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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

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7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 THURSDAY, MAY 5, 2005

20

21 8:30 A.M.

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23 (PAGES 8967 THROUGH 9011)

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28 BY: Official Court Reporter

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1 E X H I B I T S

2 FOR IN

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

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4 418 Copy of check for \$1,000,000, page 3 8975

5 418-A Remainder of pages from

6 Exhibit 418 8975 8975

7 419 Copy of check for \$500,000, page 3 8975

8 419-A Remainder of pages from

9 Exhibit 419 8975 8975

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1 Santa Maria, California

2 Thursday, May 5, 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 want to talk about the 400
13 series exhibits before we start argument on the
14 dismissal. I was trying to review some testimony
15 yesterday.

16 Is someone from the District Attorney's

17 Office prepared to address that?

18 MR. AUCHINCLOSS: Good morning, Your Honor.

19 THE COURT: Did you work on this at all last
20 night, or --

21 MR. AUCHINCLOSS: Well, I'm prepared to
22 address the Court's concerns. But I'm not certain
23 exactly what areas you would like me to address.

24 THE COURT: What I was looking for is
25 independent authentication of some of the documents.
26 The documents were marked primarily by an officer
27 just reporting what he'd seized in a search, and the
28 fact they were seized in a search is not sufficient

1 authentication to get the documents in. So I was
2 trying to keep notes of the various independent
3 authentication as you went through them. And I was
4 looking at the list that I had and this morning I
5 was trying to go through some testimony from
6 yesterday and the day before, and I found that you
7 had authenticated Exhibit 400, which I didn't admit
8 yesterday. And I suspect you authenticated some
9 others that I missed, so --

10 MR. AUCHINCLOSS: Well, in terms of the
11 foundation for the admissibility of all the
12 documents, as we pointed out in our brief, Your
13 Honor, authentication --

14 THE COURT: I'm beyond your brief.

15 MR. AUCHINCLOSS: Okay.

16 THE COURT: Let me tell you, like on Exhibit

17 400, we have -- maybe it would be best if I address
18 particular problems with you than --

19 MR. AUCHINCLOSS: Okay.

20 THE COURT: I think Exhibit 400 was properly
21 authenticated by Mr. Provencio.

22 Mr. Sanger, rather than have him speak to
23 that, and that's my -- my feeling at this point. Do
24 you have anything you want to address on that
25 document?

26 MR. SANGER: I will only because I think
27 that this may -- this may have a carry-over to some
28 of the others. So let me just say this in general.

1 At the time we filed our brief, of course,
2 Mr. Provencio had not testified. His testimony, I
3 think, is not sufficient for authentication in
4 general. His testimony, besides being highly
5 suspect, was to the effect that he went through a
6 file cabinet that wasn't really necessarily his to
7 go through, and that's where he saw certain
8 documents. He doesn't -- he hasn't laid the
9 foundation for what the document is.

10 If we look at 400 in particular, it appears
11 to be -- let me move it up here so I can stand at
12 the microphone. It appears to be one page of
13 something that has some purported initials at the
14 bottom. And besides authenticating the document in

15 the sense that, "I saw it in this house" that was
16 used by a number of people, including Marc Schaffel,
17 there has to be some authentication as to whether or
18 not this document was actually a document that was
19 effective. In other words, is this something -- is
20 this a draft? Is this a page of a draft? Is this
21 something that the rest of which was discarded? Or,
22 there was a new first page put on and that's why you
23 have this page? I mean, none of that has been
24 explained. So simply having a page, and having a
25 witness say, "That looks like something I saw when I
26 was flipping through my boss's file cabinet" --

27 THE COURT: In other words, he didn't
28 identify the signatures or anything other than to

1 say, "Yeah, that's a document I saw in their
2 office."

3 MR. SANGER: That's correct. And it's only
4 one page of a document. So, you know, we don't have
5 authentication as to signatures. We don't have
6 authentication as to the nature and extent of the
7 document and what it means.

8 THE COURT: Okay.

9 MR. SANGER: Yes.

10 THE COURT: That's sort of -- Mr. Sanger was
11 able to sort of pinpoint the problem I'm having with
12 these documents.

13 MR. AUCHINCLOSS: Well, our introduction of
14 these documents, the foundation for them, as we
15 pointed out with our citing of the Olguin case, is
16 authentication may be established by circumstantial
17 evidence. We don't need a direct witness to come up
18 and say, "I saw Marc Schaffel sign that document,"
19 or, "I know Marc Schaffel's signature and that's his
20 signature on that document."

21 You look at the totality of all the evidence
22 before the Court, and see if you can draw a
23 reasonable inference as to whether or not this
24 document is what it purports to be.

25 Now, we have an abundance of testimony that
26 Marc Schaffel and Michael Jackson were involved in a
27 business enterprise known as Neverland Valley
28 Entertainment, and we found --

1 THE COURT: I'm not willing to go there with
2 you.

3 The problem is that in your points and
4 authorities, I think you represented that Mr.
5 Provencio would testify that he was familiar with
6 Michael Jackson's signature and initials, and that
7 he would identify them on Exhibit 400, but in trying
8 to review the testimony, I didn't recall that.

9 But --

10 MR. AUCHINCLOSS: I don't think that was

11 produced.

12 THE COURT: But going back there, I don't see
13 that in the transcript. So....

14 MR. AUCHINCLOSS: If that is a predicate to
15 the admissibility of this document, then that would
16 be one of those foundational minor points that we
17 would re-call Mr. Provencio to lay. If that's the
18 place where the Court has an issue. And that's why
19 we requested yesterday that we be able to address
20 concerns of the Court regarding the admissibility of
21 these documents as we normally would be during
22 trial. We're in an unusual circumstance here,
23 because these documents are being discussed at the
24 very end of our case.

25 THE COURT: Was there any document that I
26 did not admit out of that series that you think you
27 did authenticate that I just missed the
28 authentication?

1 MR. AUCHINCLOSS: Well, in terms of direct
2 testimony, we did provide evidence from the Bank
3 of -- from the U.S. Bank.

4 THE COURT: Give me an exhibit number when
5 you're talking so I know what you're talking about.

6 MR. AUCHINCLOSS: Yes. That would be
7 exhibit number -- let me find it. 418, page three,
8 the million-dollar check. We did ask the U.S. Bank

9 representative about that exhibit, as well as --

10 THE COURT: 418 and 419 I think was

11 authenticated by the U.S. Bank person who testified.

12 MR. SANGER: Only as to the pages that are

13 checks. Not as to the other --

14 THE COURT: Documents.

15 MR. SANGER: -- documents.

16 MR. AUCHINCLOSS: That's correct. That's

17 correct. 418-3 and 419-3, page three.

18 THE COURT: So I would be willing to admit

19 those pages that she authenticated as those

20 documents, 418 and 419.

21 MR. SANGER: And I would submit that, Your

22 Honor.

23 THE COURT: Okay. I'll admit the checks, and

24 I'll have the clerk separate the other pages and

25 call -- redesignate the other pages as 418-A and

26 419-A. The actual 418 and 419 will be the checks

27 themselves.

28 MR. AUCHINCLOSS: And that would be the only

1 other documents that we provided direct testimony

2 on.

3 THE COURT: Well, one of the things,

4 Exhibit 403.

5 MR. AUCHINCLOSS: Certainly.

6 THE COURT: I do not think that you have had

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7 Mr. Provencio identify that document and those
8 e-mails from between Rudy -- Rudy Provencio and
9 Kathryn Milofsky. Although on cross, I remember Mr.
10 Mesereau raising some questions about those e-mails.

11 MR. AUCHINCLOSS: There certainly is
12 testimony that Kathryn Milofsky was providing
13 substantial information by way of e-mails to Marc
14 Schaffel.

15 THE COURT: But I don't think that's
16 sufficient to just dump, then, a bunch of exhibits
17 in if they're not -- and I'm asking you -- I'm
18 asking for argument.

19 MR. AUCHINCLOSS: Certainly, yes, as I
20 stated before, you can't deny the circumstantial
21 evidence in this case that -- we look at these
22 documents, Your Honor, somewhat like you might look
23 at some numbers scribbled on a piece of paper found
24 in a drug dealer's home that are introduced as
25 pay/owe sheets. Now, there's no authentication.
26 Nobody comes in and says, that's -- you know, that's
27 his handwriting. You don't need that. You don't
28 need to have someone come in and say these are

1 pay/owe sheets for a drug transaction. You might
2 have some expert testimony to that effect.

3 THE COURT: I was going to say, I can't
4 imagine letting that kind of thing in without some

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5 authentication, but --

6 MR. AUCHINCLOSS: I mean, in terms of the
7 admissibility of it, it's not as if there's any --

8 THE COURT: I think we're going down a side
9 street here.

10 MR. AUCHINCLOSS: Our position is that these
11 documents speak for themselves. They are words that
12 are relevant to the conspiracy, and a conspiracy is
13 a crime of words, in addition to some overt acts.

14 And as we pointed out in our brief, each one of
15 these documents impute either knowledge about facts
16 that are relevant to this conspiracy, motive,
17 reasons why these co-conspirators as well as Mr.
18 Jackson would engage in this conspiracy, the
19 relationship between the parties. For instance,
20 phone sheets with every single -- virtually every
21 single co-conspirator's name on them. I mean, those
22 are coming in because Mr. Provencio testified to it.

23 THE COURT: I would really try to direct
24 your attention to one exhibit at a time. It's not
25 helpful to me to be doing that. I lose track of
26 what you're saying.

27 MR. AUCHINCLOSS: I understand, Your Honor,
28 there's a number of exhibits.

1 THE COURT: I think we're talking about
2 Exhibit No. 403. That's what I want to talk about.

3 So I'm saying what is the foundation that you've
4 laid for 403 to come in. That's what I'm asking
5 you.

6 MR. AUCHINCLOSS: All right. If I could
7 just have a moment, here.

8 THE COURT: You may.

9 MR. AUCHINCLOSS: 403. The "Fires Brewing"
10 file. The Court has previously admitted evidence of
11 the panic that was going on among the

12 co-conspirators during this time. There's been
13 extensive testimony by Ann Gabriel that -- of a
14 laundry list of problems that confronted Mr.

15 Jackson, public relations problems. The press was
16 going crazy. Not only about the rebuttal -- or

17 about the Martin Bashir film, but a number of other
18 issues that came up, including Mr. Schaffel's prior

19 history, the Jordie Chandler release of that -- of
20 the Complaint over the Internet, issues regarding

21 the other problems that Martin Bashir pointed out,
22 such as child abuse or possible child neglect

23 issues. You name it.

24 This is being offered as corroboration of

25 Miss Gabriel's testimony, and as evidence of the

26 issue of the panic, the reasons for that panic that
27 were generated and known by the co-conspirators.

28 Now, it's offered as circumstantial

1 evidence, because these words, these documents, were
2 found in Martin -- in Mr. Schaffel's home, in his
3 files, in his locked closet, and they clearly show a
4 group of files under an unambiguous heading, "Fires
5 Brewing," that Mr. Jackson had a number of problems
6 on his hands. And the problems were to be addressed
7 by the co-conspirators. That was the purpose of
8 this --

9 THE COURT: Let me ask you this: Did Mr.

10 Provencio testify about those documents yesterday or
11 the day before?

12 MR. AUCHINCLOSS: He testified that the
13 phones were ringing off the hooks. That there
14 was --

15 THE COURT: Did he testify about the "Fires
16 Brewing" documents?

17 MR. AUCHINCLOSS: No, he did not.

18 THE COURT: I think I remember him
19 identifying who Kathryn Milofsky is.

20 MR. AUCHINCLOSS: He did identify Kathryn
21 Milofsky as being a conduit through which much of
22 this information came, including, of course, the
23 original script for the Martin Bashir film way
24 before it was introduced -- played.

25 THE COURT: Okay. On 404, it seems there was
26 the phone log and then there was a list of contacts;
27 is that right?

28 MR. AUCHINCLOSS: That's correct. This came

1 out of the Stuart Backerman file in Mr. Schaffel's
2 filing cabinet. As Mr. Provencio testified, the
3 media was keeping them very busy. This is a list of
4 messages showing contacts from the media, from Larry
5 King, to Good Morning America, Barbara Walters. And
6 this is on February 6th. Again, introduced to show
7 the level of panic that was being inspired by this
8 public relations disaster. Everybody was calling.
9 "Who's that boy that Mr. Jackson is sleeping with?"
10 And it's corroborative of Mr. Provencio's testimony,
11 and it shows --

12 THE COURT: Was there any specific
13 authentication on that exhibit than -- besides the
14 simple seizure of the --

15 MR. AUCHINCLOSS: In Mr. Schaffel's home?
16 No. Other than, as I mentioned, the reasonable
17 inferences that you can draw from finding it there,
18 in light of all the testimony. And that's what
19 we're asking for, is that the Court draw a
20 reasonable inference as to what this document is,
21 what it means.

22 THE COURT: Okay.

23 On 406 --

24 MR. AUCHINCLOSS: Would you like to address
25 the working group list that follows that, or --

26 THE COURT: I'm sorry.

27 MR. AUCHINCLOSS: There are a couple of
28 phone sheets in here. Again, this, as the

1 authorities noted, provide that evidence of
2 relationship between the parties is admissible on
3 the issue of whether or not a conspiracy occurred.
4 We have a production working group list that shows
5 Ronald Konitzer, Dieter Weizner, Mr. Backerman, Mr.
6 LeGrand, Marc Geragos on the same working group list
7 in the possession of Mr. Schaffel. Now, Mr.
8 Schaffel cannot contact co-conspirators unless he
9 has contact information. Showing that he has their
10 e-mail addresses, their phone numbers, their mobile
11 phone numbers, their addresses is evidence that Mr.
12 Schaffel is working with these individuals. It's
13 evidence of their relationship.

14 THE COURT: Okay. I understand that.

15 MR. AUCHINCLOSS: Okay. Moving on to 405?

16 THE COURT: Yes.

17 MR. SANGER: Or 406, I think the Court said.

18 THE COURT: 405 was admitted. 406.

19 MR. AUCHINCLOSS: 406 is the contract for
20 the FOX rebuttal. It's a \$3 million contract.
21 There's been quite a bit of testimony about the
22 amount of money that was going to be made in this
23 particular endeavor. This is corroborative of that

24 testimony. It's -- appears to be on a Hale Lane fax
25 transmittal sheet. We had testimony from Mr. Hamid
26 Moslehi about receiving faxes from Hale Lane. This
27 is identical to all of the other fax transmittal
28 sheets that we seized during this warrant. There is

1 no evidence or, I believe, reasonable inference you
2 can draw that this document is anything but what it
3 appears to be, a revised agreement of the FOX
4 Broadcasting Company and Fire Mountain Services.

5 And it's offered to show that this was a
6 money-making enterprise, that Mr. Jackson was going
7 to personally profit from it, as well as the
8 co-conspirators.

9 THE COURT: You're talking about the --

10 MR. AUCHINCLOSS: Pages 1 through 4.

11 THE COURT: 1 through 4.

12 MR. AUCHINCLOSS: Yes.

13 Now, we have introduced testimony that the
14 Arvizo family was to be included in this FOX
15 rebuttal and the reasons why they were never seen in
16 that rebuttal film.

17 THE COURT: On that document, that's pages
18 five through nine, right?

19 MR. AUCHINCLOSS: Yes.

20 THE COURT: And that's --

21 MR. AUCHINCLOSS: Five through nine are --

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22 THE COURT: How do we know that Mr. Jackson
23 had anything to do with that document?

24 MR. AUCHINCLOSS: Well, Mr. Jackson does not
25 have to be linked to every aspect of the co -- of
26 the conspiracy.

27 THE COURT: But you want to admit it to show
28 his involvement in the rebuttal video, right?

1 MR. AUCHINCLOSS: We want to admit this
2 document to show that the special was a money-making
3 enterprise, and that -- I mean, there has been quite
4 a bit of testimony, or there was quite a bit of
5 testimony with Ann Gabriel dealing with the issue of
6 the problems with that, how that would be perceived
7 by the media as negative. She felt it should be
8 done without a profit motive, and how her advice was
9 ignored by the team.

10 THE COURT: Okay. Exhibit 407?

11 MR. AUCHINCLOSS: Just -- if I may just
12 remark about the remaining exhibits on 406, Your
13 Honor.

14 THE COURT: Yes.

15 MR. AUCHINCLOSS: Because there were some
16 additional pages there.

17 THE COURT: Page ten.

18 MR. AUCHINCLOSS: And one of the pages is a
19 fax to Michael and Al from Marc, appears to be, with

20 a personal message from Marc Schaffel. It talks
21 about the specifics of the clips, the editing,
22 everything looks good, it's all very positive, shows
23 Mr. Jackson's direct involvement in the second FOX
24 rebuttal -- or FOX film, I should say, as well as,
25 following that, there is the agreement in which the
26 second FOX film was to produce \$4 million in income.
27 And we finally have a note from Mr. Jackson
28 signed by Mr. Jackson, care of Al Malnik, that he

1 authorizes giving the keys to Dieter Weizner at the
2 warehouse for Optima Productions. Shows again Mr.
3 Jackson's direct involvement in these films, as well
4 as his relationship to the parties, particularly
5 Dieter Weizner.

6 THE COURT: Okay.

7 MR. AUCHINCLOSS: 407 is offered as a
8 statement -- as statements in furtherance of the
9 conspiracy.

10 THE COURT: Well, I'm sorry, did you want
11 to -- that's all right. Okay. 407. Go ahead.

12 MR. AUCHINCLOSS: These are e-mails that
13 were found, I believe -- let me just double-check my
14 notes here -- in Marc Schaffel's "Ronald" file. And
15 that's how we -- just so you know, you can look at
16 the index and see that we've divided these documents
17 up into the various -- we've kept them in the

18 various files that they were found in, so that's the
19 reason why some of the documents do not always have
20 a subject matter relationship, but they do have a
21 relationship of the location in where we found them.
22 This is the "Ronald" file. There are a
23 couple of e-mails in here from Ronald Weizner -- or
24 Ronald Konitzer, excuse me, talking about -- talking
25 to Marc and Stuart. The first one is really just
26 to -- for purposes of showing the relationship of
27 the parties, and their involvement back on
28 February 6 of '03.

1 The second one entitled "Money," February
2 11th, '03, is highly relevant. It talks about the
3 money split. It talks about how much money they're
4 going to get for the FOX rebuttal. It talks about
5 how they're going to split it up, about how some of
6 it is needed just to pay for that rebuttal, the
7 Jackson -- this goes to Mr. Jackson's financial
8 crisis. He doesn't have money to pay for this
9 rebuttal, so he has to generate money just to pay
10 for the expenses. Some of it goes to -- is going to
11 Hamid. The final page is really where you see the
12 breakout.

13 THE COURT: Do you think the e-mail addresses
14 need to be authenticated in this?

15 MR. AUCHINCLOSS: Well, the e-mail addresses

16 for Mr. Konitzer are mentioned in the other address
17 documents. I mean, assuming that the address
18 documents come in, there's circumstantial evidence
19 that they are accurate, correct e-mails.

20 THE COURT: That being the list --

21 MR. AUCHINCLOSS: The previous list that
22 we've talked about. These are identical e-mails
23 that we have throughout and including the e-mails
24 that are identified in the telephone and contact
25 sheets.

26 There is -- and the last page, as I said, is
27 really particularly revealing. It talks about
28 \$3,200,000 to be produced from the first rebuttal

1 film. 200 goes to Hamid. A million-five to David's
2 trust account to pay bills due now, and that's
3 because of the vendors that are screaming for their
4 money. \$600,000 for Marc --

5 MR. SANGER: Your Honor, by the way, I'm
6 going to -- I'm going to object to just gratuitous
7 remarks for the press. There isn't evidence of
8 vendors screaming for money in this case. Counsel
9 should restrict his remarks to the Court's inquiry,
10 which is what is the authentication, and not
11 continue to make gratuitous remarks.

12 THE COURT: Sustained.

13 MR. AUCHINCLOSS: I'm making the --

14 sustained?

15 THE COURT: Yeah. We're really looking at a
16 narrow issue here.

17 MR. AUCHINCLOSS: Well, I think, you know --
18 I'll draw your attention to the main thing, is that
19 the -- the \$600,000 for Marc, including all
20 production and, quote, "vacation," end quote for
21 Gavin.

22 THE COURT: What about the e-mail address of
23 Milofsky? How do we know that's her? Do we have
24 someone testifying to her e-mail address?

25 MR. AUCHINCLOSS: Well, what reasonable
26 inference do you draw from the fact that Rudy
27 Provencio testified that they received an abundance
28 of e-mails from this woman?

1 THE COURT: I thought you just told me that
2 you didn't have that testimony about e-mails. You
3 had the testimony about the phone calls.

4 MR. AUCHINCLOSS: No, he didn't identify the
5 individual -- the individual e-mail, but he did say
6 he received e-mails from Kathryn Milofsky, and that
7 Mr. Schaffel and him both received e-mails from her.
8 So I guess, I mean, I'm just drawing a reasonable
9 inference that he says they received e-mails. We
10 look in his file drawer and we find e-mails.
11 There's -- it's not conclusive, but it's pretty

12 close that these would be the e-mails that he
13 received from Kathryn Milofsky.

14 THE COURT: Okay. 408?

15 MR. AUCHINCLOSS: 408 is a printout from a
16 disk. It just is offered to show the financial gain
17 that Mr. Schaffel was obtaining through the
18 marketing of the rebuttal film. Rudy Provencio did
19 talk about foreign rights, so this would be
20 something akin to the previous e-mail, which
21 indicates that Mr. Jackson himself was going to
22 benefit from this -- financially from this
23 enterprise, and that there was -- there were
24 additional profits out there. Offered on the issue
25 of motive, to show the perception of the parties
26 that this was a valuable enterprise that they could
27 make money on.

28 THE COURT: How about 412?

1 MR. AUCHINCLOSS: Again -- I'm sorry, we're
2 jumping ahead to --

3 THE COURT: Well, 409 has been admitted. 410
4 has been admitted. 411 --

5 MR. AUCHINCLOSS: Is of no great moment.

6 THE COURT: Right.

7 MR. AUCHINCLOSS: That's not important.

8 THE COURT: So 412 was the one I was
9 concerned about.

10 MR. AUCHINCLOSS: 412. Ann Gabriel, I
11 believe, did lay foundation on 412. She testified
12 that David LeGrand sent her this virtually identical
13 release that was ultimately placed before the
14 Arvizos. He asked her to put "Gabriel Media, Inc.,"
15 on it and then send it back. It finds its way into
16 Marc Schaffel's file in various permutations. One
17 with "Gabriel Media," the second without, and then
18 there is a third with "MJJ Productions."

19 THE COURT: Okay. What about 413?

20 MR. AUCHINCLOSS: There has been some
21 testimony on 413 that.

22 THE CLERK: It was received yesterday.

23 MR. SANGER: You received it, Your Honor.

24 THE COURT: All right. Thank you.

25 415.

26 THE CLERK: 414.

27 THE COURT: Withdrawn. 414 was withdrawn.

28 415?

1 MR. AUCHINCLOSS: These are records that are
2 found regarding the expenses for the rebuttal film.
3 Circumstantial evidence that Mr. Schaffel was in
4 charge of that film. And these records, notably on
5 page four, have references to the Arvizos. And I
6 draw that conclusion from the cash withdrawals that
7 say, "JGSD Trip." Janet -- I interpret that to mean

8 Janet, Gavin, Star and Davellin trip.

9 On 225 and 226, there are petty cash

10 withdrawals corroborative of what Mr. Provencio

11 testified to, regarding cash paid out to Vinnie.

12 There are cash disbursements on page six that

13 include \$5,000 to Frank Cascio.

14 THE COURT: Okay. 417?

15 MR. AUCHINCLOSS: And I would just say that

16 on page 17, there is a receipt which --

17 THE COURT: You know what I'm asking you,

18 though, not what's there, I'm asking you what's the

19 authentication. Your telling me what's there

20 doesn't answer that question, so --

21 MR. AUCHINCLOSS: Well, I'm just telling you

22 about areas of testimony that are relevant to --

23 that Rudy Provencio did testify about a cash receipt

24 that was signed by Vinnie Amen and that is in that

25 file under page 17.

26 THE COURT: But he didn't identify that.

27 MR. AUCHINCLOSS: He didn't identify it, no.

28 THE COURT: You're saying that's the one that

1 he must have been talking about, right?

2 MR. AUCHINCLOSS: Yeah. I'm drawing a

3 reasonable inference from the location of that

4 document in the files.

5 THE COURT: Okay.

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6 MR. AUCHINCLOSS: This is -- 417 is the --
7 are the documents -- the first document entitled
8 "Janet Strategies" located in Mr. Schaffel's files
9 clearly provides some circumstantial evidence of an
10 intent to come up with various strategies to deal
11 with Janet Arvizo and her family. You can read the
12 document. The same thing with the, quote, "David
13 case." The strategies are not always consistent,
14 and they're admitted for purposes to show
15 consciousness of guilt and knowledge of the criminal
16 purpose of this conspiracy.

17 THE COURT: To show whose consciousness of
18 guilt?

19 MR. AUCHINCLOSS: The co-conspirators.

20 THE COURT: Okay. 418?

21 THE CLERK: You admitted that this morning.

22 THE COURT: That's already done.

23 419 is done.

24 420?

25 MR. AUCHINCLOSS: 418, we've already --

26 THE COURT: No, we did 418 and 419, I'm

27 sorry. 420 is where we are.

28 MR. AUCHINCLOSS: 420 are the e-mails

1 amongst the co-conspirators, including Mr. Schaffel.

2 Some of these specifically reference the Arvizo

3 family. They certainly reference the panic that

4 existed at the time.

5 THE COURT: Were the e-mail addresses
6 authenticated, identified, and how do we know who
7 they came from?

8 MR. AUCHINCLOSS: The e-mail addresses
9 are -- well, I would submit that if we have an
10 e-mail that is from Melanie at bellyard.com, and we
11 have testimony that Bell Yard is the crisis
12 management team in London that was dealing with Mr.
13 Schaffel at this time and he's one of the parties on
14 the team, that that is circumstantially sufficient
15 foundation that this e-mail is what it purports to
16 be. There's no evidence that these are all
17 fabricated. To the contrary, that this was -- these
18 are all seized in a search warrant.
19 So this is -- these came out of files
20 that -- the personal files of Mr. Schaffel. So I
21 guess, you know, I'm -- I keep drawing the same
22 reasonable -- I mean, these are my inferences. They
23 may not be yours, Your Honor, but that's where we're
24 going with these.

25 THE COURT: On 421, that's a contract after
26 the alleged events. Is that --

27 MR. AUCHINCLOSS: It is.

28 THE COURT: What would the relevance of that

1 be?

2 MR. AUCHINCLOSS: The defense has
3 announced -- and maybe -- well, I shouldn't say that
4 they've just announced it. They have attempted,
5 through the introduction of evidence through
6 cross-examination, to show that Mr. Jackson was an
7 unknowing party to this conspiracy. They, in some
8 respects, seem to concede there was something
9 nefarious going on, but not involving Mr. Jackson.
10 If that is the case, then the continued
11 association with the co-conspirators beyond the
12 conspiracy, even after all of the fallout, would
13 tend to rebut that claim. And we have -- this is
14 just one link in the many links we have that Mr.
15 Jackson maintained his affiliation with Mr.
16 Schaffel, Mr. Weizner, Mr. Konitzer, for months and
17 months and months past the conspiracy. So this was
18 not a situation where some bad things happened and
19 Mr. Jackson then fired everybody.
20 It also shows the financial motive of the
21 various co-conspirators to continue in their
22 relationship with Mr. Jackson. This is all about
23 money. We don't dispute that among the
24 co-conspirators. They're interested in a financial
25 gain. But the financial gain they are seeking is
26 from the success of Mr. Jackson, not from his fall.
27 THE COURT: Okay. 422.
28 MR. AUCHINCLOSS: There was testimony about

1 these documents. Mr. Provencio did look at them.

2 He did identify them as the operative documents that

3 established the loan with Royalty Advance Funding

4 that bankrolled Neverland Valley Entertainment.

5 THE COURT: All right. Thank you.

6 Mr. Sanger, do you wish to address any of

7 these?

8 MR. SANGER: Yes. Thank you.

9 I know we have other things to do, so let me

10 try to go through as quickly as I can.

11 I think I addressed 400.

12 THE COURT: You did.

13 MR. SANGER: Okay. That takes us to --

14 THE COURT: 403.

15 MR. SANGER: -- 403.

16 One quick correction, and I think it really

17 helps to illustrate how little foundation there is

18 for this. Your Honor had indicated that you

19 believed that Mr. Mesereau had referred to perhaps

20 something in that exhibit or related to that

21 exhibit.

22 If I'm not mistaken, Mr. Mesereau is

23 referring to something totally different. He was

24 referring to an instant message communication,

25 which, although there's advertisements for instant

26 messages at the bottom of some of those purported

27 e-mails, they are not instant messages. The instant
28 message is a realtime exchange where one person

1 types something and the next person responds, and
2 they go on in, more or less, realtime. And it was
3 not, as far as I know -- and I've looked through it
4 again quickly, it was not one of the documents in
5 the 400 series that had been marked by the
6 prosecution. So there's been no authentication, and
7 this will apply to all these other e-mails, so I
8 don't have to repeat it.

9 THE COURT: All right.

10 MR. SANGER: No authentication. We don't
11 know if -- who sent the e-mails, if they were
12 received by somebody in particular, if they were
13 reviewed by somebody in particular, if they were
14 possessed, if anybody had knowledge of it.
15 Most importantly, it has nothing to do with
16 Mr. Jackson's knowledge of anything. There's no
17 indication from Mr. Provencio's testimony or anybody
18 else that Mr. Jackson had knowledge of any of this
19 stuff that's in here. And I'll say that generically
20 so I don't have to repeat it.

21 There's a way to lay a foundation in a court
22 of law, and it just wasn't done. I don't know if it
23 could be done. I take it, because they didn't do
24 it, they didn't have a witness who could do it. But

25 whether they could or they couldn't, it was not
26 done, and therefore none of these things are
27 admissible.

28 I'll go to 404. Again, no specific

1 authentication. The indication is 404 had something
2 to do with Stuart Backerman. And the question is
3 what did it have to do with Stuart Backerman, just
4 like all these other documents. Quite frankly, I've
5 forgotten exactly if it was in a Stuart Backerman
6 file or whatever it was. We now have testimony that
7 there were several people who were in that house,
8 using that house as an office, several people
9 maintaining desks and having phones, having files.
10 How do we know who had what?

11 The People cannot -- the prosecution can't
12 get up here and say to the Court, everything is some
13 kind of statement that is in furtherance of the
14 conspiracy or it shows the state of mind of a
15 co-conspirator, or some other thing like that, and
16 not identify which, if any, co-conspirator it
17 relates to. They haven't alleged that Stuart
18 Backerman was a co-conspirator. They haven't
19 alleged that Bell Yard was a co -- Bell Yard is a
20 reputable public relations firm in England. And the
21 testimony was is that they were a public relations
22 firm. I mean, he can't say everybody that helps a

23 celebrity with regard to productions of -- or people
24 associated with a celebrity, with a production of an
25 event or a video or a television show, is involved
26 in some kind of a conspiracy, and therefore, even
27 though there's been no proof as to who possessed it
28 or what it is, it must belong to some nebulous

1 co-conspirator in some giant conspiracy. And that,
2 again, is an underlying problem with some of the
3 subsequent ones, so I'll spend just a moment on that
4 at this point.

