information in any smallest  
9 scintilla of a way presented to those grand juries.

10 The fact of the matter is, the grand juries  
11 never considered it simply because at that point in  
12 time, Jordan Chandler decided that he was not going  
13 to cooperate any further with the law enforcement  
14 agencies. And at that point, the grand jury, with  
15 regard to most of those witnesses, was completely  
16 shut down.

17 Which brings me to another one of counsel's  
18 points, that somehow we can't prove a case because  
19 we don't have a victim. Well, then I guess we would  
20 never be able to prove a murder case then, would we?  
21 Because we sure as heck can't put the victim on the  
22 stand. And yet on the one hand, the defense  
23 attorney tells me that one of the reasons we have a  
24 real problem here is because we have Gavin Arvizo on  
25 the stand and we have no corroboration and we have  
26 no eyewitnesses. Yet when we have an eyewitness,  
27 it's no good anymore and we can't call them.

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28 Well, you can't have it both ways. You 3779

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1 simply can't have it both ways. And you simply  
2 can't ignore the fact that the very things that the  
3 defense attorney's talking about in this case,  
4 there's no DNA and there's no eyewitnesses, are the  
5 very reasons that the legislature says specifically  
6 that 1108 evidence is admissible.

7 And what would you expect, nine months  
8 later? Of course, they never bother to say that.

9 Oh, there's no DNA. Nine months later? There's no

10 underpants found nine months later? The very  
11 underpants that the child left there because the  
12 defendant asked him to leave them there. Would you  
13 reasonably believe that nine months later that that  
14 stuff would be there? That they didn't wash the  
15 sheets for nine months on that bed? That's  
16 preposterous, and yet this is a reason why this  
17 evidence shouldn't come in.

18 Somehow we're to be penalized because  
19 victims don't want to show up. They don't want to  
20 go through what Gavin Arvizo went through. It takes  
21 a lot of courage to do what that young lad did. And  
22 I don't think -- as Urquiza said in his testimony,  
23 most children don't ever, in their entire life,  
24 disclose. And it's not a far stretch to believe  
25 that the reason they don't disclose is for the very  
26 reasons that we've seen in this courtroom; that no  
27 family and no child wants to go through what you

28 have to go through to be vindicated when you're 3780

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1 molested by an adult, by somebody you trust and  
2 somebody you loved at one point in time, as somebody  
3 you cared for. They put it behind themselves and  
4 they move on with their lives. Their lives aren't  
5 always the same, but that's what they do.

6 With regard to Mr. Jones, counsel is  
7 correct, Mr. Jones has now recanted what he said.  
8 However, Mr. Jones is in the unenviable position of  
9 the fact that we have two witnesses to whom he made  
10 the statement, and more importantly than that, we  
11 have his own writings where he describes the  
12 incident in detail. So it's true, I don't know what  
13 he's going to say when he takes the witness stand,  
14 but the fact of the matter is, he's pinned down  
15 pretty strongly to what he saw, who the  
16 circumstances were, and who the children and the  
17 family involved were.

18 I guess I want to just end by saying one  
19 other thing. I'm just not going to get involved in  
20 debating the issue of where we are in this case. I  
21 think as far as we're concerned, we're very pleased  
22 with where we are in this case, and pleased with the  
23 way the victims have held up and the family's held  
24 up.

25 And I know Mr. Mesereau has made a lot of  
26 allegations about what's going to come with Janet  
27 Arvizo when she takes the stand, but I hope he does

28 a better job than he has with the assertions he made 3781

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1 in his opening statement with regard to certain  
2 witnesses who claim she's running around with her  
3 hand out all the time, because not one single  
4 witness in this case has said that yet.  
5 But the fact of the matter is -- if you  
6 notice, Mr. Mesereau talked a lot about facts. But  
7 we're lawyers. And the fact of the matter is, when  
8 a Court in your position is asked to make decisions  
9 of law, decisions of admissibility, decisions on the  
10 application of laws of the State of California as  
11 enacted by the legislature, the fact of the matter  
12 is, that the primary thing for this Court to look at  
13 is what other courts have done, and even more  
14 important than that, what have the higher courts in  
15 this state done in cases of a similar or like  
16 nature?  
17 And the reason that I think that the defense  
18 position not only in their written briefs to this  
19 Court, but in Mr. Mesereau's recitation to you is  
20 empty, totally empty of any evaluation or analysis  
21 of the cases that we have cited to you probably 50  
22 cases, in our brief, is the fact that none of them  
23 support them, as a legal matter. None of them. And  
24 I have not heard one word in this an attempt to  
25 distinguish as a legal matter any of those cases  
26 that we cited to this Court.  
27 Why aren't any of those cases on remoteness

28 applicable here? Why aren't the issues on undue 3782

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1 consumption, why is the law on inflammatory, on  
2 prejudicial, why the cases we cited don't apply  
3 here?

4 And I say to the Court that in the  
5 decision-making position that you're in, this is  
6 more than simply a factual analysis, it's the  
7 applying of the facts that the Court knows them to  
8 the legal principles that have been enunciated by  
9 the state and the judiciary of the State of

10 California, that's the position that this Court is  
11 in. And unfortunately for the defense, they're in  
12 the position that they can't find a single case that  
13 supports their position, and that is the bottom line  
14 on everything that's gone on here this morning.

15 THE COURT: The arguments presented by both  
16 sides here were very good arguments, and they're  
17 arguments bringing up the law and the factors that  
18 I've been working with trying to reach a decision in  
19 this matter, which is of such great importance in  
20 this case for both sides.

21 The arguments didn't really bring up new  
22 material, but they definitely emphasized the  
23 concerns that I've had. You know, the weighing of  
24 the case as I've heard it, the remoteness of the  
25 alleged charges that would come under 1108.

26 But ultimately the decision I've reached,  
27 and which I'll now announce, is that I am going to

28 permit the testimony with regard to the sexual 3783

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1 offenses, and the alleged pattern of grooming  
2 activities, which is 1101 material, leading up to  
3 the sexual offenses against Jason Francia, Wade  
4 Robeson, Macaulay Culkin, Jordan Chandler, and Brett  
5 Barnes.

6 The witnesses that would be permitted to  
7 testify under this order would be Jason Francia,  
8 Blanca Francia, Charlie Michaels, Phillip LeMarque,  
9 Adrienne McManus, Ralph Chacon, June Chandler, Bob  
10 Jones, and Charmayne Sternberg. The evidence of  
11 alleged grooming of the other children will not be  
12 permitted. Evidence as to Jimmy Safechuck and  
13 Jonathan Spence will not be permitted.

14 The witnesses that would be precluded under  
15 this ruling would be Jolie Levine and Mary Coller.  
16 And there was only one part of Bob Jones' testimony  
17 that I would consider admissible, that relating to  
18 the one physical act that he observed. And some of  
19 the testimony of Blanca Francia and June Chandler  
20 and Charmayne Sternberg would not be admissible.

21 But I think if you can see the way I've  
22 divided that up, the grooming testimony is limited  
23 to those cases where there's actual physical sexual  
24 conduct that's been observed by somebody. That  
25 really is where I've drawn the line.

26 And just to give you an example, Mr. Jones'  
27 observations over a long period of time were

28 conclusionary and opinions that I wouldn't allow 3784

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1 based on what he didn't see.

2 All right. Now, the next item I want to  
3 take up is the settlement issues of whether or not  
4 the settlements are admissible. In the one case,  
5 the Chandler case, I'm going to rule that the  
6 evidence that there was a settlement may come in,  
7 the amount may not.

8 The second issue on the other child, I'm not  
9 sure -- Mr. Sneddon, in your papers, you related to  
10 that. In your points and authorities, you related  
11 to a claim that was settled. Was there a lawsuit or  
12 not a lawsuit in that case?

13 MR. SNEDDON: There was not a lawsuit. It  
14 was settled prior to the commencement of -- it was  
15 settled in lieu of filing of a civil complaint.

16 THE COURT: It was settled under threat of  
17 lawsuit type of settlement.

18 MR. SNEDDON: That's my understanding from  
19 talking to the lawyer, yes, sir. Lawyers.

20 THE COURT: Well, again, the amount won't be  
21 admissible except -- I say that it's not admissible  
22 by the prosecution to prove anything. The defense,  
23 if they want to raise the amount to prove  
24 something -- it's not the same side -- it's not two  
25 different sides of the same coin. It's in the  
26 Court's opinion, the amount doesn't prove anything.  
27 The settlement leaves inferences. For the defense,

28 though, the amount may prove something if they 3785

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1 choose to use it. So I'm making a ruling that  
2 applies one way to this side and the other way to  
3 this side. That doesn't mean you have to, it just  
4 means I'm not taking that away from you. I'm taking  
5 it away from them.

6 Now, having said what my intended ruling is,  
7 if anyone wants to address that, you may.

8 MR. MESEREAU: I think we're going to submit  
9 at this point, Your Honor.

10 THE COURT: All right. Thank you.

11 MR. MESEREAU: We may --

12 THE COURT: They can't hear you. They're all  
13 waving. Either they can't hear or they just want  
14 you to wave to them.

15 MR. MESEREAU: (Indicating).

16 I think we'll submit at this point, Your  
17 Honor. We may ask for leave to revisit the issue in  
18 the future.

19 THE COURT: Yes, you may. It probably won't  
20 come up for a while. But sort of a secondary issue  
21 here today, and -- okay, I don't think there's any  
22 other issue pending.

23 If we have nothing else, then we'll recess  
24 until 11:30 when the jurors will be here. We'll  
25 start as soon after 11:30 as we can, because we'll  
26 have already had our break.

27 (Recess taken.)

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1 REPORTER'S CERTIFICATE

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4 THE PEOPLE OF THE STATE )

5 OF CALIFORNIA, )

6 Plaintiff, )

7 -vs- ) No. 1133603

8 MICHAEL JOE JACKSON, )

9 Defendant. )

10

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12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 3728 through 3786

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 28, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 28, 2005.

24

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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. )

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 MONDAY, MARCH 28, 2005

20

21 8:30 A.M.

22

23 (PAGES 3788 THROUGH 3933)

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

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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 LOPEZ, George 3793-Z 3816-M 3847-Z

12 LOPEZ, Ann Serrano 3854-Z 3873-M 3898-Z

13 SPINNER, Robert 3901-N

14 (Re-called) (Reopened)

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28 3790

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1 E X H I B I T S

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3 FOR IN

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

4 622 Timeline (Sergeant Spinner) 3902 3913

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1 (The following proceedings were held in  
2 open court in the presence and hearing of the  
3 jury:)

4

5 THE COURT: Good morning.

6 THE JURY: (In unison) Good morning.

7 THE COURT: Counsel, you ready to proceed?

8 MR. ZONEN: Yes, Your Honor. We've asked

9 permission of the Court, by stipulation of both

10 sides, to take a witness out of order because of his  
11 schedule, if we could.

12 THE COURT: You may do that.

13 MR. ZONEN: We would call George Lopez to

14 the stand, please.

15 THE COURT: Come forward, please. When you  
16 get to the witness stand, remain standing.

17 Face the clerk here, and raise your right  
18 hand.

19

20 GEORGE LOPEZ

21 Having been sworn, testified as follows:

22

23 THE WITNESS: I do.

24 THE CLERK: Please be seated. State and  
25 spell your name for the record.

26 THE WITNESS: George Lopez; G-e-o-r-g-e,  
27 L-o-p-e-z.



1 MR. ZONEN: May I proceed?

2 THE COURT: You may.

3

4 DIRECT EXAMINATION

5 BY MR. ZONEN:

6 Q. Mr. Lopez, good morning.

7 A. Good morning.

8 Q. Sir, what is your current occupation?

9 A. I'm a comedian/actor.

10 Q. And do you have a television show at this  
11 time?

12 A. I do, named "George Lopez," on ABC.

13 Q. How long has that show been in progress?

14 A. The show has been on for four years.

15 Q. You're expected to go on for another four?

16 A. I'd like three more, and then to retire.

17 Q. Mr. Lopez, prior to going on television,  
18 what were you doing professionally?

19 A. I was a host of a radio program in Los  
20 Angeles, which was on 92.3, Mega 92.3, in the  
21 morning.

22 Q. For what period of time did you do that?

23 A. From November of '99 to August of 2000.

24 Q. Have you been a stand-up comic for some  
25 period of time?

26 A. 25 years.

27 Q. Are you familiar with The Laugh Factory in

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1 A. Yes, sir, I am.

2 Q. And where is The Laugh Factory?

3 A. It's located on Sunset Boulevard --

4 Q. Is that --

5 A. -- in Hollywood.

6 Q. Is that a nightclub that features comedians?

7 A. It is.

8 Q. And have you performed there?

9 A. Many times.

10 Q. Over what period of time have you performed

11 at The Laugh Factory?

12 A. I've probably performed there over the last

13 15 years.

14 Q. Do you know Jamie Masada?

15 A. Yes, sir, I do.

16 Q. What is Mr. Masada's association with The

17 Laugh Factory?

18 A. He's the owner of The Laugh Factory.

19 Q. Are there other Laugh Factories other than

20 the one on Sunset in Los Angeles?

21 A. I understand he opened one in New York.

22 Q. Have you ever appeared at the one in New

23 York?

24 A. I have not.

25 Q. What is the comedy camp that's associated

26 with The Laugh Factory? What's that?

27 A. Well, Jamie Masada, for years, has had a

28 program where they took underprivileged youth and 3794

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1 used comedians who worked the club as kind of  
2 mentors to the kids, and they would teach them  
3 stand-up, and also, you know, give them something to  
4 do, you know, with writing jokes, and performing,  
5 and stuff. And it was available during the day when  
6 nothing really was going on at The Laugh Factory.

7 Q. Do comedians periodically come by and assist  
8 with mentoring the children?

9 A. Yes, sir.

10 Q. What's the criteria for being a child  
11 attending that club?

12 A. I think Jamie puts it out, and all -- you  
13 don't really need to pay anything, it's just whether  
14 you're interested and have, you know, a way to get  
15 to The Laugh Factory, you can sign up.

16 Q. Do you know if these are children that are  
17 either at risk or disadvantaged in some fashion?

18 A. Most of the time they're at risk and  
19 underprivileged youth.

20 Q. Do you know how many years Mr. Masada has  
21 been running the comedy camp?

22 A. It seems, to me, he's been doing it for  
23 about seven or eight years.

24 Q. Does he periodically solicit the assistance  
25 of the comedians from the entertainment community?

26 A. Yes, sir.

27 Q. And are you one of them?

28 A. I am one of them. 3795

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1 Q. How many times -- and perhaps "times" is not  
2 quite the right way to ask it, but on which  
3 occasions have you assisted in working with the kids  
4 at comedy camp?

5 A. Over the years I've been asked several  
6 times. And I've only performed -- participated one  
7 time, and that was in the fall of '99.

8 Q. And by "one time," does that mean one single  
9 occasion, or one camp?

10 A. One camp.

11 Q. And that's for a period of time of how long,  
12 then?

13 A. Probably -- probably seven weeks.

14 Q. All right. Were you there for the bulk of  
15 those weeks?

16 A. Yes, sir.

17 Q. Do you know the Arvizo family?

18 A. I do.

19 Q. And do you know the children who are members  
20 of the Arvizo family?

21 A. Yes, I do.

22 Q. How do you know them?

23 A. Jamie asked me if I would participate in the  
24 camp; that there was a special Latino family that  
25 was underprivileged and they had requested me, and,  
26 you know, it was a sister and two brothers. And I  
27 said yes.

28 Q. What are their names? 3796

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1 A. Davellin, Gavin and Star Arvizo.

2 Q. And for what period of time did you work  
3 with those three kids?

4 A. I worked with them in the fall, probably  
5 from the middle of November through the end -- the  
6 middle of October till the end of November.

7 Q. What year was that; do you recall?

8 A. I think it was '99.

9 Q. Okay. How old were the kids, as best you  
10 recall?

11 A. I think Davellin was probably 15. Star was,

12 I think, nine or ten. And Gavin was 11.

13 Q. How did they do in the comedy camp?

14 A. They were pretty good. They were fearless.

15 So, you know, they talked about a lot of things that

16 I talked about, coming from an underprivileged

17 background. And, you know, they were fearless in

18 their performing. And they were kind of very sweet,

19 you know, and very kind.

20 Q. Did you work with them the entirety of that

21 time?

22 A. I did.

23 Q. Did you work with other kids, or just those

24 three?

25 A. I did not. Just those three.

26 Q. How many sessions do you think you had with

27 them?

28 A. You know, probably like seven. On Mondays, 3797

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1 from like 3:00 in the afternoon to about 5:00. Just  
2 two hours a week.

3 Q. Did you get to meet their mother?

4 A. I did.

5 Q. What is her name?

6 A. Her name is Janet.

7 Q. All right. Over the same period of time,  
8 did you see her?

9 A. You know, I only saw Janet during the period  
10 of time that we spent at The Laugh Factory.

11 Q. Was she there every time?

12 A. She was there.

13 Q. With the kids?

14 A. Every time.

15 Q. Do you know how they got there?

16 A. They took the bus.

17 Q. Did that impress you in some way?

18 A. Absolutely. I mean, you know, anybody that  
19 rides the bus in Los Angeles is a hero to me.

20 (Laughter.)

21 Q. Do you know from how far away they were  
22 coming?

23 A. They came from -- from East Los Angeles.

24 Q. To Hollywood; is that correct?

25 A. To Hollywood.

26 Q. During the period of time that you knew the  
27 Arvizos in association with The Laugh Factory, did

28 Janet Arvizo ever ask you for any assistance in any 3798

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1 way?

2 A. No.

3 Q. Did she ever ask you for money in any way?

4 A. No.

5 Q. This went on for a period of how many

6 months, to your knowledge?

7 A. Well, the whole time that I've known the

8 Arvizo family, it was probably eight months.

9 Q. Did you ever meet the kids' father during

10 the time that the kids were at the comedy camp?

11 A. Yes.

12 Q. And what is his name?

13 A. His name is David.

14 Q. At some point in time, did you become aware

15 of the fact that one of the children became ill,

16 seriously ill?

17 A. Yes.

18 Q. And how did that come about?

19 A. I got a phone call from Janet on my cell

20 phone, and, you know, as any mother would be,

21 completely distraught and was asking for help. And

22 I went to the hospital as soon as I found out that

23 Gavin was as sick as he was.

24 Q. The call then came from Janet?

25 A. Yes.

26 Q. And did you then go to the hospital?

27 A. I did.

28 Q. And what did you find when you got there? 3799

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1 A. Well, I found Gavin in dire condition. I  
2 mean, he was really just clinging to life. And  
3 that's when I met David. I had never seen him  
4 before until I showed up at the hospital.

5 Q. You didn't meet him during the time -- maybe  
6 I'm wrong about this. During the time that the kids  
7 were at the camp, at the comedy camp, that period of  
8 a couple months --

9 A. Right.

10 Q. -- did you meet David Arvizo?

11 A. I did not.

12 Q. You met him for the first time at the  
13 hospital?

14 A. Yes.

15 Q. Do you know approximately how long after the  
16 completion of the comedy camp it was that Gavin  
17 became ill?

18 A. Probably six weeks.

19 Q. When you went to the hospital, did you go by  
20 yourself or with somebody else?

21 A. I took my wife with me.

22 Q. And your wife's name is?

23 A. Ann.

24 Q. Did you return to the hospital on other  
25 occasions to visit with Gavin?

26 A. Yes, I did.

27 Q. Over what period of time do you believe you

28 went to the hospital? 3800

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1 A. Over the next four months.

2 Q. Did you ever visit him at other locations  
3 besides at the hospital?

4 A. Yes.

5 Q. Where did you visit him?

6 A. I visited him at his home in El Monte.

7 Q. All right. Do you know this to be his home  
8 or his grandparents' home?

9 A. I think it was his grandparents' home.

10 Q. Can you describe that home in El Monte for  
11 us?

12 A. It was a tract home in El Monte that -- it  
13 was one of those places where -- probably a  
14 two-bedroom house where the living and kitchen blend  
15 into the same room, and it probably had every stick  
16 of furniture they'd ever owned in it. And it had  
17 this one room that looked like a suite out of the  
18 Four Seasons.