5 In other words, the proper way to prove
6 something is to prove that it -- it was in the
7 possession of and belonged to a particular person;
8 that it was sent by somebody in particular; that it
9 had some significance. It isn't just a piece of
10 paper there. You have to authenticate it. Just the
11 fact there's a piece of paper there doesn't cut it.
12 The analogy for a pay/owe sheet I think was
13 actually telling. Because if you have somebody who
14 is caught, you know, with the dope in their room and
15 under their bed, and under the bed with the dope is
16 a sheet that says so-and-so, somebody something, you
17 still have to authenticate it. Now, it may not be
18 an issue as to wrote it. If it's an issue as to who
19 wrote it, and whether or not the person who's
20 charged had knowledge and possession of that pay/owe

21 sheet, then it would be a big issue. That's the
22 issue that we're dealing with here. It's an issue
23 as to what Mr. Jackson knew, if anything, about
24 this.

25 This is a lot of junk that was taken out of
26 somebody's house and thrown in with rhetoric that
27 it's highly relevant. Highly relevant is what the
28 District Attorney wants to make out of it. But that

1 isn't the authentication. And that's where they're
2 stuck and they haven't laid the foundation.

3 406, the first four pages are not
4 authenticated as to signatures or significance or
5 who it came from or what happened. It's just a
6 document that's there. The next pages, five to
7 nine, are pages that, once again, we don't know what
8 it is. It's not signed. There's some notes by
9 somebody, the handwriting hasn't been authenticated.
10 Who possessed it, who had knowledge of it hasn't
11 been authenticated. It, again, doesn't link Michael
12 Jackson to anything, because there's absolutely no
13 evidence Michael Jackson had anything to do with it.

14 Now, I'd remind the Court respectfully that
15 the witness that did testify, the police officer
16 that testified to the seizures I believe is
17 Detective Bonner, said that he wasn't sure which
18 pages were attached to which pages. He didn't know

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19 who wrote the numbers at the top until he took a
20 break and was informed they were D.A. numbers. And
21 in fact, he said that, at least as to a couple of
22 the exhibits, it was questionable as to whether the
23 items that were stapled together actually went
24 together.

25 So we have a problem that the jury would be
26 given a bunch of documents that are stapled together
27 or put in a binder by the District Attorney that are
28 given significance the District Attorney wants to

1 give them, but there's no authentication that they
2 belong together or have anything to do with each
3 other or were actually known of or possessed by
4 anybody.

5 Page ten of that exhibit, the words of Mr.
6 Auchincloss were, "It appears to be a fax." That is
7 exactly the problem, is that it appears to be a fax.
8 We don't know what it is.

9 And then page 11 - I don't want to get ahead
10 of myself here - is another document that -- if I'm
11 in the right place, is another document that's
12 unsigned. And the very last page was offered as
13 a -- as a letter purportedly signed by Michael
14 Jackson. And a lot of discussion was had by the
15 District Attorney about how significant this is,
16 that this shows Michael Jackson had a connection

17 with Dieter Weizner. It's offered for the truth of
18 the matter. You can't offer a document for the
19 truth of the matter. And you can't say this is
20 signed by Michael Jackson just because it's found in
21 somebody else's house or office. You have to lay a
22 foundation. You have to establish authentication.
23 And that's all -- it wasn't done. That's all there
24 is to it.

25 Go to 407, again, those documents are
26 subject to all the same criticisms. I heard Mr.
27 Auchincloss say they were accurate and correct
28 e-mails. Well, that would be nice if there was

1 evidence that they were accurate and correct
2 e-mails. The fact that he says accurate and correct
3 doesn't make them accurate and correct. It doesn't
4 make them e-mails, it doesn't make them anything.

5 No foundation was laid.

6 Go to 409.

7 THE COURT: No, that was admitted. 410 was
8 admitted.

9 MR. SANGER: Let me --

10 THE COURT: You need to go to 412.

11 MR. SANGER: Did I talk about 408?

12 I think 408 was -- I wrote 409. I meant

13 408. I'm sorry.

14 408, was that withdrawn or --

15 THE COURT: 408 would be your next --

16 MR. SANGER: All right. I misspoke when I

17 said 409.

18 408, this was a document that we were told

19 came off of a disk, and then as I recall, the

20 officer said that he printed out or somebody printed

21 out what was on the disk.

22 We have no idea who inputted this

23 information into the disk, who had knowledge of

24 this. There were quite a number of people at that

25 house. The fact is it doesn't mean anything. And

26 the prosecution wants to use it to imply that

27 somehow Michael Jackson had some interest in the

28 data on this disk. And there's absolutely no

1 connection whatsoever with regard to that.

2 If we go to 412, there was reference to Ann

3 Gabriel. Her name is actually Ann Kite. And once

4 again, these are documents that are found, they're

5 subject to all the same objections that I've already

6 made. Same with 413. In fact, if you put 412 and

7 413 together, they're for the most part blank

8 documents that are not signed. There's some other

9 things in there, some handwriting. We don't know

10 whose handwriting it is. This is not the way you

11 present documents to the Court.

12 THE COURT: I did admit 413 already.

13 MR. SANGER: I'm sorry. Okay. Well -- and
14 evidently, I'm sorry, this a good example of how you
15 present documents to the Court.

16 (Laughter.)

17 MR. SANGER: Okay.

18 THE COURT: 415.

19 MR. SANGER: Go to 415. Interesting. 415,
20 this is a collection of documents that I suppose
21 there could have been some foundation laid for it.

22 All we have is that they were seized. The
23 prosecution is adamant about wanting to introduce
24 415, and they do not want to introduce 416, which is
25 a summary of petty cash expenditures for Janet and
26 the children, and is exactly the same except
27 evidently they feel that it doesn't make their
28 point.

1 We have the same objections to
2 authentication on 415 that we have on the other
3 matters. But if the People were going to
4 successfully offer 415, then upon that, the Court's
5 ruling in that regard, we would then offer 416. If
6 that's an adequate foundation, I think the same
7 foundation was laid for both, whatever it is.
8 And I did specifically ask the officer
9 about -- some questions about 417. So whatever
10 authentication he was able to give, he gave at least

11 as much as was given by the People for the other
12 document.

13 420? Actually, the correct discussion I
14 think would be with regard to 420-A, if I'm not
15 mistaken. 420 were the documents that were
16 originally presented in the notebook, and then I
17 believe the prosecution gave us a new set of
18 documents which were marked 420-A.

19 Is that consistent with the clerk or the
20 Court's recollection?

21 THE COURT: I'll look at my --

22 MR. SANGER: While the Court's looking, I
23 think that the -- I think that the idea was that
24 Detective Bonner, I believe, testified that 420-A
25 was a better set.

26 THE COURT: You're correct.

27 MR. SANGER: So I assume that actually 420
28 was being withdrawn by the prosecution, and I would

1 assume that their remarks pertain to 420-A, not 420.

2 May I assume that?

3 THE COURT: I think so.

4 MR. SANGER: Okay. Thank you. So I'll
5 respond to 420-A. The offer was these are e-mails
6 amongst co-conspirators. Once again, that's
7 relevance, but it doesn't establish the
8 authentication as to the e-mail addresses, where

9 they came from, how they got in the file, who saw
10 them, and so on.

11 421, I believe this is the -- this is the
12 particular document, Exhibit 421, that Detective
13 Bonner said that he couldn't be sure that the first
14 page went with the other pages. In fact, as he
15 looked at it, it probably didn't.

16 And I think if you look at the content, Your
17 Honor will see that the cover page doesn't seem to
18 match the dates of the subsequent document, nor does
19 the cover page have a fax header. So it looks like
20 somebody stapled a different fax sheet to two other
21 documents, and that just plain highlights the
22 problem that we have with these documents. And
23 that's what happens when you don't have
24 authentication and the Court's asked to just assume
25 that if it's there, it's all okay.

26 Once again, there's a purported signature of
27 Michael Jackson at the end of that, the very last
28 page of that document. There are no other

1 signatures. We don't know if this was a draft or a
2 proposal. We don't have any authentication of his
3 signature, that that is his signature. And I think,
4 as we pointed out in our moving papers, if you look
5 at the various signatures that the prosecution is
6 offering as Mr. Jackson's signatures in this series

7 from 400 to 423, Your Honor will see that there are
8 remarkable differences between some of them. Some
9 of them are similar. But there are others that look
10 totally different. And not that we're asking the
11 Court to do a handwriting analysis, but that's just
12 an example of why authentication is necessary. You
13 can't just assume, based on the fact it's found in
14 somebody's house, that Michael Jackson signed it.
15 Particularly if it's found in the house of Marc
16 Schaffel, of whom the prosecution witnesses have
17 said some pretty harsh things about his integrity.
18 So we have documents that are going to be held
19 against my client in a criminal case that are in the
20 possession of somebody who's been accused of being a
21 liar and not a reliable person. And the signatures
22 don't look the same, and yet the jury is going to be
23 asked to assume that Mr. Jackson signed them all.
24 That's exactly why you need authentication. And we
25 don't have it here.

26 And that takes us to 422; am I right?

27 THE COURT: Yeah.

28 MR. SANGER: 422. And 422 is exactly --

1 suffers from the same problem. The only difference
2 is that Rudy Provencio actually did look at these
3 documents when he was on the stand, and said that he
4 believed those were the documents pertaining to this

5 transaction. How did he know that? He was
6 apparently snooping in the file cabinet. He had no
7 direct involvement in preparing these, dealing with
8 these or anything else. And as the Court I think
9 gathered - and more about that in a minute -
10 Mr. Provencio was trying to be a very helpful
11 witness to the prosecution and lied about things
12 that we can conclusively show he lied about. So his
13 testimony should be disregarded.

14 But if it's not disregarded entirely, at
15 least there's something there. However, it does
16 suffer from all of the other -- the other problems
17 the other exhibits have.

18 And I'll submit it.

19 THE COURT: All right. Thank you.

20 Who's going to argue the motion to dismiss?

21 MR. MESEREAU: Mr. Sanger is, Your Honor.

22 MR. AUCHINCLOSS: May I offer one more

23 thought on that, that last one?

24 THE COURT: Yes.

25 MR. AUCHINCLOSS: I mean, one thing we could
26 do is to offer defendant's 977 waiver as evidence of
27 his handwriting, ask the Court to take judicial
28 notice of that.

1 THE COURT: Okay.

2 MR. AUCHINCLOSS: All right.

3 THE COURT: What I'm going to do -- I'm
4 going to listen to the motion to dismiss. I have a
5 pretty good idea now, having heard your arguments on
6 the other exhibits, what -- I've made notes to
7 myself as to their admissibility or
8 nonadmissibility. I'm not going to announce those
9 now because we need to move along.

10 MR. SANGER: Yes, sir.

11 THE COURT: But I wanted to take care of that
12 before you argued the motion to dismiss so that I
13 would know in my own mind what documents I would be
14 considering, if any were alluded to in the motion.

15 MR. SANGER: Very well.

16 THE COURT: So you may go ahead.

17 Mr. Sanger?

18 MR. SANGER: All right. We did have that
19 other -- that Doyle motion, which is just --
20 I thought Your Honor --

21 THE COURT: The Court will deny the motion
22 for a mistrial and deny the request for specific
23 instructions. Basically I think that Mr. Mesereau,
24 on his cross-examination, adequately covered the
25 area. And I'm going to leave it with that.
26 If you want to submit, as in other cases, a
27 special instruction in the final jury instructions,
28 I would consider it at that time.

1 MR. SANGER: Okay. Thank you, Your Honor.
2 All right. With regard to the motion for
3 judgment of acquittal based on insufficient
4 evidence, excuse me, that was coupled with a motion
5 to strike statements allegedly made by the
6 co-conspirators. Let me argue the main motion
7 first, because I think that -- that would be a
8 consequence of the Court's ruling, although the
9 Court could independently rule to strike the
10 co-conspirators' statements or it could do it first
11 or second, I suppose is what I'm saying.

12 So let me address the motion for judgment of
13 acquittal.

14 There are four areas of the prosecution's
15 case that I want to address, and I want to address
16 them in the context of the law that we have already
17 briefed under 1118.1 of the Penal Code, and briefly
18 indicate that that law includes the Court's
19 determination that the evidence is reasonable,
20 credible, and of solid value from which a reasonable
21 trier of fact could find the defendant guilty beyond
22 a reasonable doubt.

23 THE COURT: Let me ask you -- I read your
24 motion, which you really seemed to be asking me to
25 make some credibility calls on the witnesses, and
26 isn't it true that that's not my job? I mean, that
27 is exactly what I shouldn't be doing, is be the

28 person who makes credibility calls on the witnesses.

1 MR. SANGER: No, I think that that is

2 part -- that's why we cited that.

3 THE COURT: You cited a general jury

4 instruction, so --

5 MR. SANGER: We cited the case specifically

6 of People vs. Allen, 2001 case, which cited --

7 that's a Court of Appeal case, which cited

8 People vs. Stanley, 1995 California Supreme Court

9 case. It all goes back to Jackson vs. Virginia,

10 which has nothing to do with Mr. Jackson, my client.

11 Jackson versus Virginia was the United States

12 Supreme Court decision in which the U.S. Supreme

13 Court talked about the standard of review and

14 whether or not a rational trier of fact could find a

15 defendant guilty beyond a reasonable doubt.

16 That Jackson versus Virginia instruction has

17 been used for the purpose of sufficiency of

18 evidentiary view by appellate courts and it's been

19 incorporated into the California standard for the

20 review of an 1118.1 motion for the review of the

21 evidence under that code section.

22 And as these cases say, the California

23 Supreme Court has said that the Court has to look to

24 see that the evidence is reasonable, credible and of

25 solid value. In other words, the mere fact that

26 somebody threw something up on the wall and it
27 wasn't ruled inadmissible does not mean that the
28 Court has to defer to it. So it is -- this is, in

1 fact, different than the kinds of rulings the Court
2 was being asked to make, for instance, on 352
3 evidence, and some other places where the Court was
4 saying, "Well, I'm not supposed to weigh the
5 credibility, or 1108 I'm not supposed to weigh the
6 credibility." We've had those discussions.

7 The Court, there, we argue -- well, you
8 should anyway, but -- the Court took that position.
9 However, with regard to 1118.1 motions, the
10 Court does consider credibility.

11 Now, it doesn't mean that Your Honor sits
12 there and says, "I am going to pretend I'm a juror
13 and I'm going to decide this case based on how I
14 would vote if I would a juror." But it does mean
15 that this is now the one place where the Court can
16 say the prosecution has put on all their evidence,
17 they've rested, they took their best shot, this is
18 it, and a rational trier of fact could not find the
19 defendant guilty beyond a reasonable doubt.

20 The emphasis on "rational" in the case law,
21 all the way back to the U.S. Supreme Court decision
22 in Jackson vs. Virginia, is extremely important.
23 It's not just words. It's based on the idea that

24 the Court, as a jurist, a lawyer who's become a
25 judge and has sat and heard cases - in this Court's
26 case for a long time - a jurist --

27 THE COURT: I resent that.

28 (Laughter.) 9008

1 MR. SANGER: Or you started early in life or
2 something.

3 The point of the story is that a jurist, of
4 course, is supposed to be able to look at things
5 dispassionately, and we are supposed to be able to
6 avoid submitting matters to the jury, where a jury,
7 a rational trier of fact, cannot find the defendant
8 guilty beyond a reasonable doubt. So it is a much
9 higher standard. This is not the 995 standard
10 either, where the Court just determines whether or
11 not there's probable cause or a strong suspicion
12 that a crime was committed, that being the standard
13 for 995. This, under 1118.1, is rational trier of
14 fact could not find the defendant guilty beyond a
15 reasonable doubt.

16 So the Court does have a considerable burden
17 to look at the evidence and determine whether or not
18 a rational trier of fact could look at what just
19 happened here over the last ten weeks, or whatever
20 it's been, and find a defendant guilty beyond a
21 reasonable doubt.

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22 So there are four areas I'd like to talk
23 about as far as the evidence is concerned. And I'll
24 try to go through as quickly as I can, but this is
25 important, so I do want to cover it.
26 THE COURT: I don't want you to feel
27 compelled, because of a deadline, to hurry. Because
28 I needed that extra time on those 400 exhibits. 9009

1 So --

2 MR. SANGER: Sure.

3 THE COURT: We're going to take our regular
4 break and then I'm going to tell the jury that it's
5 going to be a while, and give you time to argue
6 this.

7 I didn't mean to reduce either side's time
8 for this important motion.

9 MR. SANGER: Very well. Thank you.

10 (Recess taken.)

11 --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 8970 through 9010

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 May 5, 2005, and thereafter
20 reduced to typewriting by computer-aided
21 transcription under my direction.

22 DATED: Santa Maria, California,
23 May 5, 2005.

24

25

26

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

28 9011

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA BARBARA

3 SANTA MARIA BRANCH; COOK STREET DIVISION

4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

13

14

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16

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 THURSDAY, MAY 5, 2005

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21 8:30 A.M.

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23 (PAGES 9012 THROUGH 9206)

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

28 BY: Official Court Reporter 9012

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28 9013

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

8

9 DEFENDANT' S

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10 WITNESSES DIRECT CROSS REDIRECT RECROSS

11 ROBSON, Wade J. 9091-M 9104-M 9132-M 9144-Z

12 9146-M 9146-Z (Further) (Further)

13 9150-M 9153-Z

14 (Further) (Further)

15 9163-M 9167-Z (Further) (Further)

16 9169-M

17 (Further)

18 BARNES, Brett

19 Christopher 9170-M 9176-Z

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1 E X H I B I T S

2 FOR IN

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

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4 889 Photos of Brett Barnes 9191

5 890 Photos of Brett Barnes and Michael Jackson 9190

6 891 Photos of Michael Jackson 9189

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7 892 Photos of Brett Barnes and
8 Michael Jackson 9189
9 893 Photos of Brett Barnes and Michael Jackson 9188
10 894 Photos of Michael Jackson 9194
11 896 Photos of Michael Jackson
12 and buildings 9195
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1 THE COURT: Go ahead, Counsel.

2 MR. SANGER: All right. May I proceed, Your

3 Honor?

4 THE COURT: Yes.

5 MR. SANGER: Thank you.

6 Just before the break, I indicated that
7 there were four areas of evidence that I wanted to
8 talk about in the context of the law, and I think I
9 was just about to conclude my recitation or
10 reference to the law which we have briefed. And we
11 tried to keep our briefs short, so I'll, with the
12 Court's permission, just make a quick reference to a
13 couple of important legal points.

14 The four areas of evidence, or the four
15 areas of this case or aspects of this case that I
16 want to talk about are, number one, the failure of
17 the People's evidence in certain regards.

18 Number two, the fact that what resulted was
19 inherently improbable and not credible.

20 Number three, the effect of the 1108
21 evidence, not only its nature, but the effect and
22 the potential for causing a jury not to determine
23 the case in a rational fashion.

24 And number four, willfully false statements
25 and the effect that that should have on the Court's
26 analysis of the prosecution's key witnesses.

27 And I do this in the context of all of the
28 counts. But in particular, to start with, the 9016

1 conspiracy count requires that there be proof of two
2 different elements that require specific intent.

3 First, that there is a specific intent to agree or
4 conspire. And second, that the intent to commit
5 the -- there has to be specific intent to commit the
6 offense. So there's actually specific intent
7 required to prove both of those elements. Those are
8 the intent elements. Obviously there are other
9 elements. And that specific intent has to be the
10 specific intent of the defendant, Mr. Michael
11 Jackson in this case, not a nebulous intent that
12 maybe one or more of the alleged co-conspirators
13 might have had at one time or another in doing
14 whatever they were doing.

15 I also will refer to the "witness willfully
16 false" instruction, which is a CALJIC instruction,
17 of course. But it is reflective of the law, and
18 it's something that the -- a rational trier of fact
19 would have to take into account, and that is, when a
20 witness is willfully false in one part of his or her
21 testimony, it is to be distrusted in others. And I
22 won't read the whole thing. The Court knows the
23 rest of it. I think that has a very significant
24 impact on the evidence in this case.

25 So if I may refer now to those four areas of
26 the People's case, and I'm going to do so -- even
27 though the Court's given us additional time, I'm
28 going to try to do so in horseback fashion, because 9017

1 Your Honor has sat here for the same ten weeks we
2 did. There's no point in going over every single
3 thing. But there's some, just, points that I want
4 to cover that hopefully will make the ultimate point
5 here, that I believe a judgment of acquittal is not
6 only appropriate, but is really required in this
7 case at this time as to all of the counts.

8 First of all, the prosecution indicated in
9 its opening statement it was going to show certain
10 things. The evidence that was actually put on, the
11 People's witnesses that came in had a tendency to
12 self-destruct. And I don't mean to be -- to be
13 gratuitous in a negative remark, but I think it goes
14 without saying, or it can't be escaped when I say
15 that some of the witnesses got on the stand and
16 testified either on direct or cross-examination in
17 ways that were absolutely antithetical to what the
18 prosecution was attempting to prove.

19 We had Cindy Bell, who is the flight
20 attendant on the flight, who was on her feet the
21 entire time on that flight, saw no molest, saw no
22 children drinking alcohol.

23 We had Jesus Salas, who said he delivered
24 wine and four glasses, but on cross-examination
25 said, yeah, he delivered -- he delivered sodas as
26 well.

27 So the "smoking gun" evidence that these

28 witnesses were supposed to present just didn't come 9018

1 through. And these are -- again, are examples.

2 There was much made out of the scripting of
3 the Janet Arvizo testimony. And earlier versions of
4 stories indicated that witnesses were going to say
5 that the Janet Arvizo and Star, Davellin and Gavin
6 Arvizo interview that was filmed by Hamid Moslehi
7 was scripted, and you could see the script and it
8 sounded terrible the way it was said. And then
9 there was going to be evidence that, well, not only
10 that, but this is part of the modus operandi of this
11 group of alleged conspirators. They script
12 everybody and make them say things, "And we'll
13 prove," they said, "that by bringing in Debbie
14 Rowe."

15 And of course it was conclusively shown so
16 far from the evidence, and where we are at this
17 point, there was no script for the answers of Debbie
18 Rowe. She got on the stand and said there was no
19 script. The prosecution tried to impeach her as to
20 whether or not she thought Mr. Jackson was a good
21 father based on some remark she made a year ago when
22 she admitted she was irritated with Mr. Jackson and
23 contemplating a family law matter.

24 But they didn't impeach her on what they put
25 her up there for. They put her up there, they made

26 the offer that she was going to testify and show
27 that this was the modus operandi, to script out the
28 answers to questions, not just the questions, and 9019

1 that evidence did not exist. It didn't happen.

2 Similarly with the Arvizo situation. These
3 are professional interviews that were intended to be
4 used on national, international television. In
5 fact, Maury Povich did a show that was

6 professionally produced. There was reference to
7 that. The Court has not -- the jury has not seen
8 that. The Court has not seen the show in the
9 context of the evidence at this point where the
10 prosecution rests, but you've heard testimony that
11 that happened.

12 It would be idiotic for an interviewer to go
13 into an interview and not have questions scripted
14 out to cover during the course an interview. So
15 this turned out to be a big nothing.

16 Mr. Moslehi confirmed that there was no
17 script. In fact, he felt that Janet Arvizo was
18 sincere in her answers, and even gave her money at
19 the end of it because he was so moved by her tale of
20 woe and the world that she portrayed.

21 And they had other witnesses. They put
22 Brian Barron up, who turned out to be a police
23 officer, who was a sworn peace officer the entire

24 time he was working at the ranch, or became a sworn
25 peace officer shortly after he started, was there
26 during all the relevant times. Never saw anything
27 improper.

28 And those sorts of witnesses that were put 9020

1 on by the prosecution to show that terrible acts
2 occurred or something was going wrong, it turns out,
3 just didn't do that, and couldn't do that. And when
4 they got up to tell the truth under oath, they told
5 the truth. Many of them had told the prosecution
6 exactly that before they were called. There were
7 several other witnesses, but I don't want to take
8 the time to go over all of the witnesses. I use
9 those as examples of the kind of failure of proof
10 that has occurred in this case.

11 The second area is that if you look at the
12 entire People's case to this point, it is inherently
13 improbable and not credible, and -- excuse me.

14 Sorry.

15 When you look at the -- at the law that we
16 cited, the Allen case, citing the California Supreme
17 Court case of People vs. Stanley, credibility is
18 part of the call the Court has to make at this time.
19 It isn't -- as I said, it's not a matter of sitting
20 as a juror and usurping their function and saying,
21 "This is the way I would call it." But it is a

22 matter of determining whether or not a rational
23 trier of fact could believe these stories.
24 In that regard, under the category of
25 inherently improbable and not credible evidence to
26 this point, we'd ask the Court to look at the
27 timeline. The timeline is inherently preposterous.
28 And this goes to the -- to the other counts besides 9021

1 the conspiracy count as well. And in particular it
2 goes to that.

3 Look at the allegations that everybody -- if
4 you listen to Mr. Auchincloss's summary even trying
5 to introduce exhibits, everybody, in his words, was
6 in a panic. I don't think it shows a panic. It
7 shows people were excited about getting some kind of
8 video out because they thought it would help Mr.
9 Jackson, they thought it would help their own
10 business interests. Sure, that's not contested in
11 this case.

12 And what's not contested is that at that
13 time, at least during the course of February, it
14 became obvious that Janet Arvizo was not a very
15 stable person. No matter how you look at this
16 evidence, it became obvious that she was showing
17 signs of being somewhat unstable in one way or
18 another. And we can talk about that in more detail,
19 but let's just take the big picture.

20 It was not clear what her agenda was. And
21 it was known that her boyfriend, Major Jackson, was
22 calling and asking for money, more money than a
23 college education and a house. It was clear that
24 other things were going on.
25 It is just inherently improbable that
26 anybody - anybody - and I'm not suggesting for one
27 second that Mr. Jackson would do such a thing, but
28 it's inherently improbable that anybody would choose 9022

1 the moment somewhere late in that scenario in March
2 to say, "Well, why don't I molest this child." I
3 mean, it just makes no sense. It makes no sense.
4 It's inherently improbable.
5 Secondly, what's inherently improbable about
6 the timeline is that Janet Arvizo and Major Jackson,
7 on at least one occasion, went to visit Attorney
8 Dickerman, maybe two occasions. Janet Arvizo
9 visited him several times. She visited with Jamie
10 Masada. The children visited with Attorney
11 Dickerman. This occurred in April, I think, for
12 Dickerman. April, May, on into June. They
13 eventually go to Attorney Feldman sometime in April
14 and into May. On all of these meetings with all of
15 these people, there's never an allegation of molest.
16 The molest allegations come up only after
17 they're sent to Dr. Katz and only after they see

18 Dr. Katz, after Janet Arvizo talks to him a couple
19 times, and then he sees the children late May and
20 early June, and then the lawyers, Dickerman,
21 Feldman, and Katz meet and then they decide to go to
22 Child Services at that time.

23 Thank you.

24 So the -- it's inherently improbable that
25 this -- that this supports a molest charge or a
26 conspiracy charge.

27 But the Court also has to look at this in
28 the context of what's already come in about Janet 9023

1 Arvizo's modus operandi and the modus operandi of
2 this family. On at least two other occasions she
3 followed the exactly the same scenario, and that
4 evidence has already come in. It hasn't come in in
5 full force yet, but it's come in sufficiently in the
6 conclusion of the People's case that the Court can
7 consider it.

8 The J.C. Penney's case. It came in through
9 her testimony that she first made claims, not right
10 away, but months later, that she was assaulted and
11 falsely imprisoned, and then was -- from the
12 testimony we had, toward the end of the statute of
13 limitations, she comes in and makes allegations of
14 sexual assault, which ultimately there was some
15 testimony about that in the deposition.

16 She eventually settles that case.
17 The same progression occurs over time with
18 her ex-husband. Right -- the evidence is there.
19 And from the evidence you have, you can put two and
20 two together from the dates that were there. Right
21 after she settles the case at a mediation with J.C.
22 Penney's, but before she and her husband have
23 decided who's going to get the money, she accuses
24 him of assault and imprisoning her and her family.
25 Later, and the evidence is there, just before the
26 money is finally going to be divided, while they're
27 still fighting about it, she accuses him of sexual
28 molest. 9024

1 The same pattern that occurred here. As
2 things progressed, you go from assault, to
3 imprisonment, to sexual molest.
4 This -- that evidence makes it highly
5 improbable in and of itself that just somehow, out
6 of all of the people of the world, these people are
7 going to be victims of Michael Jackson.
8 The next point in this category of the
9 highly improbable case is that obviously, as the
10 Court's heard, this is a family who is taking
11 advantage of a lot of benefits of being associated
12 with Mr. Jackson from February through March of
13 2003, and those benefits include the shopping

14 sprees, the body waxes, the nails, all the other
15 things particularly that Miss Arvizo had admitted
16 to. And they're staying in hotels, they're doing
17 all sorts of things that are just inconsistent with
18 being imprisoned.

19 It's highly improbable because they claim
20 they escaped three or more times, depending on how
21 you count it, from Neverland, whereas they came back
22 each time. They were sent in a Rolls Royce the
23 first time that was checked out, and everybody
24 checked out at the gate. There was nothing secret
25 about it.

26 Sure, that may have made people nervous that
27 were trying to put together a rebuttal video because
28 they're hoping that this family is going to 9025

1 cooperate and they're hoping they don't go to the
2 tabloids and sell a salacious story. They're hoping
3 they don't turn on them one way or another. And it
4 turns out their hopes and their fears in that regard
5 were well-founded, because that is ultimately what
6 happened.

7 But the escapes and the return and the
8 escapes and the return are just improbable, highly
9 improbable, and not credible.

10 All of the Arvizo family members, although
11 it seems it was a long time ago now, but when they

12 were on the stand, I think the Court recalls that
13 they had incredibly selective memories. They were
14 very able to recite some rote facts that were the
15 core of their claims against Mr. Jackson, but they
16 couldn't remember much of anything else, including
17 who they met with recently and so on.

18 So, on the sexual offense charges, it's
19 inherently improbable and there is not credible
20 evidence of those charges.

21 When I get to "witness willfully false"
22 testimony at the end, I'm going to cover some more
23 points on that, but for now, I think it's safe to
24 say the Court heard all that evidence, it's not
25 credible, it's inherently improbable.
26 On the conspiracy charges, there's just a
27 total failure of proof, so I'd say it's more than
28 inherently improbable and not credible. There's 9026

1 just a failure of proof in tying Mr. Jackson into
2 any kind of a conspiracy. There is nothing to show
3 his specific intent to agree to -- there's no
4 agreement and no specific intent to agree to commit
5 a crime, and there's no specific intent that that
6 crime actually occurred. You just don't have him in
7 this.

8 You've got witnesses called by the
9 prosecution who basically -- even Rudy Provencio,

10 who was their blockbuster witness, who basically
11 says Mr. Jackson was not involved in things. You
12 had Debbie Rowe, who said people would take
13 advantage of him. You've got witness after witness
14 who's testified that Mr. Jackson is a creative
15 genius. He is -- he does a lot of things very well.
16 You have from time to time people say he's a very
17 good businessman, but -- and I don't mean to say
18 that he's not, but that doesn't mean that he has
19 hands-on control of what people are doing. And in
20 particular in this case, there's no evidence that he
21 had hands-on control of anything with regard to this
22 alleged conspiracy.

23 I don't think a conspiracy has been shown
24 even among the other people, but this is a case
25 against Mr. Jackson. And there's been nothing shown
26 that's credible to establish that he is a member of
27 a conspiracy. He was a person who had all sorts of
28 other things going on in his life. Certainly he 9027

1 would have been aware of this Bashir tape. He would
2 have been aware of some things, but -- in general
3 one might assume that, but beyond that assumption,
4 there's no indication that he was running anything,
5 directing anything, or doing anything.

6 Now, the third area of evidence I'm going to
7 talk about is the 1108 evidence. And I want to talk

8 about that in two different regards.

9 First of all, the 1108 evidence was highly
10 improbable. But secondly, it has the danger -- even
11 if it was credible evidence, it would have the great
12 danger of causing a rational trier of fact to not
13 hold the prosecution to the standard of proof
14 required in this case, proof beyond a reasonable
15 doubt of the current offense. And that is the
16 danger of 1108 and that's -- that's something that
17 needs to be addressed.

18 In that regard, every witness that was
19 called with regard to the 1108 evidence either sued
20 Mr. Jackson for money, sometimes -- never
21 successfully, but sometimes settling, other times
22 being blown out of the water rather dramatically, or
23 they sold their stories to the tabloids or the
24 tabloid television shows, or they had a book deal,
25 or in some cases like Adrian McManus, Chacon and
26 Abdool, they had all three. They did a book deal
27 with Mr. Gutierrez. They did tabloid -- selling of
28 their stories through Splash, to Star Magazine, and 9028

1 elsewhere. And they had one of their members appear
2 on Inside Edition, all for money.

3 The other ones, as the Court has heard -- I
4 won't go through every witness, but as the Court has
5 heard, everybody has been involved in that. Out of

6 the literally thousands of people whose lives
7 intersect Mr. Jackson's during that period of
8 time -- and we've heard about that. He has -- you
9 know, he had 100 employees or more, maybe not all at
10 one time at the ranch, but over that period of time
11 certainly he had at least that many. He's had
12 countless friends and relatives and other people who
13 have visited the ranch, guests of all sorts.
14 Obviously he's had all sorts of connections with
15 people in the music industry, and so on. And
16 there's been some testimony about other celebrities
17 with whom he's friends. And yet who comes forward
18 in this case under 1108 but the Abdools, McManuses
19 and Chacons, who sell their story and the other
20 witnesses who sell their stories.
21 Phillip LeMarque, who was out there bidding
22 and admitted that he was told, "Well, if you can do
23 better about the story it would be worth more," his
24 answer is, "Well, I was just playing along," when he
25 was asking for \$500,000.
26 So you look at that evidence and it's very,
27 very weak and very suspect evidence. I realize that
28 it met the burden, that the Court determined it met 9029

1 the burden. I can't concede anything, as you know,
2 Your Honor. But the Court concluded it met the
3 burden for 1108 and made some cuts and calls as to

4 what could come in. But that doesn't mean that it
5 makes the cut when it comes to being determinative
6 so a rational trier of fact can find a defendant
7 guilty beyond a reasonable doubt.
8 More importantly, as I indicated at the
9 beginning of this segment of my argument, this
10 creates a high risk that a false conviction could
11 occur. Because the 1108 evidence isn't really
12 probative on anything except propensity, and that's
13 what it's brought in for. There's minimal 1101
14 evidence. But it's really 1108 evidence. It's only
15 on propensity. And that means that the jury then is
16 told, "You can conclude that this defendant has a
17 propensity to do these sorts of things."
18 If there's a total failure of proof, and
19 there's a lack of credible, reliable evidence that
20 could persuade a rational trier of fact beyond a
21 reasonable doubt on the charges that he's sitting
22 here facing, there's a lack of that kind of
23 evidence, there is a high risk that that kind of
24 1108 evidence can cause an emotional reaction rather
25 than a rational reaction. So you risk that the jury
26 could -- an emotional jury could find the defendant
27 guilty as opposed to a rational jury or a rational
28 trier of fact. 9030

1 And I don't mean to insult the jurors, but

2 that's precisely why the Court is asked to entertain
3 an 1118.1 motion. It's because the Court can sit
4 here more dispassionately and look at the evidence
5 and make the kinds of distinctions that we talk
6 about when we talk about the law in this area.
7 Whereas the jury, as much as they're going
8 to be instructed and as much argument as there's
9 going to be, this is their one case and they're
10 going to sit here and it's going to be very
11 difficult for them to make that cut. So it's all
12 the more important in a case where 1108 evidence has
13 come in to -- for the Court to make a careful
14 determination on 1118.1 as to whether or not this
15 case should make the cut and go to the jury.
16 And I realize -- and I've got to
17 parenthetically insert this somewhere, so I'll do it
18 here. There's no question this is a hard call. And
19 the Court has made hard calls throughout this whole
20 case, and it's a hard call.
21 But I think we have to look at it and -- as
22 I'm sure the Court is doing, and I don't mean to be,
23 you know, insulting in any way to bring it up, but
24 we all have to remind ourselves, it doesn't matter
25 if this is the Michael Jackson case or any other
26 case, any other person sitting in that chair,
27 whether there are cameras out there or there are not
28 cameras out there, whether there's a lot of press 9031

1 going on about this or not. The fact of the matter
2 is, as a friend of mine used to say, it's balls and
3 strikes, and the Court, of course, has to call it.
4 And when you look at this, one has to
5 wonder -- after looking at those first three
6 categories of the case that I just talked about, one
7 has to wonder would this case have ever gone
8 anywhere like this were it not for the fact that
9 Michael Jackson was the defendant.

10 How many -- and I don't want to refer to
11 other cases, but I think it's reasonable to raise
12 the question as to how many cases, murder cases,
13 death penalty cases, do you have nine fingerprint
14 technicians and experts working on fingerprints?
15 How many cases do you spend the kind of resources
16 and the time, and bring people in, try to find
17 anybody who will come in and say anything to try to
18 put together a prejudicial case, if not an actual
19 legal case of the elements against a defendant?
20 So having said that, Mr. Jackson, as I said
21 before, is not only -- you know, he's entitled to no
22 more, but no less respect than anybody else in this
23 regard. And the Court also has to look at it and
24 say, "Well, wait a second. All of these resources
25 have been spent and where are we?" We're nowhere in
26 this case.

27 Now, the last category that I want to talk
28 about I think makes the Court's decision a little 9032

1 easier. And I hesitate to use that word, because I
2 suspect there's nothing easy about the Court's
3 determination. But if there is -- if there's any
4 way to make it less hard, I think this does, because
5 as we have briefed and as I have alluded to at the
6 beginning, if a witness is willfully false, the
7 Court can disregard or the trier of fact can
8 disregard the entire testimony unless the overall
9 evidence persuades the Court of the truth of their
10 testimony.

11 And we have witnesses who have committed
12 perjury on the stand, who were put up on that stand,
13 and who got up there and lied. And I'm not just
14 arguing this. I'm going to point out, through a few
15 witnesses, where I believe the evidence conclusively
16 shows that there are lies. And that anybody who
17 looked at this case from any aspect, whether it be
18 the jury box or the bench or the counsel table,
19 would have to say these people have been willfully
20 false. And if the key witnesses have been willfully
21 false, and the other witnesses that were put on have
22 pretty much self-destructed to a large extent, what
23 is this case all about?

24 I think the Court has to look at it and say

25 there is not credible evidence at the end of the day
26 supporting the prosecution's theory of this case,
27 and therefore an 1118.1 motion should be granted as
28 to everything. 9033

1 Let me refer to some of the "witness
2 willfully false" statements. And I chose statements
3 that I think will be noncontroversial. I say that,
4 and we'll find out if there's a controversy, but I
5 tried to pick some of the statements that are just
6 so clearly false that there really isn't an argument
7 about it, or there shouldn't be an argument about
8 it.

9 Let's take Gavin Arvizo to start with.

10 One of the statements that was so clearly
11 false, not a close call at all, is he got on this
12 stand in this court and alleged that Michael Jackson
13 told him that he had to masturbate because if boys
14 don't masturbate, they get to a certain level and
15 they may rape women.

16 Now, we know that's false, because I believe
17 it was Sergeant Robel -- and I was going to go
18 check, but I believe it was Sergeant Robel who was
19 on the stand, and I asked him, "Did you ever hear
20 that statement before in this case?" And he said,
21 "No." And then I asked him if he had interviewed
22 Gavin Arvizo previously, and he said, "Yes." And

23 who did he attribute that statement to? And it was
24 his grandmother. And I believe we brought out that
25 it was -- that's what he also said at the grand
26 jury.

27 Now, this isn't something that innocent
28 misrecollection may cause a witness to just, you 9034

1 know, make a little mistake on the stand. This is
2 something that somebody says when they are lying.

3 And that's why we have the "witness willfully false"
4 instruction and that's why, when you look at these
5 willfully false statements, at the end of the day,
6 the only rational thing that anybody can conclude is
7 the People have failed to prove their case beyond a
8 reasonable doubt.

9 Look at the changed dates of the alleged
10 incidents. Gavin Arvizo at first said it was from
11 February 7th on. And what happened was, as the case
12 progressed, rather than memories fading, memories
13 got much more specific in all of these prosecution
14 witnesses, these key prosecution witnesses. And
15 they got more specific in a way that helped the
16 prosecution get over hurdles.

17 What happened, as we know, is that nobody
18 had the Bashir tape. Nobody had the Brad Miller
19 tape-recording. And the Arvizos free-wheeled and
20 said, "Hey, this is the way everything was," and

21 made their statement.

22 As this came out, all of a sudden the
23 prosecution did what they should have done, and I
24 agree they should have done: They took the tape and
25 they showed it to these people, and said, "What do
26 you have to say about that?" Okay.

27 Well, for one thing, what they did is, they
28 decided to move the dates. So they moved the dates 9035

1 to the point where it happened at the end of the
2 stay. And now, from the evidence that the Court has
3 before it, and including travel records and logs
4 that were just admitted by the prosecution, it's
5 clear that Mr. Jackson was there only a very brief
6 period of time during those days in March when the
7 Arvizo family was there. But they moved the dates.
8 It's willfully false.

9 As I alluded to the change in testimony with
10 regard to the tapes, remember that, until the
11 prosecution had these tapes, they had no idea that
12 these people had gotten up there and said, you know,
13 "Michael Jackson is a wonderful guy," and
14 "Everything was fine and nothing happened," and
15 "We're happy," and, you know, "We wish him the best
16 and we love him and he's like a daddy," and
17 everything else.
18 They show them the tapes and what happened?

19 This came out in cross-examination. Each one of
20 those Arvizo children said that what they said on
21 the tape was false and they said Dieter made them
22 say it. And Janet embellished on that, which I'll
23 get to in a moment, but they said Dieter made them
24 say it. Gavin himself said, two places, 99.9
25 percent of that tape was false and Dieter made him
26 say it.

27 That's a witness willfully false. It's a
28 witness willfully false. And we know that, why? 9036

1 Not only because it's all inherently improbable when
2 you watch the tape and they're goofing off and
3 they're laughing and they're saying whatever they're
4 saying, but we uncovered the cards that were sent by
5 the Arvizos.

6 And I'm sorry, I don't have the exhibit
7 number right here, but Your Honor remembers the
8 cards that were sent.

9 Why were the cards sent? They were sent in
10 2001 because Gavin had recovered, and Michael
11 Jackson was no longer at that point inviting them to
12 the ranch. Mr. Jackson had other things to do, I'm
13 sure. But he wasn't inviting him to the ranch.
14 They claim they had his phone number or a phone
15 number. They had to call Evvy Tavasci, which
16 everybody else has to call, as we found out, who

17 everybody has to call. They didn't like that. They
18 didn't have communications, so they started sending
19 these over-the-top cards. And these over-the-top
20 cards had exactly the same language that they used
21 in that video that they -- that Gavin has now
22 claimed is 99 percent false because Dieter told him
23 to say it.
24 So it's a witness willfully false. And I'm
25 sorry, I mean, we can feel sorry for this young man
26 because apparently he had these serious health
27 problems, and everybody's glad to see when a child
28 recovers and so on. But the problem is he's making 9037

1 serious felony accusations against my client and
2 he's lying. And he's lying. That's all there is to
3 it.

4 We know that the cards, by the way, were
5 sent for what? They were sent for gain. They
6 wanted to get back into Michael's world. That's
7 when they weren't able to do it. We know that cards
8 were sent to Louise Palanker that were just the same
9 kind of cards, that called her "Mommy," "Wheezy,"
10 and made the same kind of things. What happened?
11 Those were sent after she said, "You can't have any
12 more money." It's the same pattern.
13 So they got on this tape and they said
14 over-the-top things, not because Dieter told them to

15 say them or anybody else. It's because that's what
16 they do when they want to get into somebody's world
17 and they want to gain something from them, whether
18 it's money or just being a part of the celebrity or
19 whatever.

20 But what we do know from that is that when
21 he got up there, he made that statement, that it was
22 99 percent false, on the stand. He said, "Well, I
23 didn't really mean that." "Well, maybe I meant it."

24 That's willfully false. It's willfully false.

25 Dieter didn't tell him to do that. We know that.

26 We can't look the other way and say it's close
27 enough for government work. These things are too
28 big. 9038

1 Gavin lied about what happened on the plane.

2 We had Cindy Bell, who came to testify. She was a

3 People's witness. She was clear. She was on her

4 feet the whole time. It was a small plane. She

5 said it would be like the front part of the jury box

6 to where she was there. She walked back and forth.

7 She could see everybody. She was constantly worried

8 about their well-being. She stayed on her feet the

9 entire trip. Nobody ever said she sat down. The

10 mother was there, Dr. Farshshian was there. We had

11 the testimony that the security guard was there.

12 Other people are there.

13 It's inherently improbable, but Cindy Bell
14 makes it very clear that the testimony in particular
15 was false. Gavin wasn't drinking alcohol. Gavin
16 was obnoxious when he got on the plane to start
17 with, and remained obnoxious throughout the flight.
18 He threw food at the sleeping doctor, which was kind
19 of a humorous picture, but it shows that the
20 testimony of these people in this case, Gavin in
21 particular, is willfully false. Can't get around
22 it.

23 So on Gavin, if the statement attributed to
24 Michael Jackson to try to convict him of a felony
25 that he had routinely said in the past was what his
26 grandmother told him, just taking that one statement
27 alone, I don't see how any rational trier of fact
28 could say, "Well, let's regard the rest of his 9039

1 testimony as truthful."

2 Going on to Star, claiming there was wine in
3 the Coke can because he saw red around the rim. The
4 only problem was these kids had some core facts they
5 got right or they got consistent with each other,
6 but they didn't have some of the other facts. All
7 the other testimony was that Michael Jackson had
8 white wine in his Coke can.
9 Star Arvizo denied that he ever pulled a
10 knife on Kiki Fournier. Your Honor heard Kiki

11 Fournier. She was called by the prosecution. She
12 said the kid pulled a knife on her. I mean, it's --
13 that's not something that is just you don't
14 remember.

15 And then he lied about what happened on the
16 plane as well. He lied about where he was sitting
17 and he lied about all sorts of things. But
18 certainly the Cindy Bell testimony makes it clear
19 that he was lying.

20 So we have witness willfully false, Gavin
21 and Star.

22 Davellin had some other issues.

23 And again, I want to emphasize, there are
24 lots of things that I disagree with in the
25 testimony, I think maybe the way the testimony
26 indicates that these people are lying in other
27 regards and it just didn't happen. I mean, don't
28 get me wrong, but I'm just picking out these 9040

1 specific willfully false episodes.

2 Look at Davellin. She lied. She said she
3 stayed in the guest cottage with her mother, and her
4 mother didn't want to leave, so they cowered there
5 and they stayed there. I forgot her exact words.
6 But she was imprisoned with her mother there in the
7 guest cottage, in the Unit 4.

8 And what happened? It turns out they

9 brought the police officer on, sworn police officer,
10 Officer Barron, who moonlighted there. He said not
11 only did the gate logs reflect that she was out at
12 the theater staying with Marie Nicole, but I asked
13 him, "Do you remember that?" He says, "Oh, yeah, I
14 remember she was out there. She was hanging out
15 with Marie Nicole. She was out there at the
16 theater. That's where she stayed." That's not
17 cowering in her room with her mother. That is
18 witness willfully false.

19 They are trying to convict Michael Jackson
20 and they have the assistance of the prosecution
21 doing things like bringing in this 1108 to try to
22 make their otherwise absolutely fantastic stories
23 seem more saleable to a jury.

24 Davellin also said -- and this is a witness
25 willfully false. That's why I pick it out. She
26 also said her brother was a sweet, nice boy who
27 never had problems until after they left the ranch
28 at the end, in March of 2003. 9041

1 There was clear evidence from people called
2 by the prosecution, from a teacher and an
3 administrator, who went through the records and
4 summarized everything else that was in his record,
5 that he was completely out of control. He was
6 profane. He was obnoxious. He would disrupt class.

7 He was actually kicked out of class repeatedly prior
8 to 2003.

9 So this idea that she was going to get up
10 and sell the product here to this jury that her
11 brother was a sweet, nice boy and Michael Jackson
12 caused all this, and therefore he should be
13 convicted of child molest, is a witness willfully
14 false on a material issue. Forgetting, again, about
15 all the other details of her testimony that don't
16 match with reality or other evidence in their
17 arguments, that's just clearly refuted.

18 Then we go to Janet Arvizo. And we can
19 spend forever on Janet Arvizo, but I won't. I'll
20 just hit some of the highlights of things that are
21 clearly a witness willfully false.
22 I mean, anybody who saw her affect in the
23 courtroom would have to conclude by virtue of her
24 affect alone and the glib way that she tried to
25 testify and the way she tried to add things whenever
26 it suited her purpose, and so on, was the testimony
27 of somebody who wasn't telling the truth. But look
28 at some of the particulars. 9042

1 She claimed the entire Bashir tape was
2 scripted. Every single word. She said she made
3 three mistakes. She said something about God -- I
4 forgot what the three were. But there were three

5 little mistakes. Otherwise, it was absolutely
6 scripted.

7 We got to get real. I don't care whose case
8 this is. That witness was bizarre. And she says it
9 was scripted. She said the outtakes were scripted.
10 The hand-holding, the laughing, the gang signs,
11 everything was scripted, she claimed, when it's
12 clear -- I mean, you'd have to be an idiot to
13 believe that. Excuse me for putting it that way.

14 But I mean, it's clear when you look at the tape the
15 first time -- as Your Honor mentioned, we saw the
16 tape many times. When you look at the tape the
17 first time, one of the things that strikes you right
18 off the bat is she doesn't know the camera's on and
19 she's laughing and fooling around and giving
20 suggestions how to make this look better and telling
21 the camera people what to do. And she's claiming
22 now on the stand that that was scripted, she was
23 told she had to say all those words and she
24 memorized it.

25 Now, the memorization part of it. I'm just
26 taking the real big whoppers that you can really pin
27 down so we don't have to talk about everything else.
28 The memorization part of it is so clearly false. 9043

1 She said the Brad Miller interview was all from the
2 heart and what she said to Brad Miller was all true.

3 The Brad Miller interview included a lot of
4 the exact same kind of language and it was -- they
5 weren't the exact same words. Some of the same
6 words were used, but it's the same phraseology, it's
7 the same thoughts, it's the same this and that, that
8 she had in the -- conveyed in the rebuttal film with
9 Mr. Moslehi.

10 The Brad Miller interview was on February
11 the 16th. The rebuttal video was February the 19th
12 at night, going into the morning of the 20th.

13 Probably the camera started rolling right around
14 midnight or so, okay?

15 She said, when she was asked, how could you
16 have memorized however many hours that was of
17 conversation, including outtakes and giggling, and
18 doing that -- I mean, that takes a lot of rehearsal.
19 How did you do that? She said she met with Dieter
20 ten times a day, who coached her and had the script,
21 and she memorized every word, except for the three
22 words that she got wrong.

23 Okay? Inherently improbable to start with.

24 But it's also just absolutely bizarre. I'm sorry to
25 laugh, but it's just so bizarre, because from the
26 16th to the 19th, she's staying at Jay Jackson's
27 house. She didn't see Dieter between the 16th and
28 the 19th. The only time that she would have seen 9044

1 Dieter was from February 6th, when she said she
2 briefly talked to him in Miami, and then from
3 February 8th, after everybody returned on the 7th
4 from Miami to the ranch, the 8th, 9th, 10th, 11th,
5 when she went out and got her body wax and then had
6 Jesus Salas drive her home in the middle of the
7 night in the Rolls Royce.

8 So is she claiming that we should believe or
9 any rational trier of fact should believe that she
10 was coached ten times a day on the 8th, 9th and 10th
11 and 11th, took her out for a body wax, and then
12 forgot it all. When she talked to Brad Miller, it
13 was from the heart, and then came back on the 19th?
14 Or are we to believe that this happened between the
15 16th and the 19th when she -- when this was scripted
16 and she was given every word? It's just
17 preposterous.

18 So she's a witness willfully false, clearly,
19 on these issues, and I don't mean to, by taking
20 those examples, to ask the Court not to think about
21 the big picture. This is one of the most clearly
22 deceptive witnesses that has ever appeared in any
23 court.

24 Look at the testimony about the -- what she
25 called the leg wax. We'll give her the benefit of
26 the doubt for the purpose of the end of the People's
27 case here. She gets a leg wax on 2-11. She knows

28 that's coming up. And a number of the prosecution 9045

1 witnesses did this. They knew something was coming

2 up, and so they tried to head it off at the pass.

3 And she knew this was coming up and she raised her

4 hand, as I recall. I was sitting there, and I

5 thought, "What's happening?"

6 But she raises her hand and said something.

7 "Oh, I paid for this. I paid for this." And she

8 wasn't asked. She just was volunteering this. And

9 how did she say she paid for it? She said the

10 plastic bag that was tied onto her luggage handle

11 had gotten lost on the Xtra Jet flight, and

12 therefore somebody owed her money for her shoes that

13 were in there. And so she considered that Michael

14 Jackson paying for her leg wax was, in fact, her

15 paying for the leg wax because she lost her plastic

16 bag.

17 Besides that just being improbable, the way

18 she did it, it was clearly lying. Clearly lying.

19 It had no relation to reality, no relation to the

20 other evidence in the case. No relation to her own

21 internal testimony. It was just an effort to lie to

22 try to persuade this jury that Mr. Jackson should be

23 convicted.

24 She admitted that she lied under oath in the

25 J.C. Penney case. She lied about had what happened

26 on the plane. It's clear from Cindy Bell's
27 testimony and everybody else's testimony, it just
28 doesn't match up. 9046

1 As we were precluded from going into -- and
2 I understand the Court can't consider it. I suppose
3 the Court can't consider it. I won't concede that,
4 but for the sake of this argument I will concede it,
5 without conceding the case, whether the trier of
6 fact can consider her taking the Fifth adversely to
7 her, even the Court doesn't do that, and we didn't
8 get into -- directly into the welfare fraud
9 allegations through her testimony. Her husband, Jay
10 Jackson, took the stand and, said, "Yeah, I had" --
11 "I had base pay." And we all know, base pay is just
12 the start for the military. After you get all the
13 allowances, housing allowance and all that, his pay
14 is 5,000 a month. He's depositing her welfare
15 checks into his account. He said that. Clearly
16 this is a person who's not telling the truth.
17 Now, as I say, the rest of her story is
18 inherently preposterous. But one of the things
19 that's not just preposterous but it's obviously a
20 witness willfully false that recurs throughout her
21 testimony, and so I select it just to use as a
22 further example, is that she claimed that she was
23 imprisoned and couldn't call 9-1-1. And yet, once

24 all the telephone records come in, and they're in,
25 for instance, from the Calabasas Inn, she said -- in
26 her direct, I believe, she admitted she called her
27 mother. She called Jay Jackson routinely from
28 Calabasas. She called Aja Pryor from other 9047

1 locations, including the ranch. She called Jay
2 Jackson. She called other people. She talked to
3 Aja Pryor numerous times. She was able to meet with
4 her lawyer, Mr. Dickerman. Was able to meet with
5 Jamie Masada. She was able to go to all sorts of
6 restaurants, do all sorts of other things, go in and
7 get documents from the federal building where there
8 are all sorts of federal officers. She had her
9 lawyer send her her divorce papers. I believe she
10 indicated that's where she got them from, so she
11 could get her passports. She met with her lawyer in
12 court.

13 She had every opportunity to talk with
14 somebody or to make that 9-1-1 call. Louise
15 Palanker said that she called and said something to
16 the effect that -- Miss Palanker said she called and
17 said, "Well, can I come over?" And Miss Palanker
18 didn't want her to come over for -- using some good
19 judgment. And at that point she says, "Well, maybe
20 I could meet you tomorrow at the mall." And any
21 rational person will say, "Well, wait a second.

22 Meet at the mall; what's the story."
23 And Miss Palanker said -- I asked her, "What
24 do you mean?"
25 "She said, 'Well, they let me go shopping.'"
26 I mean, that's not a person who's falsely
27 imprisoned. That's a lie. These are just plain
28 lies. 9048

1 Now, the Court can speculate as to why she
2 was lying. I mean, there is certainly some
3 cross-examination about the fact that she didn't
4 want to be separated from Michael Jackson. And
5 there's a lot of other things going on in her life
6 that you could put together to see how inherently
7 improbable her testimony is; for instance, why she
8 would have this wax, and then Jay Jackson calls, and
9 then she calls him back, and then all of a sudden
10 she decides after that, when he wasn't able to get
11 ahold of her while she's having her body wax and
12 whatever else she's doing there, that she tells him,
13 "No, everything's okay," and she's got to leave
14 right away. That's not escaping from the ranch.
15 That's escaping to go back to Jay Jackson and patch
16 things up before they fall apart.
17 We could talk about the different theories.
18 But forgetting about the theories for the moment,
19 you got a witness willfully false. She couldn't

20 call 9-1-1? She could make outgoing calls from the
21 ranch to Jay Jackson. She could make outgoing calls
22 from the ranch to other people. She can call Aja
23 Pryor. She made all these -- completed all these
24 calls and talked for -- if you look at the records
25 of the Calabasas Inn, she talked for, you know, 30
26 minutes, 45 minutes. I mean, she's yakking on the
27 phone. Her testimony is, "Well, I was leaving
28 little hints." That is just absolutely a witness 9049

1 willfully false.

2 And then that leaves us with the
3 prosecution's last blockbuster witness, who they, I
4 think, represented but clearly intended that he'd
5 tie things up for the People and somehow make their
6 case after everything has fallen apart. And what
7 happened but his testimony fell apart. And that was
8 Rudy Provencio.

9 He got up, his affect was very strange for a
10 witness in a serious case who really had something
11 to say, and then we find out why. It turns out that
12 when he was first interviewed at length on January
13 31st, he had never said anything about killers. He
14 never said anything about escape. He said Debbie
15 Rowe was sincere. He never said anything about
16 questions being -- I'm sorry, answers being
17 scripted. He only said there were questions.

18 That's what he told the police officers.
19 Then he decided to go to work for the police
20 and start tape-recording stuff. None of which came
21 into evidence, because it wasn't significant. It
22 didn't come into evidence or it would have been
23 here, I'm sure. He tape-recorded stuff during 2004
24 trying to get people to say things. And he was
25 trying to be helpful to the prosecution, all right?
26 What does he do? He comes in with these
27 notes that he claims he found two weeks ago. And
28 what does he do? He even comes with the receipt 9050
1 from the -- from the storage place to show that he
2 went there to clean out his storage two weeks ago.
3 He's a witness willfully false. He was lying
4 through his teeth.
5 And we know that. We not only know that he
6 was lying and perjuring himself on the stand, as
7 were these other witnesses -- and I don't say that
8 lightly and I don't say it rhetorically. I'm saying
9 it specifically, clinically, for a reason. That's
10 what happened. We know he manufactured evidence.
11 And how do we know that? We know that from the
12 evidence in this case. It is just absolutely clear.
13 And the reason we know that is he claimed
14 that he wrote these notes contemporaneously. And
15 the new notes that he just turned over that he never

16 told anybody about, he never told the police about
17 escape, killers, or anything else until two weeks
18 ago, when at the same time he's finding these --
19 miraculously finding these notes that he
20 manufactured in violation of Penal Code Section 134,
21 a felony. He should be prosecuted.

22 He said these notes were written on February
23 1, 2003. When he was confronted with the absolute
24 impossibility that those notes couldn't have been
25 written at that time, then he said, "Well, look down
26 here. Paragraph two is a different handwriting, so
27 I must have done it on a different date, even though
28 February 2 comes after February 1." And, "Look, I 9051

1 had February 17 earlier, so, see? It could all be a
2 big mistake."

3 Okay? But what he said, and he stuck by it
4 through the very end through Mr. Mesereau's
5 questioning, was the part about "The mom is flipping
6 out" was definitely part of his notes. That was
7 right under the January -- I mean, the February 1,
8 2003, notation. And he said and he claimed and
9 swore under oath that that was February 1.

10 And he offered the explanation on January
11 24th, we've got a transcript from Kathryn Milofsky,
12 a CBS correspondent who was at one time in England
13 and apparently is here now, whose name pops up every

14 once in a while on various things. She seems to be
15 corresponding with a lot of people. Of course, I
16 suppose you haven't ruled on the 400 series yet, so
17 I won't talk about the content of that. But that
18 was part of the offer there, part of the offer by
19 Mr. Auchincloss.

20 It turns out that that story, that -- he
21 thought he saved the day, so he could be the
22 blockbuster witness. I don't know what his
23 motivation is. He wants to be the big star witness.
24 He's a wanna-be cop, he's a wanna-be this. I don't
25 know. But he was a liar on the stand. And I don't
26 say that lightly, and I don't say that just to
27 insult him.

28 We know that because the weight of all the 9052

1 other evidence in this case indicates that Janet
2 Arvizo didn't have any idea what Bashir was about
3 when the press started calling her mother's house on
4 February 4 and February 5. She doesn't have any
5 idea. She had no idea. There is no contest on
6 that. Jay Jackson, Major Jay Jackson confirms that.
7 That's when the press comes around, on February 5,
8 and he tries to get them to pay him money, and they
9 eventually offer \$15,000, and it's not enough.
10 That's February 5. Nothing is happening on
11 February 1. Nothing is happening on February 2.

12 Nothing is happening on February 3. He created
13 these notes to make himself a key witness in this
14 case. And that's why, when I say Mr. Jackson is
15 entitled to no more, but no less fairness than
16 anybody else, and I don't care if I'm standing here
17 representing another client who has absolutely no
18 status as a celebrity or status in any other regard,
19 I would make the same argument. He is entitled to
20 have this Court determine if there are witnesses
21 lying up there, and they're willfully false, that
22 their testimony should be disregarded, and when you
23 look at the whole body of evidence, reject it and
24 grant the 1118.1.

25 Now, to make matters worse, he tried to lie
26 about that further by saying, well, it was because
27 of the transcript. And you recall that the
28 transcript - or the report - it was unclear whether 9053

1 it was a transcript or a report that he went
2 through - Mr. Mesereau asked him, "Well, you went
3 through two weeks ago and you started adding
4 'Michael Jackson' to everything."

5 "Well, I made corrections as to spelling."

6 "Well, you added 'Michael Jackson.' You
7 added some other things."

8 "Well, I did add that."

9 He manufactured all this, and he

10 manufactured this story that was the script. The
11 problem is that we all know from this evidence -- if
12 we don't know anything else, we know from this
13 evidence that Janet Arvizo had absolutely no
14 knowledge of a script from the Bashir film
15 whatsoever. And she didn't even know about the
16 Bashir film airing in England and she didn't even
17 see the Bashir film when it came out on February 6th
18 in the United States. And so it is much more
19 consistent -- not "much more." It's -- the only
20 thing that's consistent with the facts that you've
21 seen from multiple witnesses is that after the 6th
22 and it was shown, the Bashir tape was shown in the
23 United States, did Mr. Schaffel get himself back
24 into the group.
25 And remember, he was sent a letter -- and
26 this Witness Provencio tried to make fun of the
27 lawyer, Zia Modabber. He was sent a letter,
28 Schaffel was sent a letter saying, "Stay away from 9054

1 Michael Jackson," and his -- he was trying to get
2 back into Michael Jackson's world, like everybody
3 does, to try to be a part of this celebrity world
4 and get the benefits and make money behind Mr.
5 Jackson's back or with his -- with his approval in
6 some regard, make money, make yourself a big wheel.
7 That's what he was trying to do. We had that

8 testimony.