19 Q. And what room was that?

20 A. That was Gavin's room.

21 Q. And the rest of the house?

22 A. Reminiscent of my own childhood. Very --  
23 you know, kind of plastic over the couch, and  
24 plastic runners on the floor, and birds, and dogs,  
25 and things like that.

26 Q. Modest?

27 A. Modest, to say the least.

28 Q. All right. And the one room that Gavin was 3801

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1 in, describe that for us, as best you can.

2 A. That room was prepared for Gavin because he  
3 was coming out of the hospital. I think Jamie had  
4 made it so that he could get a hospital bed. And it  
5 was -- the carpet was removed, and it was kind of  
6 like a cleanroom, like a place you'd go and it was  
7 sanitary. I think you even had to wear a robe to  
8 get in.

9 Q. For the entirety of that time that Gavin was  
10 ill that you were visiting him, did you have contact  
11 with his father?

12 A. I did.

13 Q. Did you have contact with his mother during  
14 that time?

15 A. I did not.

16 Q. Can you explain that? Do you know why?

17 A. You know, I don't know why. When Gavin was  
18 at The Laugh Factory, I dealt with the mother. And  
19 as soon as he got sick, the mother -- I never saw  
20 the mother again, and the only person I saw was the  
21 father.

22 Q. Did you ever speak with her on the  
23 telephone?

24 A. I did not.

25 Q. Did she ever contact you other than the  
26 initial phone call to tell you that Gavin was sick?

27 A. No.

28 Q. Did she ever ask you for money? 3802

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1 A. She did not.

2 Q. During your dealings with the father at that  
3 point, during the number of months that Gavin was  
4 ill, did he ever ask you for assistance in any way?

5 A. Yes.

6 Q. And when do you think was the first time, if  
7 you know?

8 A. Probably the first time was maybe February  
9 or March of 2000, approximately. Yeah, around  
10 there.

11 Q. But this was after Gavin became ill already?

12 A. Yes.

13 Q. And in what way did he ask for assistance?

14 A. Well, you know, he made it known that he  
15 was, you know, strapped for cash. And at that  
16 point, I would help him with whatever I had on me.  
17 You know, I'd give him, you know, \$40, \$50 if I had  
18 it. Whatever I had, you know.

19 I would bring things to the hospital to try  
20 to get Gavin to eat, you know, different kind of  
21 drinks and stuff, energy drinks and things like  
22 that.

23 Q. On the two occasions that you went to the  
24 house in El Monte, did you see Janet on either of  
25 those occasions?

26 A. I did not.

27 Q. Did you ask where she was?

28 A. You know, I did not. I just assumed that 3803

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1 she was working. I think she was a waitress, so  
2 when I didn't see her around Gavin, I just assumed  
3 that she was working.

4 Q. Did you ever ask David why Janet wasn't at  
5 the hospital?

6 A. I did not.

7 Q. During the period of time that Gavin was at  
8 the hospital, did you ever see Janet there?

9 A. I never saw her at the hospital.

10 Q. Okay. Now, the requests for money from  
11 David, was that a frequent request from him?

12 A. Yes.

13 Q. And did you give him money on a fairly  
14 regular basis?

15 A. Yes. Well, I wouldn't call it fairly  
16 regular. On occasion, I would say.

17 Q. How much would you give him?

18 A. You know, 40 here. Whatever I had. 30, 20.

19 I bought him a pair of shoes one time. Stuff like  
20 that. But never, you know, a check for \$10,000.

21 Q. Did you become aware of the fact that there  
22 was a fund-raiser, or maybe a couple fund-raisers,  
23 being organized at The Laugh Factory?

24 A. I was aware that there was a single  
25 fund-raiser.

26 Q. Is this a fund-raiser that you participated  
27 in?

28 A. You know, I -- I have to say I don't recall. 3804

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1 Q. Have you participated in fund-raisers at The  
2 Laugh Factory before?

3 A. Yes.

4 Q. Is that something that's frequent at that  
5 location?

6 A. Yes, it is.

7 Q. When fund-raisers are held at The Laugh  
8 Factory, or any of the other entertainment clubs in  
9 Los Angeles, is there a way in which they do that?

10 Is there kind of a traditional way that they raise  
11 money?

12 A. Well, the way they do it is Jamie would ask  
13 comedians to perform, and really that's your only  
14 obligation. You show up, you perform, and that's  
15 it. You're not -- really don't understand where the  
16 money goes to or any of that aspect of it. You're  
17 just there to really give your time. And then  
18 whatever they collect goes to whoever the  
19 beneficiary is of the fund-raiser.

20 Q. And by "what they collect," what is it that  
21 they're actually collecting?

22 A. The donation at the door, whatever the price  
23 of the ticket is.

24 Q. All right. And can that vary?

25 A. Oh, yeah.

26 Q. They can make it whatever they want?

27 A. Whatever it is.

28 Q. All right. Did David talk with you about 3805

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1 doing a fund-raiser on his behalf, or, rather, his  
2 child's behalf?

3 A. Yes.

4 Q. And what was the nature of that discussion?

5 What is it that he was asking you to do?

6 A. He was asking me to take care of a  
7 fund-raiser for Gavin, which I was more than happy  
8 to do. But then it became apparent to me that it  
9 wasn't about Gavin anymore. I was about how Gavin  
10 was and how he was feeling. I wasn't about money  
11 for Gavin. And it seemed to me at that time that  
12 David Arvizo was more interested in the money than  
13 he was about his son.

14 Q. All right. Was David working at the time,  
15 to your knowledge?

16 A. To my knowledge, I don't think he was  
17 working.

18 Q. Did he ever express to you any concerns  
19 about insurance, medical insurance?

20 A. I was always led to believe that they had no  
21 insurance whatsoever.

22 Q. All right. And that was from David?

23 A. Yes, sir.

24 Q. You never had a conversation with Janet  
25 about that subject?

26 A. Never.

27 Q. She never asked you for money?

28 A. Never did. 3806

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1 Q. All right. Did you come to an understanding  
2 with David that you would assist in some kind of a  
3 fund-raising effort?

4 A. Yes.

5 Q. And -- go ahead. That --

6 A. Okay. Thanks.

7 THE BAILIFF: You have to -- there you go.

8 THE WITNESS: (To the court reporter)

9 Hello.

10 Uh-huh.

11 Q. BY MR. ZONEN: What was the nature of the  
12 fund-raiser that you were going to do, and where?

13 A. I was going to do a fund-raiser and use the  
14 radio to raise money for Gavin and I was going to do  
15 it at The Ice House in Pasadena. And I was going to  
16 take care -- I was going to do it myself. I was  
17 going to plan the whole thing. And because of my  
18 schedule at the radio, we kind of got a little  
19 behind. And David became, you know, pretty  
20 aggressive about when it was going to happen and how  
21 much he thought we could raise and that kind of  
22 stuff.

23 Q. What do you mean by "pretty aggressive"?

24 A. A lot of phone calls. A lot of, "When's it  
25 going to happen?" And, I said, you know, "I'm  
26 working right now, man. We're trying to put it  
27 together. We're trying to get guys to perform."

28 And every call was about the same thing. 3807

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1 Q. Did he always inquire about the money that  
2 you would raise?

3 A. Yes, he did.

4 Q. Did he ask about specific amounts?

5 A. Yeah, he did. He asked about how much I  
6 thought we could raise.

7 Q. What did you tell him?

8 A. I told him that with those things, you never  
9 know. I mean, you never know how much you're going  
10 to raise. And really, when I do fund-raisers, it  
11 was never about, "How much money do you think you  
12 could raise?" It was about getting it off  
13 successfully. It wasn't about the bottom line. It  
14 was about doing a fund-raiser.

15 Q. Did he ever talk to you about doing a blood  
16 drive on behalf of his son?

17 A. Yes.

18 Q. And when was that going to be?

19 A. When -- when we -- when we found out Gavin  
20 was -- was ill and needed blood, my wife was  
21 instrumental in kind of arranging a smaller blood  
22 drive for Gavin.

23 Q. Okay. Was that something that involved  
24 David Arvizo --

25 A. I don't believe so.

26 Q. -- or did that involve your wife?

27 A. My wife.

28 Q. That wasn't requested by David? 3808

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1 A. It was not.

2 Q. Do you know if Janet Arvizo had anything to  
3 do with that?

4 A. I don't think so.

5 Q. Okay. Was that done at The Laugh Factory,  
6 or someplace else?

7 A. You know, I think it was done at the Red  
8 Cross. And you just say that the blood is going to  
9 a certain person. That's how they do it.

10 Q. Now, as the -- as time went on in  
11 preparation for this benefit at The Ice House, did  
12 you get more and more calls?

13 A. I did.

14 Q. More and more frequently?

15 A. I did. Yes.

16 Q. Was he asking pretty much the same thing?

17 A. Always.

18 Q. You've dealt with other benefits for other  
19 people in need, have you not?

20 A. Yes, I have.

21 Q. Was there something unique about David's  
22 behavior as compared to the others?

23 A. Yeah. I mean, the guy was like -- you know,  
24 he was -- it was more than one call, and it was  
25 always about the same thing. And he'd call while I  
26 was on the radio, while I was working. I couldn't  
27 talk to him. And after a while, it became -- I told

28 my wife that it was -- I told my wife Ann that it 3809

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1 was becoming apparent to me that it wasn't a good  
2 idea to have the fund-raiser. I -- I decided not to  
3 do it because I didn't like the way it was kind of  
4 turning out.

5 Q. Was there a particular event that occurred  
6 that put you over the top on this, made you decide  
7 not to do it?

8 A. Yes.

9 Q. What was that?

10 A. On May 5th of that year, I think 2000 --  
11 whatever the year -- 2000 -- I think, to the best of  
12 my knowledge, it's 2000. I was doing a show at the  
13 Acapulco Restaurant on May 5th from 5:00 to 10:00 in  
14 the morning in El Monte.

15 And at ten o'clock, he approached me outside  
16 of the restaurant, right in front of the restaurant,  
17 and asked me aggressively what was the deal with the  
18 fund-raiser.

19 And I told him that I didn't think it was  
20 going to happen. And he said, "What do you mean  
21 it's not going to happen?" And I said, "It doesn't  
22 look like it's going to happen." And then he -- his  
23 tone changed, and we had words, and that was the  
24 last time I ever saw him.

25 Q. Did he ever call you again thereafter?

26 A. No.

27 Q. All right. Was there an event that preceded

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28 that that affected your decision? 3810

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1 A. Yes. There was a situation with a wallet at  
2 my house.

3 Q. All right. Let's talk about this. Let's  
4 start with, first of all, did you ever take Mr.  
5 Arvizo and any of the kids, or Gavin, out shopping?

6 A. I did.

7 Q. All right. Did that begin with a visit to  
8 your home?

9 A. Yes, it did.

10 Q. And your home at that time was in what area?

11 A. In Sherman Oaks, California.

12 Q. Have you moved since then?

13 A. I have.

14 Q. Who came to your home with David Arvizo?

15 A. Gavin.

16 Q. Only Gavin?

17 A. I think Star might have come also.

18 Q. Okay. Do you recall if Davellin was there?

19 A. She was not there.

20 Q. Where did you go that day? What did you do?

21 A. Well, I picked them up in El Monte. I  
22 brought them to the house, and they played in the  
23 backyard for a little bit. And then I took them to  
24 Pizza Hut and I took them to the mall, and we walked  
25 around the mall a little bit. And then I brought  
26 them home, brought them to the house and they used  
27 the rest room, and then I drove them back to El

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1 Q. All right. Was Gavin still ill at this

2 time, or had he already gone into remission?

3 A. He had kind of gone into a little remission.

4 He was out of the hospital.

5 Q. But he was still going back and forth for

6 treatment?

7 A. Yes.

8 Q. How was his appearance at that time?

9 A. He was kind of energetic. I think he was --

10 you know, he was okay. He was walking around. He

11 wasn't, you know, as frail as he was when he was in

12 the hospital. He was doing okay.

13 Q. All right. And David was there; is that

14 right?

15 A. Yes.

16 Q. Did you notice anything unusual about their

17 behavior when they were in the stores?

18 A. Well, you know, like any kid in the mall,

19 you know, Gavin wanted everything, and David kind of

20 was off to the side, a little bit in the back, kind

21 of conspicuously out -- just out of the way. He

22 wasn't really with us. Kind of off to the side.

23 Q. Was Gavin asking for things?

24 A. Yes.

25 Q. And were you purchasing things for him?

26 A. Not everything, but a few things.

27 Q. Okay. Did David's behavior strike you as

28 unusual? 3812

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1 A. Yeah, I think so.

2 Q. In what way?

3 A. In that he was, you know, a little -- he was  
4 a little, you know, distant. He was distant but  
5 yet, you know, always a little tense, you know. He  
6 was a little -- not as relaxed as somebody would be,  
7 I guess.

8 Q. Did you feel he should have been a little  
9 more responsible as a parent while his child was  
10 asking you for things?

11 A. Yeah. He wasn't anywhere around.

12 Q. All right. Now, when you finally got back  
13 home, and David left, what did you notice in the  
14 house?

15 A. Well, I took them home, and I came back.  
16 And we had this room that really a lot of people  
17 have. It's very popular with Mexicans. We have a  
18 room that's no one's allowed to sit in, and  
19 everything stays -- everything stays put. And it  
20 was my -- our house, and even I wasn't allowed in  
21 that room.

22 So on the mantle, there's nothing on the  
23 fireplace mantle except this brown and black wallet.  
24 So as I walk in the house, your eyes immediately go  
25 to the mantle. It's the first thing you see.  
26 So I see this wallet, and I pick it up and  
27 it's not mine, and I open it up, and it has an I.D.,

28 Gavin's I.D. And I look, and there's a \$50 bill in 3813

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1 it, one \$50 bill.

2 So I go to the kitchen, where my wife is,

3 and I say, "Ann, Gavin left his wallet." So we call

4 Gavin, tell him that he left his wallet. They say

5 to drop it off at The Laugh Factory. We end up

6 sending it in the mail so that we can get rid of it.

7 And then sometime later, I understand

8 through Jamie Masada at The Laugh Factory, that

9 David Arvizo told Jamie Masada, who owns The Laugh

10 Factory, that I had taken \$300 out of Gavin's

11 wallet.

12 Q. Okay. Janet Arvizo never accused you --

13 A. No.

14 Q. -- of taking money from her son's wallet; is

15 that correct?

16 A. No. That's correct.

17 Q. Did you ever have a conversation with Janet

18 Arvizo about the wallet?

19 A. Never.

20 Q. All right. Did Janet Arvizo ever ask you

21 for money?

22 MR. MESEREAU: Objection; asked and answered

23 three times.

24 THE COURT: Sustained.

25 Q. BY MR. ZONEN: Following this event, the

26 conversation with Mr. Masada --

27 A. Yes.

28 Q. -- about the wallet, did you ever have 3814

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1 another conversation with David Arvizo?

2 A. I never did. Oh, after the wallet -- after  
3 the wallet, I had the exchange on May 5th.

4 Q. Now, when you had the exchange on May 5th,  
5 did you already know -- had you already had the  
6 conversation with Mr. Masada about the wallet?

7 A. My wife did.

8 Q. All right. Did you know about it at the  
9 time --

10 A. I did.

11 Q. -- of the conversation?

12 Was that one of the reasons that you no  
13 longer wished to be associated with them?

14 A. You know, that might have put me over the  
15 top.

16 Q. Were you involved in any fund-raisers for  
17 the Arvizo family at all?

18 A. You know, I can't recall.

19 Q. The one that was at The Laugh Factory, you  
20 don't have a recollection of having been there?

21 A. You know, I think early on I may have. But  
22 I really -- I can't remember. I think -- I think  
23 the one that Fritz Coleman hosted was the one that I  
24 performed at. But it was early on, so I really  
25 can't say.

26 Q. Other than the one that you organized, or  
27 began to organize at The Ice House, were you

28 organizing any other fund-raisers for the Arvizo 3815

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1 family?

2 A. No.

3 Q. Did you give any money to any other member  
4 of the family of the Arvizo family, other than David  
5 Arvizo?

6 A. I did not.

7 MR. MESEREAU: Objection; misstates the  
8 evidence.

9 THE COURT: Overruled. The answer was -- is  
10 in. Next question.

11 MR. ZONEN: Let me have just one moment,  
12 please.

13 Q. In Janet's telephone call to you when she  
14 announced that her child was ill, did she ask for  
15 your assistance at that time in that conversation?

16 A. You know, other than --

17 MR. MESEREAU: Objection; asked and  
18 answered.

19 THE COURT: Overruled.

20 You may answer.

21 THE WITNESS: Can I answer?

22 Q. BY MR. ZONEN: Yes.

23 A. Other than just finding out her son was  
24 gravely ill and didn't know what to do, that's what  
25 I got from the call.

26 MR. ZONEN: Thank you. I have no further  
27 questions.

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1 MR. MESEREAU: Yes, please, Your Honor.

2

3 CROSS-EXAMINATION

4 BY MR. MESEREAU:

5 Q. Good afternoon, Mr. Lopez.

6 A. Good afternoon.

7 Q. My name is Tom Mesereau, and I speak for

8 Michael Jackson.

9 We've never spoken before, right?

10 A. No, sir.

11 Q. Now, you interviewed with the Santa Barbara

12 Sheriffs on -- last Friday, correct?

13 A. I did.

14 Q. And who did you interview with?

15 A. I interviewed with the gentleman who was

16 just asking me the questions.

17 Q. That's Prosecutor Zonen?

18 A. Yes.

19 Q. Okay. And how long did you meet with

20 Prosecutor Zonen?

21 A. Me personally?

22 Q. Yes.

23 A. 25 minutes.

24 Q. And were you with your attorney?

25 A. I was.

26 Q. And your attorney is sitting here today,

27 right?

28 A. Yes. 3817

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1 Q. Mr. Blancarte?

2 A. Yes, sir.

3 Q. Okay. And you didn't want that interview to  
4 be tape-recorded, correct?

5 A. That's correct.

6 Q. So as far as you know, there was no tape-  
7 recording of what you said, right?

8 A. That's correct.

9 Q. Okay. Now, you told Prosecutor Zonen that  
10 you think you gave David Arvizo, in total, something  
11 less than \$400, right?

12 A. Right.

13 Q. And this had to do with moneys you gave him  
14 at the hospital primarily; is that correct?

15 A. Yes, sir.

16 Q. But you also told Prosecutor Zonen that you  
17 went shopping with David and Gavin, and Gavin kept  
18 asking you to buy him things in front of his father,  
19 correct?

20 A. Yes.

21 Q. And you found it kind of strange that the  
22 father never told him to stop doing that or spoke  
23 up, right?

24 A. Right.

25 Q. Okay. And did you buy him anything while  
26 you were shopping with Gavin and the father?

27 A. Yes.

28 Q. Okay. What did you buy Gavin? 3818

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1 A. You know, we took him to the Discovery Store  
2 and bought a few -- maybe like a race car track, and  
3 a ball that extends, and things like that.

4 Q. Okay. And how often would you buy -- well,  
5 let me rephrase that. How often did you go shopping  
6 with Gavin and David?

7 A. That was the only time.

8 Q. Just one time?

9 A. Just one time.

10 Q. And to your knowledge, how many times, if  
11 you remember, did Gavin ask you to buy something for  
12 him in front of his father?

13 A. Four.

14 Q. Okay. Did you buy whatever he wanted every  
15 time?

16 A. Well, I -- no.

17 Q. Okay. Okay. You bought some of the things  
18 he wanted and didn't buy other things he wanted?

19 A. Kind of expensive.

20 Q. Didn't you also bring gifts to the hospital  
21 when Gavin was ill?

22 A. Yes.

23 Q. And what gifts did you bring to the  
24 hospital?

25 A. You know, cast-iron cars and things like  
26 that.

27 Q. Okay. But the money -- the actual money you

28 donated was to David directly, correct? 3819

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1 A. Yes.

2 Q. Did you ever give Gavin anything directly?

3 A. No.

4 Q. Okay. Now, do you remember signing a  
5 declaration under penalty of perjury in this case on  
6 February 16th, 2005?