9 And in his original statement to the police,
10 he was clear it was after the Bashir tape aired in
11 the United States on February the 6th, and that's
12 the only thing that would be consistent. Not that
13 Marc Schaffel or anybody else were making
14 conspiratorial statements, let alone the other
15 things he attributed to them in the February 1st and
16 the February 2nd calls. That's absolutely false.

17 It's a lie. It couldn't have happened. But it's
18 not only a lie, but it's a lie by somebody who came
19 in here and manufactured notes to give to the
20 prosecution, who gave them to the defense, and we
21 all sat and looked at his notes, and that was false
22 evidence, a felony violation of Penal Code Section
23 134. The man should be prosecuted for that, and
24 we've seen people prosecuted for a lot less.
25 So when you look at that, he is the only
26 witness that they've been using to try to somehow
27 tie Michael Jackson into some kind of a conspiracy
28 by saying, "Well, he was on the phone. Well, I 9055

1 listened to all the phone calls."

2 "Oh, you did?"

3 "Well, because he had them on speaker."

4 And "Marc Schaffel was a terrible person.

5 He was very happy to put down anybody he wanted to."

6 And then he went into his own office, and he picked
7 up the phone and he listened in secretly to calls.
8 That testimony can't be believed. That man
9 never said Michael Jackson had anything to do with
10 anything. And in fact, he had told others that
11 Michael Jackson didn't know what was going on.
12 He comes into court to be a hero for the
13 prosecution. And they put him up, and I choose to
14 think they put him up unwittingly. I don't suggest
15 they put him up deliberately saying, "Get up there
16 and lie." But at some point they had to know he was
17 lying.

18 And I'll tell you what. There was something
19 that was very telling. Mr. Mesereau asked Mr.
20 Provencio, after this incredible testimony that any
21 lawyer, like Mr. Zonen, who knows the facts of this
22 case, would have to see is not only improbable, but
23 it's a lie. And the one question was, "What did Mr.
24 Zonen ask you at the break?"

25 "He asked me if I was telling the truth."

26 Don't you think that any lawyer in his right
27 mind would have asked that witness, "Are you telling
28 the truth?" And might have asked him a few more 9056

1 questions like, "How in the world could you possibly
2 do that?"

3 I'm disappointed that they tried to

4 rehabilitate him after that, and they didn't
5 succeed. I'm disappointed in that. I would expect
6 them to say, "This man is lying, and we want to
7 withdraw his testimony."
8 Even defense lawyers, because defense
9 lawyers are always picked on, and prosecutors have a
10 higher standard when it comes to some things, but
11 lawyers, as lawyers, have certain high standards we
12 have to abide by. The Court's well aware that even
13 when a defendant takes the stand, over the objection
14 of counsel, and wants to say something untrue, a
15 defense lawyer has an obligation not to -- not to
16 aid and abet in that, even though it's an exercise
17 of a Constitutional right by a defendant. Any
18 lawyer, prosecution or defense, has an obligation to
19 not try to rehabilitate somebody who's gotten up
20 there and lied through his teeth so clearly and
21 emphatically. There's just no way around it.
22 Now, having said all of those things, when
23 you put all of that in context, that's why it
24 says -- that's why I say it makes the Court's job
25 easier or less hard, because I know it's a hard task
26 to perform.
27 If this wasn't the Michael Jackson case, I
28 don't think the prosecution would have tried 9057
1 anything, and the prosecution would have said,

2 "You're lying. We want to stop. Let's disclose
3 this to the Court and let's have a hearing. Let's
4 do something. Let's dismiss the case." But they
5 went ahead and they're going ahead, and they're
6 going to get up after I sit down and they're going
7 to argue these people weren't lying, I suppose.
8 It's up to the Court to look at this and
9 say, "We cannot permit this case to go any further."
10 Why? The jury may well see it the same way, and I
11 think they probably do, to a certain extent.
12 They're not lawyers. They don't know all the rules.
13 They don't know exactly what they're supposed to do
14 yet.
15 At the end of the case, they may well do the
16 right thing and acquit Mr. Jackson, but they might
17 not, because they might be moved by the innuendo.
18 They might be moved by the 1108 evidence in
19 particular. That is extremely dangerous. It's
20 extremely dangerous in this case where it is
21 propping up people who are witnesses willfully
22 false.
23 So I'd ask the Court to grant the 1118.1
24 motion as to the conspiracy count and as to all the
25 other counts.
26 Thank you.
27 THE COURT: Thank you, Mr. Sanger.
28 On behalf of the People? 9058

1 MR. SNEDDON: Be right with you, Your Honor.

2 First of all, Your Honor, let me address the
3 question that we began discussing with Mr. Sanger at
4 the beginning of his remarks.

5 I believe Mr. Sanger is wrong in the law.

6 I believe his interpretation of the law with regard
7 to what the Court's responsibility is with regard to
8 this motion is incorrect. And while I believe

9 that -- that that was a nice final argument that Mr.
10 Sanger made, unfortunately, the point that we are at
11 with regard to an 1118 motion is after a defendant
12 has been convicted. And at that point is there
13 substantial evidence to support the conviction,
14 drawing all favorable inferences in favor of the
15 jury's verdict. That's the standard.

16 And I cite to the Court two cases that
17 clearly set forth that standard. The first case is
18 People vs. Cuevas, C-u-e-v-a-s. It's a 1995 case at
19 12 Cal.4 252. And then there's a rather recent
20 case -- and that's at page 260, if I didn't indicate
21 that, Your Honor.

22 And then there's a more recent case which is
23 called People vs. Coffman, with a C, o-f-f-m-a-n, and
24 Marlo, M-a-r-l-o, which is found at 34 Cal.1 at page
25 90.

26 Both of those cases make it very clear that

27 the Court is not in a position on an 1118 to make
28 credibility issues and decisions, but only to decide 9059

1 whether or not there is substantial evidence that
2 the jury believe the evidence was credible. And so
3 that's a considerably different matter than what
4 Mr. Sanger was urging upon the Court.

5 Having that in mind, what we have to do is
6 assume, it's a starting point, that every argument
7 that Mr. Sanger just made to you, that he would have
8 made to the jury, and the jury didn't believe it or
9 didn't find it persuasive, and convicted the client
10 in any case, and are there reasonable inferences in
11 what remains in the testimony and the evidence that
12 supports the reasons that the jury found against
13 everything Mr. Sanger just stood here and told you?
14 That's where we really are in this case.

15 Having said that, I'd like to begin with a
16 little bit of analysis, first of all. And I won't
17 spend much time on it, but I think it's important to
18 put things in perspective in terms of the law of
19 conspiracy in light of some of the things that Mr.
20 Sanger said.

21 There are three charges here. One charge of
22 conspiracy, with an allegation of three particular
23 crimes that were involved: Extortion, false
24 imprisonment and child abduction.

25 Now, I share, in one respect, Mr. Sanger's
26 notion that there is a double agreement and a double
27 intent that's required to commit this crime. And I
28 do not take exception with that. However, I do take 9060

1 exception with this little bit of selective memory
2 in terms of the rest of the law on conspiracy.

3 For Mr. Jackson to be guilty of the
4 conspiracy does not require him to be the puppet at
5 the top of this, moving all the strings to the
6 little puppets below. It requires that in whatever
7 role Mr. Jackson plays in the conspiracy, that he
8 does so with the intent to commit the crimes that
9 are alleged and he does so with the intent that
10 there be a conspiracy to commit those crimes. All
11 he needs to do is share in the overall goal of the
12 conspiracy; that is, that there was an attempt to
13 conceal or an agreement. Not an attempt, but it was
14 an agreement to conceal or to falsely imprison, to
15 abduct and to extort.

16 The crime of conspiracy is unique, because
17 it does not require that the crime actually be
18 committed or accomplished. And that's why we have a
19 whole series of overt acts. And that's why the law
20 of conspiracy is set forth in the instructions to
21 the jury as they need not find that these crimes
22 were actually committed, only that there was an

23 agreement and an intent and a conspiracy to commit
24 these crimes, and there was at least one -- one
25 overt act done towards the commission of the goals
26 of that crime.
27 Now, that's the law of conspiracy. That's
28 the proper perspective for which this case and this 9061

1 1118 motion needs to be heard.

2 And it's a fundamental principle of the law
3 of conspiracy that when you have many people
4 involved in a conspiracy, that many people have
5 different roles. And I don't think we have to
6 stretch very far if you just take the common analogy
7 sometimes that I'm sure this Court is familiar with,
8 and I don't mean this in any disrespect to Mr.
9 Jackson, but I'm only using it as an analogy. The
10 one that comes before us more often than not, if you
11 look at those cases that this Court has seen and if
12 you look at the cases on the laws of narcotics and
13 drug cases, and when you try to get to the top of
14 the cartel, you try to move to the top of the big
15 sellers, oftentimes what you're talking about is
16 moving through other people through that syndicate
17 that's reflective of what the agreement is at the
18 top. It doesn't mean that the person at the top
19 doesn't know or share in the agreement of what the
20 people are doing down below.

21 So I think that the attempt by the defense
22 to portray Mr. Jackson as somehow being the
23 mastermind behind the conspiracy is a false attempt.
24 It is not something that we've alleged during the
25 entire time that we've tried this case to the jury
26 and the time we put this case on to the grand jury,
27 or the time that we talked with you at the 995.
28 The fact of the matter is, Mr. Jackson had a 9062

1 role. The fact of the matter is, I'm going to point
2 to you evidence that shows that he was in agreement.

3 The fact of the matter is that he was the
4 beneficiary of everything that happened in this
5 case.

6 And it's not necessary that the -- that they
7 succeed in their attempts to falsely imprison, or to
8 abduct the children, or to extort something out of
9 someone, although I do believe that there is strong
10 evidence that they did succeed in certain extents in
11 all of those goals, as I will point out.

12 Now, I'd like to start, first of all, and I
13 want to say that there's another thing that I think
14 needs to be said to the Court. There's another
15 fundamental principle of the cases that interpret
16 the sufficiency of the evidence to sustain a
17 conviction on appeal that deals with how you prove a
18 conspiracy.

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19 Lord knows nobody is dumb enough to get
20 together and have five or six or seven or two or
21 three people sign a contract and say, "We're going
22 to go out and commit these crimes, and I agree to do
23 this, and you agree to do this, and he agrees to do
24 this." Nobody does that. I dare say that all the
25 time you've been on the bench, you've never heard of
26 a conspiracy where they had a contract and they
27 walked in here and showed you everybody agreed by
28 way of contract to do this. 9063

1 And that's why the case law in California is
2 replete with cases that demonstrate over and over
3 and over again that the thing that you look for on
4 the substantial evidence review is, is there
5 association? Is there a way to link these people
6 together in some common purpose? Is there a motive
7 among the people? Are the goals and the acts of the
8 people reasonably calculated to accomplish what is
9 alleged to be the goals of the conspiracy?

10 And that's where I think our starting point
11 has to be. What's the motive in this particular
12 case?

13 The motive of Mr. Jackson is clear. The
14 Bashir tape, and even Mr. Sanger, to an extent,
15 admitted it in his argument to you, the evidence of
16 one thing has been proven in this case so far. The

17 evidence is overwhelming that this was a death
18 threat to his career. He was hemorrhaging
19 financially and had been for several years. He had
20 a cash flow problem. And for some reason -- as Mr.
21 Duross indicated, for some reason he couldn't get
22 out and market himself, and didn't, or chose not to,
23 to try to do something about this debt.

24 But the Bashir filming was the thing that
25 was just the last stroke that was going to end his
26 career if something wasn't done immediately to turn
27 that around.

28 Now, sure, some people are going to make 9064

1 money off that. There's no reason that some of
2 these people involved in trying to resurrect his
3 career couldn't make money in a venture trying to
4 resurrect it. There's no reason why these people
5 involved in this couldn't benefit from being
6 associated with whatever was left of Mr. Jackson's
7 career, and to the extent that they were able to
8 resurrect his career, to benefit by being on the
9 inner circle.

10 But the motive was to resurrect his career.

11 And that's what was clear, that the only person who
12 really benefited first, foremost, was the defendant
13 in this case, Michael Joe Jackson.

14 It's totally unrealistic to believe that at

15 this particular point in time, when his entire
16 career, his entire financial situation, his entire
17 entertainment, his entire record career is on the
18 line, that Mr. Jackson is going to sit on the
19 sidelines, allow people to come in from the outside,
20 run his career, what's left of it, and try to
21 salvage it without knowing what's going on.

22 And one thing that has also been proven
23 here, I believe, that there's substantial evidence
24 that Mr. Jackson is a hands-on person. He likes to
25 get involved to some extent and to be informed, and
26 likes to make the ultimate decisions as to what's
27 going on. He's been described as the captain of the
28 ship. And I think that the evidence that 9065

1 circumstantially has been shown here establishes
2 that just to be the case here, and I want to start
3 to just direct the Court's attention to some of the
4 things that I think are important.

5 First of all, I think we need to comment on
6 the associates themselves. These are people that
7 came in from different places. One's from Canada.
8 One's from Germany. Mr. Schaffel is local. Mr.
9 Schaffel had a history. Mr. Tyson had been a
10 friend, a close family friend, and his family has
11 been a close family friend of the defendant's for
12 years. Absolute years.

13 Now, who is it that's involved the most in
14 actually executing many of the overt acts in this
15 case? Frank Tyson. Frank Tyson, the defendant's
16 closest friend, is the person who's out there doing
17 many, many, many of these overt acts. Who's at the
18 ranch hanging out with the defendant while all this
19 conduct is being conducted? Frank Tyson. And his
20 friend, Vinnie, that he brought in to help him do
21 all of these things.

22 You look at the phone analyses that were
23 presented to the jury in this case, and you look
24 through the key times when things are going on, like
25 when the Arvizos left on the 12th, and the video on
26 the 19th and the 20th, there are very few phone
27 calls up there of Marc Schaffel. The majority of
28 the calls are going back and forth between the 9066

1 defendant's closest friend, Frank Tyson, his cohort
2 Vinnie Amen, Neverland Valley Ranch, and phone calls
3 to Michael Jackson's investigator's cell phone. And
4 we have testimony from at least, I believe, three
5 different witnesses in this case that that's how Mr.
6 Jackson communicated with people.

7 I think it's significant that the Court in
8 this particular case also has to put into context
9 what happened here when this whole thing got
10 started, when the bad news came out, when they

11 learned about the transcript on the 24th, when
12 Schaffel went to Dieter and Ronald and when they
13 went to Miami where the defendant was. Those people
14 were called to Miami to be with the defendant to
15 consult. "What are we going to do to solve this
16 problem?"

17 What comes out of the product of that, Your
18 Honor? The product of that is the defendant is the
19 first one in this case who mentions "killers." It's
20 the defendant who is the first one in this case who
21 reaches out his hand across the nation through the
22 telephones to contact the Arvizos, who he has not
23 had a single solitary contact with for months, and
24 that last contact was simply to manipulate Gavin
25 Arvizo to participate in the Bashir tape. And he
26 hadn't seen Gavin and the family for months and
27 months and months before that. It's the defendant
28 who reaches out first. 9067

1 The Arvizos are minding their own time.
2 They're getting bombarded by the media because of
3 the Bashir tape. But they're not calling Jackson.
4 It's Jackson calling them. It's Michael Jackson who
5 says, "I want you to come to Miami." It's Michael
6 Jackson who said, "I want you to come here for a
7 press conference."
8 Now, I think we have to stop and think about

9 something here, something that Rudy Provencio said
10 on the witness stand. Mr. Jackson said he didn't
11 really like to do press conferences. Well, if he
12 wasn't going to do a press conference, why did he
13 want those people in Miami? And why was there a
14 one-way ticket bought, or going to be bought, before
15 they put them on the charter jet with Chris Tucker?
16 A one-way ticket? They wanted those people out of
17 circulation. They wanted that family out of
18 circulation. And it was the defendant that reached
19 out to them and brought them to Miami, to him and to
20 the other members of the conspiracy in this case.
21 And who was it who speaks first in Miami?
22 It's the defendant, Michael Jackson. It's not
23 Dieter. It's not Ronald. It's not Marc Schaffel.
24 It's not Frank Tyson. And it's not Vinnie Amen.
25 And he sets the tone. Again, he says, "the
26 killers." "And if you want to appease them, if you
27 want to appease them, the killers, do what these two
28 people who work for me tell you to do." And he set 9068

1 the whole tone for the entire relationship and the
2 situation at that very point in time.
3 And we know for a fact, or there's no
4 evidence to the contrary, that there were no
5 killers. There were no people to appease. It was
6 false. It was made -- it was something that was

7 made up to induce a mother, who is fearful for her
8 children, who has no father figure in the family, to
9 go to somebody they thought was their friend, his
10 friend, Michael Jackson.

11 And it worked. And it worked.

12 And when they get there, what are the first
13 two things that Dieter and Ronald do? The people
14 that Janet Arvizo is instructed to rely on? The
15 people who are going to take her out of this
16 problem? The people who are going to appease the
17 killers? They don't do anything to try to make
18 money off of Michael Jackson. What they do is, they
19 have her sign blank pieces of paper which are
20 eventually used to try to infer that she's part of a
21 lawsuit with Michael Jackson against Bashir that she
22 says never -- wasn't on the sheet of paper when she
23 signed it in blank.

24 What else do they do when they're in Miami?

25 They don't try to do anything to take money from
26 Michael Jackson. They issue a press release, which
27 statement's attributed to the family and to Janet
28 Arvizo and to Gavin Arvizo that they've never made. 9069

1 Who benefits by that? The defendant is the

2 only one that benefits by that.

3 When they decide to go back to California,

4 you can't reasonably assume that Mr. Jackson didn't

5 know that the Arvizos were going to come to the
6 ranch. It's his ranch. It's his charter plane. It
7 was his invitation. Why is he doing this? There
8 was no press conference. Why not take them home?
9 Why not let them go? Why take them to the ranch?
10 Again, the reason is clear. They wanted to
11 isolate these people. They wanted to keep them away
12 from the media. They wanted to convince them to do
13 a rebuttal film, all things that Mr. Jackson was
14 aware of. He was aware of it, because on the
15 conversation that Rudy Provencio tells us about, he
16 not only talks about Debbie Rowe doing the rebuttal
17 film, but he also talks about the fact that they
18 talk about the fact that the Arvizos were to be part
19 of that film. So he's aware that that's part of the
20 project. So why do they have to go the ranch? Why
21 do they have to stay on the ranch if that's part of
22 the project?
23 And the defendant's the one who's involved
24 in making those kinds of decisions as to who can
25 stay at his ranch and under what circumstances and
26 who gets on his charter jet. That's not a decision
27 made by Dieter Weizner. It's not a decision that's
28 made by Marc Schaffel, who's in California. That's 9070

1 not a decision that's made by Ronald Konitzer. And
2 it's certainly not a decision that would be made by

3 somebody like Frank Tyson.

4 I think the evidence is fairly clear in

5 this, by the way, this "killer" statement, that it

6 was false, was not true. We have from several

7 different witnesses in this case now that confirms

8 that. Not only through the -- through Rudy

9 Provencio, but he said he heard the same thing from

10 Ian Drew. And so there's several different sources

11 of the fact that this kind of language was used to

12 scare the Arvizos in this case.

13 Now, with regard to what happens in the next

14 12 days, whether you want to call it an escape or

15 not between lawyers, or whether you want to

16 categorize it as a situation where somebody was

17 there against their will, I don't think we have to

18 quibble about it, because the people associated with

19 the defendant in this case clearly called it what it

20 was. It was Ronald Konitzer on the phone with Ann

21 Gabriel Kite, and it was the other people that

22 talked about the conversation that they escaped that

23 we heard about in this case. They used the word

24 "escape."

25 Now, I don't think any reasonable person

26 could understand the use of the word "escape" unless

27 somebody was being held against their will, unless

28 there had been a lack of an opportunity to 9071

1 voluntarily leave or -- why would you use that term?

2 And just the circumstances itself that they have to
3 go to a person and speak in Spanish and then leave
4 in the middle of the night in a hurry and leave and
5 go back to Los Angeles bears that out.

6 But the thing I think that bears it out more
7 than anything else is the eventual telephone
8 conversation between Frank Tyson and Janet. And you
9 hear that conversation on the phone. And it

10 indicates several different things about the
11 continuing nature of that conspiracy.

12 It indicates -- number one, it corroborates
13 the fact that there had been contact between Dieter
14 and Ronald and Janet; that those contacts had been
15 nasty, I guess is the easiest word you could use;
16 that she was upset about that; that she didn't want
17 to be there anymore with those people there.

18 The second thing that it shows is that they
19 still wanted the rebuttal film. They still wanted
20 the Arvizos to participate in what they hoped to be
21 the FOX program at that time, because they committed
22 publicly to FOX to have the Arvizos on that program,
23 because Frank's heard to say on that tape, "I want
24 you to say beautiful things about Michael. Come
25 back. Come back." He says several times on that
26 tape -- if you recall, Your Honor, several times he
27 alludes to the danger that they're in. "Danger,"

28 over and over again. 9072

1 And he then tells her several times,
2 speaking on behalf of the co-conspirators, Michael
3 Jackson, "Michael misses you, Michael cares for you,
4 Michael wants you to come back."
5 Now, it's unreasonable to believe -- now, we
6 have to understand, they leave on the 12th. This
7 conversation take place two, three days later with
8 Frank Tyson. It's unreasonable to believe that the
9 defendant was not aware of the fact that that family
10 had left the ranch. For every day and every night
11 since that he arrived at that ranch on the 7th, he
12 had been in the presence of those children. At
13 least Gavin and Star. It's unreasonable to believe
14 that he didn't know for several days that they were
15 gone from the ranch, when they'd been sleeping with
16 him and playing with him, and doing whatever they
17 did the rest of the time of the day.
18 It's just as unreasonable to believe that
19 Frank Tyson, his closest friend, would be making
20 representations to Janet that weren't
21 representations made on behalf his closest friend,
22 Frank Tyson. Frank even lies to her to get her to
23 come back to the ranch by telling her that the
24 Germans are gone, that the problem's over with, and,
25 "Come back."

26 Janet makes it very clear on her behalf,
27 Your Honor, that she's not interested in making any
28 money on this case. She makes it very clear in that 9073

1 conversation with Frank. She still cares very much
2 about Michael Jackson. She's told on the tape, you
3 can hear it, "There are letters all over my mother's
4 table in El Monte. We're getting calls by the
5 press." "If I wanted to make money," she could have
6 made money, she said. "I didn't want to make any
7 money off Michael Jackson."

8 And then what happened? She goes back to
9 the ranch. And what did she see? She sees Dieter
10 and Ronald. She's been lied to, and she leaves.
11 But who is it that says the children must stay?
12 It's the co-conspirators, Dieter and Ronald, who are
13 there. And at that point she's deprived of her
14 children. She says, "You can leave, but the kids
15 are staying here. They're staying here, whether
16 they want to be here or not."

17 The fact of the matter is, they did. She
18 couldn't have taken them with her even if she'd
19 wanted to.

20 Now, the other thing I think we have to take
21 into consideration is that there is evidence that
22 Dieter and Ronald were at the ranch with Michael
23 Jackson during this whole period of time, not the

24 entire six weeks, but the entire time from around
25 the 8th or 9th through the 12th and then later. And
26 that Frank Tyson is there at certain critical points
27 and times and then later.

28 And to believe that the ranch is being used 9074

1 by these people without Michael Jackson knowing a
2 thing that's going on I think is an unreasonable
3 inference to draw from the conduct of the parties,
4 from the fact that they're seen together meeting.

5 And I think illustrative of this is the fact that --
6 and this wasn't something that Gavin testified to on
7 direct examination. This was something Mr. Mesereau
8 brought out on cross-examination.

9 That at the very time before the video is
10 going to be filmed, Brett Ratner and Michael Jackson
11 were at the house trying to get Gavin to sign a
12 release to participate. It clearly shows that the
13 defendant is still actively involved in the project
14 to get the Arvizos on that rebuttal film, and knows
15 the significance of that in terms of the
16 preservation of his own career.

17 I don't think there can be much doubt of the
18 fact that at that point in time, after the children
19 returned, with the case -- and the state of the
20 evidence in this case, we have a witness, Barron,
21 who says there's a sign that Gavin's not to leave,

22 and we have logs that say that Gavin and Star, et
23 cetera, are not to leave. We have testimony from
24 Mr. Barron he never saw anything like that before or
25 after during his time he was employed there. We
26 have Hamid saying that Joe Marcus wasn't going to
27 let the kids leave the ranch to do the rebuttal film
28 until it was cleared. I don't think it can be 9075

1 argued that these children were free to go wherever
2 they wanted to go, or this family was free to go
3 wherever they wanted to go.

4 The trip to Brazil. The trip to Brazil.
5 They take them down to a hotel. And have you ever
6 heard anything more bizarre than that, than having
7 people sit in the hotel two to three doors down with
8 the door open so you can't even walk by in the
9 hallway? And then a private investigator sitting in
10 the lobby? For what purpose, other than to confine,
11 and to intimidate, and to control, and to isolate
12 those people.

13 The trip to Brazil, I think, is also
14 illustrative, and then again, this is something Mr.
15 Jackson, the state of the evidence is, Mr. Jackson
16 knew about. You recall that Gavin testified that he
17 was present during a conversation where he and Frank
18 Tyson and Mr. Jackson testified that Mr. Jackson
19 said that he would join them later. To entice them.

20 So you can't say he wasn't aware that they were
21 trying to get this family out of the country.
22 Why are they trying to get this family out
23 of the country? What have they done that deserves
24 for them to be taken out of the country? And why
25 do, when they go to check him out of school, they
26 tell one person they're going to Arizona? And why,
27 when they go to get passports, do they tell them
28 they're going to Italy and France, and then they 9076

1 eventually get visas for Brazil, another country?

2 I think the only logical reason for that is
3 they're trying to hide the trail so nobody can track
4 this family, ever. And take them down to Brazil
5 where at least two people connected with the
6 defendant are familiar with things down there. We
7 have testimony that Mr. Schaffel goes down there.
8 And Mr. Hugo, who was present at the rebuttal
9 filming, was down in Brazil and making phone calls
10 back to people during this particular point in time
11 that was critical to the trip to Brazil.

12 THE COURT: How much -- I think we'll take
13 our break. How much time do you need to finish?

14 MR. SNEDDON: I don't think I need much
15 longer. Maybe 15 minutes. But counsel had an hour,
16 so --

17 THE COURT: I just was asking.

18 MR. SNEDDON: Okay.

19 THE COURT: All right. We'll take our break.

20 (Recess taken.)

21 MR. SNEDDON: I'll try to wrap this up

22 pretty quickly.

23 Oops, sorry.

24 THE COURT: They're waving at you.

25 MR. SNEDDON: I heard. I could feel it back

26 there. It was like a breeze, a nice one.

27 (Laughter.)

28 MR. SNEDDON: I said, and so everybody can 9077

1 hear it again, I'll try to wrap this up rather

2 quickly, I think. The break helped me do that.

3 I just want to go back and address a couple

4 other items on the conspiracy, and then I'll turn my

5 attention -- and I want to say this at the outset.

6 I believe that we correctly analyzed the state of

7 the law to the Court before we -- when we started

8 this, but I think I'd be remiss if I didn't address

9 at least some of the factual credibility issues that

10 were raised by the defense, but I really don't

11 believe that that's pertinent to this particular

12 proceeding, but there's some things I think need to

13 be clarified about what was said. I'm not going to

14 do it in detail. I'm just going to hit some

15 highlights about things, so....

16 First of all, I just want to get back to the
17 conspiracy. I think there's another thing that
18 needs to be noted about the associates that the
19 defendant was involved with in these particular
20 adventures that I think that bears some
21 noteworthiness or some reasonable inferences in this
22 case.

23 A lot has been made about the fact that Marc
24 Schaffel was a person of low credibility, and
25 there's been evidence that he may have taken a
26 million dollars that he shouldn't have taken from a
27 lady in Japan, and that Dieter and Ronald may have
28 taken money from Mr. Jackson, a lot of conversations 9078

1 about that.

2 But I got to tell you that the one thing
3 that stands out about that in relationship to this
4 case is that if you're going to be involved in a
5 conspiracy to save your career, you're not going to
6 go out and try to hire somebody to help you that's
7 honest, if you're going to try to extort something
8 out of somebody, if you're going to try to control
9 and isolate individuals and falsely imprison them
10 and move them around and keep their kids away from
11 them.

12 You're going to get the kind of people that
13 you know are willing to do things that are

14 dishonest. These are people that the defendant's
15 been associated with for many, many years, and he
16 knows their character, and he knows what they're
17 capable of. Or you can out and find somebody who is
18 blindly loyal to you, who you can trust implicitly,
19 because it's somebody who will be at your side and
20 has been at your side and will always be at your
21 side no matter what you request of them. Somebody
22 like Frank Tyson. Those are the kind of people that
23 go to making up a conspiracy of this type with the
24 stakes that are this large.

25 And I think it needs to be clarified that
26 when -- in relationship to Mr. Jackson knowing about
27 what goes on, Mr. Sanger glossed over the testimony
28 in this case where he said, "Even Rudy Provencio 9079

1 said that he doesn't always know what's going on
2 with Ronald and Dieter and Marc Schaffel."
3 Well, that's not exactly what his testimony
4 was.

5 What his testimony was is that in
6 relationship to what was going on from the crisis
7 from the Bashir tape, that Mr. Jackson was in the
8 information loop and in that loop regularly. That
9 the things -- if you check the transcript, the
10 things that he said that Jackson didn't know about
11 were the other ventures that these people had going

12 on that did not involve this particular crisis. But
13 he was very clear in his testimony that as to this
14 particular crisis, Mr. Jackson was in that loop, and
15 he was in that loop on a regular basis.

16 I think the other thing that needs to be
17 borne out about much that Mr. Sanger makes about
18 "scripted." I guess the difference is, and I think
19 perhaps there's some legitimacy to this, given the
20 fact that Mr. Jackson's an entertainer, that there's
21 a common-sense meaning for "scripted" and then
22 there's an entertainment meaning for "scripted," I
23 would think.

24 The fact of the matter is, whatever way you
25 want to put it, that Debbie Rowe interview was not a
26 legitimate, truthful interview by any stretch of the
27 imagination. And why it should take somebody nine
28 and a half hours to say something nice about the 9080

1 defendant is beyond me. And why they should have to
2 stop the tape and say that, "You didn't cry well
3 enough, so we'll go back and cry again," now if
4 that's not scripted in the common-sense term, I
5 don't know what is.