7 A. Um, yeah.

8 Q. Do you remember testifying under penalty --  
9 excuse me, not "testifying." Do you remember

10 swearing under penalty of perjury the following:

11 "I never provided money to the Arvizos or any of  
12 them"?

13 A. Yes.

14 Q. Well, that wasn't true, was it?

15 A. Well, at that time I couldn't recall.

16 Q. So on February 16th you couldn't recall,  
17 under penalty of perjury, if you gave any money to  
18 any of the Arvizos, correct?

19 A. That's right.

20 Q. But when you met with the prosecutor on  
21 Friday, you suddenly recalled that you gave David  
22 money on a periodic basis, right?

23 A. Right.

24 Q. You gave him, what, no more than 40 or 50  
25 bucks at a time, correct?

26 A. Right.

27 Q. And you thought the total was less than

28 \$400, right? 3820

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1 A. That's correct.

2 Q. Okay. Now, from what you said today --

3 correct me if I'm wrong, I think you said that you

4 were involved in planning for a fund-raiser, but

5 never went through with it?

6 A. That's correct.

7 Q. Okay. And you didn't go through with it

8 because David's activities offended you, correct?

9 A. That's correct.

10 Q. You thought he was leaning on you too hard

11 for money, right?

12 A. That's right.

13 Q. And was it your understanding that he was

14 married to Janet at that time?

15 A. Yes.

16 Q. Okay. Do you remember signing another

17 declaration under penalty of perjury in this case on

18 January 18th, 2005?

19 A. Yes.

20 Q. And you said, "I have not involved" -- "I

21 have not been involved, appeared or participated in

22 a fund-raiser for the minor and alleged victim in

23 the Michael Jackson case," right?

24 A. That's correct.

25 Q. That wasn't totally truthful, was it?

26 A. I could not recall.

27 Q. Okay. So on January 18th you couldn't

28 recall if you had any involvement in a fund-raiser, 3821

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1 but after you signed that declaration under penalty  
2 penalty of perjury, you remembered that you were  
3 involved in some of the early planning stages; is  
4 that correct?

5 A. Well, I signed the -- I couldn't recall, and  
6 then I, you know, remembered.

7 Q. Okay. Okay. So that's two declarations you  
8 signed under penalty of perjury in this case, right?

9 One on January 18th, and one on February 16th,  
10 right?

11 A. Yes.

12 Q. Okay. Okay. And after signing those  
13 declarations under penalty of perjury, you then  
14 remembered some other facts that, had you known at  
15 the time, you wouldn't have signed the declaration?

16 A. Well, at the time I couldn't recall.

17 Q. Okay. Okay. Let me go back to your  
18 discussion with Prosecutor Zonen. Okay?

19 Now, you indicated to him that you first met  
20 the Arvizo children at the comedy camp, right?

21 A. That's right.

22 Q. And that's where you met Janet, right?

23 A. That's right.

24 Q. And to your knowledge, Janet was always at  
25 comedy camp when you were there and saw the  
26 children, correct?

27 A. Correct.

28 Q. And you told Prosecutor Zonen that the 3822

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1 children would act on stage, correct?

2 A. That's right.

3 Q. And they would often act out little themes

4 about their poverty, correct?

5 A. That's right.

6 Q. They would talk about not having any money,

7 right?

8 A. Uh-huh.

9 Q. They would talk about roaches in their home,

10 correct?

11 A. Correct.

12 Q. And Janet would be sitting there, right?

13 A. Yes.

14 Q. You also told Prosecutor Zonen that Janet

15 told you a story about her children diving into a

16 fountain for pennies, correct?

17 A. That's correct.

18 Q. Now, after you had finished coaching the

19 kids at The Laugh Factory, did you ever see Janet

20 again --

21 A. I did not.

22 Q. -- to your knowledge?

23 A. No.

24 Q. Okay. So after you finished coaching the

25 kids at The Laugh Factory, there was a period of

26 time that elapsed between your coaching the kids,

27 and your hearing from Janet on the phone, correct?

28 A. That's correct. 3823

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1 Q. She called you up very upset that Gavin was  
2 seriously ill, right?

3 A. Right.

4 Q. And asked for assistance of some kind. I'm  
5 not saying it was financial assistance, but she asked  
6 you to help, right?

7 A. More emotional assistance.

8 Q. But she also asked you to go to the  
9 hospital, correct?

10 A. Right.

11 Q. You went to the hospital?

12 A. Right.

13 Q. You went there many times to help Gavin when  
14 he was ill?

15 A. Yes.

16 Q. When you first got to the hospital to see  
17 Gavin, you saw David; is that correct?

18 A. That's correct.

19 Q. And every time you went to the hospital to  
20 see Gavin, you never saw Janet, you always saw  
21 David, right?

22 A. Right.

23 Q. Okay. How many times do you think you  
24 visited Gavin at the hospital when you saw David?

25 A. Approximately ten.

26 Q. Okay. And these are the visits when you  
27 often brought gifts for Gavin, right?

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1 Q. You brought food, right?

2 A. Yes, sir.

3 Q. And what else did you bring him?

4 A. You know, the car occasionally. But other  
5 times I just -- I just went.

6 Q. Okay.

7 A. You know, I didn't bring something every  
8 time I went.

9 Q. Now, would David try to hit you up for money  
10 at the hospital?

11 A. What he would do is he would, you know,  
12 imply how bad off he was doing, you know.

13 Q. And that was pretty often, wasn't it?

14 A. Yes.

15 Q. Okay.

16 A. Every time I saw him.

17 Q. And you never discussed his financial  
18 situation with Janet, because she never was around,  
19 correct?

20 A. That's right.

21 Q. Now, after you had helped David with the  
22 cash you gave him, and after you had helped Gavin  
23 with the gifts you bought him, at some point Janet  
24 called you up and thanked you for what you'd done  
25 for the family, correct?

26 A. I don't recall getting a phone call from  
27 Janet.

28 Q. Didn't you tell the prosecutors that at some 3825

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1 point Janet called you up and thanked you for the  
2 nice things you'd done for the family?

3 A. I didn't speak to her.

4 Q. You never -- she never called you and said  
5 thank you?

6 A. She never called me.

7 Q. Okay. Okay. Now, you thought the family  
8 lived in El Monte, correct?

9 A. Yes.

10 Q. All right. And why did you think they lived  
11 in El Monte?

12 A. Because every time I went to see Gavin,  
13 that's where I went, to the -- to the grandparents'  
14 house.

15 Q. And why did you go to that location? Did  
16 someone tell you that's where they lived?

17 A. That's where David told me to go.

18 Q. And you assumed that that's where they  
19 lived, right?

20 A. Yeah.

21 Q. Okay. You never saw David at comedy camp,  
22 correct?

23 A. That's correct.

24 Q. All right. It was always Janet. But  
25 suddenly when he got ill, it seemed like it changed.

26 You always saw David and you never saw Janet?

27 A. That's right.

28 Q. Do you know what time of day you often went 3826

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1 to the hospital?

2 A. I usually went after I got off the radio,

3 probably around 11:00 or 12:00.

4 Q. Now, when you were coaching the kids at

5 comedy camp, you often took them to eat, right?

6 A. Yes, sir.

7 Q. And Janet would be with you, correct?

8 A. That's right.

9 Q. And you would treat the whole family to

10 food, right?

11 A. Well, snacks.

12 Q. Yeah. But, I mean, you did that quite often

13 for them, didn't you?

14 A. Yes.

15 Q. And they always appeared grateful for what

16 you had done?

17 A. Yes, sir.

18 Q. They seemed like a nice family, right?

19 A. Yes.

20 Q. Okay. All right. You participated in their

21 graduation ceremony at the comedy club, right?

22 A. Yes.

23 Q. And that was, what, about three or four

24 months in duration?

25 A. Yes.

26 Q. All right. And approximately what months

27 were they?

28 A. You know, I can't recall what month that 3827

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1 was.

2 Q. Okay. Now, between the comedy camp ending  
3 and Janet calling you to talk about the hospital,  
4 how much time elapsed, if you remember?

5 A. Six weeks.

6 Q. Okay. All right.

7 A. Over the holidays of that year. Probably  
8 six weeks.

9 Q. And Janet asked you to come and spend time  
10 with Gavin, right?

11 A. Well, he was -- you know, he was sick, so I  
12 went to see him.

13 Q. But she asked you to go spend time with him,  
14 right?

15 A. You know, I don't know if she particularly  
16 asked. But when -- you know, I was a fan of  
17 Gavin's. So when he was not well, I went to the  
18 hospital to see him as a friend.

19 Q. Would it refresh your recollection if I just  
20 show you a police report where it says you told the  
21 police "Janet asked George if he would come spend  
22 time with Gavin"?

23 A. It could.

24 MR. MESEREAU: May I approach, Your Honor?

25 THE COURT: Yes.

26 Q. BY MR. MESEREAU: Mr. Lopez, have you had a  
27 chance to see that report?

28 A. I saw it. 3828

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1 Q. Okay. Does it refresh your recollection

2 about what you told the sheriff?

3 A. It does not.

4 Q. It does not?

5 A. I mean, you know, if she asked me to -- you

6 know, here's the difference. I mean, did she

7 formally ask me? She said Gavin was ill and I went

8 to the hospital. There wasn't a formal invitation.

9 Q. Okay. But you didn't tell the sheriffs

10 that, "Janet asked George if he would come spend

11 time with Gavin"?

12 A. You have to repeat the question.

13 Q. Yeah, okay. I'm asking you if, in your

14 interview last Friday, you told the sheriffs Janet

15 asked you if you would come spend time with Gavin in

16 the hospital?

17 A. Well, in a sense, that's what that is.

18 That's what that phone call was.

19 Q. Okay. Okay. Now, you began visiting Gavin

20 with your wife, correct?

21 A. My wife went the first time, and on a couple

22 other occasions maybe. But for the most part, I

23 would go right after I got off the radio, so I would

24 go by myself. I would try to sneak away to see

25 Gavin as much as I could, when I could.

26 Q. Right. And that's when you brought him

27 gifts and snacks?

28 A. Well, not every time, but on occasion. 3829

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1 Q. Okay. Did you find it strange that you  
2 never saw Janet at the hospital?

3 A. Well, you know, I -- I mean, I knew she was  
4 a waitress, so I thought -- I really thought she was  
5 working. I'd just say that I never really -- I  
6 wasn't there all the time, so I didn't know whether  
7 she was there when I wasn't there. But every time I  
8 went, she wasn't there, so I just figured that she  
9 was always working.

10 Q. You really don't know if she was working, do  
11 you?

12 A. I don't know.

13 Q. Okay. Okay. And you may have thought she  
14 was a waitress, but you really don't know where she  
15 was waiting tables, right?

16 A. She never served me.

17 Q. Okay. And never told you where she was  
18 working, right?

19 A. No.

20 Q. And David never told you where she was  
21 working, right?

22 A. Never did.

23 Q. Okay. Okay. How aggressive was David in  
24 asking for money?

25 A. You know, it was -- it was pretty  
26 aggressive. I mean -- I mean, when you're two guys  
27 talking, and the subject always comes up, it -- you

28 know, you kind of get turned off to it. Every time 3830

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1 we spoke, it was always about -- really about money.

2 Q. And he always said he had no way to pay the

3 family's bills, right?

4 A. That's right.

5 Q. And you gave him little amounts that you had

6 in your pocket at the time?

7 A. Yeah, I only had little amounts at the time.

8 Q. Okay. And you -- and you told the sheriffs

9 you never turned down -- David never turned down any

10 gesture of kindness you offered him?

11 A. Never.

12 Q. He always wanted money, didn't he?

13 A. He did.

14 Q. Okay. Okay. You thought the largest money

15 you gave him at one point was 80 bucks?

16 A. Probably around there, yeah.

17 Q. Okay. All right.

18 A. I literally would give the guy everything I

19 had in my wallet and just figured I'd get more

20 later.

21 Q. Now, did he ever tell you that he was giving

22 any of his money to Janet?

23 A. Never.

24 Q. Okay. You don't know one way or the other,

25 do you?

26 A. I don't.

27 Q. Okay. Now, do you know Louise Palanker?

28 A. You know, I don't know Louise Palanker. 3831

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1 Q. Ever heard her name?

2 A. Yeah, I heard her name here.

3 Q. Okay.

4 A. And on E!

5 Q. Okay. You don't know anything about her --

6 you don't know anything about her giving 10,000

7 bucks to Janet, do you?

8 A. I don't.

9 Q. You don't know anything about her giving

10 10,000 bucks to David, do you?

11 A. No, I don't.

12 Q. Did you ever hear about that?

13 A. You know, I think it's odd when a comedian

14 has \$10,000 period, you know, so I never --

15 (Laughter.)

16 Q. All right. Okay. Now, at some point David

17 started bragging to you about Neverland Ranch,

18 didn't he?

19 A. Yes.

20 Q. And you thought his attitude changed,

21 correct?

22 A. Yes.

23 Q. You thought he got kind of - what's the

24 word? - snooty or snobby? Would that be the right

25 word?

26 A. Enamored.

27 Q. Enamored. That's how you described David's

28 attitude after he told you the family had gone to 3832

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1 Neverland Ranch?

2 A. Yes.

3 Q. And he told you that Michael Jackson had

4 given a truck to his family, correct?

5 A. That's correct.

6 Q. Okay. You described him to the sheriffs as

7 "smitten" by his new-found association with Michael

8 Jackson, correct?

9 A. Yes.

10 Q. Now, you learned at some point that Michael

11 Jackson was calling Gavin at the hospital, right?

12 A. Yes.

13 Q. Okay. And someone told you he was calling

14 him at -- sometimes late at night and having long

15 chats with Gavin, correct?

16 A. Right.

17 Q. Did David tell you that?

18 A. I think maybe -- yeah, I think maybe David

19 did.

20 Q. All right.

21 A. In the room, in the hospital room.

22 Q. At some point, you thought David was

23 extremely engrossed with money and possessions,

24 true?

25 A. That's correct.

26 Q. Because when you visited them in El Monte,

27 he showed off that room with the DVD and all the

28 rest, correct? 3833

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1 A. That's right.

2 Q. That's the room that you described as like  
3 the Four Seasons, right?

4 A. Right.

5 Q. Did you ever know who paid to renovate that  
6 room?

7 A. No.

8 Q. Okay. You don't know if the person who  
9 renovated that room was paid or not, correct?

10 A. I did not know that.

11 Q. Okay. Did David ever talk about how that  
12 room became so nice?

13 A. No. My assumption was that it was Jamie  
14 Masada that had arranged that.

15 Q. But you don't know for sure?

16 A. But I don't know for sure.

17 Q. And if Jamie arranged it through Louise  
18 Palanker, you don't know about that?

19 A. I don't know about that.

20 Q. And if the contractor who did it was never  
21 paid, you don't know about that either?

22 MR. ZONEN: I'm going to object as  
23 speculative and testimony. The witness has  
24 repeatedly said he doesn't know.

25 THE COURT: Sustained.

26 MR. MESEREAU: Okay.

27 Q. Now, you told the sheriffs, Mr. Lopez, you

28 thought David Arvizo was particularly enamored with 3834

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1 the big-screen television and the Nintendo, correct?

2 A. Yes.

3 Q. You said you noticed this to a small degree

4 with the children as well, correct?

5 A. Yes.

6 Q. But not to the extent that David seemed like

7 he wanted to impress you with his new possessions?

8 A. Very pleased.

9 Q. Okay. You told the sheriff that David --

10 everything about David seemed to be about money,

11 right?

12 A. Yes.

13 Q. Okay. You went to the El Monte address

14 about two times, correct?

15 A. That's right.

16 Q. Okay. And David was there both times,

17 right?

18 A. Yes.

19 Q. Who else was there during those visits?

20 A. The grandparents.

21 Q. Okay. Did you ever see the children there?

22 A. I did.

23 Q. Okay. Were all three children there, to

24 your knowledge, on both visits?

25 A. You know, I can't recall.

26 Q. Okay.

27 A. But I think Star was always kind of around

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1 Q. Okay. Did you see Davellin?

2 A. On occasion, but I don't remember her being  
3 there.

4 Q. Now, who arranged your visits to the El  
5 Monte address?

6 A. I would arrange them with David.

7 Q. Okay. Okay. When you went shopping with  
8 David and Gavin, were Star or Davellin present?

9 A. I think Star was.

10 Q. Okay. But you seemed, in your interview  
11 with the sheriffs, to particularly recall Gavin  
12 asking you to buy things for him, right?

13 A. Yes.

14 Q. You never mentioned to the sheriffs that  
15 Star was asking you to buy things for him, correct?

16 A. No.

17 Q. And you thought it rather odd the father  
18 never just said a word as the son looked at you and  
19 said, "Buy this for me"?

20 A. It would have been nice if he stepped in.

21 Q. But he never did, right?

22 A. Never did.

23 Q. Did you ever talk to him about it?

24 A. No.

25 Q. Ever ask him, "Why are you letting your son  
26 just keeping leaning on me like this"?

27 A. He's not my kid.

28 Q. Okay. Okay. Now, would Gavin just 3836

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1 typically come up to you and point at something and

2 say, "Would you buy that for me?"

3 MR. ZONEN: I'll object to "typically."

4 Talking about one event.

5 MR. MESEREAU: I'll rephrase it.

6 No, it's not -- Your Honor, we're not

7 talking about one event. It's one day.

8 MR. ZONEN: Then it's vague for exactly that

9 reason.

10 Q. BY MR. MESEREAU: You went shopping with him

11 on one particular day, right?

12 A. Right.

13 Q. You went to a number of stores, correct?

14 A. Yes.

15 Q. Gavin was with you, right?

16 A. Right.

17 Q. David was with you?

18 A. Right.

19 Q. And you think Star was with you?

20 A. I can't remember, but I think.

21 Q. And in various stores, Gavin would point to

22 items and ask you to buy them for him?

23 A. You know how a kid does in a store, "Can you

24 buy me this?" And --

25 Q. Yeah.

26 A. -- "Oh, I really" -- it's the old, you know,

27 "Oh, I really like this."

28 Q. Well, but he wasn't looking at his father 3837

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1 and saying, "I really like this."

2 A. No.

3 Q. He was always looking at you, with the

4 father standing right there, correct?

5 A. Yes.

6 Q. Okay. Okay. And you told the sheriffs,

7 "David seemed to intentionally stand back and make

8 no effort to rein in Gavin's requests"?

9 A. That's correct.

10 Q. You thought that was strange, right?

11 A. Seemed odd.

12 Q. Did you take them to lunch that day?

13 A. Yes, sir.

14 Q. Okay. And did you take them to lunch on any

15 other days; do you know?

16 A. No.

17 Q. All right. Now, where did you see the

18 wallet?

19 A. The wallet was on the fireplace mantle of my

20 house. It was the only thing on the mantle.

21 Q. And when you saw it, how did you think it

22 got there?

23 A. You know, it never occurred to me how it got

24 there, because, you know, they -- nobody played in

25 that room, so it was kind of odd that a wallet would

26 end up on that -- on that mantle.

27 Q. And how high up was the mantle?

28 A. You know, shoulder height. 3838

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1 Q. Taller than Gavin, wasn't it?

2 A. At that time, maybe.

3 Q. So, did it seem peculiar to you that

4 suddenly a wallet's just lying there?

5 A. Well, being that in that room, really

6 nothing's supposed to be in there, yeah.

7 Q. Had you seen Gavin or David in that room?

8 A. No.

9 Q. And how long had they been at your house?

10 A. Well, the beginning -- when I first dropped

11 them off, they played in the backyard probably about

12 45 minutes to an hour. And then we went to the mall

13 and then came back. They just really came back to

14 use the rest room, because the drive was a little

15 far, so not much time.

16 Q. And you testified, I believe, there was a

17 \$50 bill in Gavin's wallet?

18 A. Yes, sir.

19 Q. And there was also an I.D. card, correct?

20 A. A school I.D.

21 Q. That was for Gavin, right?

22 A. Yes.

23 Q. And you told the sheriffs you thought it was

24 odd that Gavin would have \$50 in a wallet, right?

25 A. Yeah.

26 Q. Not to mention the wallet sitting up on the

27 mantle in that room?

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1 Q. Okay. And what's the first thing you did  
2 when you opened the wallet, saw that Gavin's name  
3 was on an I.D. card, and there's a \$50 bill in it?

4 What's the first thing you did?

5 A. The first thing I did was show it to my  
6 wife, who was in the kitchen.

7 Q. And then what did you do?

8 A. Then we called the Arvizo house and made  
9 arrangements to get the wallet back to them.

10 Q. And how did you get it back to them?

11 A. We sent it.

12 Q. Did you call the Arvizo home?

13 A. Yes.

14 Q. Who did you talk to?

15 A. My wife called, and I think she spoke to  
16 David.

17 Q. Okay. David said, "Just send it to the  
18 house"?

19 A. Yeah.

20 Q. Okay.

21 A. Well, he wanted us to take it to The Laugh  
22 Factory, but we ended up sending it to the house.

23 Q. Who first talked to you about planning the  
24 fund-raiser for Gavin?

25 A. You know, at that time I was having  
26 conversations with David, so -- and being in the  
27 hospital, so I think it was between David and I and

28 my wife. 3840

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1 Q. Okay. And you told the sheriffs David was  
2 particularly persistent and aggressive about how  
3 much money they were going to make, right?

4 A. Yes, sir.

5 Q. And you are still never seeing Janet during  
6 any of this, right?

7 A. No. That's correct.

8 Q. Never see her at the hospital, and she never  
9 goes to your house, right?

10 A. That's right.

11 Q. At some point, your wife confronted David  
12 about his constant requests for money, right?

13 A. That's right.

14 Q. Okay. And he got kind of nasty, didn't he?

15 A. He did.

16 Q. Okay. Were you there?

17 A. I was not there.

18 Q. Okay. But you heard about it?

19 A. I did.

20 Q. And that sort of started a downhill slide in  
21 your relationship with the whole family, right?

22 A. Yes, sir.

23 Q. At some point you cut off all relationships  
24 with that family, correct?

25 A. That's true.

26 Q. And you called off any work that you were  
27 doing on the benefit?

28 A. That's right. 3841

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1 Q. All right. And I think you said David tried  
2 to repeatedly call you at the radio station, right?

3 A. That's correct.

4 Q. Did you take his calls?

5 A. I did not.

6 Q. Okay. Did you tell anybody to tell them,  
7 "Stop the calls"?

8 A. Well, he called usually when we were on the  
9 air, but I wasn't going to take the call after his  
10 conversation with my wife.

11 Q. Okay. Now, at some point you told David  
12 there's not going to be any benefit, right?

13 A. That's right.

14 Q. And actually, that wasn't really correct,  
15 was it? You just weren't going to work on it  
16 anymore?

17 A. I wasn't going to do the one that I was  
18 planning.

19 Q. There was some others being planned you knew  
20 about?

21 A. I think so, yeah.

22 Q. How did you know about them? Through Jamie?

23 A. Through Jamie.

24 Q. Did Jamie seem to be your main source of  
25 your information about the Arvizo family, other than  
26 what you saw directly?

27 A. Yeah, that's how I met them. And pretty

28 much, you know, everything was kind of going through 3842

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1 Jamie. He was kind of the guy that everybody talked  
2 to.

3 Q. Okay. David tried to make you feel guilty  
4 about not helping Gavin at that point, didn't he?

5 A. Um, yes. At the point of May 5th, he did.

6 Q. And you told him basically he's an  
7 extortionist, correct?

8 A. I did.

9 Q. That wasn't a pleasant conversation, was it?

10 A. It was not.

11 Q. Okay.

12 A. And I don't use big words like that, you  
13 know.

14 (Laughter.)

15 Q. All right. Now, after you called him an  
16 extortionist, what happened next?

17 A. You know, it was pretty -- it was a pretty  
18 heated exchange. And after that, he left. And, you  
19 know, I got -- I got to be honest with you, after  
20 that, I had no conversations with Gavin or any of  
21 the Arvizos after May 5th of that day.

22 Q. You then learned at some point from Jamie  
23 Masada that Jamie had given David some money  
24 supposedly to make up for what he claimed was lost  
25 from the son's wallet?

26 A. That's right.

27 Q. And the implication was that you had taken

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1 A. That I had taken it.

2 Q. And you never took a thing, right?

3 A. I did not.

4 Q. Were you upset with Masada that he would

5 even pay him something?

6 A. I was. Yeah, I was.

7 Q. Did you complain to Masada?

8 A. I did. I said, "How could you do that?"

9 Q. Okay. And he basically said to you, he

10 wanted to make peace, or words to that effect?

11 A. Words to that effect.

12 Q. Okay. Okay. Now, are you certain you never

13 performed with Fritz Coleman at a benefit for Gavin?

14 A. You know, I'm not certain.

15 Q. So you may have done that?

16 A. I may have.

17 Q. Okay. Okay. Now, did anyone ever mention

18 to you anything about a J.C. Penney lawsuit while

19 you knew the Arvizos?

20 A. You know, I did not know about that until --

21 until after my -- all ties were broken.

22 Q. Okay. And how did you learn about the J.C.

23 Penney lawsuit?

24 A. I think I learned about that from --

25 MR. ZONEN: I'm going to object as

26 irrelevant and hearsay.

27 THE COURT: Sustained.

28 Q. BY MR. MESEREAU: Okay. Do you recall, 3844

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1 sometime after your relationship soured with the

2 Arvizos, Janet gave you a key chain?

3 A. She did.

4 Q. And approximately when was that?

5 A. That might have been maybe six months after

6 our -- my dealings with David.

7 Q. Okay. So six months after you pretty much

8 severed your ties with the family?

9 A. Yeah, a key chain showed up.

10 Q. She approached you, correct?

11 A. You know, I can't recall how I got it.

12 Q. She gave you a key chain as a way of

13 thanking you for what you'd done for the family,

14 correct?

15 A. That's correct.

16 Q. Do you know where that happened?

17 A. You know, I don't. I can't remember.

18 Q. Okay. Okay. Do you know approximately when

19 it was?

20 A. No.

21 Q. Okay. Do you remember speaking to her when

22 she gave you the key chain?

23 A. You know, I can't recall.

24 Q. Okay. But you told the sheriffs, in your

25 mind, it was her way of thanking you for what you

26 had done for the family. You told them that in your

27 interview, correct?

28 A. I think so. 3845

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1 Q. Okay. Now, obviously it goes without saying  
2 if Janet and David were discussing ways to get money  
3 from people, you weren't there?

4 MR. ZONEN: I'll object as speculative.

5 THE COURT: Sustained.

6 Q. BY MR. MESEREAU: You spent very little time  
7 in their home, correct?

8 A. That's correct.

9 Q. And you said they were from East L.A.

10 Did you mean El Monte?

11 A. You know, I only know El Monte. So if I  
12 said "East L.A.," I meant El Monte.

13 Q. When you say "El Monte," you don't mean East  
14 L.A. is El Monte, do you?

15 A. Well, you know, any Chicano knows better  
16 than that.

17 Q. Well, let me ask you this: You said --

18 A. That's Chicano 101. East L.A. is not El  
19 Monte.

20 (Laughter.)

21 Q. Right. Well, let me ask you this: You said  
22 that when you first started at the comedy club, they  
23 were taking a bus from East L.A., right?

24 A. Right.

25 Q. But you said when you visited their home,  
26 you went to El Monte.

27 A. Yeah.

28 Q. So you never really visited a home for the 3846

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1 Arvizos in East L.A., correct?

2 A. I did not.

3 Q. But they told you they were from East L.A.,

4 true?

5 A. Yeah. You know, I never really thought

6 about their geographic location whatsoever.

7 Q. Okay. So did it ever occur to you that

8 there may be two residences?

9 A. No.

10 Q. Well, if they said they were taking a bus

11 from East L.A., but they took you to their home in

12 El Monte, doesn't that suggest two residences?

13 A. I never thought about it.

14 Q. Well, as you think about it now --

15 A. I was way off. But once they got on the

16 bus, my contact with them ended.

17 MR. MESEREAU: Okay. Okay. No further

18 questions. Thank you.

19 THE WITNESS: All right.

20

21 REDIRECT EXAMINATION

22 BY MR. ZONEN:

23 Q. Mr. Lopez, you understood that the El Monte

24 home was the home that had the cleanroom for Gavin

25 in it; is that correct?

26 A. That's correct.

27 Q. And that was his grandmother's home, the

28 grandparents' home? 3847

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1 A. Right.

2 Q. Did you ever ask how many people actually  
3 lived in that residence?

4 A. I never asked, but it just looked like maybe  
5 five.

6 Q. And it had been sometime earlier when you  
7 were told that they were coming from East L.A. was  
8 in conjunction with the kids attending the comedy  
9 camp; is that right?

10 A. Right.

11 Q. Did you have any reason to believe that  
12 wasn't true?

13 A. No.

14 Q. Did anybody ever take you to an address --  
15 a studio apartment on Soto Street for purposes of  
16 showing you how impoverished they were?

17 A. No.

18 Q. Did anybody say anything about a residence  
19 on Soto Street for purposes of showing you how  
20 impoverished they were?

21 A. No.

22 Q. Now, the story about the kids diving into  
23 the fountain, was that a story that was given to you  
24 by Janet?

25 A. Yes.

26 Q. And was that in the presence of her  
27 children?

28 A. They might have been in the room, around the 3848

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1 room, yeah. It was kind of more of a joke than an  
2 actual admonishment.

3 Q. The kids were laughing at the story, weren't  
4 they?

5 A. Yeah.

6 Q. What was it that she said about it?

7 A. She said she had taken the kids to the mall,  
8 and in the center of the mall there was a fountain  
9 that people would throw coins in. And she had  
10 turned her back, and when she turned back, all three  
11 kids were in the water getting coins.

12 Q. What did she do?

13 A. She told them to get out. And, you know, at  
14 that time everybody was pointing at the kids, like,  
15 "Whose kids are these?" And she told the kids to  
16 put the money back.

17 Q. And they did so?

18 A. They did.

19 Q. Did David Arvizo ever explain to you why  
20 Janet wasn't in the home (sic)?

21 A. No.

22 Q. Did he ever talk to you about her having  
23 difficulty with dealing with things?

24 MR. MESEREAU: Objection. Leading; vague.

25 THE COURT: Sustained; leading.

26 Q. BY MR. ZONEN: Were you concerned at the --  
27 what you were finding at the hospital when you found

28 out that Gavin had been visiting with Michael 3849

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1 Jackson at his ranch?

2 A. Well, when I went to see Gavin during the  
3 day, he was, you know, asleep. He was, you know,  
4 tired, really tired and stuff.

5 Q. That was in conjunction with David telling  
6 you he was on the phone for hours at a time in the  
7 middle of the night?

8 A. Correct.

9 MR. MESEREAU: Objection. Leading; move to  
10 strike.

11 THE COURT: Overruled.

12 Q. BY MR. ZONEN: The key chain that Janet gave  
13 you, what did she tell you about that key chain?

14 A. You know, I don't really remember much about  
15 the key chain other than her giving me this thing,  
16 "Thank you." I think it was a -- had a mustard seed  
17 in it or something.

18 Q. A little mustard seed amulet?

19 A. Yeah, something like that.

20 Q. Was it a new one or something that she had?

21 A. It was kind of pewter, so it -- it kind of  
22 looked old. Pewter stuff looks old.

23 Q. And she told you that was in appreciation  
24 for your help?

25 A. Yeah.

26 Q. When she called you and had that  
27 conversation about her child being ill, would you

28 have gone to the hospital regardless of whether she 3850

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1 asked you?

2 MR. MESEREAU: Objection; calls for

3 speculation.

4 THE COURT: Sustained.

5 Q. BY MR. ZONEN: What was your intent when she  
6 called you and notified you of her child's illness?

7 A. You know, when I was -- the first time I met  
8 the Arvizos at The Laugh Factory, you know, I really  
9 enjoyed their company, and the kids were great. And  
10 I had a really good time teaching them, and they  
11 were fun, you know, so -- and, you know, I'd take  
12 them and buy them things after, snacks. And I kind  
13 of invested in them, because I saw a lot of myself  
14 in their family.

15 So when I got the call that he wasn't well,  
16 you know, I did what any friend would do, is go to  
17 the hospital.

18 Q. You said you were a big fan of Gavin. What  
19 do you mean by that?

20 A. He's a great kid. I mean, he had a lot of  
21 spirit. And he was fearless and -- you know, he did  
22 little dances and stuff. It was great.

23 Q. Even when he was asking you to buy things  
24 for him at the shopping mall?

25 A. I don't know if he danced and asked at the  
26 same time, but he was always kind of, you know,  
27 interesting.

28 Q. When you said you cut off the family, did 3851

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1 that have anything to do with the rest of the family  
2 beyond David?

3 MR. MESEREAU: Objection. Leading; vague;  
4 asked and answered.

5 MR. ZONEN: It's certainly not asked and  
6 answered.

7 THE COURT: Overruled.

8 You may answer. Would you want the question  
9 read back?

10 THE WITNESS: Yeah. That would be nice.

11 Thank you.

12 (Record read.)

13 THE WITNESS: It was -- it was everyone in  
14 the family. At that time I was only having  
15 conversations with David by phone. And when that  
16 happened, I never spoke to anyone in the family  
17 again.

18 Q. BY MR. ZONEN: You're saying you cut off  
19 everybody in the family?

20 A. Yes.

21 Q. But your reason for doing so -- what were  
22 your reasons for cutting off the other members of  
23 the family besides David?

24 A. Was, you know, that the guy was aggressively  
25 trying to get money from me. And when I cut him  
26 off, you know, the rest of the family followed. I  
27 wasn't going to talk to Gavin behind his father's

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28 back, and -- you know, the altercation we had May 3852

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1 5th, he used that, you know, against me, because I  
2 said to him, you know, "I only" -- "I've only tried  
3 to help you." And he said, "You've helped me?" And  
4 at that point, it was just -- you know, kind of the  
5 wind went out of my sails.

6 And then he said, "What am I supposed to  
7 tell Gavin?" And I said, "Tell him his father's an  
8 extortionist."

9 Q. Was there anything that Davellin, Star or  
10 Janet did to contribute to your cutting off the  
11 family or your attention?

12 A. No.

13 MR. ZONEN: Thank you. No further  
14 questions.

15 MR. MESEREAU: No further questions, Your  
16 Honor.

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

18 THE WITNESS: Thanks.

19 MR. ZONEN: And we'll call Ann Lopez to the  
20 stand.

21 THE COURT: Come to the witness stand,  
22 please. When you get to the witness stand, remain  
23 standing.

24 Face the clerk over here and raise your  
25 right hand.

26

27 ANN SERRANO LOPEZ

28 Having been sworn, testified as follows: 3853

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1

2 THE WITNESS: I do.

3 THE CLERK: Please be seated. State and  
4 spell your name for the record.

5 THE WITNESS: Ann Serrano Lopez; A-n-n,  
6 S-e-r-r-a-n-o; Lopez, L-o-p-e-z.

7 THE CLERK: Thank you.

8 MR. ZONEN: May I proceed?

9 THE COURT: Yes.

10

11 DIRECT EXAMINATION

12 BY MR. ZONEN:

13 Q. I guess my first question is, what is it  
14 like being married to George Lopez?

15 A. A lot of fun.

16 Q. And you are married to George Lopez?

17 A. Yes, I am married to George Lopez.

18 Q. Tell me a little bit about yourself. Are  
19 you currently working?

20 A. I'm an independent television producer, and  
21 a mother, and -- what else would you like to know?

22 Q. You've been married to Mr. Lopez for how  
23 long?

24 A. For eleven and a half years.

25 Q. And prior to that, what profession were you  
26 in?

27 A. I was a television producer and a casting



1 Q. What does a television producer do? We all  
2 know the term. None of us know what they actually  
3 do.

4 A. We find projects to produce. So let's say I  
5 would find a property that I would want to make into  
6 a movie, and secure a writer, secure the production  
7 company that would produce it for me. Secure --  
8 secure the actors. And just make sure the entire  
9 production gets off on budget.

10 Q. You've been married to George Lopez how  
11 long?

12 A. Eleven and a half years.

13 Q. And you have one child?

14 A. One child.

15 Q. At some point in time, did you become  
16 aware -- were you aware of the fact that your  
17 husband would periodically perform at The Laugh  
18 Factory?

19 A. Oh, yes.

20 Q. Did you know Jamie Masada?

21 A. Yes, very well.

22 Q. Were you ever introduced to the Arvizo  
23 family?

24 A. Only in the hospital after Gavin got ill.

25 I was home with our daughter, so I didn't ever go to  
26 the comedy camp.

27 Q. Did you know that your husband was a mentor

28 to the three children -- 3855

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1 A. Yes, I did.

2 Q. -- in conjunction with the comedy camp?

3 A. Yes, I did.

4 Q. All right. At some point in time, did you  
5 become aware that one of those three children had  
6 become ill with cancer?

7 A. Yes. It was around two months after the  
8 graduation.

9 Q. Did you visit with him at the hospital? And  
10 "with him," I mean Gavin.

11 A. Yes, I actually met Gavin in the hospital.

12 Q. All right. Had you ever had a conversation  
13 with Gavin's mother prior to his being stricken with  
14 cancer?

15 A. No.

16 Q. Did you ever meet her?

17 A. No.

18 Q. Did she ever call you prior to that?

19 A. No.

20 Q. All right. Have you ever actually met her  
21 at any time?

22 A. No.

23 Q. All right. So you wouldn't be able to  
24 recognize her if you saw her?

25 A. No.

26 Q. Okay. Did you ever have any telephone  
27 conversations with her at all?

28 A. Yes. 3856

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1 Q. When did the telephone conversations begin?

2 A. The first telephone conversation was when  
3 Gavin was stricken with cancer. She called our home  
4 very distraught, and George spoke to her. And then  
5 I got on the phone to comfort her about her sick  
6 child.

7 Q. All right. And did you get on the phone and  
8 have a conversation with her at that time?

9 A. Yes, I did.

10 Q. And did she tell you the extent of the  
11 illness that she was dealing with?

12 A. Yes. She talked about the cancer.

13 Q. Did she say anything to you about the  
14 description of the cancer that he had, or the  
15 diagnosis, or the prognosis?

16 A. Just that it was very grave; that there was  
17 a very large tumor, 10, 11, 12, something like that,  
18 pounds in his cavity, and that they were going to  
19 have to take out a kidney, I believe, and maybe a  
20 spleen; that there were -- you know, it was -- that  
21 there was spots on his lung. They had found spots  
22 on the lung. So it was, very, very severe.

23 Q. How often did you go to the hospital?

24 A. I went less than my husband. Probably six,  
25 seven times.

26 Q. The hospital we're talking about, can you  
27 tell us which hospital it is and where?

28 A. I believe it was Kaiser Permanente. 3857

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1 Q. And do you know where, the location?

2 A. In Los Angeles, I think, towards downtown.

3 Q. The Sunset and Vermont hospital facility?

4 A. That's where it was, uh-huh.

5 Q. When you got there, or any of the times that

6 you went there, did you ever see Janet?

7 A. No.

8 Q. Did you ever talk with her on the telephone

9 while you were at the hospital?

10 A. Yes. When she would call I would get on the  
11 phone and speak to her, and just try to comfort her.

12 Q. Were those frequent conversations?

13 A. No. Maybe two or three times.

14 Q. Okay. How often do you think it was that

15 you visited Gavin at the hospital?

16 A. Between six and eight times. I'm not sure

17 exactly how many.

18 Q. Was David there?

19 A. Always.

20 Q. All right. Now, David is who?

21 A. David is Gavin's father.

22 Q. And his last name?

23 A. Arvizo.

24 Q. On each of the times that you were there, he

25 was there?

26 A. Yes.

27 Q. Did you go on a -- when you went to the

28 hospital to visit, was it always at a certain time 3858

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1 frame?

2 A. No.

3 Q. Would it be at various times during the day?

4 A. Yes. Sometimes in the afternoon. Sometimes  
5 in the evening. It just depended on my husband's  
6 schedule.

7 Q. Did you ask Mr. Arvizo, David Arvizo, where  
8 his wife was?

9 A. Yes, I did.

10 Q. And what did he tell you?

11 A. He told me that she was just distraught;  
12 that she couldn't handle being there at the  
13 hospital; that she would break down; and that she  
14 emotionally couldn't handle it.