6 And I think that proves just the point we
7 were trying to make with the Janet Arvizo tape is,
8 whether you talk about it's written, or it's not
9 written, and for Pete's sake, look at the photograph

10 that's in evidence. There's papers all over that
11 room. You see Marc Schaffel sitting on the ground
12 writing. They weren't doing their income tax
13 returns. Those were scripts of questions.
14 Now, whether you want to technically say
15 that they were -- that something was told to be said
16 this way and that way, obviously they tried to do
17 that. They just weren't successful with her. She
18 was going to tell the lie that she and the defendant
19 made up years ago. And she was going to stick to
20 that, and she was going to tell it her way. It
21 wasn't that they didn't want it another way.
22 I think another thing that needs to be borne
23 out with regard to something I said earlier this
24 morning, Your Honor, and that's with regards to this
25 ranch sign, the one that said Gavin can't leave, the
26 one that's in the logs. I don't think there's a
27 shred of evidence in this case that indicates that
28 Marc Schaffel has the kind of power to tell Joe 9081

1 Marcus what to do at that ranch and to tell the
2 people what to put in those logs.
3 It was Joe Marcus who said the kids can't
4 leave the ranch. And who does Joe Marcus report to?
5 He reports to the defendant in this case, not to
6 Marc Schaffel.
7 I'd like to just finish up by a direct --

8 addressing just a few, and I'm not going to go into
9 all of that, because I don't think there's any sense
10 in doing final arguments on a day like this,
11 particularly when I don't believe the credibility
12 issues are on point. But I think there's some
13 things that need to be clarified, and frankly, this
14 is a good opportunity to say this.

15 I am -- I am offended and I'm sick and tired
16 of the defense standing up in this case, as they've
17 done for months and months and months and months,
18 saying that they don't take it lightly when they
19 accuse somebody of perjury. They said this when
20 they accused me of perjury. They said that when
21 they accused me of suborning perjury. They accused
22 Mr. Auchincloss of that. And now they're accusing
23 Mr. Zonen of some impropriety. I think they do take
24 it lightly, and the fact of the matter is, there's a
25 common denominator. Anybody who stands in their
26 way, whether it's Janet Arvizo, Gavin Arvizo, Star
27 Arvizo, Davellin Arvizo, Rudy Provencio or anybody
28 else in this case that says one thing bad about the 9082

1 defendant in this case are perjurers.

2 I don't think the law of coincidence is that
3 high. None of us get anything out of this except a
4 lot of grief. So to say that they don't take it
5 lightly I think is nonsense, and I'd like to show

6 you why some of these things are nonsense.

7 If Rudy -- Rudy Provencio is a media guy. He
8 works in the media. He knows the media. Now, if he
9 wanted to go get a notebook and make up a bunch of
10 things about Michael Jackson and implicate him in
11 this case, all he has to do is go to smokinggun.com,
12 download the grand jury transcripts, have an
13 accurate depiction of every single event that
14 occurred in this case and a date reference, and he
15 could have made up the greatest notebook in the
16 world and came in here and testify to it.

17 MR. SANGER: Your Honor, excuse me, I'm just
18 going to object to keep it on track. This argument
19 is limited to the evidence that's before the jury at
20 the conclusion of the People's case. So I don't
21 want to object unnecessarily, but I think we're
22 going afield from that particular issue talking
23 about "The Smoking Gun" and things that are not in
24 evidence.

25 THE COURT: Overruled. Go ahead.

26 MR. SNEDDON: He could have gone out and
27 constructed a notebook that would have been
28 devastating to the defense in every respect. Every 9083

1 date right, every event, every conversation. He
2 could have manufactured conversations that occurred
3 between he and Schaffel, or he and the defendant, or

4 any other parties to this conspiracy that occurred,
5 not only just the two he testified to. He could
6 have made up other conversations if he wanted to be
7 a hero in this case and a perjurer in this case and
8 to do the defendant in in this case. That just
9 doesn't hold water, like the pay/owe with a big hole
10 in it.

11 If he wanted to be the hero -- and one
12 thing, if you could tell, he's not a dumb person.

13 He didn't need to do it that way. And probably the
14 reason and likely -- the more likely reasonable
15 inference is he did it that way because that's the
16 truth and that's the way it happened. And people do
17 things at certain points in time and they're not
18 looking back that there's going to be a trial.

19 There was no investigation going on when he took
20 these notes. There was just a crisis going in the
21 media over the defendant and his career.

22 This timeline change makes Gavin a liar.

23 Let's put it in perspective, if we can.

24 First and foremost, this whole thing about
25 there's no disclosure until after they go to the
26 lawyers and after they go to Dr. Katz, well,
27 actually there wasn't a disclosure even with Dr.

28 Katz, so there was nothing for the lawyers to muck 9084

1 around with because he doesn't disclose to Dr. Katz.

2 As you recall, Dr. Katz' testimony is he got
3 very emotional, and he terminated the conversation
4 because he felt something had happened, but he
5 didn't want to go any further.

6 The first disclosure was to law enforcement.

7 Now, what's the testimony in that case about
8 the disclosure to law enforcement?

9 The testimony elicited by the defense, Mr.

10 Sanger himself did it, elicited from Sergeant Robel,

11 when he was testifying, was they -- "they," Santa

12 Barbara Sheriff's Department, after having received

13 the information from Mr. Feldman that there had been

14 a report made, or that was the report, to be more

15 accurate -- tried to get this family to come to

16 Santa Barbara in order to do an interview with them

17 to see whether or not anything had happened. In

18 other words, to follow up on that responsibility

19 because they had received a mandated report.

20 And what did he say? They didn't want to be

21 involved. They didn't want to come. They didn't

22 want to do it.

23 And, now, does that sound like a family that

24 has a lawsuit on their mind? Or does that sound

25 like a family that just wants to be left alone,

26 that's tied up in this thing now there was a

27 mandated reporter involved?

28 It just doesn't hold water. 9085

1 And the timeline never changed. The
2 timeline was, as the testimony disclosed from Gavin,
3 that was consistent with his grand jury testimony,
4 which was consistent with his trial testimony, that
5 he told Sergeant Robel early on during the
6 investigation, that the crimes -- the molestations
7 occurred during February and March. Gavin doesn't
8 pick the time period. The prosecutors pick the time
9 period that's involved.

10 Now, before the grand jury, Gavin testified
11 to two incidents involving the defendant. And what
12 he told the grand jury and what he told the jury
13 here is, "I believe that I was molested on other
14 occasions. I have a feeling that I was," which is
15 what he was talking about to Sergeant Robel in an
16 interview. "But," he said, "I have to testify under
17 oath. Under oath, I only remember two."

18 Now, does that sound like something that a
19 perjurer would do? My Lord, the only two people
20 present when all this happens is the defendant and
21 Gavin. He could have made up 20 allegations if he
22 wanted to. He could have made up more horrendous
23 things if he wanted to. Instead, the kid's honest
24 enough to say, "I think it might have happened on
25 other occasions, but Lord, I'm not going to come in
26 here under oath and say something against Mr.

27 Jackson that I don't believe that I can credibly say
28 without doubt." 9086

1 And that's what he did. And they want you
2 to believe that he's a perjurer because he did that?
3 That doesn't make sense, like a lot of the things
4 that the defense is urging in this case.
5 I just want to clarify two other things and
6 I'm about to sit down, Your Honor.

7 With regard to Janet -- and I'm not going to
8 be an apologist for Janet Arvizo. I'm also not
9 going to sit here and tell you that I think that
10 she's a perjurer or that she's willfully false in
11 her testimony. I will tell you that, as I think has
12 been clear and from a lot of things that happened,
13 that she is a woman who projects a person who has
14 been involved in a domestic relationship with a lot
15 of abuse for 16 years, and it's showing, and it
16 showed here in the courtroom.

17 And I think it's a little unfair for counsel
18 to stand up here and say that Janet created false
19 information about her husband beating her up,
20 created false information about a molestation, just
21 like happened in this case, from what happened
22 before, when there is public records that exist that
23 show that her husband was publicly convicted, beyond
24 a reasonable doubt and to a moral certainty, of not

25 one, but two offenses of abusing not only her, but
26 her daughter. And that a Judge, a neutral
27 magistrate, was so offended by the conduct that he
28 took away visitation rights for that father for 9087

1 three years, along with a lot of other things that
2 happened.

3 Now, that's a little unfair. That's a tad
4 unfair to say somebody's a perjurer and somebody's
5 setting up the defendant, Michael Jackson, when
6 there's objective proof of the fact that what she
7 said was truthful.

8 And this whole thing about the sexual
9 molestation, can anybody forget -- can you forget?
10 I'm sure you haven't. Can anybody forget, any of
11 these people who are sitting here, hearing Davellin
12 on the stand talk about that conversation involving
13 her mother and herself and her father where her
14 father confesses to her that he molested her when
15 she was a child and she breaks down and she cries?
16 Can anybody forget that? And that makes her a
17 perjurer? That makes Janet a perjurer for making up
18 something that actually happened?

19 I'd just tell the Court, you know, it's
20 things like this, all the way through this case,
21 that when you look at this thing with the standard,
22 not only eventually, but right now, that's required

23 of this Court, I could stand up here for another two
24 hours and make a final argument to you just like Mr.
25 Sanger did, and I could go through point by point by
26 point and show you the unreasonableness of their
27 position, and I think I've just given you some
28 isolated examples of just what I'm talking about. 9088

1 And I just submit to the Court that given
2 the standard in this case and given the evidence
3 before this Court, that this jury ought to be able
4 to be given the opportunity to decide for themselves
5 the credibility of these issues -- of these
6 witnesses, given the totality of the circumstances,
7 and that's the very standard that the Court of
8 Appeals and the Supreme Court sets out for an 1118
9 motion.

10 Thank you.

11 THE COURT: All right. Thank you.

12 No, Counsel, you don't need to stand.

13 MR. SANGER: Thank you, Your Honor.

14 THE COURT: The Court's going to deny the
15 1118 motion. The request to dismiss the charges is
16 denied.

17 I'm going to bring in the jury. Are you
18 prepared to call your first witness?

19 MR. SANGER: Yes, Your Honor.

20 THE COURT: All right.

21 MR. MESEREAU: Excuse me, Your Honor?

22 There's a motion in limine that the prosecution made
23 about a couple witnesses we plan to call.

24 THE COURT: They don't seem to be the first
25 two.

26 MR. MESEREAU: They're not the first two.

27 THE COURT: So I'll put that off.

28 Get the jury in. 9089

1 MR. MESEREAU: Okay. Thank you.

2

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

6

7 THE COURT: Good afternoon.

8 THE JURY: (In unison) Good afternoon.

9 THE COURT: You may proceed.

10 THE CLERK: Judge, we need to swear the
11 witness.

12 THE COURT: All right. Please raise your
13 right hand and face the clerk.

14

15 WADE J. ROBSON

16 Having been sworn, testified as follows:

17

18 THE WITNESS: I do.

19 THE CLERK: Please be seated. State and

20 spell your name for the record.

21 THE WITNESS: My name is Wade J. Robson,

22 spelled W-a-d-e, initial J., R-o-b-s-o-n.

23 THE CLERK: Thank you.

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

25 THE COURT: You may.

26 //

27 //

28 // 9090

1 DIRECT EXAMINATION

2 BY MR. MESEREAU:

3 Q. Good afternoon, Mr. Robson.

4 A. How you doing.

5 Q. How old are you?

6 A. I am 22.

7 Q. And would you please give the -- please just

8 summarize your employment history.

9 A. My employment history.

10 I started dancing when I was two,

11 professionally when I was five. In Australia

12 originally. And moved to America when I was eight.

13 Became a professional dancer. Started teaching

14 dance classes when I was 12. I was in a rap duo

15 when I was 11 and 12. Started choreographing for

16 different artists when I was 14, and now I'm

17 directing film.

18 Q. And where do you live at the moment?

19 A. I live in Tarzana, California.

20 Q. Okay. And you say you're directing films?

21 A. Yeah.

22 Q. And can you summarize what you're doing in

23 that regard?

24 A. The main focus right now, I did a short film

25 that I wrote and produced and directed last year,

26 and that's doing the whole film festival circuit

27 right now. And I have a three-picture deal with

28 Disney as a film director, and we're developing an 9091

1 original musical.

2 Q. Do you know the fellow seated at counsel

3 table to my right?

4 A. Yes.

5 Q. And who is that?

6 A. That's Michael Jackson.

7 Q. How do you know him?

8 A. I met him first when I was five years old.

9 I think it was '87. And Michael was touring, he was

10 doing the "Bad" tour. And I was imitating him as a

11 dancer at that point. And he was holding these --

12 it was in connection with Target or something like

13 that, holding these dance, like, contests all around

14 wherever he traveled. So I entered one of the dance

15 contests and ended up winning it, went on to the
16 finals and won that, and then the prize was to meet
17 Michael.

18 So I met him after one of his concerts in
19 Brisbane, Australia. And it was just like in a
20 meet-and-greet sort of room. And we met, and I was
21 in my whole, you know, "Bad" outfit and everything.
22 He was sort of laughing and tripping out on my
23 outfit and asked if I danced. I said, "Yeah." And

24 he asked me to perform with him in the show the next
25 night.

26 So after -- it was like the end of the
27 concert, I pulled up, performed in the show with
28 him. The next -- the next -- I think within the 9092

1 next couple of days, my mother and I went to visit
2 him at his hotel room, and we stayed for a couple of
3 hours. It was in Brisbane, Australia. Just talking
4 about what I want to do. And then that was kind of
5 it at first.

6 And then for the next two years, we didn't
7 have any contact at all. And I continued pursuing
8 my dance career in Australia. And then the company
9 that I was with, the dance company, was traveling to
10 America to do a performance at Disneyland.

11 So we all went. Came out, did that
12 performance. As I said, we'd had no contact with

13 Michael or anything. Somehow my mother got in
14 contact with Michael's secretary at that time, who
15 was Norma Stokes.

16 MR. ZONEN: Your Honor, I'm going to object
17 to the narrative form of the answer.

18 THE COURT: Sustained.

19 Q. BY MR. MESEREAU: After your mother got in
20 contact with Norma Stakos, what happened next?

21 A. She talked to Michael about -- we wanted to
22 see if we could hook up with him again and meet him
23 again. She talked to Michael. Michael remembered
24 me from when I met him when I was five years old,
25 wanted to meet me again.

26 So I was out there with my mother, sister,
27 my father, and grandparents. We all went to meet
28 him at Record One Recording Studios. And this 9093

1 was -- this was '89.

2 Q. Where is Record One Recording Studios?

3 A. I don't remember exactly. It's somewhere in
4 the valley, yeah. In California. Yeah.

5 Q. And what happened next?

6 A. We met up with him. He was in between, you
7 know, working on music and that sort of thing. He
8 was doing a photo shoot at the time at the studio.
9 We took some photos with him. My family and I all
10 went into his -- sort of like the green room, and

11 played him some videotapes of all the dancing stuff
12 that I've been doing over the last two years. And,
13 you know, he was just really excited, checking out
14 everything I had done. And then by the end of the
15 time, he invited my family and I up to the ranch
16 that weekend.

17 Q. And did you begin a friendship with Mr.
18 Jackson?

19 A. Yes.

20 Q. Did you spend much time at Neverland?

21 A. Yeah. Spent a lot of time, yeah.

22 Q. When do you think you first went to
23 Neverland?

24 A. It was right after that visit. I'm pretty
25 sure it was that night that we went, my whole family
26 went to the ranch. And, you know, we stayed for, I
27 don't know, about a week or something like that.

28 Q. And approximately what year do you think you 9094

1 first went to Neverland, Mr. Robson?

2 A. That was 1989.

3 Q. Okay. And who did you go to Neverland with
4 the first time?

5 A. Went with my mother, my sister, my father,
6 and my grandfather, grandmother.

7 Q. And how long did you stay during that first
8 visit?

9 A. I think it was about a week.

10 Q. And after you spent a week at Neverland,

11 what did you do?

12 A. Went back to Australia.

13 Q. Okay. Did you see Mr. Jackson again?

14 A. Yeah. We would -- I don't remember exact
15 dates, but over the next two years, my mother and I

16 would come out, I don't know, maybe twice a year,

17 something like that, and spend a couple of weeks

18 with Michael.

19 Q. Would you spend the night at Neverland?

20 A. Some of it was at Neverland. Sometimes it

21 would be at the -- he had an apartment in I think it

22 was Westwood at that point that we would stay at

23 sometimes, too.

24 Q. That's your mother and you would stay at the

25 apartment in Westwood?

26 A. Yeah. That first time, I think a couple

27 times, sometimes I would stay by myself. Always --

28 I think -- sometimes -- most of the time my mother 9095

1 and I went to the ranch together. I think once I

2 was there by myself without my mother. There was

3 other people there.

4 Q. And did you stay in contact Mr. Jackson

5 through those years?

6 A. Yes.

7 Q. And how would you communicate with Mr.

8 Jackson?

9 A. When we weren't there, you know, we'd talk
10 on the phone or we'd send faxes back and forth.

11 Q. At some point did you move to the United
12 States permanently?

13 A. Yeah. We moved in September of 1991. My
14 mother and sister and I.

15 Q. Have you lived here ever since?

16 A. Yes.

17 Q. Have you lived in Los Angeles ever since?

18 A. Yes.

19 Q. Now, your mother's name is?

20 A. Joy Robson.

21 Q. And how about your sister?

22 A. Chantel Robson.

23 Q. Okay. How many times do you think you've
24 stayed at Neverland?

25 A. Um, it's got to be somewhere in the twenties
26 or something like that. Mid-twenties.

27 Q. And have you stayed there for varying
28 periods of time? 9096

1 A. Yeah. Most of the time it's usually like a
2 weekend, you know. Friday, Saturday, Sunday.

3 Q. What's the longest amount of time, do you
4 think, you've ever stayed at Neverland?

5 A. You know, I would say a week to a week and a
6 half.

7 Q. Do you consider Michael Jackson your friend?

8 A. Yes.

9 Q. Do you consider him a close friend?

10 A. Yes.

11 Q. You're aware of the allegations in this
12 case, are you not?

13 A. Yes.

14 Q. And are you aware, as you sit here today,
15 that there's been allegations that Mr. Jackson
16 molested you?

17 A. Yes.

18 Q. Mr. Robson, did Michael Jackson ever molest
19 you at any time?

20 A. Absolutely not.

21 Q. Mr. Robson, did Michael Jackson ever touch
22 you in a sexual way?

23 A. Never, no.

24 Q. Mr. Robson, has Mr. Jackson ever
25 inappropriately touched any part of your body at any
26 time?

27 A. No.

28 Q. When you first visited Neverland -- and I 9097

1 think you said it was about a week you and your mom
2 stayed there?

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3 A. Yeah.

4 Q. Where did you stay?

5 A. I stayed in Michael's room.

6 Q. And could you please describe the room for
7 the jury?

8 A. When you walk in, there's -- there's a bed,
9 sort of like the main bed, diagonally to your left.

10 Wood floors. There's a second floor that you go

11 around to the right and up, which also has another

12 bed. There's a bathroom to the left. There's

13 bathrooms on both sides of the main bed on the first

14 floor.

15 Q. And you stayed in Mr. Jackson's room?

16 A. Yes.

17 Q. The first time you were there?

18 A. Yes.

19 Q. To your knowledge, has your mother ever

20 stayed in Mr. Jackson's room?

21 A. In the room? No.

22 Q. How about your sister?

23 A. Yes.

24 Q. And when do you recall your sister staying

25 in the room?

26 A. On that first trip, the first time we went

27 to Neverland.

28 Q. Okay. What do you recall doing at Neverland 9098

1 during that first visit when you spent approximately
2 a week?

3 A. Well, at that point he didn't have many of
4 the rides. We would watch movies in the theater.
5 You know, we'd play video games. We'd drive around
6 on the golf carts, look at the animals. Those sort
7 of things.

8 Q. Has Mr. Jackson ever helped you with your
9 career?

10 A. Yes.

11 Q. What has he done?

12 A. When I first moved out here, when I was
13 nine, he put me in a couple of his music videos. I
14 was in the "Jam" music video, "Black or White" music
15 video, and "Heal the World." And that sort of
16 helped me get a dance agent, dance agency, and --
17 and, yeah.

18 And then the next thing, when I said I was
19 in a rap duo when I was 11 and 12, that was on
20 Michael Jackson's label under Sony.

21 Q. Do you recall the second time you ever
22 visited Neverland?

23 A. No, I don't.

24 Q. Do you recall staying in Mr. Jackson's room
25 on other occasions?

26 A. Yes.

27 Q. And typically when you'd stay in Mr.

28 Jackson's room, what would you do? 9099

1 A. What would we do as far as just --

2 Q. Sure. Anything.

3 A. Yeah. We'd watch -- same thing. We'd watch
4 movies, we'd play video games, you know, we'd have a
5 pillow fight every now and then. We'd talk. Hang
6 out.

7 Q. How many times do you think you've stayed in

8 Mr. Jackson's room at Neverland?

9 A. Same amount of times as I've been there.

10 Well, no, that's not true, I'm sorry. I've been
11 there a bunch of times without Michael, just with
12 other friends and family traveling there. But, I
13 don't know, maybe 15 to 20.

14 Q. And at no time has any sexual contact ever
15 occurred between you and Mr. Jackson, right?

16 A. Never.

17 Q. Have you ever taken a shower with Mr.

18 Jackson?

19 A. No.

20 Q. Have you ever gone swimming with Mr.

21 Jackson?

22 A. Yes.

23 Q. And please explain what you mean.

24 A. One time with my sister and I, my sister and
25 I and Michael, we went in the Jacuzzi at Neverland

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26 Ranch.

27 Q. And do you know approximately when that was?

28 A. I don't. I can't say for sure. I have a 9100

1 feeling that it was within that first trip in '89

2 when I went there.

3 Q. Do you recall what Mr. Jackson was wearing

4 in the Jacuzzi?

5 A. From my recollection, he was wearing shorts.

6 You know, like swimming shorts. And that was it.

7 Q. Did anything inappropriate ever happen in

8 that Jacuzzi?

9 A. No.

10 Q. Has anything inappropriate ever happened in

11 any shower with you and Mr. Jackson?

12 A. No. Never been in a shower with him.

13 Q. Did you get to know any of the employees at

14 Neverland when you were there?

15 A. I wouldn't say "get to know." You know, I

16 knew of them and we'd know each other's names, but

17 it never went beyond that.

18 Q. Do you recall someone named Blanca Francia?

19 A. Yes, I remember her name. And I remember

20 her presence. I can't place her. I can't remember

21 what she looks like or anything like that.

22 Q. Do you know whether or not Blanca Francia

23 ever was in a room when you were with Mr. Jackson?

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24 A. Not that I can remember.

25 Q. Okay. Did you ever meet anyone named Ralph

26 Chacon?

27 A. No.

28 Q. How about Kassim Abdool? 9101

1 A. No.

2 Q. Do you recall anyone named Adrian McManus?

3 A. No.

4 Q. Did you have much interaction with the

5 security people when you were visiting and staying

6 at Neverland?

7 A. No. The only interaction would be is, I

8 don't know, if -- if they were trying -- if we were

9 out, you know, watching a movie or something like

10 that, they'd come tell us that dinner was ready or

11 something like that.

12 In later years, when I would go there and

13 just visit with my family and that sort of thing,

14 sometimes we'd have water fights and get the

15 security involved. But other than that, no.

16 Q. Did you come across anyone named Mrs.

17 Chandler when you were at Neverland?

18 A. Yes.

19 Q. And when do you think this was?

20 A. I think I was about 13. But I can't

21 pinpoint any more -- anything more definitive than

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22 that. Around that time.

23 Q. Do you recall ever seeing someone at

24 Neverland talking to Mrs. Chandler?

25 A. Sorry? Can you repeat that?

26 Q. Did you ever see Mrs. Chandler talking to

27 anyone at Neverland?

28 A. Yeah, I mean, maybe chefs or -- you know, or 9102

1 maids or something like that.

2 Q. What do you recall Mrs. Chandler doing at

3 Neverland?

4 A. I think I mainly saw her if we'd sit down to

5 eat dinner or something like that. That's the only

6 time I saw her.

7 Q. Did you ever see her ordering people around

8 at Neverland?

9 A. Yeah, well --

10 MR. ZONEN: I'm going to object as leading.

11 THE COURT: Sustained.

12 Q. BY MR. MESEREAU: When you saw Mrs. Chandler

13 talking to these people at Neverland, what do you

14 recall her doing?

15 MR. ZONEN: I'll object as irrelevant and

16 vague.

17 MR. MESEREAU: There's been testimony by

18 her, Your Honor, about what she saw.

19 THE COURT: I'll allow the question.

20 You may answer. Do you want it read back?

21 THE WITNESS: Yes, please.

22 (Record read.)

23 THE WITNESS: I remember her, you know,

24 ordering food, that sort of thing, from maids or

25 chefs, or whatever.

26 And, you know, the thing I sort of noticed

27 was she was always sort of -- you know, she would

28 sort of act like the place was hers, you know. Sort 9103

1 of order people around a bit.

2 And, you know, I guess I noticed it because

3 my mother, when we went there, she always made it

4 really clear that this was Michael Jackson's house.

5 This was somebody's house and --

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

7 nonresponsive to the question and narrative.

8 THE COURT: All right. The last sentence is

9 stricken.

10 Q. BY MR. MESEREAU: Mr. Robson, has anyone

11 told you what to say in this courtroom today?

12 A. No.

13 Q. Is everything you've said the complete and

14 honest truth?

15 A. Yes.

16 Q. Did Mr. Jackson ever do anything wrong with

17 you?

18 A. No.

19 MR. MESEREAU: No further questions.

20 THE COURT: Cross-examine?

21

22 CROSS-EXAMINATION

23 BY MR. ZONEN:

24 Q. Mr. Robson, good afternoon.

25 A. Good afternoon.

26 Q. Have you been living in the United States

27 continuously since you were eight years old?

28 A. Yes. 9104

1 Q. Was Mr. Jackson instrumental in your being

2 able to move to the United States to pursue your

3 career?

4 A. Yes.

5 Q. Are you grateful for Mr. Jackson's help and

6 assistance in the development of your career?

7 A. Yes.

8 Q. Did you go to high school or college at all?

9 A. No.

10 Q. Not either one?

11 A. I didn't go to a public high school. I did

12 home studies.

13 Q. You did home studies all through high

14 school?

15 A. Yeah.

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16 Q. And no college at all?

17 A. No.

18 Q. So you began your dance career early on and
19 continued through to today; is that correct?

20 A. Yes.

21 Q. All right. Now, the first time that you
22 slept with Mr. Jackson you were seven years old; is
23 that correct?

24 A. I slept in the same bed with him. But, yes,
25 I was seven.

26 Q. Did you understand my question to mean
27 something other than that?

28 A. Sounded like it. 9105

1 Q. All right. But you slept in the same bed
2 with him when you were seven years old; is that
3 correct?

4 A. Yes.

5 Q. Was anybody else in that bed with you?

6 A. My sister, Chantel Robson.

7 Q. She was ten years old; is that right?

8 A. Yes.

9 Q. Is it true that there was not another adult
10 anywhere in that room at the time you crawled into
11 bed with Mr. Jackson?

12 A. True.

13 Q. And in fact, you continued to sleep with Mr.

14 Jackson through the balance of that week during your
15 seventh year; is that right?

16 A. Yes.

17 Q. Was your sister there the entire time during
18 that week as well?

19 A. Yes.

20 Q. Was she in that bed with you as well?

21 A. Yes.

22 Q. Did she continue to share a bed with you and

23 Mr. Jackson thereafter, or did you sleep only with

24 Mr. Jackson thereafter?

25 A. What do you mean by "thereafter"?

26 Q. Well, on all the occasions that you returned

27 to visit Mr. Jackson's ranch, did you stay in his

28 room, by yourself, with him? 9106

1 A. Yes. But my sister wasn't in -- wasn't with

2 us at all in America.

3 Q. All right. So when you moved here -- and

4 incidentally, your father was there during that

5 first week when you were seven years old; is that

6 right?

7 A. Yes.

8 Q. But your father did not return to visit

9 thereafter?

10 A. No.

11 Q. All right. So you stayed in the United

12 States. Your father stayed in Australia.

13 A. Yes.

14 Q. Did your mother stay in the United States?

15 A. Yes.

16 Q. For the balance of the next number of years,

17 your father was simply not in the picture while you

18 were in the United States; is that right?

19 A. He wasn't there with us, no.

20 Q. And Mr. Jackson understood that as well, did

21 he not, that your father was not in the picture

22 while you were at Neverland?

23 A. Well, he understood that he wasn't there,

24 yes.

25 Q. Okay. And did you have any contact with

26 your father at all?

27 A. Yes. We talked on the phone.

28 Q. By telephone? 9107

1 A. Yeah.

2 Q. Did you visit him?

3 A. I'm sorry, are we talking about once I moved

4 to America?

5 Q. Yes.

6 A. Oh, yes, we would go back at least every two

7 years for Christmas.

8 Q. Did he ever come to the United States to

9 visit you?

10 A. Yes.

11 Q. Did he have any other visits with you at

12 Neverland?

13 A. No.

14 Q. Did you talk with your mother, prior to that

15 first week that you slept with Mr. Jackson with your

16 sister, about the sleeping arrangements at all?

17 A. Well, yeah, the first day that we got there,

18 to Neverland Ranch -- you know, I think we got there

19 in about the afternoon. We hung out a bit.

20 When it was time to go bed, I asked Michael

21 if I could stay with him in his room. And then

22 Michael and I went to -- mom was staying in a guest

23 room. We went to her room and I asked her. Michael

24 asked her if that was okay. And she said yes.

25 Q. All right. Now, you asked Michael Jackson

26 if you could share his room with him. Now, what

27 caused you to do that? You were seven years old.

28 What caused you to ask him if you could stay with 9108

1 him in his room?

2 A. Well, it's the same way with any child.

3 When you -- you know, when you have a best friend or

4 a new friend that you found, you always want to stay

5 in the same room with them.

6 Q. He was in his mid 30s; is that right?

7 A. Yes, I guess so.

8 Q. Had you ever crawled into bed with a

9 30-year-old man prior to that day?

10 A. My father.

11 Q. Okay.

12 A. But other than that, no.

13 Q. Any person who you had just met?

14 A. No.

15 Q. All right. And in fact, throughout your

16 entire adolescent years, you had never slept with

17 any other man other than Michael Jackson and your

18 father; is that correct?

19 A. Never slept in a bed with any other man, no.

20 Q. Now, you had a conversation with your mother

21 about where you would sleep that night, that first

22 time. Again, you're seven years old; is that right?

23 A. Yeah.

24 Q. Did your mother talk to you about perhaps

25 you should stay with her in the guest cottage?

26 A. No.

27 Q. Was she the one who suggested that your

28 sister should go with you and stay in that room with 9109

1 Mr. Jackson?

2 A. I don't remember that. I remember Chantel,

3 my sister, wanted to as well.

4 Q. Had your mother actually seen the room

5 that -- or the rooms that constitute Mr. Jackson's

6 bedroom suite?

7 A. Yeah. When we first got to the ranch, he
8 took us around, a tour around everywhere, in his
9 room.

10 Q. So she understood at the time that the
11 bedroom suite was composed of a number of different
12 rooms with actually beds in at least two of them; is
13 that right?

14 A. Yes.

15 Q. And there were bathrooms on both levels; is
16 that right?

17 A. I don't think there's a bathroom on the
18 second level. There's two on the first level.

19 Q. Was your mother under the impression that
20 you would be sleeping in a different location from
21 Michael Jackson when you first went to his room at
22 age seven?

23 A. Not that I know of.

24 Q. All right. Had you talked with her the next
25 day about where you actually slept that prior night?

26 A. No, not that I remember.

27 Q. At any time during that first week when you
28 were there at age seven, did you ever tell your 9110

1 mother that you actually shared the bed with Michael
2 Jackson?

3 A. I'm sure.

4 Q. You think you did?

5 A. Yeah.

6 Q. Do you remember your mother's response to
7 hearing that?

8 A. No.

9 Q. Did your sister, in your presence, tell your
10 mother that she was also sleeping in the same bed
11 with Michael Jackson at age ten?