15 Q. Did you have concerns about that?

16 A. Yes, I did.

17 Q. Did you have conversations with David Arvizo  
18 about his financial state?

19 A. He had conversations with me about his  
20 financial state.

21 Q. And tell me the distinction.

22 A. Well, he would hint that they were having  
23 financial problems, and would tell me he wasn't sure  
24 how they were going to pay their bills or how they  
25 were going to pay the rent.

26 Also, he told me that they were living in a  
27 studio apartment, and he didn't know how he was

28 going to get Gavin's hospital bed and how Gavin 3859

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1 could go back to that place.

2 Q. This is early on, I. Assume?

3 A. The very first visit.

4 Q. Okay. Did you know where they were living,

5 where their residence was?

6 A. No.

7 Q. Did you ever go to visit them at his home?

8 A. No.

9 Q. Or did you go to visit Gavin at the time

10 that Gavin was out of the hospital in a residence?

11 A. No.

12 Q. So you don't know necessarily where they

13 were living?

14 A. No.

15 Q. All right. What did you think about his

16 initial comment on that first visit about his

17 financial state? What did you understand was going

18 on?

19 A. Well, it seemed to me that, you know, they

20 were a lower income family. He was taking a leave

21 of absence from his job. He told me that. And he

22 said that one of them had to work to make money for

23 the family.

24 And I found it a little strange that it

25 would be Janet because he said that she was a

26 waitress. And I thought, well, a waitress doesn't

27 make as much as he was making. And he was also --

28 he had told me his job was the job that had medical 3860

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1 care, the medical insurance.

2 Q. Did he tell you any -- did he express  
3 concern to you about his medical insurance?

4 A. No.

5 Q. Did he have any conversation with you at all  
6 about who was paying the bills?

7 A. No, he just said it was covering the  
8 expenses and that his job covered the medical  
9 insurance.

10 It wasn't until one of the later visits that  
11 he said he was worried that the insurance was going  
12 to run out. And I told him "Then, well, you should  
13 go back to work."

14 Q. Did he tell you that he was concerned the  
15 insurance would run out because he was not at work?

16 A. Yes, because his leave of absence was  
17 already very long, and he -- if he didn't go back to  
18 work, then the medical insurance would lapse.

19 Q. What did you tell him?

20 A. I told him he should go back to work and get  
21 on with it, and get his insurance for his son; that  
22 that was the most important thing, that his son was  
23 covered with medical insurance.

24 Q. At some point in time, did you make a  
25 decision, perhaps with your husband or by yourself,  
26 as to whether or not the Lopez family would be  
27 contributing money from your own pockets to David





1 A. Yes.

2 Q. And what was that decision?

3 A. No.

4 Q. Had you talked with David about that

5 specifically?

6 A. No. I just -- from the very beginning, I

7 saw things that just seemed very strange to me. I

8 didn't know them at all. This was the first

9 meeting. David and I walked -- let George have some

10 time with Gavin the first meeting and be in the

11 room. And there was like a glass partition. So

12 David and I stepped out and we were talking. And,

13 you know, at first it was very normal. He was very

14 concerned about his son and the medical attention.

15 But when he walked back into the room, I

16 noticed that the children shied away from him. And

17 there was no -- there was no closeness, there was no

18 touching. I didn't see anything that would indicate

19 that there was a bond between these children and

20 their father, especially at such a difficult time.

21 And then when he told me that Janet was not

22 going -- was not going to be at the hospital, I also

23 found that -- being a mother, I found that very

24 strange. Here was this woman that would take the

25 bus to take her three children to comedy camp for

26 months on end, but she can't be at the hospital with

27 her sick child. That just seemed very strange to

28 me. So I thought there was something a little off 3862

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1 there.

2 Q. Did you ever have David Arvizo and any of  
3 his children at your home?

4 A. Yes, we did.

5 Q. On more than one occasion?

6 A. Just once.

7 Q. And when was that; do you recall?

8 A. It was -- I'm not sure exactly the time  
9 frame. I was home with my daughter who was very  
10 young. But it was one time when George wanted to  
11 visit him in the hospital, and David was -- I mean,  
12 excuse me, Gavin was out of the hospital. And so  
13 George said, "Is it okay if we bring him to our  
14 house?" And I said, "Sure." So they came and  
15 visited.

16 Q. And you were living where at the time?

17 A. In Sherman Oaks.

18 Q. That's not where you live currently?

19 A. No.

20 Q. All right. When he came to your household,  
21 what did you do that day?

22 A. David and Gavin -- George went and picked up  
23 David and Gavin and brought them to our home. And  
24 we have a very large swing set in the back, and they  
25 were playing on the swing set, and meeting my  
26 daughter, and Gavin.

27 Q. Gavin was how old at the time?

28 A. Ten and a half. Between 10 and 11. I'm not 3863

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1 sure.

2 Q. Okay. Go ahead.

3 A. And it was a hot day. So I said to George,

4 "You know, maybe we should" -- I didn't feel it was

5 very good for him to be in the heat. And I said,

6 "Well, maybe we should just go take them to eat and

7 maybe just go see a movie or something."

8 So we took them to Pizza Hut, and he and my

9 daughter played video games, and we had pizza. And

10 then we took them to the mall.

11 Q. Okay. What did you notice about anyone's

12 behavior at the mall, either David or Gavin?

13 A. Well, Gavin was running in and out of stores

14 like -- you know, we were going into stores and

15 things, and buying him some toys and things like

16 that.

17 By it got to be a little overboard where he

18 was asking for, like, three or four toys at every

19 store. And I kept looking over at David, and David

20 would just walk away, like -- you know, and -- which

21 made it -- you know, he wasn't saying anything to

22 Gavin like, "Okay, Gavin, that's enough," trying to

23 rein him in at any point. I mean, it was like he

24 definitely walked away and, you know, made us feel

25 like, "Okay, buy him what he wants." So....

26 Q. Give me a sense of how long after you

27 received that initial call about Gavin's illness did

28 this visit occur to your home and to the shopping 3864

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1 mall.

2 A. Oooh, I'm not sure exactly, but about six  
3 months, I would think.

4 Q. Was Gavin doing better at that time?

5 A. Yes.

6 Q. Was he still involved in treatment?

7 A. Oh, yes.

8 Q. But at the time that he was visiting you, he  
9 was --

10 A. He was in remission, yes.

11 Q. He was in remission at that point and able  
12 to walk around?

13 A. Uh-huh.

14 Q. Did he appear to you to be still frail or --

15 A. Yes, that's why I didn't want him to be in  
16 the heat. He was walking around, but he still was  
17 very pale. He didn't have any hair. He was still a  
18 very sick boy.

19 Q. When you got home after the visit to the  
20 shopping mall, and Gavin and David left, did you  
21 notice anything in the house?

22 A. I did not. I just went straight to the  
23 kitchen. I started to get -- started to prepare  
24 dinner. And when George came home, I heard him say,  
25 "Hey, what's this?" And I walked into the living  
26 room, which we barely used, and there was a wallet  
27 on the mantle. And I said, "Well, open it, and find

28 out what it is." 3865

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1 And it was, you know, a velcro -- normal  
2 little velcro wallet, and it was Gavin's school I.D.  
3 and there was a crisp \$50 bill in it, and we just  
4 thought that was rather strange that there would be  
5 a \$50 bill in a ten-year-old child's wallet.

6 Q. What did you do with the wallet?

7 A. I told George, "Well, I'm going to call and  
8 just send it back to them."

9 Q. And did you do that?

10 A. Yes.

11 Q. Okay. How did you send it back?

12 A. I think Federal Express. Just sent it back  
13 so that they would get it the very next day, because  
14 I figured he needed the money.

15 Q. And the \$50 bill was, of course, still in  
16 the wallet at the time you sent it back?

17 A. Yes. Uh-huh.

18 Q. On that visit to the Sherman Oaks mall, was  
19 there anybody else there from the Arvizo family  
20 besides Gavin and David?

21 A. No.

22 Q. Did you ever have occasion to meet Gavin's  
23 brother or sister?

24 A. Oh, yes, at the hospital.

25 Q. So they were there visiting on a few  
26 different occasions?

27 A. Uh-huh. They were almost always there.

28 Q. When you went to the shopping mall, did you 3866

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1 tell Gavin, prior to going over there, that you  
2 would buy him something?

3 A. No.

4 Q. Did --

5 A. It was really a last-minute thing. We had  
6 actually thought of going to the movies, and there  
7 wasn't a movie playing, so we just decided to walk  
8 around the mall.

9 Q. All right.

10 A. We knew we would buy him something, you  
11 know, a toy or something.

12 Q. Now, did you ever get a phone call back from  
13 David Arvizo with regards to the wallet at any time?

14 A. No.

15 Q. Was there ever a subsequent conversation  
16 from David, whether it was a phone call or in  
17 person, where the subject of that conversation was  
18 the wallet?

19 A. No.

20 Q. At some point in time, did you hear from  
21 anybody with regards to an issue of money missing  
22 from the wallet?

23 A. The way we found out about that was about a  
24 month after we stopped having any contact with  
25 David, I called Jamie Masada for a completely  
26 different reason. I just needed a business number.  
27 And, you know, we were talking. He gave me

28 the number I needed, and he said, "Listen, by the 3867

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1 way, I want you to know that" -- "remember that  
2 wallet?" And I said, "Yes." And he said, "Well,"  
3 you know, "David said that the wallet was empty when  
4 it was returned." And I said, "Jamie, it had \$50 in  
5 it."

6 And he's like, "Well, he says there was \$300  
7 in it, and that it was empty when it was returned."  
8 And I was just like, "Jamie, do you really  
9 think we would steal \$300 from this child that we've  
10 been trying to help?" And he said, "No, I know you  
11 didn't do it. But I gave him the \$300 just to get  
12 him off my back."

13 And I offered to reimburse Jamie \$300. And  
14 he said, "No, absolutely not. Don't worry about  
15 it." I was like, "Are you sure?" And he was like,  
16 "Yeah, just don't worry about it."

17 Q. Did you have any additional conversations  
18 with David Arvizo after your conversation with  
19 Jamie?

20 A. No.

21 Q. In other words, at the point where you  
22 learned that Jamie had been -- had given \$300 --

23 A. No.

24 Q. -- to Mr. Arvizo, no further conversations?

25 A. No.

26 Q. Were you ever working on a fund-raiser on  
27 behalf of Gavin?

28 A. Yes. 3868

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1 Q. Tell us when that was, in terms of -- give  
2 us a sense of around the time that you did your  
3 shopping spree at the Sherman Oaks mall. Was it  
4 during that time? Before that?

5 A. It was right after that, around there.

6 David was getting more frequent with his hints about  
7 needing money. And I said to George, you know,  
8 "Let's just go ahead and do our own fund-raiser for  
9 him at The Ice House," which is another comedy club  
10 in Pasadena, "and that way we'll just get him off  
11 our back."

12 Q. Have you done fund-raisers before?

13 A. Oh, yes. Many.

14 Q. That's not unusual for a celebrity like your  
15 husband to end up being invited to do a fund-raiser?

16 A. Oh, no. We get asked to do many more than  
17 we possibly can do.

18 Q. And you have done many --

19 A. Yes.

20 Q. -- over the years?

21 A. Many. Many.

22 Q. What's involved in putting on a fund-raiser  
23 like this?

24 A. We usually contact one of the comedy clubs  
25 and one of the owners, who -- they're all our  
26 friends. And you usually do a fund-raiser on a  
27 Monday night, which is a slow night for the club.

28 And the door -- the ticket price, which you can set 3869

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1 any ticket price you want, will go to your  
2 fund-raiser. And then the drinks and food will go  
3 to the comedy club. So it's kind of a win-win for  
4 both parties.

5 Q. Were you working with David Arvizo in  
6 putting this together?

7 A. No, I was doing it myself.

8 Q. Were you having conversations with David  
9 Arvizo about what was happening in pursuit of this  
10 fund-raiser?

11 A. Oh, yes. He was really hounding me, calling  
12 me and asking me a lot of questions.

13 Q. And tell us, give us a sense of it. I mean,  
14 how often was he calling, and what was he asking?

15 A. He was calling me like every other day and  
16 asking me how much money could be raised. And it  
17 was just -- you know, he wanted to know how much  
18 money, how much money can be raised. And I told him  
19 I thought we could raise probably between seven and  
20 \$14,000, which was actually quite a bit for a Monday  
21 night fund-raiser. But my husband had gotten  
22 permission to announce it on the radio station that  
23 he was working at at the time.

24 Q. Was his behavior, David Arvizo's behavior,  
25 different than what you would expect of people for  
26 whom you were doing fund-raisers?

27 A. He made me very suspicious, because I had

28 never done a fund-raiser where someone had asked me 3870

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1 how much money was involved. I mean, usually people  
2 are just so grateful that you're helping them. And  
3 so this was very strange, and I got very suspicious.

4 Q. Did you finally decide to have a  
5 conversation with him that dealt specifically with  
6 where the money was going to go?

7 A. Well, what I did, was I decided to test him,  
8 and I told George what I was going to do. I said,  
9 "You know, this is" -- I just started feeling very  
10 uneasy. And I said, "You know, there's something  
11 strange here. I want to test him to make sure that  
12 his intentions are honorable."

13 And so what I did was, I called him up on  
14 the phone and I said, "Well, David, I just wanted to  
15 let you know, the fund-raiser is going to be at such  
16 and such a time, such and such a date, and I need to  
17 start getting your bills. You know, I need to get  
18 the name of your landlord, I need to get your credit  
19 card bills, your gas bills, so we can start paying  
20 them."

21 And he became, you know, a little like,  
22 "What do you mean? Aren't I just going to get the  
23 cash?" And I said, "No, we can, like, pre-pay your  
24 rent for six months. We can pay your bills." I  
25 said, "No, that's not how it works."

26 And he said, "Well, some people that I owe  
27 money to, I just owe them money." And I said, "Give

28 me their names so we can pay them." And he got very 3871

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1 agitated. And I said, "Well, listen, this is" --  
2 you know, "The radio station is involved, and that's  
3 the way it has to be handled, because they need to  
4 have documentation."

5 And then he got very angry at me.

6 Q. All right. You say he got angry at you.

7 How did he manifest that anger? What did he do?

8 What did he say?

9 A. He cursed at me.

10 Q. What did he say? I know this is a little

11 embarrassing, but what did he say?

12 A. He called me a fucking bitch and a

13 mother-fucking whore, and that's when I hung up the  
14 phone.

15 Q. Was he angry while he was saying this?

16 A. Oh, he was irate. His whole demeanor  
17 changed.

18 Q. And loud?

19 A. Oh, yeah, it was -- he frightened me. I was  
20 shaking when I hung up the phone.

21 Q. Did he ever present like that to you before,  
22 prior to that date?

23 A. No.

24 Q. Either in person or on the telephone?

25 A. No.

26 Q. And you were frightened by that?

27 A. Uh-huh.

28 Q. What did you do after that telephone call? 3872

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1 A. I immediately picked up the phone and called  
2 my husband at the radio station.

3 Q. And you discussed with him what had  
4 happened; is that correct?

5 A. Yes.

6 Q. Was the decision made not to engage in any  
7 more conduct with Mr. Arvizo?

8 A. Yes. George was very angry. And really our  
9 suspicions are true, were true. I mean, they came  
10 to light that he was just wanting money maybe for  
11 some other reason, and it wasn't going to go to the  
12 bills. So we decided that the fund-raiser was off,  
13 we weren't going to do it, and that was it.

14 Q. How many conversations do you think --  
15 telephone conversations do you think you had with  
16 Janet Arvizo?

17 A. Probably four at the most. Four or five.

18 Q. During any of those conversations that you  
19 had with her, did she ever ask you for assistance?

20 A. No.

21 Q. Did she ever ask you for money?

22 A. No.

23 Q. Did she ever behave in any way  
24 inappropriate, in your mind?

25 A. No.

26 MR. ZONEN: Thank you. I have no further  
27 questions.

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1 CROSS-EXAMINATION

2 BY MR. MESEREAU:

3 Q. Good afternoon, Miss Lopez.

4 A. Good afternoon.

5 Q. My name is Tom Mesereau and I speak for

6 Michael Jackson.

7 You thought it very odd that Janet was never

8 at the hospital while her son was apparently dying,

9 right?

10 A. Yes.

11 Q. And you noted to your husband how strange

12 that was, right?

13 A. Yes.

14 Q. And you didn't quite believe that she was

15 never there because she was waiting tables, true?

16 A. Yes.

17 Q. Did you know at the time she was litigating

18 a sexual assault case with J.C. Penney?

19 MR. ZONEN: I'm going to object as assuming

20 facts not in evidence and argumentative.

21 THE COURT: Sustained as to assuming facts

22 not in evidence.

23 Q. BY MR. MESEREAU: Did you ever know anything

24 about any litigation Janet Arvizo was involved in

25 with anybody?

26 A. No. No.

27 Q. Did David or Janet ever talk to you about

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28 their litigation with any company or individual? 3874

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1 A. No.

2 Q. Now, you learned that Janet brought her  
3 children to the comedy camp from East Los Angeles,  
4 correct?

5 A. Yes.

6 Q. Did you ever visit their home?

7 A. No.

8 Q. Okay. Did you ever talk to your husband  
9 about where he thought their home was located?

10 A. No.

11 Q. Okay. Okay. You did learn at some point  
12 that he visited them in El Monte, correct?

13 A. Yes.

14 Q. Okay. But you never were there?

15 A. No. He went to pick them up.

16 Q. Okay.

17 A. Well, Gavin and David.

18 Q. When you spoke to Janet on the phone, did  
19 you ever know where she was calling you from?

20 A. No.

21 Q. Did she ever mention where she was?

22 A. No.

23 Q. Okay. When you talked to Janet, did you  
24 ever ask her why "You're not visiting your dying  
25 son"?

26 A. Well, the first conversation I had with  
27 Janet was at our home, and it was just comforting,

28 and I hadn't been to the hospital yet. But every 3875

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1 other conversation David was there, so, no, I did  
2 not.

3 Q. Okay. Did Janet ever visit your home?

4 A. No.

5 Q. Now, to your knowledge, did the three Arvizo  
6 children visit your home with David?

7 A. No. Just one. Gavin.

8 Q. Just Gavin? And how many times did he visit  
9 your home, if you remember?

10 A. Just once.

11 Q. Okay. And that's the time where suddenly  
12 this wallet appeared on a mantle?

13 A. Yes, sir.

14 Q. And about how high was the mantle, if you  
15 remember?

16 A. Probably -- let's see, it wasn't as tall as  
17 I was. Probably five feet.

18 Q. Okay. And do you remember seeing the wallet  
19 there?

20 A. I don't, because I went directly into the  
21 kitchen.

22 Q. Okay. And you don't recall ever meeting  
23 Janet in person, correct?

24 A. I don't.

25 Q. Did you visit the hospital at different  
26 times or did you typically visit at the same time of  
27 day?

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28 A. No, different times, just depending on my 3876

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1 husband's schedule.

2 Q. Okay. And you thought you visited about six  
3 times, right?

4 A. Uh-huh.

5 Q. You thought your husband visited about 12  
6 times, right?

7 A. I'm not sure how many times he visited.

8 Sometimes he would go after his shift, without me.

9 Q. Okay. Okay. And you're not sure if you've  
10 ever met Janet in person, right?

11 A. I don't recall ever meeting her.

12 Q. Were you ever at The Laugh Factory when she  
13 was there with her children?

14 A. No, I never went to the comedy camp.

15 Q. Okay. Now, you did know that your husband  
16 was teaching the children, right?

17 A. Yes, I did. He spoke about them.

18 Q. Did he talk to you about what they did on  
19 stage?

20 A. Oh, yes. He thought they were very  
21 talented, especially Gavin.

22 Q. Did he talk to you about Gavin's skit where  
23 he would talk about how impoverished they were on  
24 stage?

25 A. He didn't go into specifics, no.

26 Q. Was it your understanding the mother would  
27 always be there watching the kids talk about their

28 paverty on the stage? 3877

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1 A. Yes.

2 MR. ZONEN: Objection, speculation. She  
3 wasn't there.

4 THE COURT: Overruled. The answer was,  
5 "Yes."

6 Q. BY MR. MESEREAU: You indicated that when  
7 David told you that Janet was working as a waitress  
8 and couldn't be at the hospital, that red flags went  
9 up, correct?

10 A. Well, more that she was -- not because she  
11 was working as a waitress. I think the red flags  
12 went up that she was emotional, and the hospital  
13 would make her overcome and she couldn't handle it.  
14 That, I thought, was a little strange.

15 Q. Thought it was a little odd.

16 A. Uh-huh.

17 Q. You thought that even with the emotional  
18 difficulty, a mother would likely be at the hospital  
19 with her dying son?

20 A. Absolutely.

21 Q. And you never saw her there one time?

22 A. No.

23 Q. Okay. Now, you described David as  
24 business-like, correct?

25 A. No.

26 Q. Did you tell the sheriffs he had a certain  
27 robotic and business-like demeanor about him?

28 A. I don't believe I said "business-like." 3878

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1 Robotic, maybe. He was very unemotional.

2 Q. Okay. And you didn't think his behavior was  
3 consistent with a father whose son was seriously  
4 ill, right?

5 A. Yes.

6 Q. But you always saw him there every time you  
7 went to the hospital, right?

8 A. Yes.

9 Q. Okay. Okay. So basically at that point,  
10 you thought both parents' behavior seemed like  
11 something was off, true?

12 A. Yes.

13 Q. But David -- excuse me. Let me rephrase  
14 that.

15 How many times did you talk to David on the  
16 phone, do you think?

17 A. I'm not sure how many. He called me quite a  
18 bit when the fund-raiser -- but I really would see  
19 him more at the hospital, or the time that he came  
20 to our home.

21 Q. And David told you that Jamie Masada was  
22 helping him out financially, correct?

23 A. Yes, he did.

24 Q. And immediately when you met him, he began  
25 to sort of hint that he needed money, right?

26 A. Yes.

27 Q. You noticed that pretty quickly, didn't you?

28 A. Yes. 3879

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1 Q. It went from sort of hints to direct

2 requests at some point, right?

3 A. You know, I think he -- he always skirted

4 the issue with me, because I think he knew that I

5 wasn't really biting.

6 Q. Okay. You weren't -- you weren't what?

7 A. Biting --

8 Q. Okay.

9 A. -- at his hints.

10 Q. When you didn't bite, did he seem to

11 persist?

12 A. He would, but I wasn't biting.

13 Q. Okay. Was it your impression he began to

14 work more on your husband than you at some point to

15 get funds?

16 A. Probably, yes. I mean, there were many

17 times I wasn't there, so I can't say.

18 Q. Now, you told him at one point he needed to

19 go back to work and take care of his family,

20 correct?

21 A. Yes.

22 Q. And did he ever respond to that, that you

23 remember?

24 A. He didn't say anything, but his body

25 language, he got very, like, agitated, like, oh, he

26 didn't like that I said that.

27 Q. At this time you're suspicious as to whether

28 his wife is really working, correct? 3880

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1 A. No.

2 Q. Did you know?

3 A. I didn't know.

4 Q. Do you know if she was working?

5 A. I didn't know.

6 Q. You didn't know one way or the other, right?

7 A. No.

8 Q. Okay. You thought David was using Gavin and

9 his other children as a tool to seek money, right?

10 A. I thought -- yes, I did.

11 Q. Okay. And you always seemed to anticipate

12 that another hint at money was forthcoming when you

13 were with him, right?

14 A. Well, he always did it, so I kind of started

15 to expect it.

16 Q. Okay. Now, you told the sheriffs that

17 during your phone conversations with Janet, she

18 always seemed to be very grateful, right?

19 A. Yes.

20 Q. Very grateful for what you and your husband

21 had done for the family, true?

22 A. Yes.

23 Q. Did you talk to her periodically?

24 A. I'm sorry. Now?

25 Q. Did you talk to Janet periodically -- no,

26 no, at the time -- at the time you were interacting

27 with the Arvizos.





1 Q. Let me narrow that better.

2 A. Sorry.

3 Q. At the time you were either visiting Gavin  
4 in the hospital or they were visiting your house,  
5 you would talk to Janet once in a while, correct?

6 A. At the hospital. Only if she called the  
7 hospital.

8 Q. Okay.

9 A. Yeah.

10 Q. Now, while you were visiting the hospital,  
11 did you know your husband was giving David money  
12 from time to time?

13 A. Yes, just, you know, out of his pocket.

14 Q. Okay.

15 A. You know, 20, 40, \$60, something like that.

16 Q. Right. And Janet would call you from time  
17 to time and express her gratitude for all you did  
18 for the family, right?

19 A. Only -- I would only speak to her at the  
20 hospital, if she happened to call at the hospital.  
21 She never called me at home, except the first time  
22 to tell us that Gavin was ill.

23 Q. Okay. Okay. Were you in the mall when  
24 Gavin kept asking your husband to buy gifts for him?

25 A. Oh, yes.

26 Q. You were there too, right?

27 A. Yes.

28 Q. And how many shops do you think you went 3882

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1 into?

2 A. Four or five.

3 Q. Okay. And as far as you recall, did Gavin  
4 ask your husband to buy him gifts in every shop?

5 A. Yes.

6 Q. Okay. And what kind of shops did you go  
7 into?

8 A. Into, like, the Discovery Store. There was  
9 a toy store there at that time. There were,  
10 actually, I think, two toy stores at that time that  
11 have since closed. And I think we went into  
12 another, like, shoe store or something like that.

13 Q. And did you find it odd that Gavin would  
14 keep asking you to buy gifts for him and the husband  
15 would stand -- excuse me, the father would stand  
16 there silent?

17 A. I didn't find it odd that Gavin would ask  
18 for things. My daughter does the same thing. She  
19 asks for toys in every store she goes to.

20 Q. What about the father?

21 A. The father walking away and/or not putting  
22 some kind of cap on it I thought was kind of  
23 strange.

24 Q. Did Gavin typically ask your husband or you  
25 to buy him gifts?

26 A. Whichever one was nearest.

27 Q. He didn't seem to ask his father to buy him

28 gifts? 3883

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1 A. No.

2 Q. Did it appear to you he was almost prepped  
3 to do this, to go up to you and George to ask you to  
4 buy his gifts for him as opposed to going up to his  
5 father?

6 A. I don't have any opinion on that. To me,  
7 kids do that, so that behavior didn't seem strange  
8 to me. It was just David always walking away, out  
9 of the store, like, "Okay, go ahead and buy him the  
10 gifts."

11 Q. What about the son never asking the father  
12 to buy him anything, did you find that strange?

13 A. No, because we didn't think they had any  
14 money, so --

15 Q. Okay. You didn't know, though, did you?

16 A. Know what?

17 Q. You didn't really know how much money they  
18 had, did you?

19 A. I didn't know anything about them, other  
20 than what my husband told me.

21 Q. Did you know whether or not someone named  
22 Louise Palanker had given them 20,000 bucks?

23 A. No.

24 Q. Knew nothing about that?

25 A. I had never met her. Didn't know her.

26 Q. Did you know anything about Louise giving  
27 Janet a check for \$10,000?

28 MR. ZONEN: I'm going to object; assuming 3884

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1 facts not in evidence, and irrelevant.

2 THE COURT: Sustained; foundation.

3 Q. BY MR. MESEREAU: Do you know comedian Chris  
4 Tucker?

5 A. I know who he is. I've never met him.

6 Q. So you never talked to him about the Arvizos  
7 and his experiences?

8 A. No.

9 Q. All right. Now, at some point, you learned  
10 that the Arvizo family were visiting Neverland,  
11 correct?

12 A. Yes.

13 Q. When did you learn the Arvizo family were  
14 visiting Neverland?

15 A. One day when we went to visit Gavin at the  
16 hospital, he had already been to Neverland.

17 Q. Okay. And did he seem excited about  
18 Neverland?

19 A. Oh, over the top.

20 Q. Okay. Did his father talk to you about  
21 Neverland?

22 A. That's all they talked about.

23 Q. Did his father talk to you about the fact  
24 Michael Jackson had given a truck to the family?

25 A. Yes.

26 Q. And did Gavin talk about the fact that  
27 Michael Jackson had given a truck to the family?

28 A. Yes. 3885

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1 Q. Did you ever hear him discuss that Michael  
2 Jackson had given a computer to the family?

3 A. I don't remember the computer, but I do  
4 remember the car.

5 Q. Did they talk about other gifts that Michael  
6 Jackson had given the family, to your knowledge?

7 A. They just talked about the whole experience.

8 They were very -- you know, the movie theater, and  
9 the candy, and golf carts, and things like that.

10 Q. Okay. Did you notice David's attitude  
11 towards you change after he started visiting Michael  
12 Jackson?

13 A. Oh, yes.

14 Q. And what was the change all about?

15 A. Well, all of a sudden, we -- our friendship  
16 to Gavin was not as important as them being at  
17 Neverland.

18 Q. Okay.

19 A. It just seemed like a shift; that George's  
20 time and compassion for Gavin wasn't as important  
21 anymore.

22 Q. Okay. And that bothered you?

23 A. Yeah.

24 Q. Okay. Did you ever discuss that with David  
25 or Janet?

26 A. No.

27 Q. Now, did you learn at some point after you

28 had severed your relationship with the Arvizos that 3886

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1 Janet had met with your husband to give him a good

2 luck charm in gratitude for all you had done?

3 A. I knew about that before. It was a little

4 key chain.

5 Q. Okay. Do you know about when that happened?

6 A. I don't remember.

7 Q. Okay. Ever talk to Janet about her

8 experiences at Neverland?

9 A. No.

10 Q. Okay. But you noticed a change in attitude

11 in Gavin and David, right?

12 A. Yes, and the two other children.

13 Q. All of them?

14 A. All of them, yes.

15 Q. They just didn't seem to be as interested in

16 you and George anymore, right?

17 A. Well, it was just such a fantastic,

18 over-the-top kind of experience.

19 Q. And they kept talking about how much Michael

20 had given them, correct?

21 A. Yes.

22 Q. Did you get the feeling they were sort of

23 suggesting that maybe you didn't give them enough?

24 A. Maybe, yeah.

25 Q. Okay. Did they talk about gifts that

26 Michael Jackson had sent to the hospital for Gavin?

27 MR. ZONEN: I'll object as to vague as to

28 "they." 3887

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1 MR. MESEREAU: Excuse me, I'll rephrase it.

2 Q. Did Gavin ever talk to you about gifts

3 Michael Jackson had sent to him at the hospital?

4 A. No.

5 Q. Did David ever talk about that?

6 A. I think there was a basket, but I don't

7 remember what was in the basket. They pointed to a

8 basket -- well, David pointed to a basket, but I

9 can't remember what was in it.

10 Q. Okay. Okay. And Gavin kept talking to you

11 about driving golf carts at Neverland, correct?

12 A. Yes.

13 Q. They seemed to -- he seemed to be very

14 excited by that?

15 A. Yes.

16 Q. And did David tell you they were going to

17 keep visiting Neverland?

18 A. I don't think so. I don't think that came

19 up in the conversation.

20 Q. Did he tell you about numerous visits they

21 had made to Neverland?

22 A. The one that sticks out in my mind is the

23 first one.

24 Q. Okay. Now, did you talk to David on the

25 phone about Neverland, or in person?

26 A. In person at the hospital.

27 Q. At the hospital, okay. Okay.

28 And it was your understanding that Gavin was 3888

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1 going back and forth to the hospital for treatment?

2 A. Oh, yes.

3 Q. And was it your understanding that while he  
4 was in the middle of his treatments, he and the  
5 family went to Neverland? Is that your  
6 understanding?

7 A. I believe it was one of the weeks that he  
8 was feeling better and he was in remission.

9 Q. Okay. Okay.

10 A. Because he was having chemotherapy. And  
11 there were times when he felt better, and right  
12 after the treatments, he would feel very bad.

13 Q. You recall your husband going to El Monte  
14 and picking up David and his children, true?

15 A. No, just David and Gavin.

16 Q. Okay. And when do you recall your husband  
17 going to El Monte and picking up David and Gavin?

18 A. That was when they came to our house, but  
19 I'm not sure exactly when, the month or --

20 Q. Okay. You described to the sheriffs that it  
21 was a hot day, right?

22 A. Yes.

23 Q. And how did you remember that?

24 A. Because David was -- I mean -- "David." I'm  
25 sorry, Gavin was still ill, and I remember being  
26 concerned that he shouldn't be outside in his  
27 condition when it was hot.

28 Q. And about what time of day did you first see 3889

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1 David and Gavin on that occasion?

2 A. I think they came to our house around noon.

3 Q. Okay.

4 A. I think.

5 Q. Now, did you know your husband George was  
6 buying gifts for Gavin and bringing them to the  
7 hospital?

8 A. I bought them also, yes.

9 Q. And did David express gratitude to you for  
10 doing that?

11 A. Yes.

12 Q. Did Gavin?

13 A. Yes.

14 Q. Did Janet?

15 A. She wasn't there, no.

16 Q. Okay. When you talked to her on the phone,  
17 though, she expressed gratitude for all you'd done  
18 for her family, right?

19 A. But not really -- more spiritually than --  
20 being there with Gavin than financially, no.

21 Q. Okay. Now, you were trying to arrange a  
22 benefit in Pasadena, correct?

23 A. Yes. Yes.

24 Q. And that was a club that George had appeared  
25 at, correct?

26 A. Yeah, he kind of considers that his home  
27 club. That's where he started, and it's one of his

28 favorite clubs. 3890

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1 Q. And you told David -- correct me if I'm  
2 wrong, you told David that you thought you could  
3 raise between seven and \$14,000, right?

4 A. Yes.

5 Q. And what was his reaction to that?

6 A. He was very happy.

7 Q. Okay. You don't know what David was doing  
8 with the money he was given by George, do you?

9 A. No, but it was never a lot of money. It was  
10 always, you know, money to buy lunch or to -- gas  
11 money. It wasn't anything -- it was always less  
12 than \$100. It wasn't something --

13 Q. Right. But you don't know what he was doing  
14 with that?

15 A. No, we did not.

16 Q. You had suspicions, didn't you?

17 A. No, I -- not about that.

18 Q. Didn't you have suspicions about the fact  
19 that he wasn't working, Janet may not be working?

20 A. Right.

21 Q. You didn't know where the money was going,  
22 right?

23 A. I was concerned that the family was working  
24 on a waitress's -- I mean, living on a waitress's  
25 wages, yes.

26 Q. But you never asked her what restaurant she  
27 was working at, right?

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1 Q. She never told you where she was waiting  
2 tables, correct?

3 A. No. Our conversations were always more,  
4 "Thank you for being with Gavin," things like that.

5 Q. When did you ask David to provide you with a  
6 list of his creditors?

7 A. In -- I think it was in April, near when the  
8 fund-raiser was going to be.

9 Q. And your desire was to control where the  
10 money went, correct?

11 A. Well, I wanted to test him, really. It  
12 wasn't to control. I wanted to make sure -- if we  
13 were going to actually do this and put ourselves  
14 out, then I wanted to make sure that the money was  
15 going somewhere, and I didn't trust that it was.

16 Q. And did you believe that Gavin didn't have  
17 medical insurance at the time?

18 A. No, he told me that he did.

19 Q. Okay. Did he tell you at some point it was  
20 going to lapse?

21 A. If he didn't go back to work.

22 Q. Okay. So what did you think the money was  
23 going to be raised for?

24 A. To pay their rent, to pay their bills, their  
25 electric bill. Things of that nature.

26 Q. Did you learn that they were raising money  
27 from any other people at the same time?

28 MR. ZONEN: I'm going to object as to 3892

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1 "they"; vague.

2 MR. MESEREAU: I'll rephrase it.

3 Q. Do you know whether or not Janet was trying  
4 to raise money from any other comedian at the same  
5 time?

6 A. No.

7 Q. Do you know whether or not Janet was asking  
8 Chris Tucker for any support at that time?

9 A. No.

10 Q. Okay. Do you know whether Janet was asking  
11 Chris Tucker's fiancée for a car at that time?

12 A. No.

13 Q. Okay. Do you know whether any efforts were  
14 made to get money from Michael Jackson at the time?

15 A. No.

16 Q. All right. Did you know Fritz Coleman at  
17 the time?

18 A. Yes.

19 Q. Did you know whether or not Fritz Coleman  
20 had ever visited the Arvizo home?

21 A. No.

22 Q. Okay. And did you -- did you have any  
23 knowledge of Fritz Coleman being involved with a  
24 fund-raiser for the Arvizos?

25 A. I do now. At the time, I had kind of  
26 forgotten about that fund-raiser, because when I  
27 think of a fund-raiser, I think about the one that I

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28 was planning that never came -- you know, came to 3893

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1 be. But I've heard since then that there was a  
2 fund-raiser that Fritz did.

3 Q. And in your discussions with Janet, did she  
4 ever tell you that she had come across a large sum  
5 of money in a civil settlement?

6 A. No.

7 Q. She never mentioned 150,000 to you?

8 A. No.

9 Q. You told David you wanted to raise money and  
10 actually pay their rent directly; is that correct?

11 A. Yes.

12 Q. And did you discuss where -- excuse me. Did  
13 you discuss what you would pay the rent for, what  
14 residence?

15 A. I assumed it was the studio apartment.

16 That's the only residence that -- I knew the  
17 grandmother had a home, but I meant their residence.

18 Q. And you hadn't been there, correct?

19 A. No.

20 Q. To your knowledge, your husband had not been  
21 there either, right?

22 A. No.

23 Q. He'd been to El Monte?

24 A. Yes.

25 Q. Okay. And David said something to you like,  
26 "I want cash"; is that correct?

27 A. Well, yes, when I asked -- when I told him

28 that I needed his bills, he said, "Well, I thought I 3894

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1 was just going to get the cash." And I said, "Oh,  
2 no, that's not how it works."

3 Q. He didn't like that, did he?

4 A. No.

5 Q. Okay.

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

7 (Recess taken.)

8 THE COURT: Go ahead, Counsel.

9 MR. MESEREAU: Thank you, Your Honor. Just

10 a couple more questions.

11 Q. At some point did you learn that the Arvizos  
12 had divorced?

13 A. No, not until recently.

14 Q. Okay. And was it your understanding that

15 Janet had applied for welfare?

16 A. I didn't know that.

17 Q. And did you ever learn that she applied for  
18 disability?

19 A. No.

20 Q. And you never knew she'd obtained a big  
21 settlement of any kind?

22 MR. ZONEN: I'm going to object as asked and  
23 answered, irrelevant.

24 THE COURT: Sustained.

25 Q. BY MR. MESEREAU: Okay. When did you last  
26 see the Arvizos?

27 A. Let's see, probably in the hospital. I

28 don't really recall. 3895

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1 Q. Okay. Did the visit to your home happen  
2 after Gavin was in the hospital or in the middle?

3 A. Kind of in the middle. His treatment was  
4 like a year long.

5 Q. Okay. And do you remember the last time you  
6 talked to Janet?

7 A. In the hospital.

8 Q. Okay. Not at your home?

9 A. No.

10 Q. Okay. Now, obviously you learned about your  
11 husband's strong disagreement with David, correct?

12 A. Uh-huh.

13 Q. You knew that David was calling the radio  
14 station, correct?

15 A. Yes.

16 Q. And at some point you basically severed all  
17 ties with the Arvizo family, correct?

18 A. Yes.

19 Q. And did you ever see them after that?

20 A. No.

21 Q. Ever talk to them after that?

22 A. No.

23 Q. Okay. Now, did you ever discuss any  
24 fund-raising plans with anyone else at The Laugh  
25 Factory?

26 A. No. We were going to do the fund-raiser at  
27 The Ice House.

28 Q. Okay. Did you ever get involved in any 3896

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1 efforts with The Laugh Factory to have a  
2 fund-raiser?