12 A. I can't say for sure. I don't remember,

13 but --

14 Q. At any time during that first week that you
15 were there, did you have any conversation with your
16 mother wherein your mother expressed concern about
17 where you were sleeping?

18 A. No.

19 Q. Were you seeing your mother during the day?

20 A. Yes.

21 Q. All right. After that first week, did you
22 go back to Australia?

23 A. Yeah.

24 Q. You were in Australia for what, about a
25 year?

26 A. I think so. I don't remember.

27 Q. And then you returned to the United States
28 for good at that point? 9111

1 A. Well, we had a couple of visits back to

2 America before we returned in '91 for good.

3 Q. With what rate of frequency did you continue
4 to visit with Michael Jackson after returning at age
5 eight?

6 A. I would say twice a year.

7 Q. All right. And during those periods of
8 time, you would stay for up to a week at a time, no?

9 A. Yeah.

10 Q. Were there times that you actually stayed at
11 Neverland for many weeks at a time?

12 A. Not that I can remember. Like I said, a
13 week to a week and a half. Maybe it was two weeks,
14 but I don't remember any more than that.

15 Q. Were there periods of time when you were at
16 Neverland and working with Mr. Jackson on dance
17 routines?

18 A. No. I mean, we would mess around and dance
19 a little bit in the studio every now and then, yes.

20 Q. Was there ever an occasion where you were on
21 the dance floor with Mr. Jackson and he was showing
22 you a routine and he grabbed your crotch in a manner
23 similar to how he would grab his own crotch while
24 doing those performances?

25 A. No, that's not true.

26 Q. You have no recollection of that?

27 A. No.

28 Q. That didn't happen? 9112

1 A. No.

2 Q. During the period of time from age eight on,
3 did you stay in Mr. Jackson's room virtually the
4 entire time?

5 A. I'm sorry?

6 Q. The times that you would come and visit Mr.
7 Jackson from age eight on --

8 A. Uh-huh.

9 Q. -- did you stay in Mr. Jackson's room?

10 A. Yes.

11 Q. All right. By age 11, you were asked to
12 give a deposition, were you not?

13 A. Yes.

14 Q. And you actually did give testimony under
15 oath in the presence of two prosecutors from Los
16 Angeles; is that right?

17 A. Yes.

18 Q. There was also an attorney present who
19 represented you; is that correct?

20 A. Yes.

21 Q. All right. After that deposition, did you
22 continue to sleep in Mr. Jackson's room?

23 A. Yes.

24 Q. Did you continue to sleep in Mr. Jackson's
25 bed?

26 A. Yes.

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27 Q. All right. Now, during that period of time
28 from age eight until age 11, did you frequently 9113

1 visit Mr. Jackson?

2 A. From -- I'm sorry, from eight to 11?

3 Q. Age eight to age 11, did you frequently
4 visit Mr. Jackson?

5 A. Yeah. Same amount of time. Maybe twice a
6 year, or every couple of months, something like
7 that.

8 Q. Is it safe to say that during each of those
9 visits, you stayed in Mr. Jackson's room?

10 A. Yes.

11 Q. All right. Were there ever occasions where
12 you went to visit Mr. Jackson when your mother
13 wasn't there?

14 A. Yes. I think a couple of times he had an
15 apartment in Century City that my mother would drop
16 me off and I'd stay for, you know, a night or so by
17 myself with Michael there.

18 Q. Was that a place called "The Hideout"?

19 A. I remember a place called "The Hideout."

20 I don't remember if it was that place.

21 Q. Were there more places where you visited and
22 stayed overnight in Century City?

23 A. Yeah, there was a hotel that was -- I mean,
24 I'm sorry, an apartment that was in Westwood and

25 then one that was in Century City.

26 Q. Was there a place where Mr. Jackson was
27 living in, either Westwood or Century City, where
28 there was a hotel across the street? 9114

1 A. Yes.

2 Q. And would it be the case that periodically
3 you would visit him there, your mother would stay in
4 the hotel, but you would stay with him in his room?

5 A. One time when we came over, we stayed -- I
6 think it was the Westwood apartment, his Westwood
7 apartment. There was a Holiday Inn that was across
8 and we stayed there most of the time. And then
9 certain nights I would go over to Michael and stay
10 with him.

11 Q. Mr. Robson, were there ever occasions where
12 you stayed with Michael Jackson where you didn't
13 sleep with him in his bed?

14 A. Yes.

15 Q. How often did that happen?

16 A. I don't know. Maybe three, four times.

17 Q. Three or four times over years we're talking
18 about; is that right?

19 A. Yes.

20 Q. So, for the most part, the overwhelming
21 majority of times you shared his bed with him?

22 A. Yes.

23 Q. Now, at any time did you start to develop
24 conversations with your mother about the propriety
25 of sleeping with this man who's now well into his
26 30s?

27 A. No.

28 Q. Did you consider it unusual at all? 9115

1 A. No.

2 Q. Did your mother consider it unusual?

3 A. No.

4 Q. Did you ever talk to your father about it?

5 A. Yeah.

6 Q. You talked to your father about your
7 sleeping with Michael Jackson?

8 A. No, I mean, you know, everybody knew, and
9 nobody ever said that it was -- we never talked
10 about it being unusual or anything like that.

11 Q. Did your mother ever ask you if anything
12 inappropriate happened in bed with him?

13 A. No.

14 Q. Did she simply assume nothing happened?

15 A. Yes.

16 Q. You're telling us nothing happened; is that
17 right?

18 A. Yes.

19 Q. All right. What you're really telling us is
20 nothing happened while you were awake; isn't that

21 true?

22 A. I'm telling you that nothing ever happened.

23 Q. Mr. Robson, when you were asleep, you

24 wouldn't have known what had happened, particularly

25 at age seven, would you have?

26 A. I would think something like that would wake

27 me up.

28 Q. On those occasions that you were at 9116

1 Neverland, you used to play very actively, did you

2 not?

3 A. Yes.

4 Q. All right. There was a lot to do at

5 Neverland; is that right?

6 A. Yes.

7 Q. And on some days you were actually working

8 out heavily with the defendant, engaged in dance

9 routines, weren't you?

10 A. Yeah.

11 Q. And on other occasions you would be playing

12 very actively. There's just a host of things that a

13 seven-year-old can do and have fun with; is that

14 right?

15 A. Yes.

16 Q. And you can play -- all manner of video

17 games that exist anywhere in the world can be found

18 at Neverland; is that right?

19 A. Yeah.

20 Q. And there's video games, there's movies,
21 there's a zoo, there's all kinds of parks, and the
22 trains. You're very active during the entire day;
23 is that right?

24 A. Yes.

25 Q. And at night you'd go back to his room and
26 you'd play more video games or you'd watch
27 television; is that right?

28 A. Yes. 9117

1 Q. And there's movies of any kind that you can
2 see with Mr. Jackson?

3 A. Yes.

4 Q. Did your mother ever complain to you that
5 you were losing contact with her and that she was
6 losing her contact with you? Did she ever say that?

7 A. No.

8 Q. In fact, she was very upset over the fact
9 that she was losing her ability to have access to
10 her son, wasn't she?

11 A. No.

12 Q. Was there, in fact, a shower at Neverland in
13 the suite, the bedroom suite?

14 A. Yes.

15 Q. But you didn't use it?

16 A. I used it by myself.

17 Q. Was he in the room while you were using it?

18 A. In the bedroom, not in the shower room,

19 which had its own door.

20 Q. You were seven years old when you started

21 using that shower; is that correct?

22 A. Yes.

23 Q. When did you stop sleeping with Mr. Jackson?

24 A. I guess when I was about, I don't know,

25 maybe 13, 14, something like that.

26 Q. Why did you stop?

27 A. I didn't stop sleeping with him. I just

28 haven't spent the night with him, I mean, in his 9118

1 room or anything like that since then, I don't

2 think.

3 Q. You haven't gone back to Neverland since you

4 were 13?

5 A. I have. Not with him.

6 Q. Have you gone back to Neverland since you

7 were 13 and actually stayed overnight?

8 A. Yes.

9 Q. On how many occasions since you were 13?

10 A. A lot. Same thing. 20, 25. Something like

11 that.

12 Q. Did he take you to other locations such as

13 Las Vegas?

14 A. Yes.

15 Q. And while you were at Las Vegas, you went to
16 see Siegfried & Roy?

17 A. Yes.

18 Q. And being with Mr. Jackson back then was a
19 very exciting experience, wasn't it?

20 A. Yes.

21 Q. He was able to go anywhere he wanted in Las
22 Vegas and take you with him?

23 A. Yeah.

24 Q. Did you start to dress like him?

25 A. I always did before I met him.

26 Q. All right. And during the time that you
27 were with him, he enjoyed you wearing clothing
28 similar to what he wore; is that correct? 9119

1 MR. MESEREAU: Objection; calls for
2 speculation.

3 THE COURT: Sustained.

4 Q. BY MR. ZONEN: Did he ever tell you that he
5 wanted you to dress like him?

6 A. No.

7 Q. Did he ever give you hats similar to the
8 type of hats that he wears?

9 A. Because I would ask for them.

10 Q. And did you, in fact, wear those types of
11 hats when you were out with him?

12 A. Yes.

13 Q. And when you were in Las Vegas, did you wear
14 those hats as you wandered around Las Vegas with
15 him?

16 A. Yes.

17 Q. When you were in Las Vegas, where did you
18 stay?

19 A. We stayed at The Mirage Hotel.

20 Q. Who went to Las Vegas with you?

21 A. My mother.

22 Q. Just your mother?

23 A. Yeah.

24 Q. Was your sister with you at all?

25 A. No.

26 Q. Did your sister move to the United States
27 with you?

28 A. Yes. 9120

1 Q. But she didn't go to Las Vegas with you?

2 A. Well, we weren't -- we didn't live in the
3 United States at that point. We still lived in
4 Australia. We were out on a visit.

5 Q. When you were in the hotel in Las Vegas, it
6 is true that you stayed with Mr. Jackson in his bed?

7 A. Yes.

8 Q. And your mother stayed in a separate room;
9 is that right?

10 A. Yes.

11 Q. Now, were there other boys that you knew
12 about who were sleeping with Michael Jackson during
13 that time?

14 A. No, not that I knew of. I mean, the only
15 other time I was around other boys, other kids at
16 the ranch, I think once or twice, and, you know,
17 we'd all stay in the room and we'd kind of fall
18 asleep on couches, beds, cots, wherever they were.

19 Q. Did you know Jordie Chandler?

20 A. Yeah.

21 Q. You just described -- you just told the jury
22 that -- that you knew Jordie Chandler's mother; is
23 that right?

24 A. Yes.

25 Q. What's her name?

26 A. I know her -- June. June Chandler.

27 Q. All right. Describe her for us. What does
28 she look like? 9121

1 A. She has dark, almost black hair. Sort of --
2 sort of brown eyes. I think some -- kind of like
3 a -- a little bit of a darker complexion.

4 Q. Slim woman? Heavy woman?

5 A. Slim woman.

6 Q. Now, do you remember her son Jordie?

7 A. Yes.

8 Q. On how many occasions did you meet Jordie?

9 A. Once.

10 Q. Only one time?

11 A. That's all I can remember, yes.

12 Q. And did you spend the night with Jordie?

13 A. Yeah, we all stayed in Michael's room.

14 Q. You say "we all stayed." Were there other
15 people there besides Jordie?

16 A. Yeah, Macaulay Culkin was there and his
17 brother Kieran Culkin.

18 Q. Now, Macaulay Culkin has sisters, does he
19 not?

20 A. I don't know.

21 Q. Were there any girls that were staying with
22 you that night?

23 A. Not that I remember.

24 Q. Were there ever any girls, other than your
25 sister, at age seven, who actually spent the night
26 in Mr. Jackson's room with you during the years that
27 you knew him and spent the night in his room?

28 A. Yes. 9122

1 Q. Who?

2 A. There was Brandy Jackson.

3 Q. I'm sorry?

4 A. Brandy Jackson, who is Michael's niece.

5 Q. And she spent the night on how many
6 occasions with you?

7 A. Only one that I can remember.

8 Q. One night?

9 A. Yeah.

10 Q. All right. So we're talking about a period

11 of about five years; is that right?

12 A. Yeah.

13 Q. In the five years, you can remember Brandy.

14 Who else do you recall?

15 A. As far as females?

16 Q. Yes.

17 A. My sister. Brandy. That's all I remember.

18 Q. Now, your sister actually never went back

19 into that room and spent the night with you after

20 that first week when you were seven; is that

21 correct?

22 A. Yeah, not that I can remember.

23 Q. Is it an accurate statement to say that the

24 boys who stayed there for long periods of time

25 started getting pretty rowdy?

26 A. Rowdy?

27 Q. Yeah.

28 A. What do you mean? 9123

1 Q. Well, goof off, and simply kids who weren't

2 under a lot of supervision?

3 A. Oh, yeah. I mean, you know, boys will be

4 boys. We'd go around and have fun.

5 Q. Loud and boisterous?

6 A. Yes.

7 Q. And on occasions break things?

8 A. Accidentally, yeah.

9 Q. And be somewhat disobedient?

10 A. Some of them maybe.

11 Q. Were there ever occasions where you and Mr.

12 Jackson were throwing stones at the lion in the zoo?

13 A. Stones at the lion. Yeah, I think so.

14 Q. That did happen, didn't it?

15 A. Yeah.

16 Q. Mr. Jackson was throwing stones at the lion

17 in your presence; is that right?

18 A. Yes.

19 Q. Was he encouraging you to do the same thing?

20 A. Yeah. Little pebbles, but, yeah.

21 Q. They weren't exactly pebbles. They were

22 good-sized stones, weren't they?

23 A. No, I remember small stones.

24 Q. It was designed to irritate the lion, wasn't

25 it?

26 A. Yeah, we were trying get him to make some

27 noise.

28 Q. Because it was entertaining to Mr. Jackson 9124

1 and to you?

2 A. Yeah.

3 Q. How old were you at the time?

4 A. I think I would have been seven or eight.

5 Q. Were there any other kids around at that
6 time?

7 A. No. Maybe my sister.

8 Q. Now, you said that you spent one night that
9 you can recall with Jordie Chandler. Do you know
10 Brett Barnes?

11 A. Yes.

12 Q. Did you ever spend a night with Brett
13 Barnes?

14 A. No.

15 Q. Did you ever meet Brett Barnes?

16 A. Yes.

17 Q. How old were you when you met Brett Barnes?

18 A. I think I would have been nine. It was soon
19 after we moved to America.

20 Q. On that occasion when you spent the night
21 with Jordie Chandler, Macaulay, and his brother, was
22 Brett Barnes there as well?

23 A. No.

24 Q. Do you know if Brett Barnes spent nights
25 with Michael Jackson?

26 A. I don't know.

27 Q. Do you know if they ever shared a bed?

28 A. I don't know. 9125

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1 Q. Did Michael Jackson ever talk to you about
2 the propriety of sleeping with him?

3 A. Could you rephrase that?

4 Q. Did Michael Jackson ever have a conversation
5 with you wherein the subject of the conversation was
6 that it was okay for you to sleep with a
7 30-something-year-old man?

8 A. Yeah.

9 Q. He did?

10 A. We would both talk about it.

11 Q. Really. From what age? When did that first
12 conversation happen?

13 A. I don't remember.

14 Q. Were you seven?

15 A. I don't remember.

16 Q. Was it the first week that you were there?

17 A. No.

18 Q. Do you think it was soon after you moved to
19 the United States?

20 A. I really don't remember.

21 Q. What was the nature of that conversation?

22 A. I don't remember an exact conversation. I'm
23 sure it's just something, you know, we talked about
24 at some point; that -- you know, that it's fine.

25 Q. Did Mr. Jackson ever tell you that you were
26 family to him?

27 A. Yes.

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28 Q. Did he tell you that often? 9126

1 A. Yes.

2 Q. Did he tell you that he would take care of
3 you?

4 A. No.

5 Q. Did he tell you he would protect you?

6 A. Yes.

7 Q. All right. Did he ever tell your mother in
8 your presence that you were family?

9 A. Yes.

10 Q. And that your mother could trust him?

11 A. Yes.

12 Q. In fact, the word "trust" came up in many
13 conversations with Michael Jackson, did it not?

14 A. Yeah, we'd talk about trust in, you know,
15 other people, and that sort of thing.

16 Q. But he encouraged you particularly to trust
17 in him, did he not?

18 A. No, there was no particular emphasis on it.

19 Q. How much time did you spend with Macaulay
20 Culkin?

21 A. Um, there was that -- the trip that we spoke
22 of, that I think was a couple of days. I think I
23 was with him one other time at the Century City
24 apartment, which was a night. I think that was
25 about it.

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26 Q. Now, the trip you described, that trip was
27 where now?

28 A. Which trip? 9127

1 Q. Maybe I misheard you. Did you say "the trip
2 I just spoke of"?

3 A. Oh, the one I spoke of. That was the one
4 where I said where Jordie Chandler was there at
5 Neverland.

6 Q. That was Neverland?

7 A. Yeah.

8 Q. He was there and you were there for what
9 period of time together? Just one night?

10 A. No, it was a couple days.

11 Q. Did it go over more than one night?

12 A. Yes.

13 Q. On both of those nights, did both of you
14 spend that time in Mr. Jackson's room?

15 A. Yes.

16 Q. Now, did either one of you actually spend
17 the night in Mr. Jackson's bed with Mr. Jackson?

18 A. No. I think -- from I can remember -- I can
19 only remember one night in particular, and I
20 remember myself and Kieran Culkin, I think, slept on
21 Michael's bed, and Michael slept on a cot, or
22 something, on the side of us, and I don't know,
23 Macaulay fell asleep on a couch or something.

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24 Q. I'm sorry.

25 A. Go ahead, no.

26 Q. The Century City apartment, I believe you
27 said you spent some time there with Macaulay Culkin
28 as well? 9128

1 A. Yeah. I think it was one night there, yeah.

2 Q. Was his brother there?

3 A. I don't remember for sure. I don't remember
4 him being there.

5 Q. Mr. Jackson would periodically kiss you,
6 would he not?

7 A. No.

8 Q. Periodically hug you?

9 A. Yes.

10 Q. Touch you?

11 A. Hug me. That would be --

12 Q. Put his hands through your hair?

13 A. No.

14 Q. Touch you about the head and the face?

15 A. Yeah.

16 Q. Did he ever kiss you on the cheek?

17 A. Yeah.

18 Q. Did he ever kiss you on the lips?

19 A. No.

20 Q. Do you remember any other children being
21 there about that time?

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22 A. Which time?

23 Q. From the time that you were seven until the
24 time you stopped sleeping there at age 13.

25 A. Being at the ranch?

26 Q. Yes.

27 A. Other than we spoke of, no.

28 Q. Did you know Blanca Francia's son? 9129

1 A. No. I knew of him. But I don't think I

2 ever met him.

3 Q. What was his name?

4 A. I don't know.

5 Q. Does "Jason" sound familiar?

6 A. Yes, but I think because I've heard it
7 recently. But, yeah.

8 Q. Now, were there ever occasions after you
9 were 14 years old that you came and stayed at
10 Neverland Ranch and Michael Jackson was, in fact,
11 there?

12 A. Yes.

13 Q. And you did not stay with him in his room?

14 A. The only time I can remember was a time I
15 went up there with a few family members and friends,
16 and we didn't know he was going to be there. And,
17 you know, we sort of ran into him and hung out a
18 bit, and, no, I didn't sleep in his room.

19 Q. Did you ever talk to Michael Jackson about

20 the fact that at some age it was too late for you to
21 be sleeping with him?

22 A. No.

23 Q. Did you ever have a conversation with him
24 about whether or not you should continue to sleep in
25 his bed?

26 A. No.

27 Q. Remember the last time you slept in his bed?

28 A. The last -- I think it might have been when 9130

1 I was about 14. It was at a Sheraton Hotel in Los
2 Angeles.

3 Q. And how did you happen to be there with him?

4 A. I stayed with him for I think it was just
5 one night.

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

7 A. I don't remember.

8 Q. Was your mother there?

9 A. No.

10 Q. Do you remember how you got there?

11 A. No, I don't.

12 Q. Were there occasions that Mr. Jackson would
13 summon you to Neverland Ranch?

14 A. Summon me?

15 Q. Yes. Call you up and ask you to come and be
16 there; invite you to Neverland Ranch?

17 A. Invite us, yeah.

18 Q. All right. Without your mother?

19 A. Like ask if I could come without my mother,
20 do you mean?

21 Q. Or just ask you to come, and you came by
22 yourself.

23 A. The only time I remember being there --
24 sorry. The only time I remember being there was
25 that -- that trip that we spoke of by myself with
26 Jordie Chandler and Macaulay.

27 Q. On the occasions that you stayed in bed with
28 Mr. Jackson, would you ever cuddle in bed? 9131

1 A. No.

2 Q. Would you lie next to one another?

3 A. No.

4 Q. Would you touch?

5 A. No.

6 Q. Would you consider it to have been
7 inappropriate to have cuddled in bed?

8 A. Sorry?

9 Q. Would you have considered it to be
10 inappropriate to have cuddled in bed?

11 A. No.

12 MR. ZONEN: I have no further questions.

13

14 REDIRECT EXAMINATION

15 BY MR. MESEREAU:

16 Q. Mr. Robson, the prosecutor for the
17 government asked you about your dressing like
18 Michael Jackson.

19 A. Uh-huh.

20 Q. And I believe you said something about you
21 dressed like him before you met him.

22 A. Yes.

23 Q. Would you please explain that?

24 A. Well, you know, I became a fan of Michael

25 Jackson when I was two years old, when I saw the
26 making of "Thriller," and started dancing like him

27 when I was, you know, three or four. So I think

28 when I was about five, I started, because I was 9132

1 imitating him. I got costumes made and that sort of

2 thing. So I would dress like him from that point,

3 before I met him.

4 Q. Did Mr. Jackson ever encourage you to dress

5 like him?

6 A. No.

7 Q. Did you dress like him because you were a

8 fan and friend of his?

9 A. Yes.

10 Q. Now, the prosecutor talked about your

11 throwing pebbles at a lion.

12 A. Uh-huh.

13 Q. Would you please explain what you were

14 describing.

15 A. Well, there's a lion that was in a cage.

16 And, you know, went to see the lion roar, and it's
17 pretty much just sitting there, you know, not doing
18 anything. So we picked up a couple little stones
19 and threw them at the cage, you know.

20 Q. And the prosecutor used the word "stones,"
21 and you said "pebbles." How big were these things?

22 A. Little, you know -- I don't know,
23 quarter-inch sort of things.

24 Q. Were you trying to hurt the lion?

25 A. No.

26 Q. To your knowledge, was Mr. Jackson trying to
27 hurt the lion?

28 A. No. 9133

1 Q. Okay. The prosecutor asked you questions
2 about whether or not you were considered family.
3 Did you consider yourself to be part of Mr.
4 Jackson's family?

5 A. Yeah, I mean, in a friendship sort of way.
6 Because we were that close. It was like family.

7 Q. And did you use the word "family" once in a
8 while --

9 A. Yes.

10 Q. -- when you spoke to him?

11 A. Yes.

12 Q. Did you hear your mother or sister using the
13 word "family"?

14 A. Yes.

15 Q. Did you think anything was strange about
16 that?

17 A. No.

18 Q. The prosecutor for the government asked
19 about Mr. Jackson giving you a kiss on the cheek.

20 A. Uh-huh.

21 Q. And you said that happened sometimes?

22 A. Yes.

23 Q. Did you think there was anything
24 inappropriate about that?

25 A. No.

26 Q. Did you do it in front of your mom?

27 A. Yes.

28 Q. Did you do it in front of your sister? 9134

1 A. Yes.

2 Q. Did your mother kiss him on the cheek?

3 A. Yes.

4 Q. Did your sister kiss him on the cheek?

5 A. Yes.

6 Q. Did you kiss Mr. Jackson on the cheek?

7 A. Yes.

8 Q. Did your mother used to hug Mr. Jackson?

9 A. Yes.

10 Q. Did Mr. Jackson used to hug your mother?

11 MR. ZONEN: I'll object as irrelevant what

12 happened with his mother.

13 THE COURT: Overruled. Go ahead.

14 Q. BY MR. MESEREAU: Did Mr. Jackson used to

15 hug your mother?

16 A. Yes.

17 Q. Did your sister used to hug Mr. Jackson?

18 MR. ZONEN: I'll object as leading as well.

19 THE COURT: Overruled.

20 Q. BY MR. MESEREAU: Did your sister used to

21 hug Mr. Jackson?

22 A. Yes.

23 Q. And would you see Mr. Jackson hug your

24 sister?

25 A. Yes.

26 Q. Did you ever think there was anything

27 inappropriate about Mr. Jackson hugging any member

28 of your family? 9135

1 A. No.

2 Q. Did you ever think it was inappropriate to

3 see any member of your family hug Mr. Jackson?

4 A. No.

5 Q. Now, you said your sister would sometimes

6 stay in Mr. Jackson's room, correct?

7 A. Yes.

8 Q. And how often do you recall that happening?

9 A. I remember it just within that first trip we
10 were there. So it was -- it was, you know, three or
11 four nights or something like that.

12 Q. And you mentioned Brandy. Is that who you
13 mentioned?

14 A. Yes.

15 Q. Who was Brandy again?

16 A. She was Michael Jackson's niece.

17 Q. You saw Brandy staying in his room?

18 A. Yeah.

19 Q. What's the largest number of kids you ever
20 saw stay in Mr. Jackson's room, if you remember?

21 A. Yeah, probably four to five.

22 Q. And what do you recall the children doing in
23 his room?

24 A. Well, before we went to sleep, same sort of
25 things. We'd play video games, watch movies. Have
26 pillow fights. You know, yeah.

27 Q. Did you ever see anything of a sexual nature
28 between Mr. Jackson and any of those children? 9136

1 A. Never.

2 Q. Now, the prosecutor mentioned Macaulay
3 Culkin. Did you get to know Macaulay Culkin at
4 Neverland?

5 A. Yeah. I mean, we hung out a little bit,

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6 yes.

7 Q. Was that where you first met him?

8 A. I think I might have met him on a -- on a
9 set of a commercial or one of his videos or -- or,
10 no, I think I met him on "Black or White" the first
11 time, the music video.

12 Q. Did you stay in contact with Mr. Culkin?

13 A. No.

14 Q. Is he someone you communicate with on a
15 regular basis?

16 A. No.

17 Q. Okay. Now, would you see Mr. Culkin's
18 family at Neverland?

19 A. Other than his brother Kieran, I don't
20 remember.

21 Q. And approximately how old was his brother,
22 do you think?

23 A. At that time, he would have been, I guess,
24 nine or ten, or something like that.

25 Q. Have you seen Mr. Jackson hug other children
26 at Neverland?

27 A. Yes.

28 Q. Have you seen other children hug Mr. Jackson 9137

1 at Neverland?

2 A. Yes.

3 Q. Have you ever thought any of this was

4 inappropriate?

5 A. No.

6 Q. Have you seen Mr. Jackson kiss children at

7 Neverland?

8 A. On the cheek, yes. Or on the head, or on

9 the top of the head, something like that.

10 Q. Ever seen kids kiss Mr. Jackson?

11 A. Yes.

12 Q. Any of that ever look inappropriate to you?

13 A. No.

14 Q. Have you seen lots of children visit

15 Neverland on occasion?

16 A. Yes.

17 Q. And what do you mean?

18 A. I think we were there once when he had one

19 of his gatherings, like a Heal the World Foundation

20 thing where he had a bunch of kids come up there

21 and -- you know, and have the day there.

22 Q. And how many kids are you talking about, do

23 you think?

24 A. Probably about 100 or 50. 75 to 100,

25 something like that.

26 Q. Were there adults with those children?

27 A. Yes.

28 Q. And you said, "Heal the World." What did 9138

1 that mean to you?

2 MR. ZONEN: I'm going to object as exceeding
3 the scope of the direct examination, and irrelevant,
4 and beyond the scope of his knowledge.

5 THE COURT: Overruled.

6 You may answer.

7 THE WITNESS: Could you repeat the question?

8 Q. BY MR. MESEREAU: Yeah. What was "Heal the
9 World," as far as you remember?

10 A. As far as I knew, it was a foundation or a
11 charity that Michael had created that, you know,
12 raised money for kids with illnesses. I don't know
13 exactly what kind, but --

14 Q. Did you interact with any of these kids that
15 visited that day?

16 A. I may have, yeah, I mean, waved at them or
17 met a couple of them or something like that.

18 Q. Did you see Mr. Jackson hugging other
19 children?

20 A. Yes.

21 Q. Did you see them hugging him?

22 A. Yes.

23 Q. Did you see Mr. Jackson kiss children?

24 A. Yeah.

25 Q. Have you seen them kiss him?

26 A. Yes.

27 Q. Ever seen anything inappropriate?

28 A. No. 9139

1 Q. Did you see Mr. Jackson hug adults who were
2 with those children?

3 A. Yes.

4 Q. Did you see adults hug Mr. Jackson who were
5 with those children?

6 A. Yes.

7 Q. Ever think any of that was inappropriate?

8 A. No.

9 Q. Now, the prosecutor for the government asked
10 you questions about whether he touched your hair.

11 A. Uh-huh.

12 Q. Do you recall Mr. Jackson ever touching your
13 hair?

14 A. I can't recall an exact thing, but it seems
15 like something he might have done at some point.

16 Q. Do you ever recall Mr. Jackson doing
17 anything inappropriate with your hair?

18 A. No.

19 Q. Ever seen Mr. Jackson touch another child on
20 the head?

21 A. Yes.

22 Q. Have you seen that many times?

23 A. Many times.

24 Q. Did it ever seem like anything inappropriate
25 was going on when you saw that?

26 A. No.

27 Q. The prosecutor asked about disobedience at
28 Neverland, and you said you did see kids act up 9140

1 sometimes?

2 A. Yeah, I mean, act up as far as kids go. I
3 mean, you know, driving golf carts around and
4 throwing water balloons at each other, and things
5 that, I guess, I don't know, maybe parents would get
6 upset about at some point, but that was the extent
7 of it.

8 Q. And did you engage in some of that, too?

9 A. Yes.

10 Q. Did you ever see Michael Jackson in a water
11 balloon fight with kids?

12 A. Yes.

13 Q. Ever see kids throw water balloons at
14 Michael?

15 A. Yes.

16 Q. Ever see Michael throw water balloons at
17 kids?

18 A. Yes.

19 Q. Did you ever see Michael in golf carts with
20 kids?

21 A. Yes.

22 Q. When you used to play at Neverland during
23 the day, would Michael often be with you?

24 A. Yes.

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25 Q. And what would Michael do with you?

26 A. We'd go on rides together, you know, where
27 we'd drive around in the golf cart together, look at
28 animals together, watch movies together. 9141

1 Q. Did you see Mr. Jackson act in a similar way
2 with other children?

3 A. Yes.

4 Q. Ever see anything inappropriate go on when
5 he was doing any of these things?

6 A. No.

7 Q. Now, how often do you recall your mother
8 going to Neverland with you?

9 A. It's been every time except for that one
10 time that I spoke of when I was there with Jordie
11 Chandler and Macaulay and I.

12 Q. What do you recall seeing your mother do at
13 Neverland?

14 A. A lot of the same things with us.

15 Q. Would she sometimes be with Mr. Jackson when
16 all the kids were playing?

17 A. Oh, yes. She was playing along with us.

18 Q. Now, you mentioned visiting an apartment in
19 Century City with Mr. Jackson, right?

20 A. Yes.

21 Q. And what do you recall doing in the
22 apartment with Mr. Jackson?

23 A. Same sort of things. He had arcade games
24 there. You know, candy. We'd eat, we'd watch, you
25 know, T.V. shows, Stooges. Hang around, play games,
26 you know.