3 A. I still don't remember that fund-raiser.

4 Q. Did you ever talk to Fritz Coleman about a  
5 fund-raiser for Gavin?

6 A. No.

7 Q. Okay. And you were planning the one in  
8 Pasadena, correct?

9 A. Yes.

10 Q. And were you planning it mostly with David?

11 A. No, myself.

12 Q. Okay. Were you talking to the children at  
13 all about that?

14 A. No.

15 Q. About whatever role they would play in it?

16 A. No.

17 Q. Okay. And did you get to the point where  
18 you were actually doing invitations?

19 A. No. We were going to announce it on the  
20 radio. The way it works is, usually you -- the way  
21 we were going to do this one was George was going to  
22 announce it on the radio station, and then -- the  
23 price and the time, and then The Laugh -- I'm sorry,  
24 The Ice House was going to take the reservations.

25 Q. How -- did you ever know at any time whether  
26 or not Fritz Coleman had made announcements about  
27 another fund-raiser for the Arvizos?

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28 A. Yes, I think there was a fund-raiser, but we 3897

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1 weren't involved in that one.

2 Q. You didn't communicate with anybody about  
3 that?

4 A. No.

5 Q. So yours was separate and apart from  
6 anything that The Laugh Factory was having?

7 A. Yes.

8 MR. MESEREAU: Okay. No further questions.

9 THE COURT: Redirect?

10

11 REDIRECT EXAMINATION

12 BY MR. ZONEN:

13 Q. Ms. Lopez, you said that you thought that  
14 Janet's gratitude was spiritual. What did you mean  
15 by that?

16 A. Well, she just said -- she said she was  
17 praying for us and thanking us for being with Gavin,  
18 and for giving him comfort and giving him hope and  
19 making him stronger spiritually by being at his  
20 bedside.

21 Q. Did she ever say anything to you about money  
22 that had been given to David by your husband?

23 A. No.

24 Q. Did she ever say anything at all about any  
25 of the gifts to the family at all?

26 A. No.

27 Q. Did she ever talk to you about that gift

28 that she gave to your husband, the key chain? 3898

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1 A. I thanked her for it, because it meant a lot  
2 to George.

3 Q. Could you describe the gift for us?

4 A. It's a -- it's a small key chain. It has a  
5 mustard seed in it, and she said that she had had it  
6 for -- it was obviously used, and that she'd had it  
7 for a long time and she just wanted him to have it.

8 Q. And he accepted it?

9 A. Yes, he did.

10 Q. And was grateful for it?

11 A. Yes.

12 Q. You made the statement that you thought the  
13 kids were a tool for David, or something like that?

14 A. I'm sorry?

15 Q. Were a tool of David?

16 A. Yes.

17 Q. Tell me what you meant.

18 A. Well, it just seemed he didn't have a  
19 connection with his children. And to me, it seemed  
20 like he was using Gavin's illness for gain,  
21 financial gain.

22 Q. Did you notice any change in David's  
23 behavior as the months went by while Gavin was in  
24 the hospital receiving treatment?

25 A. Well, he just kept asking for money. I  
26 mean, it was just kind of his M.O.

27 Q. It was consistent?

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1 Q. Every time you were there?

2 A. Yes.

3 MR. ZONEN: I have no further questions.

4 MR. MESEREAU: No further questions, Your  
5 Honor.

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

7 MR. NICOLA: Your Honor, we'll be re-calling  
8 Sergeant Bob Spinner.

9 THE COURT: All right.

10 MR. NICOLA: And I would ask permission to  
11 reopen my direct. I think my near fatal accident on  
12 Friday jarred my thinking process. I was  
13 traumatized.

14 THE COURT: You may be seated. You're still  
15 under oath.

16

17 ROBERT SPINNER

18 Having been previously sworn, resumed the  
19 stand and testified further as follows:

20

21 THE COURT: Did you discuss that with  
22 counsel, so they know what -- why you've asked me to  
23 do that?

24 MR. SANGER: I don't know why. I was just  
25 informed he wanted to do it.

26 MR. NICOLA: I did tell Mr. Sanger this  
27 morning at the same time that we talked about

28 calling Mr. Lopez out of order, perhaps. 3900

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1 THE COURT: Would you tell him so he knows?

2 I don't want -- I just want you to know in

3 case you're --

4 MR. SANGER: I don't know. Could we have a

5 moment so I can find out?

6 THE COURT: Yes. Please do.

7 (Off-the-record discussion held at counsel

8 table.)

9 MR. SANGER: If the question -- if the

10 question is -- if the question is, do I now know I

11 have the general subject matter, and I have no

12 ability to form an opinion as to whether or not it's

13 appropriate to reopen based on what I was just told.

14 THE COURT: All right. Go ahead.

15 MR. NICOLA: Thank you, Your Honor.

16

17 DIRECT EXAMINATION (Reopened)

18 BY MR. NICOLA:

19 Q. Detective Spinner, on Friday, you mentioned

20 a series of 19 fingerprints that you made positive

21 identifications on. I'd like to talk to you

22 specifically about the items that are marked in the

23 317 series of sheriff's evidence that you testified

24 you had made identifications on.

25 When you examined those items in the 317

26 series, did all the items that you identified

27 fingerprints on arrive at the same time?

28 A. No, they did not. 3901

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1 Q. Would you explain that for the jury, please?

2 A. When I was first assigned the job, I went to  
3 the property room to obtain Items 306 and 317, which  
4 were the two initial item numbers. I was told, when  
5 I got Item 306, that 317 was not available, and it  
6 would be available at a later date.

7 I was advised on August the 3rd that the 317  
8 that had been -- or part of 317, which had been at  
9 the DOJ for laboratory for analysis, was back, and I  
10 went out and got it.

11 I was later advised that there were a  
12 number -- the remainder of 317 was brought to the  
13 forensics lab. When I came back to work on October  
14 the 5th, it was locked in the cabinet in the  
15 forensics lab and the remainder was in the black  
16 briefcase.

17 Q. So you got one portion of it in August?

18 A. Yes, sir.

19 MR. NICOLA: May I approach the witness,

20 Your Honor?

21 THE COURT: Yes.

22 MR. NICOLA: Marked as 622.

23 MR. SANGER: Your Honor, I am going to  
24 object that this is not proper to reopen. It's  
25 basically material that's covered, and it's  
26 elaboration on something that he brought up in  
27 redirect.

28 MR. NICOLA: May we approach, Your Honor, so 3902

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1 we do not --

2 THE COURT: No. I've already given you

3 permission to reopen. Proceed.

4 MR. NICOLA: Thank you.

5 Q. I've placed in front of you Exhibit 622. Is

6 that 622?

7 A. Yes, sir, it is.

8 Q. Okay.

9 MR. NICOLA: May I use your copy, please?

10 MR. SANGER: Okay.

11 Q. BY MR. NICOLA: I'm just going to hold it

12 up. It appears to be nothing more than a couple of

13 timelines, correct?

14 MR. SANGER: I suppose that's not

15 appropriate to publish it until it's an exhibit.

16 MR. NICOLA: There's really nothing on this.

17 MR. SANGER: There is something on it.

18 THE COURT: Counsel, you're required --

19 MR. NICOLA: It is just a couple of

20 timelines.

21 THE COURT: Counsel, you're required to mark

22 the exhibit, show it to opposing counsel, and then

23 show it to the witness without publishing.

24 MR. NICOLA: I understand. I apologize,

25 Judge.

26 Q. BY MR. NICOLA: What is on 622?

27 A. It appears to be two timelines for the year

28 2004, and one for a brown evidence bag, 529, and for 3903

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1 a black briefcase, 470.

2 Q. Okay. Do you recognize Exhibit 470?

3 A. Yes, I do.

4 Q. And do you recognize Exhibit 529?

5 A. Yes, I do.

6 Q. Beginning with Exhibit 529, can you please  
7 open the package up, and how do you recognize that  
8 exhibit?

9 A. This is the evidence bag which I received  
10 the first grouping of items which were booked into  
11 evidence under Sheriff's Evidence Item No. 3-1-7, or  
12 317.

13 Q. Okay. On Exhibit 622, can you please note  
14 on the timeline?

15 A. Do you want me to write that down?

16 Q. Please write the date that you first opened  
17 that bag on the timeline, and on which date --

18 THE COURT: Has that timeline been marked as  
19 an exhibit?

20 MR. NICOLA: It's Exhibit 622, Your Honor.

21 THE COURT: Is that Exhibit 622?

22 MR. NICOLA: Yes.

23 THE COURT: Go ahead.

24 Q. BY MR. NICOLA: Tell the jury what you just  
25 wrote.

26 A. 8-3 of '04.

27 Q. And that's Exhibit No. 529?

28 A. Yes, sir. 3904

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1 Q. Okay. Can you tell the jury, please, which  
2 items from Exhibit 529 were items that you were  
3 later able to make positive identifications of  
4 fingerprints in?

5 A. It would have been 317, L, Lincoln; 317-R,  
6 Robert; 317-S, Sam; and 317-YY, or yellow-yellow.

7 Q. Do you have a list of the names of those  
8 publications?

9 A. Yes, I do.

10 Q. Okay. Can we start again, please, with the  
11 317-L with a name?

12 A. 317-L is December 2000 issue of a magazine  
13 entitled "Finally Legal."

14 Q. Okay. And whose fingerprints were in that  
15 magazine?

16 A. Star Arvizo.

17 Q. Was there another magazine that was in 529  
18 that you made positive identifications of  
19 fingerprints out of?

20 A. Excuse me for one minute.

21 317-R, Robert.

22 Q. And the name of that magazine, please?

23 A. Is Hustler's "Barely Legal Hardcore."

24 Q. Could you tell the jury which fingerprints  
25 you were able to positively identify in that item,  
26 please?

27 A. Three fingerprints from Gavin Arvizo, and

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28 one fingerprint from Mr. Jackson. 3905

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1 Q. Just for the record, is 317-L - you're too  
2 fast - Exhibit 513?

3 A. Yes, sir, it is.

4 Q. And for the record, is 317-R Exhibit 518?

5 A. Yes, it is.

6 Q. You mentioned a couple of other  
7 publications?

8 A. 317-S, Sam, which was an unknown date issue  
9 of Penthouse magazine with the cover removed.

10 Q. For the record, is that Exhibit 519?

11 A. Yes, it is.

12 Q. Was there another publication that you  
13 recovered positive fingerprints from which were  
14 contained in Exhibit 529?

15 A. 317-YY, yellow-yellow.

16 Q. And that was?

17 A. The name of that was "Al Goldstein's 100  
18 Best Adult Videos."

19 Q. And whose fingerprints did you recover in  
20 that?

21 A. Gavin Arvizo.

22 Q. And does that appear to be Exhibit No. 504?

23 A. Yes, it does.

24 Q. I'll let you package that up before I ask  
25 some more questions, okay? Don't put that away yet.

26 Are each of the publications that you have  
27 just described for the jury marked on the front of

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1 A. Yes, they are.

2 Q. Okay. Are there additional items denoted by  
3 317 followed by a letter of the alphabet written on  
4 Exhibit 529? You don't have to read the list.

5 A. Yes, there are.

6 Q. And at the time that you received Exhibit  
7 529, did you conduct an inventory of what was inside  
8 the bag compared to what was written on the exterior  
9 of the bag?

10 A. Yes, I did.

11 Q. Did you find any item missing?

12 A. No.

13 Q. Okay. Did you find any item inside the bag  
14 that was not accounted for on the outside of the bag  
15 by item number?

16 A. No, I did not.

17 Q. Okay. Could you tell the jury, please, what  
18 date you began processing Exhibit No. 317-L? And  
19 "processing," I mean the procedure that you  
20 described for us on Friday.

21 A. Okay. I started -- I obtained the items on  
22 8-3 and we started the processing on 8-11.

23 Q. Could you mark that, please, on your Exhibit  
24 622? Is it legible?

25 A. Yes, sir.

26 Q. Are you using a pen now?

27 A. Yes, sir.

28 Q. Okay. With respect to Exhibit 317-R, Item 3907

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1 317-R, the Exhibit No. 518, could you tell the jury,  
2 please, when you began processing that item?

3 A. The same day, 8-11, August 11th.

4 Q. Would you please put that on the timeline as  
5 well?

6 Does the same hold true for Items 317-S,  
7 Exhibit 519, and 317-YY, Exhibit 504?

8 A. No, 317, Sam, and 317-YY were started on  
9 8-12.

10 Q. On August 12th --

11 A. Yes.

12 Q. -- of 2004? Could you put those two items  
13 on the timeline as well with the date that you began  
14 processing them, please?

15 Just remember we'll have to read that later.

16 A. You've seen my writing.

17 Q. You mentioned that you did not have Exhibit  
18 470, the black briefcase, at the time that you had  
19 Exhibit 529?

20 A. That's correct.

21 Q. When were you able to take custody of the  
22 black briefcase, Exhibit 470, and check through the  
23 contents?

24 A. On 10-5 of '04.

25 Q. On October 5th of 2004?

26 A. Correct.

27 Q. Do you know where the briefcase had been

28 prior to that time? 3908

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1 A. I was told it had been --

2 MR. SANGER: Calls for hearsay, objection.

3 THE COURT: Sustained.

4 Q. BY MR. NICOLA: Do you want to look at the  
5 briefcase now or do you need to?

6 A. No, I don't need to. It's got seals on it.

7 Q. Okay. Did you find fingerprints for which  
8 you made a positive identification on any  
9 publications that you removed from Exhibit 470, the  
10 black briefcase?

11 A. Yes. On three.

12 Q. Could you please tell the jury on which  
13 magazines those were, publications, I mean?

14 A. 317-ocean, O, which was -- it was a "Barely  
15 Legal" magazine.

16 317-T, Tom, which was a "Visions of Fantasy,  
17 A Hard-Rock Affair" magazine.

18 And 317-union, which was a "Visions of  
19 Fantasy, Jose's Black Starlett" magazine.

20 Q. Okay. Beginning with Exhibit 515, Item  
21 317-O, whose prints did you find in that again?

22 A. It was Mr. Jackson's.

23 Q. And Item 317-T, Exhibit 520?

24 A. Mr. Jackson's.

25 Q. And Item 317-U, which is Exhibit 521?

26 A. Would have been Gavin Arvizo.

27 Q. And on which page of that publication was

28 that print located? 3909

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1 MR. SANGER: Your Honor, this is cumulative.

2 It's been asked and answered.

3 THE WITNESS: Page --

4 THE COURT: Yeah, what is it that you didn't

5 do last week that you're doing now?

6 MR. NICOLA: Just this last part of the

7 timeline, Judge. Didn't ask him any questions about

8 dates of processing, or when he received the

9 material.

10 THE COURT: Well, let's limit it to the

11 dates, then, and not go through the rep -- whose

12 prints are on what. You covered all that last week.

13 Q. BY MR. NICOLA: With respect to those three

14 items, what date did you process them, if they were

15 all on the same day?

16 A. On 317-O, I started processing on October

17 the 5th, and it was completed on October the 12th.

18 Q. Okay. Could you please put that on the

19 timeline?

20 How about Exhibit 520, 317-T?

21 A. On 317-T, again obtained on October 5, and

22 completed on October 12.

23 Q. Can you please write that on the timeline as

24 well, Exhibit 622? And how about Exhibit 521,

25 Exhibit 317 -- Item 317-U?

26 A. 317-U, again initially obtained on 10 -- or

27 October the 5th, and it was completed on October the

28 12th. 3910

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1 Q. And could you write that on the timeline as  
2 well?

3 At this time, Your Honor, I'd move 622 into  
4 evidence and request permission to publish.

5 MR. SANGER: Before the Court rules, could I  
6 take a look at it, please?

7 THE COURT: Yes.

8 MR. SANGER: May I approach to do that?

9 THE COURT: Yes, you may.

10 MR. NICOLA: Would you mind bringing it  
11 back, if you're amenable?

12 MR. SANGER: Counsel's asked me to bring it  
13 back, so if that's all right, I'll do that.

14 MR. NICOLA: Save me a trip.

15 (Laughter.)

16 MR. ZONEN: A trip.

17 THE BAILIFF: It's on.

18 MR. NICOLA: It's on?

19 THE BAILIFF: It should have been, unless  
20 somebody turned it off.

21 THE COURT: What input do you need?

22 MR. NICOLA: I believe that is "Input 4,"

23 Your Honor. The Elmo.

24 Q. BY MR. NICOLA: Does -- Exhibit 622, does  
25 that exhibit accurately reflect the items of  
26 evidence you were able to find identifiable  
27 fingerprints from and the dates that you processed

28 them? 3911

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1 A. Yes, sir.

2 Q. And it also accounts for the items of  
3 evidence from which those publications came from?

4 A. Yes, sir.

5 Q. Did you process any of -- any magazine or  
6 periodicals that came to you for fingerprint  
7 comparison in the month of September that you  
8 recall?

9 A. I was gone for the -- for at least three  
10 weeks in September on a trip, and I don't believe  
11 I did much processing of anything in September. I  
12 might have done something at the tail end of  
13 September, but I can't recall.

14 Q. Okay. Generally what was the success ratio  
15 in checking for fingerprints in these magazines,  
16 periodicals?

17 MR. SANGER: Objection. First of all, the  
18 question is vague as to which set of magazines. But  
19 secondly, that's cumulative. The overall question  
20 has been asked and answered with specific numbers.

21 MR. NICOLA: I'm not sure that has, Your  
22 Honor.

23 THE COURT: I don't know what you mean by  
24 "success ratio." I think we covered that last week.

25 MR. NICOLA: Okay.

26 THE COURT: But I don't know what you mean  
27 by that, so I'll sustain a foundation objection.

28 Q. BY MR. NICOLA: Regarding your ability to 3912

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1 locate latent prints on the kinds of materials that  
2 are in front of you, the 317 series, if -- if you  
3 can explain in a percentage, only if you can, please  
4 describe for the Court what kind of percentage ratio  
5 you can successfully find latent prints on these  
6 kinds of items, if you know?

7 MR. SANGER: Objection, foundation. And  
8 it's unintelligible.

9 THE COURT: Sustained on foundation.

10 Q. BY MR. NICOLA: Why don't we move on.

11 Were you concerned about contamination of  
12 the fingerprints in this case?

13 MR. SANGER: Objection, Your Honor. This is  
14 beyond the offer to reopen.

15 THE COURT: Sustained.

16 MR. NICOLA: I have no further questions,  
17 Your Honor.

18 THE COURT: 622's admitted.

19 MR. NICOLA: Thank you, Your Honor.

20 Do you need those exhibits or....

21 MR. SANGER: Just leave them. That's fine.

22 May I proceed, Your Honor?

23 THE COURT: Yes.

24

25 CROSS-EXAMINATION

26 BY MR. SANGER:

27 Q. Sergeant Spinner, how are you?

28 A. I'm fine, sir. 3913

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1 Q. Good. And you're retired?

2 A. Yes, sir, I think so.

3 Q. Okay. Not for a little while anyway.

4 First of all, when you talk about -- when

5 you answer the district attorney's questions as to

6 whose fingerprints are on something, that's your

7 opinion; is that correct?

8 A. That's correct.

9 Q. And fingerprint identification is

10 subjective; is that right?

11 A. It falls into two categories. The initial

12 examination and evaluation I would say is based in

13 fact. The opinion is subjective.

14 Q. All right. So ultimately your opinion --

15 this is what I was asking, I believe. Ultimately

16 your opinion as to whose fingerprints match is a

17 subjective opinion, correct?

18 A. That would be correct.

19 Q. All right. Now, you indicated -- in this

20 last bit of testimony this afternoon, you indicated

21 that, in essence, you received materials with regard

22 to Item No. 317 from two different locations, right?

23 A. Two different times.

24 Q. Well, okay. Two different times. They were

25 from two different bags, right?

26 A. That's correct, sir.

27 Q. All right. One bag you told us about there

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28 was Exhibit 529, which was an evidence bag, right? 3914

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1 A. That's correct.