27 Q. Did you ever see Mr. Jackson do anything
28 inappropriate with any child at that apartment? 9142

1 A. No.

2 Q. Where else have you been with Mr. Jackson?

3 A. Like I said, we covered Las Vegas. Westwood
4 apartment, Century City apartment. Sheraton Hotel.

5 He came and stayed at my place once.

6 Q. Where was that?

7 A. That was in Hollywood. It was -- my mother
8 and I had a condo, and my sister.

9 Q. Did you see Mr. Jackson do anything
10 inappropriate at any of these locations?

11 A. No.

12 Q. Ever seen Mr. Jackson touch any child in a
13 sexual way at any of these locations?

14 A. Never.

15 Q. Did Mr. Jackson ever touch you
16 inappropriately in any of these locations?

17 A. No.

18 Q. Now, have you been following media reporting
19 in this case?

20 A. Yeah. On and off.

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21 Q. You're aware of allegations that were made

22 that Mr. Jackson --

23 MR. ZONEN: I'm going to object as leading

24 and exceeding the scope of the direct -- cross.

25 THE COURT: I don't know what the question is

26 yet.

27 Q. BY MR. MESEREAU: Okay. You've been

28 following these reports that somehow Mr. Jackson was 9143

1 seen inappropriately touching you?

2 A. Yes.

3 Q. What do you think of them?

4 A. I think it's --

5 MR. ZONEN: I'll object.

6 I'll withdraw the objection.

7 THE WITNESS: I think it's ridiculous.

8 MR. MESEREAU: No further questions.

9

10 RE-CROSS-EXAMINATION

11 BY MR. ZONEN:

12 Q. When Mr. Jackson stayed with you at your

13 Hollywood apartment, how old were you?

14 A. I would say 11 or 12.

15 Q. Did he share your bed with you at that time?

16 A. Yes.

17 Q. All right. There was one bed that you had

18 in your room; is that correct?

19 A. No, it was actually -- it was a -- like a
20 futon that was our couch down in the living room.

21 Q. So both of you stayed on the couch in the
22 living room?

23 A. Yes.

24 Q. Was that couch your normal residence? Was
25 that where you normally slept?

26 A. I think that's where I was sleeping at that
27 point, yeah.

28 Q. You think that's where you were sleeping? 9144

1 A. Yes.

2 Q. You slept in other rooms at different times?

3 A. Yeah.

4 Q. Now, all those places that you mentioned are
5 all places that you mentioned, a series of places,
6 you had been with Michael Jackson. On all of those
7 occasions you slept in the same bed with him; is
8 that correct?

9 A. Yes.

10 Q. Do you think that's appropriate, for a
11 35-year-old man to be sleeping with an
12 eight-year-old boy?

13 A. I don't see any problem with it.

14 Q. Suppose the 35-year-old man has an obsession
15 for sexually explicit material. Would that change
16 your view?

17 MR. MESEREAU: Objection; 352.

18 MR. ZONEN: It's in evidence.

19 MR. MESEREAU: Calls for speculation;

20 assumes facts not in evidence.

21 THE COURT: I'm going to sustain the

22 objection because of the use of the term

23 "obsession."

24 Q. BY MR. ZONEN: If you knew that the person,

25 the 35-year-old man who was sleeping with an

26 eight-year-old boy, possessed a great quantity of

27 sexually explicit material, would that cause you

28 concern about that person's motivations while he was 9145

1 in bed with the boy?

2 A. Yes.

3 MR. ZONEN: No further questions.

4

5 FURTHER REDIRECT EXAMINATION

6 BY MR. MESEREAU:

7 Q. If you had known Michael Jackson, as a grown

8 man, was reading Playboy, Hustler, Penthouse,

9 magazines like that showing naked women, would that

10 have concerned you?

11 A. No. That's what I was going to say

12 afterward. Depends on what kind of material, what

13 kind of pornographic material you were talking

14 about.

15 Q. Would that have concerned you?

16 A. No.

17 MR. MESEREAU: No further questions.

18 MR. ZONEN: May I approach the witness?

19 THE COURT: Yes.

20

21 FURTHER RECROSS-EXAMINATION

22 BY MR. ZONEN:

23 Q. I'd like to show you a couple exhibits, 841

24 and 842, that have been shown previously in this

25 court to this jury.

26 Let's start with one titled "Boys Will Be

27 Boys." I'd like you to take a look at a few of the

28 pages. Just go ahead and start turning pages, 9146

1 please.

2 Stop there for a moment.

3 Would you describe the picture on the right

4 side?

5 A. There's a young boy with his legs open and

6 he's naked.

7 Q. All right. The picture prominently displays

8 his genitalia, does it not?

9 A. Yes.

10 Q. That boy looks, to you, to be approximately

11 how old?

12 A. Maybe 11 or 12.

13 Q. That's how old you were when you were
14 sleeping with Michael Jackson; is that right?

15 A. Yes.

16 Q. Go ahead and flip a couple of more pages, if
17 you would.

18 You can stop right there, the next page.

19 What's the picture on the left show?

20 A. Just a young boy who's naked standing on a
21 rock.

22 Q. His genitalia is prominently displayed in
23 that picture; is that correct?

24 A. Yes.

25 Q. Appears that that child is about the same as
26 the other one?

27 A. Yes.

28 Q. Flip a couple more pages. Please keep 9147

1 going.

2 Okay. Stop right there.

3 What's in that two pages, series of two
4 pages?

5 A. There's a boy, about the same age, 11 or 12,
6 who's naked.

7 Q. All right. And in those pictures his
8 genitalia is prominently displayed as well; is that
9 correct?

10 A. Yes.

11 Q. In fact, if you'll take just a second and
12 strum through the balance of that book -- you can do
13 it fairly rapidly, if you would. You don't have to
14 go page by page, but as you wish.

15 Is it true, Mr. Robson, that all of the
16 pictures in that book are of boys about the same
17 age?

18 A. Yes.

19 Q. 10, 11, 12 years old?

20 A. Yes.

21 Q. And that many of the photographs, if not
22 most of the photographs, depicted in that book are
23 of boys nude; is that correct?

24 A. Yes.

25 Q. And in fact, in most of those pictures, the
26 genitalia is prominently displayed; is that right?

27 A. Yes.

28 Q. Would you be concerned with a person who 9148

1 possesses a book like that?

2 A. No.

3 Q. Would you be concerned about having your
4 12-year-old child in bed with a person who possesses
5 a book like that?

6 A. No.

7 Q. You would have no such concern?

8 A. No. It's -- to me, it doesn't -- it's not a

9 pornographic book. It's sort of, you know -- I
10 don't know, just a book.

11 Q. I'd like -- and I'd like to show you
12 Exhibit 596, please. Take a moment and look at that
13 book.

14 Let's stop there for a moment.

15 That's the first, in fact, picture in that
16 book; is that correct?

17 A. I didn't notice, no.

18 Do you want me to go to the first picture?

19 Q. You know, no, you can pick any picture,
20 actually. Just go ahead and open the book at
21 random.

22 Right there.

23 A. Oh, sorry.

24 Q. Is it a fact, as you look through that book,
25 what is depicted in that book throughout that book
26 are a series of photographs of two men engaged in
27 sex acts with one another?

28 A. Yes. 9149

1 Q. And in fact, the sex acts are all acts of
2 either masturbation, oral sex or sodomy; is that
3 right?

4 A. From what I saw, yes.

5 Q. And sodomy, as you understand, is an act of
6 anal sex; is that correct?

7 A. Yes.

8 Q. Would you be concerned about a person who
9 possesses that book crawling into bed with a
10 ten-year-old boy?

11 A. Yes, I guess so.

12 MR. ZONEN: No further questions.

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

14 THE COURT: Yes.

15

16 FURTHER RECROSS-EXAMINATION

17 BY MR. MESEREAU:

18 Q. Mr. Robson, I want to show you Exhibit

19 No. 841. It says, "Boys Will Be Boys." Do you see
20 this?

21 A. Yes.

22 Q. Okay. Now, I'd like you to read the
23 inscription on that book, okay? Read it out loud,
24 if you would.

25 A. Okay. "Look at the true spirit of happiness
26 and joy in these boys' faces. This is the spirit of
27 boyhood, a life I never had and will always dream
28 of. This is the life I want for my children. MJ." 9150

1 Q. Having read that inscription and having
2 looked at this book, would you have any concern
3 being in bed with Michael Jackson if you knew this
4 book was found in his home?

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5 A. No.

6 Q. Let me show you Exhibit No. 842. Please

7 read out loud the inscription on that book.

8 A. Is that, "To Michael"? Yeah. "To Michael,

9 from your fan. Kiss, kiss, kiss, hug, hug, hug.

10 Rhonda. 1983."

11 Q. You've looked through that book - okay? -

12 and it says, "The Boy; A photographic Essay," right?

13 A. I didn't look through that book.

14 Q. Okay. Why don't you look through this book

15 the prosecutor showed you, and please say whether or

16 not you would have a problem being in the same

17 bedroom with Michael Jackson based upon what you see

18 in that book and the inscription.

19 A. No.

20 Q. Okay. Now, let me show you -- let me show

21 you Exhibit No. 596 that the prosecutor showed you.

22 Just read the cover, if you would.

23 A. "Man, A Sexual Study of Man. Illustrated

24 With Photographs and Art Prints."

25 Q. Okay. Now, you've seen those photographs,

26 and you've said you were somewhat disturbed by the

27 pictures, right?

28 A. Well, I wasn't disturbed by the pictures. 9151

1 Q. Well, if you -- if you read this book, and

2 it appeared to be a book dealing with male sexuality

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3 in all different areas, and you knew that this book
4 existed with hundreds of editions of Hustler,
5 Playboy, Penthouse --

6 MR. ZONEN: I'm going to object as leading.

7 Q. BY MR. MESEREAU: -- would that bother you?

8 MR. ZONEN: I'm going to object as leading.

9 THE COURT: Overruled.

10 You may answer.

11 THE WITNESS: Can you repeat it?

12 Q. BY MR. MESEREAU: Sure.

13 Let's assume that you learned that Michael

14 Jackson had ten years' worth of Hustler, Playboy,

15 Penthouse - okay? - magazines, heterosexual-type

16 magazines, and let's assume that -- have you ever

17 seen Mr. Jackson's library?

18 A. Yes.

19 Q. How many books do you think are in there?

20 A. Thousands.

21 Q. And let's suppose in the middle of all those

22 books you found, "A Sexual Study of Man, Illustrated

23 With Photographs and Art Prints," okay?

24 A. Yes.

25 Q. Putting all this together, would being in

26 bed with Mr. Jackson concern you?

27 A. No.

28 MR. MESEREAU: No further questions. 9152

1 FURTHER RECROSS-EXAMINATION

2 BY MR. ZONEN:

3 Q. Of course nobody's told you where this book
4 comes from, did they?

5 A. No.

6 MR. SNEDDON: Ron?

7 THE COURT: It's time for the break.

8 MR. ZONEN: It's not quarter to.

9 THE COURT: My bailiff told me.

10 (Recess taken.)

11 MR. MESEREAU: Your Honor?

12 MR. ZONEN: Thank you.

13 MR. MESEREAU: I'm going to object that the
14 questions have become cumulative and there's no
15 foundation for it to go any further.

16 BAILIFF CORTEZ: Your microphone is off,
17 sir.

18 MR. MESEREAU: It's beyond the scope. And
19 this is not a character witness.

20 MR. ZONEN: I don't recall which question
21 he's referring to.

22 THE COURT: I'm looking for it myself.

23 I don't have a question.

24 THE REPORTER: Would you like me to read the
25 last question, Judge?

26 MR. ZONEN: I'm prepared to start with a new
27 question.

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28 THE COURT: All right. 9153

1 Q. BY MR. ZONEN: Mr. Robson, the three books
2 that are in front of you that you've already taken a
3 look at, I'd like to go back over the inscription
4 that -- 842 is a book, and you were asked to read
5 that inscription out loud.

6 Take a look at that inscription again, would
7 you, please?

8 A. Do you want me to read it again?

9 Q. No, you don't need to read it again.

10 Go to the last word, which is the name.

11 What is the name on that?

12 A. Rhonda.

13 Q. Notice anything unusual about the name?

14 A. No.

15 Q. Do you notice it's written with quotations
16 on both sides of it?

17 A. Yes.

18 Q. Doesn't that usually mean that that's not
19 the name when somebody writes it in quotation marks?

20 A. Not that I know of.

21 Q. Have you ever written your name in quotation
22 marks?

23 A. No.

24 Q. That's actually from somebody who's not
25 named Rhonda, right?

26 MR. MESEREAU: Objection; calls for
27 speculation.

28 THE COURT: Sustained. 9154

1 Q. BY MR. ZONEN: The three books I've given
2 you so far to take a look at, they all feature
3 either boys or adult men, predominantly nude, and
4 the one on adult men is engaged in sex acts; is that
5 correct?

6 MR. MESEREAU: I'm going to object; asked
7 and answered. This is cumulative.

8 THE COURT: Overruled.

9 Q. BY MR. ZONEN: I'm going to show you three
10 additional books now, if I could. Let's start with
11 Exhibit 578, if you'll take a look at that one,
12 please.

13 MR. MESEREAU: Same objection. Cumulative;
14 it's not character; it's beyond the scope.

15 THE COURT: Overruled.

16 Q. BY MR. ZONEN: I'll start with the first
17 picture. What do you see right there?

18 A. I see in the center of the picture, it's a
19 drawing. And there's a naked man with his genitalia
20 exposed, and there's kangaroos on either side.

21 Q. Okay. Go ahead and proceed.

22 You can keep going. Just keep going through
23 it.

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24 You can stop.

25 What you've seen so far are all pictures of

26 naked men; is that right?

27 A. Yes.

28 Q. And pictures with their genitalia 9155

1 prominently displayed; is that correct?

2 A. Yes.

3 Q. Some of these are bondage pictures, are they

4 not?

5 MR. MESEREAU: Objection; leading.

6 MR. ZONEN: It's cross-examination, Your

7 Honor.

8 MR. MESEREAU: Assumes facts not in

9 evidence.

10 THE COURT: Overruled.

11 Q. BY MR. ZONEN: Is that correct? Like that

12 picture right there?

13 A. Yes.

14 Q. Would you consider this to be homoerotic

15 material?

16 A. Yes.

17 Q. Exhibit No. 590-B, take a look at that,

18 please. Tell us the title.

19 A. "Before the Hand of Man."

20 Q. Go ahead and take a look at the content of

21 that book.

22 That's enough.

23 Pictures of naked young men; is that

24 correct?

25 A. Yes.

26 Q. Would you consider that to be homoerotic

27 material?

28 A. No. 9156

1 Q. Why not?

2 A. I look at this more as sort of -- it's about

3 the photography and it's more of an art book, to me.

4 Q. Do you think it's the background setting

5 that makes it unique?

6 A. Unique?

7 Q. Well, they're all naked men in it; is that

8 right?

9 A. Yes.

10 Q. Look at No. 599, if you would.

11 You can stop.

12 Those are all pictures of boys and men, all

13 nude; is that correct?

14 A. I didn't see any boys. I saw men.

15 Q. How old do you think is the youngest person

16 you've seen in this book so far?

17 A. Maybe 19. 18, 19.

18 Q. Teenaged?

19 A. Yeah.

20 Q. Okay. They're all about that age or a
21 little bit older; is that right?

22 A. Yeah.

23 Q. Do you think this person is 19?

24 A. 18, 19, yeah.

25 Q. Okay. And in fact, in each one of them,
26 genitalia is prominently displayed; is that correct?

27 A. Yes.

28 Q. Take a look at this book, please, No. 590-A. 9157

1 You can stop here.

2 What are you taking a look at? Particularly
3 the page you're focused on at the moment, what do
4 you see?

5 A. There's two naked men and it looks like
6 they're about to kiss each another.

7 Q. In this book, in fact, each of the pictures
8 depict two naked men; is that right?

9 A. Yes.

10 Q. And in each instance, both of them are doing
11 something with one another of a sexual nature; is
12 that right?

13 A. No.

14 Q. They're hugging, they're touching, they're
15 caressing?

16 A. They're posing.

17 Q. They're posing. And they're all naked?

18 A. Yes.

19 Q. Would you consider this to be homoerotic
20 art?

21 A. Mind if I look a little more?

22 Q. Go ahead.

23 A. Yeah, it's -- I don't think it's so erotic.

24 It seems more loving in a way, like not so much
25 about sex.

26 Q. Well, how about the one you just turned to?

27 Where is his hand?

28 A. Down his pants. 9158

1 Q. Okay. You can go ahead and close that one
2 right now.

3 Mr. Robson, are you concerned about a man
4 possessing these seven books being in bed with a
5 12-year-old boy?

6 A. If it was a man I didn't know, maybe. But
7 not Michael.

8 Q. Is that because you view Mr. Jackson as
9 being, for the most part, asexual?

10 A. No.

11 Q. Because you believe that he doesn't really
12 have a sexual interest?

13 A. I believe that he has a sexual interest in
14 women.

15 Q. Did you know that he possessed these

16 magazines?

17 MR. MESEREAU: Objection, Your Honor, he
18 didn't let the witness complete his answer.

19 THE COURT: Sustained.

20 MR. MESEREAU: Could the witness complete
21 his answer, Your Honor?

22 THE COURT: Yes.

23 THE WITNESS: I believe that he has a sexual
24 interest in women.

25 Q. BY MR. ZONEN: In women?

26 A. Yes.

27 Q. These books don't suggest otherwise?

28 A. Not necessarily. 9159

1 Q. All right. Let's go to some other side of
2 the counter.

3 Exhibit No. 575, have you ever seen this
4 magazine before?

5 A. No.

6 Q. Not that specific one. A magazine of that
7 nature?

8 A. Of that nature, yes.

9 Q. Okay. And go ahead and turn through it.

10 You can stop there. You don't need to go
11 too much further.

12 This magazine depicts naked women, or a
13 woman in this case, inserting things inside of her;

14 is that right?

15 A. Yes.

16 Q. You would consider this to be very

17 graphic --

18 A. Yes.

19 Q. -- in terms of sexually explicit material?

20 A. Yes.

21 Q. Exhibit No. 520, tell us the title of that.

22 A. "Hard Rock Affair."

23 Q. Okay. Go ahead and turn through a few

24 pages.

25 You don't have to turn any further.

26 That magazine depicts graphic sexual

27 pictures of a man and a woman engaged in acts of

28 intercourse and oral sex; is that right? 9160

1 A. Yes.

2 Q. You would consider this to be pretty much as

3 hard-core as sexually graphic material goes; is that

4 right?

5 MR. MESEREAU: Objection. Misstates the

6 evidence; 352.

7 MR. ZONEN: I asked him what he considered.

8 THE COURT: Overruled.

9 You may answer.

10 THE WITNESS: That's as hard-core as it goes,

11 is that what you asked?

12 Q. BY MR. ZONEN: Yes.

13 A. No, not as hard-core as it goes.

14 Q. What could be more than that?

15 A. I've seen crazy things, crazy bondage
16 things, all sorts of stuff.

17 Q. You saw the bondage in the last publication;
18 is that right?

19 A. Yeah, but they weren't really doing
20 anything.

21 Q. All right. You would consider bondage to be
22 at the height?

23 A. Yeah. When it gets into, you know, really
24 unusual stuff.

25 Q. What's the title of this one? The magazine
26 that we have here is 522.

27 A. "Double Dicking Caroline."

28 Q. Go ahead and turn a couple pages. 9161

1 Okay. That's fine.

2 These are all photographs of a man and a
3 woman engaged in pretty much anything a man and a
4 woman can do; is that right?

5 A. Yes.

6 Q. Including acts of intercourse, acts of oral
7 sex, and the picture right in front of you, acts of
8 anal sex; is that right?

9 A. Yes.

10 Q. This you would consider to be fairly

11 hard-core, would you not?

12 A. Yes.

13 Q. The title of this one, please? No. 510.

14 A. "Stiff Dick Lynn." Or "for Lynn," sorry.

15 Q. "For Lynn"?

16 A. "Stiff Dick for Lynn."

17 Q. Let's get our prepositions right.

18 A. Get it right, yeah.

19 Q. Go ahead and turn the page, if you would.

20 A. I never thought I'd have a room of people

21 watching me do this.

22 Q. That's enough.

23 You would agree that this is a depiction of

24 a man and a woman engaged in virtually every

25 variation that a man and woman can do with one

26 another; is that right?

27 A. Yes.

28 Q. Sexually. 9162

1 The collective material that you have just

2 been shown does not cause you a moment of pause when

3 you think about the prospect of this person who

4 possesses all of this crawling into bed with a

5 ten-year-old boy?

6 A. No.

7 Q. And you would allow a child to crawl into

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8 bed with such a person?

9 A. If I knew the person, yes.

10 Q. If you knew them?

11 A. Yes.

12 Q. Your own child, you'd have no problem

13 sleeping with a 35-, 40-year-old man?

14 A. If I knew the person well, no.

15 MR. ZONEN: No further questions.

16

17 FURTHER REDIRECT EXAMINATION

18 BY MR. MESEREAU:

19 Q. Mr. Robson?

20 A. Yes.

21 Q. That's your fiancée right there, correct?

22 A. Yes.

23 Q. You are heterosexual, correct?

24 A. Yes.

25 Q. You are a close friend of Michael, correct?

26 A. Yes.

27 Q. By the way, did Michael Jackson ever -- oh,

28 I'll ask from there. 9163

1 When you were a young child, did Michael

2 Jackson ever show you any sexually explicit

3 material?

4 A. No.

5 Q. Did you ever see Michael Jackson show

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6 sexually explicit material to any child?

7 A. No.

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

9 THE COURT: Yes.

10 Q. BY MR. MESEREAU: Now, let me show you again

11 Exhibit No. 841. Do you see that?

12 A. Yes.

13 Q. And have you had a chance to flip through

14 that book?

15 A. Yes.

16 Q. Okay. Let me show you again Exhibit No.

17 596. It says, "A Sexual Study of Man." Do you see

18 that?

19 A. Yes.

20 Q. Have you had a chance to flip through that

21 book?

22 A. Yes.

23 Q. Okay. And let me show you again Exhibit No.

24 842, "A boy; A Photographic Essay," okay? And

25 that's the one with the inscription, "To Michael,

26 from your loving fan, Rhonda," okay?

27 A. Yes.

28 Q. And have you had a chance to flip through 9164

1 that book?

2 A. Yes.

3 Q. In fact, you see young children with rather

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4 innocent photographs of young boys, correct?

5 MR. ZONEN: I'm going to object as leading,

6 Your Honor.

7 THE COURT: Overruled.

8 Q. BY MR. MESEREAU: Innocent photographs of

9 young boys in various situations, right?

10 A. Yes.

11 Q. Okay. You see a young boy hanging from a

12 tree, right?

13 A. Yes.

14 Q. You see a young boy sitting outside a door,

15 right?

16 A. Yes.

17 Q. See young boys on a beach, right?

18 A. Yes.

19 Q. Okay. Now, let's go to -- quickly, to the

20 material the prosecutor for the government showed

21 you, okay? He showed you some magazines with

22 heterosexual activity, correct?

23 A. Yes.

24 Q. Okay. Have you seen one book that depicts

25 child pornography in that group?

26 A. No.

27 MR. ZONEN: I believe there was a Court

28 restriction on the use of that word, Your Honor, one 9165

1 initiated by the defense. Unless that reservation

2 is finished.

3 MR. MESEREAU: He's correct. And I made a
4 mistake using the word. I'll withdraw it, and I
5 apologize.

6 THE COURT: All right. The problem is that
7 sometimes it's an appropriate word to use and
8 sometimes it's not. But the jury's been instructed
9 on it. And so if you want to rephrase it, that's
10 fine.

11 MR. MESEREAU: Okay.

12 Q. In those books that the prosecutor for the
13 government showed you, you see books about men,
14 right?

15 A. Yes.

16 Q. You see one book that says, "A Study of Male
17 Sexuality" and shows some sexual acts between men,
18 correct?

19 A. Yes.

20 Q. And he showed you a number of magazines
21 involving sexual activity between men and women,
22 correct?

23 A. Yes.

24 Q. Okay. Has he shown you one book involving
25 children having sex?

26 A. No.

27 Q. Has he shown you one book where a man is
28 having sex with a child? 9166

1 A. No.

2 Q. The prosecutor tried to suggest that Mr.

3 Jackson is asexual. Do you remember that question?

4 A. Yes.

5 Q. Do you believe he's asexual?

6 A. No.

7 Q. Have you seen Mr. Jackson with women in your

8 lifetime?

9 A. With what kind of woman? A woman that he's

10 in a relationship with?

11 Q. That he's been married to.

12 A. Yeah, with Lisa Marie.

13 Q. When you were at Neverland, did you ever see

14 anything that suggested pedophilia?

15 A. No.

16 Q. Ever see any magazine or poster that

17 suggested pedophilia?

18 A. Never.

19 MR. MESEREAU: No further questions.

20

21 FURTHER RECROSS-EXAMINATION

22 BY MR. ZONEN:

23 Q. Mr. Robson, when did you first learn that

24 Michael Jackson possessed material of the nature

25 that's before you right now?

26 A. Right now I did.

27 Q. All the years that you have known Michael --

28 A. Actually, no one's told me where this came 9167

1 from.

2 Q. Assuming this comes from Michael Jackson's

3 residence.

4 A. Assuming it does, this is the first I know.

5 Q. All right. And you had never, ever known

6 that Mr. Jackson collected sexually explicit

7 material?

8 A. No.

9 Q. This is something new that you're learning

10 just today; is that right?

11 A. Yes.

12 Q. You're telling us that this would have no

13 effect at all on your belief that this bears on some

14 suitability for him sleeping with ten-year-old boys?

15 A. No.

16 Q. You knew that there were a succession of

17 ten-year-old boys that he slept with, didn't you?

18 MR. MESEREAU: Objection. Misstates the

19 evidence; the Court ruling.

20 THE COURT: Sustained.

21 Q. BY MR. ZONEN: Did you know about other

22 children that he had slept with?

23 A. No.

24 Q. Never?

25 A. No.

26 Q. Did you know that he was sleeping with Brett

27 Barnes?

28 A. No. 9168

1 Q. Did you know that he was sleeping with

2 Macaulay Culkin?

3 A. No.

4 Q. Did you know that he was sleeping with

5 Jordie Chandler?

6 A. No.

7 MR. ZONEN: No further questions.

8

9 FURTHER REDIRECT EXAMINATION

10 BY MR. MESEREAU:

11 Q. You actually saw kids sleeping in his room

12 from time to time, correct?

13 A. Yeah. When he was present as well, yeah.

14 Q. And Macaulay Culkin was there as well,

15 correct?

16 A. Yeah.

17 Q. Never saw anything inappropriate happen,

18 right?

19 A. No.

20 Q. Has anything this prosecutor for the

21 government has said to you changed your opinion of

22 Michael Jackson?

23 A. Not at all.

24 Q. Does it change your opinion as to whether or
25 not he ever did anything inappropriate with a child?

26 A. Not at all.

27 MR. MESEREAU: No further questions.

28 MR. ZONEN: I have no questions. 9169

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

2 Call your next witness.

3 MR. MESEREAU: Your Honor, may I remove the
4 materials from the witness box?

5 THE COURT: Yes.

6 THE BAILIFF: Oh, I'll get it for you.

7 THE COURT: When you get to the witness
8 stand, please remain standing.

9 Face the clerk over here and raise your
10 right hand.

11

12 BRETT CHRISTOPHER BARNES

13 Having been sworn, testified as follows:

14

15 THE WITNESS: Yes.

16 THE CLERK: Please be seated. State and
17 spell your name for the record.

18 THE WITNESS: My whole name?

19 THE CLERK: Yes, please.

20 THE WITNESS: Okay. It's Brett Christopher

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21 Barnes. B-r-e-double t; C-h-r-i-s-t-o-p-h-e-r;

22 B-a-r-n-e-s.

23 THE CLERK: Thank you.

24

25 DIRECT EXAMINATION

26 BY MR. MESEREAU:

27 Q. Mr. Barnes, how old are you?

28 A. I'm 23 years old. 9170

1 Q. Where is your home?

2 A. Melbourne, Australia.

3 Q. And what kind of work do you do?

4 A. Right now I'm unemployed. I actually had to

5 quit my job to come here.

6 Q. Okay. And what job is that?

7 A. I was a roulette dealer at the casino.

8 Q. In Melbourne?

9 A. Yes.

10 Q. Okay. Do you know the fellow seated to my

11 right at counsel table?

12 A. Absolutely.

13 Q. Who is he?

14 A. It's my good friend Michael Jackson.

15 Q. And you say your good friend. How long have

16 you known him?

17 A. Since I was five.

18 Q. How did you meet him?

19 A. I actually -- I was a big -- well, I was as
20 big a fan as you can be at that age, of his, and he
21 was in Melbourne for the "Bad" tour. And so my mom
22 thought it would be a good idea for us to write a
23 letter. My sister wrote the letter, but put it in
24 my name as if I was writing the letter.
25 And we went to meet him -- well, see him at
26 the airport when he touched down. And while we were
27 there, we gave the letter to one of his dancers, and
28 then we left the airport after it was all over. 9171

1 And I'm not sure exactly how much time
2 passed, but after a little while, he -- we received
3 a phone call from him, and ever since then we've
4 been really good friends.

5 Q. And is he a friend of your family?

6 A. Absolutely.

7 Q. Okay. Have you ever visited Neverland
8 Ranch?

9 A. Yes, I have.

10 Q. When did you first visit Neverland Ranch?

11 A. It would have been December of '91.

12 Q. And do you remember why you visited
13 Neverland?

14 A. Because he was there, and it's his house, I
15 guess.

16 Q. Who did you go with?

17 A. My whole family went, my mother and my
18 father and my sister and myself.

19 Q. Did you stay at Neverland?

20 A. Yes, I did.

21 Q. How many times do you think you visited
22 Neverland?

23 A. Too many to remember. Probably -- it would
24 be ten or more, even. More than ten times.

25 Q. And how many times do you think you've
26 stayed over at Neverland?

27 A. Every time.

28 Q. Okay. Did you ever stay in Michael 9172

1 Jackson's room?

2 A. Yes, I have.

3 Q. How many times do you think you've done
4 that?

5 A. Countless as well.

6 Q. And how would you describe his room?

7 A. It's big. It's pretty cool because it's got
8 lots of fun stuff to do there. Video games, such as
9 stuff like that. And it's probably the best as I
10 can describe it.

11 Q. Have you ever stayed in Michael Jackson's
12 bed?

13 A. Yes, I have.

14 Q. How many times do you think you have?

15 A. Countless as well.

16 Q. Has Mr. Jackson ever molested you?

17 A. Absolutely not. And I can tell you right
18 now that if he had, I wouldn't be here right now.

19 Q. Has Mr. Jackson ever touched you in a sexual
20 way?

21 A. Never. I wouldn't stand for it.

22 Q. Has Mr. Jackson ever touched any part of
23 your body in a way that you thought was
24 inappropriate?

25 A. Never. It's not the type of thing that I
26 would stand for.

27 Q. When you stayed in Mr. Jackson's bed --

28 A. Uh-huh. 9173

1 Q. -- on any of those occasions was anyone else
2 there?

3 A. Yeah.

4 Q. Who?

5 A. Well, I can't -- see, I was pretty young at
6 the time, so I can't remember exactly. But I know
7 my sister as being there, his cousins have been
8 there. And -- yeah, Macaulay has actually been
9 there as well, Macaulay Culkin. So there's been a
10 few people.

11 Q. What is the longest period you think you've
12 ever stayed at Neverland?

13 A. I couldn't tell you. I don't remember
14 really.

15 Q. Would it be a week, or three days?

16 A. Longer than that.

17 Q. Longer than that?

18 A. Yeah. It would probably be a couple weeks,
19 maybe a month at Neverland at one time.

20 Q. And what do you recall doing at Neverland
21 during the times you stayed there?

22 A. Playing arcade games. Going
23 ATV/motorbike-riding around the property. Going on
24 amusement park rides. And watching plenty of
25 movies, plenty of cartoons. Eating very good food.

26 Q. Do you consider Michael Jackson to be your
27 family friend?

28 A. Absolutely. 9174

1 Q. Do you stay in communication with him?

2 A. Absolutely.

3 Q. And how do you typically communicate with
4 Michael Jackson?

5 A. Like he's a member of the family. Just
6 always had warm conversations, reminisce about old
7 times.

8 Q. Are you familiar with a Jacuzzi at
9 Neverland?

10 A. Yeah.

11 Q. Ever been in the Jacuzzi?

12 A. Yes, I have.

13 Q. Do you recall Michael Jackson ever being in
14 the Jacuzzi with you?

15 A. I don't recall. He possibly could have, but
16 I don't really remember.

17 Q. Do you recall ever taking a shower with
18 Michael Jackson?

19 A. Never.

20 Q. Now, have you visited Neverland without your
21 parents being with you?

22 A. Yes.

23 Q. And how many times do you think you've done
24 that?

25 A. It wouldn't be that many. But I couldn't
26 give you a ballpark figure even.

27 Q. Now, have you followed this case in the
28 media? 9175

1 A. No, I haven't.

2 Q. Okay.

3 A. I chose not to.

4 Q. Are you aware of any allegations being made
5 that Mr. Jackson inappropriately touched you when
6 you were with him?

7 A. Yes, I am. And I'm very mad about that.

8 Q. You're mad about it?

9 A. Yeah.

10 Q. Why?

11 A. Because it's untrue, and they're putting my
12 name through the dirt. And I'm really, really,
13 really not happy about it.

14 MR. MESEREAU: No further questions.

15

16 CROSS-EXAMINATION

17 BY MR. ZONEN:

18 Q. Mr. Barnes, do you consider it disgraceful
19 to having been molested?

20 A. Absolutely.

21 Q. All right. And why would it be a disgrace
22 for somebody to have been molested?

23 A. Well, a child is --

24 MR. MESEREAU: Objection. This calls for
25 speculation; foundation.

26 THE COURT: Sustained.

27 Q. BY MR. ZONEN: How old were you when you
28 first started sharing a bed with Michael Jackson? 9176

1 A. Couldn't tell you. Don't really remember.

2 Q. How old were you when you first started
3 visiting Michael Jackson?

4 A. When I first started visiting, I was nine.

5 Q. And you visited Neverland with whom?

6 A. With my parents.

7 Q. Both your mother and your father?

8 A. And my sister as well.

9 Q. Your sister as well. And how long did you

10 stay at Neverland?

11 A. The first time?

12 Q. Yes.

13 A. I don't exactly remember.

14 Q. Did you stay over the week?

15 A. Yeah.

16 Q. Did you then visit Neverland on a regular

17 basis thereafter?

18 A. I wouldn't say regular, but, yeah, it was

19 quite frequent.

20 Q. Did you visit Neverland at least once a year

21 thereafter?

22 A. Yeah.

23 Q. And when you visited Neverland, would you

24 always stay with Michael Jackson?

25 A. Yeah, most of the time.

26 Q. All right. Now, I asked you, I believe, the

27 age the first time you went. Did you answer that

28 question? 9177

1 A. Yeah.

2 Q. And you said what? About nine?

3 A. Yeah.

4 Q. Okay. And then you would continue to go

5 each year thereafter?

6 A. Yeah.

7 Q. Did you sometimes go more than once a year?

8 A. Yeah.

9 Q. And would you stay for longer than one week

10 at a time?

11 A. Sometimes, I guess, yeah.

12 Q. Were there occasions where you would stay

13 two or even three weeks?

14 A. I was young at the time, so I don't really

15 remember the time frames.

16 Q. Okay.

17 A. So it would be purely speculation.

18 Q. Would it have been summer vacation; that is,

19 your summer vacation in Australia?

20 A. I really couldn't tell you.

21 Q. Did you ever go to Neverland without a

22 parent going with you?

23 A. Yes.

24 Q. So sometimes you would fly all the way from

25 Australia to Neverland, is that right, by yourself?

26 A. Absolutely.

27 Q. Were you much older than nine years old when

28 you did that? 9178

1 A. I couldn't tell you. But -- well, right --

2 yeah, I was older than nine.

3 Q. Did you visit in your tenth year and your
4 eleventh year and your twelfth year as well?

5 A. I really couldn't tell you that.

6 Q. Did you ever visit in your thirteenth year
7 and your fourteenth year?

8 A. I don't remember much about ages.

9 Q. You can't tell us how old you were when you
10 stopped visiting Neverland?

11 A. I still -- I continue to visit to this day.

12 Q. Do you still sleep with Michael Jackson?

13 A. No, I don't.

14 Q. How old were you when you stopped sleeping
15 with Michael Jackson?

16 A. I couldn't tell you that.

17 Q. Why don't you still sleep with Michael
18 Jackson?

19 A. Well, he's got kids now.

20 Q. And?

21 A. And I -- it would be purely speculation if I
22 told you. I could not answer that knowingly,
23 like -- it's just --

24 Q. But during the years that you were visiting
25 Michael Jackson at Neverland, you never stayed
26 anyplace but in his room; is that correct?

27 A. I couldn't tell you.

28 Q. You're telling us that you don't remember if 9179

1 you stayed in a guest lodge by yourself or with your
2 mother or if you shared a bed with Michael Jackson?

3 A. I don't remember staying in the guest lodge
4 by myself.

5 Q. But it's true, sir, that you stayed
6 virtually the entire time in his bedroom; is that
7 right?

8 A. Yeah.

9 Q. And during that time nobody else stayed in
10 the bedroom with you other than you and Michael
11 Jackson; is that true?

12 A. No, that's not true.

13 Q. On what percentage of the occasions that you
14 visited Michael Jackson was there somebody else
15 staying in that room?

16 A. I couldn't tell you.

17 Q. Can you tell us the names of the people who
18 stayed in the room with you?

19 A. My sister. Macaulay Culkin. There was
20 Levon and Elijah. There was Frank, Eddie, and
21 Dominick.

22 Q. Was Frank --

23 A. Prince as well.

24 MR. MESEREAU: Objection, he hasn't finished
25 the question.

26 THE WITNESS: His son Prince as well.

27 Q. BY MR. ZONEN: Prince? Prince is how old

28 now? 9180

1 A. I'm not quite sure.

2 Q. About what, seven?

3 A. Yeah. I guess so.

4 Q. And how old was Prince when he stayed in the
5 room with you and Michael Jackson?

6 A. I think he was three.

7 Q. All right. So it was about four years ago?

8 A. Yeah.

9 Q. So you stayed in the room with Michael
10 Jackson when you were 18 years old?

11 A. Yeah.

12 Q. You're 22 now?

13 A. 23. 23.

14 Q. So you were 19 years old?

15 A. Yeah, I guess.

16 Q. Did you share a bed with him at that time?

17 A. Yeah, I did.

18 Q. You did. Have you been sharing a bed with
19 him consistently from age nine until age 19?

20 A. What do you mean by "consistent"?

21 Q. Well, in all the times that you visit,
22 predominately do you stay in his room, in his bed?

23 A. Yeah.

24 Q. Did you do it when you were ten years old as
25 well?

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26 A. Yeah.

27 Q. Did you do it when you were 11 years old as
28 well? 9181

1 A. Yes.

2 Q. Most of the times you did it, there was
3 nobody else in the room; is that correct?

4 A. I guess you could say that.

5 Q. Because Macaulay Culkin was only in the room
6 with you once or twice; isn't that true?

7 A. I couldn't tell you how many times.

8 Q. Could he have been in the room 20 or 30
9 times?

10 A. Probably not.

11 Q. So really it's closer to once or twice; is
12 that right?

13 A. Yeah, I guess so.

14 Q. All right. And your sister stayed there the
15 first time you visited; is that right?

16 A. Not just the first time.

17 Q. Did she stay there the second time?

18 A. I -- look, I don't really remember.

19 Q. Did your sister share a bed with you and
20 Michael Jackson ever?

21 A. I can't recall.

22 Q. You can't recall if your sister shared a
23 bed?

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24 A. I can't remember.

25 Q. When did your sister stop visiting

26 Neverland?

27 A. She still visits to this day.

28 Q. Does she still share a bed with you and 9182

1 Michael Jackson?

2 A. No.

3 Q. When was the last time your sister shared a

4 bed with you and Michael Jackson?

5 A. I couldn't tell you. I don't know the exact

6 period of time.

7 Q. Could you have been 15 or 16 years old?

8 A. I couldn't tell you.

9 Q. Could you have been ten?

10 A. I couldn't tell.

11 Q. Mr. Barnes, the best you can tell us about

12 when your sister last shared a bed with you and

13 Michael Jackson, you have no idea?

14 A. It's not something that I think of. What --

15 why would I try and remember that?

16 Q. Is there --

17 A. Why would I think about it?

18 Q. Is there any other 35-year-old man that you

19 slept with when you were ten years old besides

20 Michael Jackson?

21 A. Yes.

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22 Q. Who?

23 A. My uncle.

24 Q. All right. A family member.

25 A. Yeah.

26 Q. Who else?

27 A. That would probably be it. I can't recall

28 any others. 9183

1 Q. All right. Now, with whom do you live at

2 this time?

3 A. My parents and my sister.

4 Q. And both your parents?

5 A. Yeah.

6 Q. And that's in Australia?

7 A. Yes.

8 Q. All right. Did your father ever visit

9 Neverland with you?

10 A. Yes, he did.

11 Q. When your father visited Neverland with you,

12 where did you stay?

13 A. Both in the guesthouse and both with him.

14 Q. Both in the guesthouse and with Mr. Jackson?

15 A. I stayed with Mr. Jackson, yeah.

16 Q. Did you ever have a conversation with your

17 father about the propriety of sharing a bed with a

18 35-year-old man?

19 A. Not that I recall.

20 Q. Did you ever have a conversation with your
21 mother about that, whether that was a wise thing to
22 do, to share a bed with a 35-year-old man?

23 A. Not that I recall.

24 Q. Did he ever show you any sexually explicit
25 material?

26 A. Absolutely not.

27 MR. MESEREAU: Objection; beyond the scope.

28 THE COURT: Overruled. The answer is, 9184

1 "Absolutely not."

2 Q. BY MR. ZONEN: Were you aware that he
3 possessed sexually explicit material?

4 A. No.

5 Q. Did you ever travel with Michael Jackson
6 anywhere?

7 A. Yes, I did.

8 Q. Where?

9 A. South America, North America, Africa, and
10 Europe.

11 Q. On those occasions --

12 A. And Australia as well, I'm sorry.

13 Q. On those occasions did you share a bed with
14 him?

15 A. Yes.

16 Q. Were any other people present while you were
17 in the room with him?

18 A. I don't recall. I can't -- I can't

19 remember.

20 Q. Was your mother with you when you traveled

21 through South America?

22 A. I think so.

23 Q. You think so?

24 A. Look, when I was young, I wasn't really

25 thinking about this sort of stuff. I wasn't trying

26 to retain in my memory this sort of stuff. And

27 what's sad is that I traveled to all these countries

28 and I really don't remember much of them. So it's 9185

1 all sort of -- it's all sort of meshed into one.

2 Q. Mr. Barnes, how old were you when you

3 traveled through South America with Mr. Jackson?

4 A. To tell the truth, I cannot remember.

5 Q. You can't tell whether you were 19 or 10?

6 A. Well, I wasn't 19. It was in my middle

7 teens, maybe -- no, it would have been in my

8 early -- early teens.

9 Q. 12?

10 A. It could have been possibly 12.

11 Q. So you were 12 or 13. You don't know if

12 your mother was there with you when you traveled

13 through South America?

14 A. She was, actually.

15 Q. In fact, you traveled quite a bit with Mr.

16 Jackson without your mother being present; isn't
17 that true?

18 A. No.

19 Q. Did you travel through North America with
20 Mr. Jackson without your mother?

21 A. Yes.

22 Q. And in how many cities through North America
23 did you go without your mother and Mr. Jackson?

24 A. I'm not too sure.

25 Q. Six or seven, perhaps eight?

26 A. I couldn't tell you.

27 Q. Was he performing at the time, Mr. Jackson?

28 A. For which? 9186

1 Q. On the trip through North America, was he
2 performing?

3 A. No, he wasn't.

4 Q. Did you travel with him when he was
5 performing?

6 A. Yes.

7 Q. Was that -- in South America, was he
8 performing then?

9 A. Yes.

10 Q. And every night after the performance, you
11 would go with him to his room; is that correct?

12 A. Yes.

13 Q. And you stayed in his bed that night?

14 A. Yep.

15 Q. In North America when you traveled, your
16 mother was not there?

17 A. Not -- well, see, she went to some cities,
18 like we all went to some cities, and sometimes we --
19 I went. Like on some of the occasions when I was
20 gone, coming over here alone, we'd go around. But
21 sometimes when my whole family was there, we'd go
22 around, too.

23 Q. How many times did you come to the United
24 States by yourself?

25 A. Probably only two or three maybe.

26 Q. And did Mr. Jackson arrange for that to
27 happen?

28 A. He arranged for all of our trips. 9187

1 Q. So all of the transportation for you and
2 your family from Australia to Neverland; is that
3 correct?

4 A. Yeah.

5 Q. And then all the travels that you did
6 through the United States and through South America?

7 A. Uh-huh. I was very fortunate.

8 Q. I'm sorry?

9 A. I was very fortunate.

10 Q. When you slept with Mr. Jackson, what
11 generally did you wear?

12 A. Sorry?

13 Q. When you slept with Mr. Jackson in the same

14 bed, what would you wear?

15 A. Pajama pants, T-shirt, pajama top sometimes.

16 Q. Always?

17 A. Well, always pajama pants, always a T-shirt.

18 Q. And Mr. Jackson?

19 A. Exactly the same thing.

20 Q. Always pajamas and pajama bottoms?

21 A. Uh-huh.

22 Q. I'd like to show you a series of photographs

23 and tell me if you recognize them, the people in

24 this photo. Let's start with 893.

25 A. Yep.

26 Q. Who's that?

27 A. That's me and him.

28 Q. Are these Polaroids? 9188

1 A. They look so.

2 Q. Do you remember taking these pictures?

3 A. Not at all.

4 Q. Do you remember where you were?

5 A. Not at all.

6 Q. Can you tell us about how old you were?

7 A. Probably about 11 maybe, 10.

8 Q. I notice you've changed your hairstyle since

9 then, haven't you?

10 A. Yes.

11 Q. You were about nine or ten.

12 So this was early on in your meeting with

13 Mr. Jackson; is that right?

14 A. Yeah, I would say so.

15 Q. All right. This is 893, and that has two

16 photos on the front, and two photos on the back; is

17 that right?

18 A. Yep.

19 Q. And that's you in the two photos in the back

20 as well?

21 A. Yep.

22 Q. All right. 892, is that you as well?

23 A. Yep.

24 Q. And Mr. Jackson?

25 A. Yep. Yep.

26 Q. And the two on the back? Do these appear to

27 have been taken at the same time?

28 A. These? 9189

1 Q. Yes.

2 A. Yeah, I'd say so.

3 Q. 891, who is that?

4 A. That's Michael Jackson.

5 Q. Did you take those pictures?

6 A. Couldn't tell you.

7 Q. They appear to have been taken at the same

8 time; no?

9 A. Possibly.

10 Q. All right. If I were to tell you that they
11 were all found together, would that suggest that
12 they were all taken at the same time?

13 MR. MESEREAU: Objection; calls for
14 speculation.

15 THE COURT: Sustained.

16 Q. BY MR. ZONEN: Turn it over, if you would,
17 to the back side. Three more pictures on the back.

18 What are they?

19 A. Of Michael Jackson.

20 Q. Do you remember those pictures?

21 A. Not at all.

22 Q. Does that look familiar to you?

23 A. No.

24 Q. Mr. Barnes, did you take those photographs?

25 A. I couldn't tell you. I don't -- I couldn't
26 tell you, no.

27 Q. 890, two pictures on the front. Would you
28 take a look at those two pictures? 9190

1 A. Uh-huh.

2 Q. One of those is you; is that right?

3 A. Yes, it is.

4 Q. You appear to be in bed.

5 A. Uh-huh.

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6 Q. The other picture is what?

7 A. Appears to be Michael Jackson.

8 Q. And he's in his underwear; is that right?

9 A. Yes, it is.

10 Q. 889, is that you?

11 A. Yes, it is.

12 Q. And anything on the back?

13 A. Yep.

14 Q. Is that you as well?

15 A. Yes, it is.

16 Q. All right. Do you remember those pictures?

17 A. Don't remember taking them, but I can tell
18 you where they were taken.

19 Q. Where?

20 A. They were taken at the ranch.

21 Q. They were taken at the ranch?

22 A. In a photo booth.

23 Q. There's a photo booth at the ranch on that
24 one there?

25 A. Yep.

26 Q. Do you recognize the background on any of
27 the other photographs?

28 A. On these? 9191

1 Q. Yes.

2 A. No, I don't. No.

3 Q. Are all of these photographs accurate

4 photographs of the subjects depicted within? In
5 other words, the photographs of Mr. Jackson really
6 are Mr. Jackson and the photographs of you really
7 are you?

8 A. That one's a bit sketchy, but the rest,
9 yeah.

10 Q. The one in his underwear?

11 A. Yeah.

12 Q. You're not sure that's him?

13 A. Well, you can't really see the face
14 properly.

15 Q. Mr. Barnes, before coming from Australia,
16 did you speak with anybody about your testimony?

17 A. No.

18 Q. They simply flew you from Australia to
19 California?

20 A. Well, they explained that I'd be a witness.

21 Q. And then they interviewed you after you got
22 here?

23 A. The interview?

24 Q. Yes. You had an interview with an
25 investigator --

26 A. Yes.

27 Q. -- who works for Mr. Mesereau; is that
28 right? 9192

1 A. Yes.

2 Q. And that interview took place after you got
3 to California?

4 A. Yes, it did.

5 Q. So they had no way of knowing what you were
6 going to say while you were still in Australia?

7 A. No.

8 Q. Because they never talked with you at all?

9 A. Not about the case, not being a witness. I
10 signed a declaration.

11 Q. You signed a declaration from where?

12 A. From -- I was at home. Melbourne,
13 Australia.

14 Q. Melbourne, Australia?

15 A. Yeah.

16 Q. All right. So somebody wrote a declaration
17 and they sent it to you, is that right, in
18 Australia?

19 A. Faxed it.

20 Q. I'm sorry?

21 A. Faxed it.

22 Q. They faxed it you. But you had to have
23 talked to somebody to tell them what to put in the
24 declaration, didn't you do that?

25 A. Yes, I did.

26 Q. So you did talk with somebody while you were
27 in Australia?

28 A. Yes. 9193

1 Q. Who was the person that you talked with

2 while you were in Australia?

3 A. It was Brian Oxman and some -- I think it

4 might be Scott Ross as well. But I'm not exactly

5 sure.

6 Q. And then they prepared a declaration, they

7 sent it to you; is that correct?

8 A. That's correct.

9 MR. ZONEN: Madam Clerk, could I have

10 another sticker that says....

11 Q. Let me show you 894, four photographs on it.

12 MR. MESEREAU: Excuse me, Counsel. Are

13 these what I saw before? Are these what you showed

14 me earlier?

15 MR. ZONEN: Not the first set. Let me show

16 you.

17 Q. 893, would you take a look at that, please,

18 both sides of that?

19 A. Yep.

20 Q. That contains a total of six pictures, two

21 on one side, four on the back; is that right?

22 A. That's correct.

23 Q. And those are all pictures of you, one

24 picture of Mr. Jackson?

25 A. Correct.

26 Q. 894?

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27 A. Uh-huh.

28 Q. That's who? 9194

1 A. Michael Jackson.

2 Q. All four of those pictures?

3 A. Correct.

4 Q. Do you recognize the location?

5 A. No, I don't.

6 Q. You have no recollection of that?

7 A. No.

8 Q. Could that have been a hotel you stayed in?

9 A. Quite possibly.

10 Q. All right. 896?

11 A. Uh-huh.

12 Q. Does any of that look familiar to you?

13 A. Is this New York? I don't remember any of
14 these pictures.

15 Q. Do you remember any of those pictures being
16 taken?

17 A. Not at all.

18 Q. And your age, approximately, in those
19 photographs?

20 A. I would have absolutely no idea.

21 Q. You would have no idea at all?

22 A. Well, these ones of me?

23 Q. Yes. You.

24 A. Probably about the same age.

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25 Q. Okay. Does it appear that those photographs
26 were taken about the same time?

27 A. Purely speculation, but, yes.

28 Q. Is your hairstyle the same as -- 9195

1 MR. MESEREAU: Objection; move to strike.

2 THE COURT: Stricken. Speculation.

3 Q. BY MR. ZONEN: Based on your familiarity
4 with yourself, does it appear that you are about the
5 same age in each of the photographs so far shown to
6 you?

7 A. Yes.

8 Q. And all those photographs are you with
9 Michael Jackson in a room someplace; is that right?

10 A. Yes.

11 Q. You have no recollection of when those
12 photographs were taken?

13 A. Absolutely not.

14 Q. And the pictures of Mr. Jackson, you have no
15 recollection of actually taking those yourself?

16 A. Absolutely not.

17 Q. Were there many occasions, when you were ten
18 years old, that you traveled by yourself with Mr.
19 Jackson?

20 A. I wouldn't say -- well, I'm not sure I
21 understand the question.

22 Q. Did you travel more than one trip with Mr.

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23 Jackson when you were about the age of 10 by
24 yourself?

25 A. Do you mean from my home?

26 Q. Yes.

27 A. Around?

28 I can't really remember. I can't remember 9196

1 how many times. It might have been one, might have
2 been two. I can't really tell you.

3 Q. On the occasions when you traveled with Mr.

4 Jackson and he was on tour, did you go to all of the
5 concerts?

6 A. I'm not sure.

7 Q. Was there ever a woman traveling with Mr.

8 Jackson while you were traveling with him?

9 A. A woman?

10 Q. Yes.

11 A. I'm not -- what do you mean, though?

12 Q. Somebody with whom he was close to. I don't

13 mean an assistant. I mean a friend or a girlfriend.

14 A. Not that I recall.

15 Q. At the time that you were traveling with him

16 in South America, was he ever traveling with a

17 woman? And I don't mean an assistant. A

18 girlfriend.

19 MR. MESEREAU: Object as beyond the scope.

20 THE COURT: Sustained.

21 Q. BY MR. ZONEN: Were there ever any other
22 people traveling with you as part of your unit?

23 A. Where?

24 Q. When you traveled.

25 A. Sometimes.

26 Q. Did any of them sleep in the same room with
27 you and Mr. Jackson?

28 A. I can't really recall. I don't remember. 9197

1 Q. Did anyone ever share a bed with you and Mr.
2 Jackson, where there were three of you in the same
3 bed together?

4 A. Can't really remember.

5 Q. Did your sister ever sleep with you in the
6 same bed and Mr. Jackson?

7 A. Unfortunately, I can't really remember that
8 either.

9 Q. Do you know Wade Robson?

10 A. Yes.

11 Q. How well do you know Wade Robson?

12 A. Not very.

13 Q. Have you kept up some kind of friendship
14 with Mr. Robson?

15 A. Nope.

16 Q. Is that a "no"?

17 A. That's a "no."

18 Q. When was the last time you spoke with Mr.

19 Robson?

20 A. Today.

21 Q. All right. Today you saw him. When was the
22 last time prior to today?

23 A. Yesterday.

24 Q. Okay. So you've been staying at Neverland,
25 have you?

26 A. Yes.

27 Q. Did you have an opportunity to talk with Mr.

28 Robson? 9198

1 A. I had an opportunity, yeah. Yeah.

2 Q. And did you speak with Mr. Robson?

3 A. Yes.

4 Q. Did you discuss your testimony?

5 A. Absolutely not.

6 Q. And why not?

7 A. Because it was explained to us that we were
8 not allowed to.

9 Q. Who was that who told you that?

10 A. The lawyers did.

11 Q. Did they say why you weren't allowed to?

12 A. Isn't it against the law?

13 Q. Is that what they told you, it was illegal
14 to talk with each other?

15 A. No, they didn't. They just explained that

16 it wasn't -- they just said, "Don't talk about the

17 case.”

18 Q. Were you aware of Wade Robson spending long
19 periods of time with Michael Jackson?

20 MR. MESEREAU: Objection. Beyond the scope;
21 relevance.

22 THE COURT: Sustained.

23 Q. BY MR. ZONEN: Did Michael Jackson ever
24 speak to you about other boys who spent nights with
25 him in his room?

26 MR. MESEREAU: Objection. Beyond the scope;
27 relevance; foundation.

28 THE COURT: Sustained. 9199

1 Q. BY MR. ZONEN: Did you ever talk with
2 Michael Jackson about the propriety of sharing a bed
3 with him?

4 MR. MESEREAU: Objection. Beyond the scope;
5 foundation; and relevance.

6 THE COURT: Overruled.

7 Q. BY MR. ZONEN: Go ahead and answer the
8 question.

9 A. Not that I recall.

10 Q. At no time did you ever have a conversation
11 with Michael Jackson where the subject of the
12 conversation was whether or not you should be
13 sharing a bed with him?

14 A. Not that I recall.

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15 Q. Did he ever tell you that you were like
16 family to him?

17 A. All the time.

18 Q. All the time. Did he ever tell you that you
19 should trust him?

20 A. Yeah.

21 Q. Did he ever tell you that he was like a
22 father to you?

23 A. He may have, yes.

24 Q. Did he ever tell you that he considered you
25 to be like a son to him?

26 A. Yes.

27 Q. Was that something he frequently said to
28 you? 9200

1 A. Not frequently.

2 Q. Was that something that he frequently said
3 to you during the early stages of your relationship
4 when you were about age eight?

5 A. Never met him when I was age eight.

6 Q. You were about nine?

7 A. Yeah.

8 Q. Okay. So how long after you had begun
9 visiting Neverland did Mr. Jackson speak to you in
10 such terms, tell you you were like family to him or
11 like a son to him?

12 A. I couldn't tell you.

13 Q. Did he ever have a conversation with your
14 mother of that nature, tell your mother that he
15 considered her to be like family to him as well?

16 A. Wouldn't have a clue.

17 Q. That was never done in your presence?

18 A. Possibly. I don't remember.

19 Q. Did your mother ever have a conversation
20 with him about anything in your presence?

21 A. Quite possibly.

22 Q. Is it the case that when you were kids and
23 running around Neverland, on occasion you would get
24 fairly rowdy?

25 A. Nope.

26 Q. You were always fairly well disciplined and
27 behaved?

28 A. I was brought up right. 9201

1 Q. How about the other kids who were at
2 Neverland while you were there?

3 A. As far as I remember, yeah, we were all
4 pretty -- there were a couple maybe, but I never
5 really saw an outbreak.

6 Q. You never saw what?

7 A. An outbreak.

8 Q. An outbreak?

9 Who were the other boys who were there about
10 the time that you were there?

11 A. I saw Mac there, Macaulay Culkin. His --

12 Levon and Elijah. Frank, Eddie, Dominick --

13 Q. How old was Frank at the time?

14 MR. MESEREAU: Objection. He hasn't

15 finished his answer yet, Your Honor.

16 THE COURT: Sustained.

17 Q. BY MR. ZONEN: Go ahead.

18 A. Aldo. Marie Nicole. My sister, of course.

19 That's all I really remember.

20 Q. Of the ones that you've mentioned, how many

21 of them shared Michael Jackson's bedroom while you

22 were there?

23 A. All of them have.

24 Q. Did -- all of them?

25 A. I'm pretty sure.

26 Q. On how many nights do you think, all at the

27 same time?

28 A. Not at the same time, because like one trip 9202

1 we'd see -- we saw Mac, and the other trips we saw

2 everyone else.

3 Q. And would they share the same bed with you

4 and Mr. Jackson?

5 A. I can't honestly recall that.

6 Q. Do you remember any of those people who you

7 just mentioned sharing a bed with Mr. Jackson in

8 your presence?

9 A. Yeah.

10 Q. Who?

11 A. Mac.

12 Q. Macaulay Culkin?

13 A. Yeah.

14 Q. Who else?

15 A. Frank.

16 Q. Frank Cascio?

17 A. Yeah.

18 Q. How old was Frank Cascio at the time?

19 MR. MESEREAU: Objection. He hasn't

20 finished his answer yet.

21 THE WITNESS: Eddie.

22 THE COURT: I can't tell if he has or not.

23 Have you finished your answer?

24 THE WITNESS: No, I haven't.

25 THE COURT: Go ahead.

26 THE WITNESS: Eddie. That's probably --

27 that's all I can recall.

28 Q. BY MR. ZONEN: "Eddie" is Eddie who? 9203

1 A. Cascio.

2 Q. That's Frank's brother?

3 A. Yeah.

4 Q. How old was Frank at that time?

5 A. Wouldn't be able to tell you.

6 Q. Well, was he a child?

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7 A. I never knew him as a child. He's -- he's
8 older than me, so....

9 Q. You only know Frank Cascio as an adult?

10 A. No. He's like a year older, two years older
11 than me.

12 Q. You said you never knew him as a child?

13 A. Well, as a child, I consider to be under the
14 age of 10.

15 Q. How about as a young teenager?

16 A. Yeah.

17 Q. So you saw him there as a young teenager?

18 A. Yeah.

19 Q. Would he share Michael Jackson's bed as
20 well?

21 A. If I recall correctly, yeah.

22 Q. And Eddie, how old was Eddie during that
23 time?

24 A. Like he's -- it would have been a young
25 teenager as well.

26 Q. What's the longest period of time that any
27 of those people stayed in Michael Jackson's room
28 while you were there? In other words, how many 9204

1 consecutive days did that happen?

2 A. Can't recall properly.

3 Q. Did Michael Jackson ever tell you that he
4 loved you?

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5 A. Yeah, all the time.

6 Q. Did he ever touch you?

7 A. In what manner?

8 Q. Did he ever kiss you?

9 A. On the cheek, on the forehead, yeah.

10 Q. Often?

11 A. I wouldn't say often, but, yeah. I've --

12 I can't really remember these things. It's not

13 something that would -- you know, I would try to

14 remember.

15 MR. ZONEN: I have no further questions.

16 MR. MESEREAU: I have no further questions,

17 Your Honor.

18 THE COURT: All right. Thank you. You may

19 step down.

20 I think we'll start the next witness

21 tomorrow.

22 (To the jury) I'll see you tomorrow at

23 8:30. Remember the admonition. Have a good

24 evening.

25 (The proceedings adjourned at 2:30 p.m.)

26 --o0o--

27

28 9205

1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE OF)

5 CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR, CSR

13 #3304, Official Court Reporter, do hereby certify:

14 That the foregoing pages 9016 through 9205

15 contain a true and correct transcript of the

16 proceedings had in the within and above-entitled

17 matter as by me taken down in shorthand writing at

18 said proceedings on May 5, 2005, and thereafter

19 reduced to typewriting by computer-aided

20 transcription under my direction.

21 DATED: Santa Maria, California,

22 May 5, 2005.

23

24

25

26

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

28 OFFICIAL COURT REPORTER 9206

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