2 Q. And the other was the briefcase, which was  
3 actually 470, Exhibit 470, court exhibit?

4 A. Yes, sir.

5 Q. And within 470 were a group of magazines,  
6 correct?

7 A. Among other items, yes, sir.

8 Q. And some loose pages as well?

9 A. That's correct.

10 Q. And those materials were simply in the  
11 briefcase, right?

12 A. Correct.

13 Q. They were not separately put into plastic  
14 bags or envelopes or anything else; is that right?

15 A. Not till I got ahold of it, yes, sir.

16 Q. I'm talking about when you received it,  
17 those items were not put into separate evidence  
18 containers, whether it be a plastic bag, a paper bag  
19 or some other form, correct?

20 A. That's correct.

21 Q. Now, you located ultimately 19 fingerprints  
22 that you've talked to the jury about, and we have  
23 the comparison boards there; is that correct?

24 That's the right number?

25 A. That's correct.

26 Q. Ten of the prints, including at least one  
27 that you attribute to Gavin Arvizo, came from items

28 other than the bag, 529, that you believe came from 3915

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1 the Department of Justice; is that correct?

2 A. I haven't totaled it up, but, yeah, I'll  
3 take your word for it.

4 Q. I don't want you to take my word for it. Is  
5 that approximately correct? Or you can total it up,  
6 if you'd like.

7 A. It would be approximately correct, yes, sir.

8 Q. All right. And at least one of the prints  
9 from Gavin Arvizo came from something other than

10 Evidence Bag 529; is that correct?

11 A. Correct.

12 MR. NICOLA: Objection. Misstates the  
13 evidence, Your Honor. The evidence is one, not "at  
14 least one."

15 MR. SANGER: Objection; speaking objections.

16 THE COURT: Sustained. The objection's  
17 overruled.

18 Q. BY MR. SANGER: Is that correct, sir? Is  
19 that correct?

20 He may have answered. I don't know if the  
21 answer came in.

22 THE COURT: He said, "Correct."

23 MR. SANGER: Okay. Thank you.

24 Q. Now, there were also two other prints that  
25 had been identified either as positive or  
26 inconclusive, and those two were switched or shifted  
27 at a date after your initial reports were written;

28 is that correct? 3916

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1 A. Yes, sir. After a review by a third party,  
2 yes, sir. That's correct.

3 Q. Let's talk about those two for a moment.

4 You wrote final reports on the various  
5 latent print examinations that you did on a certain  
6 date in December; is that correct?

7 A. As the item process -- each item was  
8 finished, I had a mandate to complete a report  
9 within 24 hours of completing each item as I went,  
10 so it would -- when the report was written would  
11 depend on when the total completion date on that  
12 item was -- actually happened.

13 Q. I'm sorry.

14 A. Go ahead.

15 Q. What I'm asking, and maybe I wasn't clear,  
16 as of December of 2004, you had final reports  
17 written on your identification of the various  
18 prints; is that correct?

19 A. December the 17th, yes, sir.

20 Q. All right. And then these two prints were  
21 subject to additional reports that you wrote  
22 sometime in 2005; is that correct?

23 A. Yes, sir, that's correct. That was due to  
24 an agreement that --

25 MR. SANGER: I'm going to move to strike as  
26 nonresponsive.

27 THE WITNESS: Okay. That's correct, sir.

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1 MR. SANGER: Thank you.

2 Q. One of the prints had been labeled as  
3 inconclusive as of December 2004; is that correct?

4 A. That's correct.

5 Q. And then in January of 2005, you wrote a  
6 report indicating that you believed that that should  
7 be positive as to Star Arvizo; is that correct?

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

9 Q. The other print had been written up, as of  
10 December 2004, as inconclusive -- I'm sorry, as  
11 positive as to Mr. Jackson, and then you changed  
12 that to inconclusive; is that correct?

13 A. That's correct.

14 Q. And that was based on additional  
15 consultation that you had?

16 A. Yes, with Mrs. Hemman and also I.D. Tech  
17 Allmeyer of the Santa Barbara Police Department.

18 Q. And I.D. Tech Allmeyer is somebody that  
19 you've known for a number of years; is that correct?

20 A. Yes, sir, it is.

21 Q. And he worked for the sheriff's department  
22 for quite some time?

23 A. I'm going to guess about four years before  
24 he went to another job.

25 Q. So that was not a stranger who you called  
26 upon to do a review of the work; is that correct?

27 A. No, but I trust his judgment.

28 Q. All right. Now, you indicated last week 3918

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1 that you had examined about 80,000 prints in your  
2 career as a latent print examiner; is that correct?

3 A. That's an approximation, yes, sir.

4 Q. 21,000 of them were in this case, correct?

5 A. Approximately, yes, sir, probably close to  
6 that.

7 Q. So over one quarter of your experience in  
8 comparing latent prints in cases occurred in the  
9 Michael Jackson investigation; is that correct?

10 A. It may be -- 80,000 may be slightly low. It  
11 could be -- it's -- to say the examination I've done  
12 just in this case alone is one quarter of my total  
13 experience I don't think is true.

14 Q. Okay. So you want to revise the number  
15 upward from 80,000?

16 A. I would say it would be in the -- maybe the  
17 100 to 120 figure. Probably not much more than  
18 that.

19 Q. Okay. So a fifth -- if those figures are  
20 correct, a fifth to a sixth of the prints that  
21 you've examined in your career have been in Mr.  
22 Jackson's case; is that correct?

23 A. That may be close, yes, sir. It was a large  
24 amount that we did all at once.

25 Q. All right. Now, you found 706 latent prints  
26 in this case that -- when I say "you found" -- let  
27 me withdraw that.

28 The people in the unit who you were working 3919

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1 with ultimately found 706 latent prints?

2 A. That's the number we were sent, yes, sir.

3 Q. Okay. So when you say "sent," there were  
4 people in the Santa Barbara unit and there were  
5 people in the Santa Maria unit that were sending you  
6 prints?

7 A. They were providing us prints to examine,  
8 yes, sir.

9 Q. All right. So 706 of them, right?

10 A. Correct. At my count, yes.

11 Q. And you matched up 20 or so?

12 A. There were 19 positive I.D.s out of that  
13 amount, yes.

14 Q. 19 as you testify today, but you had another  
15 positive I.D. that you changed back to inconclusive;  
16 is that correct?

17 A. Yes, sir, it is.

18 Q. That's why I say 20.

19 A. Yes, sir, 20.

20 Q. Of the 706 prints, there were 178 that you  
21 believe were sufficient to make a match if you had  
22 something to match it to; is that correct?

23 A. That's correct. Part of those were palm  
24 prints, and they weren't all fingerprints. I  
25 believe there was 13 palms mixed in that number.

26 Q. Okay.

27 A. If my memory serves me correctly.

28 Q. All right. So 165 fingerprints and 13 palm 3920

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1 prints?

2 A. It sounds close, yes.

3 Q. You were asked to compare these fingerprints

4 only -- and palm prints, for that matter, only to

5 the prints that were presented to you for Mr.

6 Jackson and for Gavin Arvizo and for Star Arvizo; is

7 that correct?

8 A. Yes, we had a complete set of fingerprints

9 for Gavin and Star Arvizo, but I only had exemplar

10 fingerprints for Mr. Jackson.

11 Q. I'm sorry, say that -- what did you say?

12 A. I had no palm prints for Mr. Jackson.

13 Q. I see. So you just had fingerprints for Mr.

14 Jackson?

15 A. That's correct.

16 Q. All right. Now -- let me walk in between

17 everybody here. Excuse me.

18 May I approach, Your Honor? I'm sorry.

19 THE COURT: Yes.

20 Q. BY MR. SANGER: Let me show you 743, 744 and

21 745. And I believe that you had already said on

22 direct examination that those are, in essence,

23 blow-ups of the other prints that are in evidence;

24 is that correct?

25 A. That's correct, sir.

26 Q. Now, two of those are rolled prints, inked

27 prints; is that correct?

28 A. Yes, sir. 3921

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1 Q. And one is the Livescan, which is a digital  
2 film -- I don't want to say "digital film," but a  
3 digital representation of the prints; is that  
4 correct?

5 A. That's correct.

6 Q. And how many sets of fingerprints did you  
7 have for Star and Gavin Arvizo to work from?

8 A. We had two sets of each.

9 Q. Okay. Now, for some reason you've just

10 shown us -- or let me withdraw that.

11 The prosecutor has shown you and you have  
12 identified one set of prints for each one, correct?

13 MR. NICOLA: Objection. Misstates the  
14 actual exhibit boards. I'd like counsel to be  
15 specific here, or it's vague.

16 THE COURT: Just a moment. The objection's  
17 overruled.

18 Q. BY MR. SANGER: Do you have both sets of  
19 rolled prints on each exhibit there?

20 A. One set of prints for Star Arvizo has two  
21 cards on it, and the one for Gavin Arvizo has one.

22 Q. Okay. Was there another set of rolled  
23 prints for Gavin Arvizo that you're aware of?

24 A. Yes. But if my memory serves me correct,  
25 they were not -- they really weren't any good.

26 Q. And so those -- you had those redone? Did  
27 you have those redone?

28 A. They were redone at my request, yes, sir. 3922

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1 Q. Did you also have Star Arvizo's prints  
2 redone?

3 A. Yes, sir.

4 Q. And you wanted to see if a better set of  
5 prints could be developed?

6 A. That's correct, sir.

7 Q. Did you believe at the time you looked at it  
8 that Mr. Jackson's prints were done appropriately?

9 A. They could have been done better, but  
10 they're appropriate, yes.

11 Q. Okay. And the same -- well, let me withdraw  
12 that. As far as Star Arvizo's, his first set was  
13 done appropriately but could have been better.

14 Would that be your testimony?

15 A. His first set was okay, but they could have  
16 been better. As I recall, there was some smearing  
17 and areas that really couldn't be seen into as far  
18 as the clarity.

19 Q. Okay. Now, we're talking about the known  
20 prints or the rolled prints, as they're usually  
21 called, of the particular subjects, right?

22 A. Yes, sir.

23 Q. Okay. And one of them being Livescan, but  
24 what do you refer to them all as collectively?

25 Known prints?

26 A. I call them exemplar prints.

27 Q. Exemplar prints, all right. And the idea is

28 that if you do not have a good example in your 3923

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1 exemplar prints, it makes it more difficult to  
2 determine whether or not a print, a latent print, is  
3 identifiable; is that correct?

4 A. You have to have -- yes, sir, it is. You  
5 have to have the same clarity to be able to see the  
6 detail in the known print that you have identified  
7 in the latent print.

8 Q. What sorts of things can cause known --  
9 known prints or exemplar prints to be imperfect?

10 A. Deposition pressure. Torquing. When the  
11 print's rolled, sometimes the tip will roll faster  
12 than the base and you'll get some smearing going on.

13 Q. Imperfections in the paper?

14 A. Normally imperfections in the paper, that  
15 the card stock that's used is what's supplied by the  
16 state or the FBI, and it's pretty common, standard,  
17 and we don't get that much problem. It's a hard  
18 cardboard-type paper and it doesn't twist or bend.

19 Q. It doesn't twist or bend, but occasionally  
20 something will not show up on the print?

21 A. There might be an area that's blank. That  
22 would be deposition pressure.

23 Q. So in other words, there wasn't enough  
24 pressure put on the -- on the finger to apply it to  
25 the cardboard in order to transfer the ink?

26 A. That could be. Or it wasn't inked properly,  
27 if ink was used.

28 Q. Okay. So the finger was not inked properly; 3924

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1 therefore, there was not ink on that part of the  
2 finger to make the imprint on the paper, correct?

3 A. That would -- that's a loose definition,  
4 yes.

5 Q. Okay. Well, I don't want to be too loose.

6 Is that close enough?

7 A. Or there was a blank spot, or there was a  
8 bubble, or there was some other reason why there was  
9 a -- not a total recording of the friction ridge  
10 skin.

11 Q. You talk about torquing. Is that turning  
12 the fingers so there's a smudge or a smear or a  
13 distortion?

14 A. Yes, sir.

15 Q. All right. Are there any other -- in rolled  
16 ink prints, are there any other causes that you're  
17 aware of of deformation in the print?

18 A. Well, you could have too much pressure also,  
19 which will cause the ridges to be wider when they  
20 wouldn't normally be, or they will normally either  
21 hide some detail because the ridge is flattened out.

22 Q. Too much ink might just cause a blot?

23 A. Too much ink might just cause some pressure,  
24 yes.

25 Q. Now, what about the Livescan prints that you  
26 have of Mr. Jackson? Can you tell me what  
27 deficiencies there are in those particular prints?

28 A. They're a little scattered, possibly because 3925

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1 his hands were dry when they were rolled.

2 Q. So not all of the detail was actually  
3 transferred to the digital format; is that correct?

4 A. Not all of it in some areas, like below the  
5 base of the thumb, shows up, and why it's not there  
6 I don't want to hazard a guess.

7 Q. Okay. So in other words, there should be  
8 more there -- if it was done properly, there would  
9 be more of a print, more ridge detail?

10 A. It would depend on, again, how the prints  
11 were rolled and who did it, and how much care was  
12 taken, et cetera, et cetera, with the Livescan,  
13 because you're not actually using ink. You're  
14 relying on moisture, a glass platen, which is then  
15 read by the machine to record the prints.

16 Q. Would you agree, based on your experience,  
17 that properly rolled ink prints are a better  
18 exemplar than Livescan?

19 A. Correct.

20 Q. Livescan, however, is used because it's more  
21 convenient; is that correct?

22 A. I don't know that "convenience" would be the  
23 proper word, but it's an overall method to get the  
24 fingerprints transferred back and forth, since it's  
25 just a digital, for the Department of Justice  
26 purposes rather than mailing inked cards.

27 Q. It's a little hard to hear. It's the end of

28 the day, and I think you're trailing off. 3926

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1 A. I'll move closer.

2 Q. In other words, Livescan is simply a way to  
3 get it directly into a computer system so you can  
4 make a disk or send it by e-mail, you can send it  
5 off to the DOJ, to the FBI, correct?

6 A. It's a -- yes, sir, it's a quicker way of  
7 getting a set of inked -- rolled ink -- rolled  
8 fingerprints for identification.

9 Q. One of the reasons it's good to have  
10 rolled -- we're going back to rolled, which I kind  
11 of like. You said exemplar prints, so let's stick  
12 with that. We covered Livescan and inked prints,  
13 right?

14 A. Yes, sir. That's correct.

15 Q. So it's important to have a good set of  
16 exemplar prints so that you can look, as an  
17 examiner, to see if ridge detail matches ridge  
18 detail from the latent print to the exemplar print,  
19 correct?

20 A. That's correct.

21 Q. You also need to look at the exemplar print,  
22 when comparing it to the latent print, in order to  
23 determine if there are any unexplained differences  
24 between the two; is that correct?

25 A. Well, you compare the two, latent to known,  
26 known to latent, and then you have to work out the  
27 discrepancies between the two, yes.

28 Q. All right. 3927

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1 THE COURT: Counsel, I'd like to stop a  
2 little early, because there's a couple issues we  
3 need to take up outside the presence of the jury.

4 MR. SANGER: Yes, sir.

5 THE COURT: I'm going to excuse you now.

6 We'll see you at 8:30 tomorrow morning. And  
7 remember, Thursday you won't come in.

8

9 (The following proceedings were held in  
10 open court outside the presence and hearing of the  
11 jury:)

12

13 THE COURT: We need that door closed back  
14 there.

15 THE BAILIFF: I'll get it.

16 THE WITNESS: He took care of it, sir.

17 THE COURT: Let's see, the first issue I  
18 wanted to take up was whether or not -- the question  
19 of whether or not we should instruct the jury on the  
20 1108 and perhaps 1101 evidence before, at the time  
21 of taking the evidence, during, after. I like to  
22 instruct juries on special points as we go along.  
23 I don't know when you intend to start your  
24 1108 evidence, now that the ruling's been made. And  
25 you don't need to -- since I'm just putting that to  
26 you right now, you don't need to answer me now. I'd  
27 like to know tomorrow. And if you have a suggested

28 instruction, I think there's a -- there might be a 3928

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1 CALJIC that applies. I haven't looked. Anyway --

2 MR. SNEDDON: Yes, I believe they should be  
3 preinstructed. And yes, there is a CALJIC that's  
4 been approved by the courts to be given in such  
5 situations.

6 THE COURT: All right.

7 MR. SNEDDON: And I would anticipate maybe  
8 in two weeks, depending on the length of  
9 cross-examination of certain witnesses.

10 THE COURT: So that gives everybody time if  
11 you want to submit a different instruction or a  
12 pinpoint instruction or....

13 MR. MESEREAU: We'd want to do that, Your  
14 Honor. There is some -- for example, burden of  
15 proof we think should wait till the end, but there  
16 are some preinstructions we would like on that  
17 issue.

18 THE COURT: I just put you on notice so you  
19 can start feeding me information. That gives me --  
20 I can relax a little bit, because I know we have  
21 time to do this right.

22 MR. MESEREAU: Thank you.

23 THE COURT: The second issue is there's a --  
24 one of the -- one of the witnesses who's testified,  
25 Kiki Fournier, has called my secretary. And as I  
26 understand from my secretary, has contacted both  
27 attorneys and she has requested permission to travel

28 outside the United States with her child, or 3929

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1 children, I don't know. And she advised my  
2 secretary that she could not get agreement from the  
3 attorneys on her ability to do that. She's willing  
4 to be on a return call for 48 hours if someone needs  
5 her. So I need to get your position.

6 I think she's basically testified and been  
7 cross-examined. I don't think she's been excused  
8 technically, but I don't like to prevent people from  
9 going on with their lives when we can make  
10 arrangements to allow them to go on with their lives  
11 and still be available when they're needed.

12 What's --

13 MR. SNEDDON: Judge, I indicated that that  
14 was more than okay with me, that she could go. I  
15 anticipated that if we would want to re-call her, we  
16 would still have time, because we probably would not  
17 have rested by the date she plans on returning, so  
18 therefore it shouldn't be a concern in terms of the  
19 defense calling her, because she would be available  
20 if they wanted to.

21 So as far as I'm concerned, she could do  
22 that. If an emergency arose, and we need her to  
23 come back, it sounds like she's willing to come back  
24 and we would arrange that. So as far as I'm  
25 concerned, she can go and should go.

26 MR. MESEREAU: Your Honor, I don't want to  
27 interfere with her travel plans at all. Our concern

28 is there is a great likelihood we will re-call her 3930

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1 for a lot of reasons I don't want to disclose at the  
2 present.

3 THE COURT: Nor do you need to.

4 MR. MESEREAU: It seems to me that her  
5 plans -- I don't know where she's going or when she  
6 plans to leave. But her plans are to be back in the  
7 near future, is that correct?

8 THE COURT: Within -- within 28 days, I  
9 think. And I think she plans to leave immediately.

10 You probably know more than I do. My secretary just  
11 said we have a problem here, and --

12 MR. SNEDDON: I can assist the Court and  
13 Mr. Mesereau in this regard, Your Honor. My  
14 information is she needed to book the tickets today.  
15 She was going to leave immediately and she'd be back  
16 the first week in May.

17 THE COURT: So that's more than the estimated  
18 time I thought. But at any rate, if you're not  
19 going to put on your 1108 evidence for two more  
20 weeks, I can see that -- it seems to me that's a  
21 safe return date for her.

22 MR. MESEREAU: Yeah.

23 THE COURT: Okay.

24 MR. MESEREAU: Again, I don't want to  
25 interfere with her plans.

26 THE COURT: I would require that she sign a  
27 statement like -- she's on subpoena, and it's not

28 uncommon. In fact, it's more common than not that 3931

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1 we put these people on call, under an agreement, and  
2 the code section provides for that. And I would  
3 have her sign an agreement to return upon 48 hours'  
4 notice if there was an emergency before her return  
5 date.

6 And then I would personally go to Europe and  
7 get her if she --

8 MR. MESEREAU: We will agree to that, Your  
9 Honor.

10 THE COURT: All right. Even if it took me  
11 months to find her.

12 (Laughter.)

13 THE COURT: I think it's the right thing to  
14 do, so I appreciate that. I'll take care of that.  
15 Then I think we're through for the day.

16 Thank you, everyone. I'll see you tomorrow at 8:30.

17 (The proceedings adjourned at 2:35 p.m.)

18 --o0o--

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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 3792 through 3932

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 28, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 28, 2005.

24

25

26

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

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