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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA BARBARA

3 SANTA MARIA BRANCH; COOK STREET DIVISION

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

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 THURSDAY, MAY 26, 2005

20

21 8:40 A.M.

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23 (PAGES 12161 THROUGH 12207)

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

28 BY: Official Court Reporter 12161

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2

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1 I N D E X

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

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

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

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

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8

9 R E B U T T A L

10

11 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

12 VILLEGAS,

13 Gina 12188-Z 12190-M 12203-Z 12205-M

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1 E X H I B I T S

2 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.

3 448 Brad Miller phone records 12185

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6 DEFENDANT'S NO.

7 901 Brad Miller e-mails 12175

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1 Santa Maria, California

2 Thursday, May 26, 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: All right. We have two issues I

13 think to take up before -- at least two before the

14 jury comes in.

15 THE BAILIFF: Is your microphone on?

16 THE COURT: I'm sorry, we have two issues to

17 take up before the jury comes in.

18 The first issue is on the tape that was --

19 I watched yesterday afternoon. The Court will allow

20 the playing of the tape. I think the -- it's awful

21 long. It seemed to me that, you know, playing half

22 an hour of it would be better than playing the whole

23 hour. There's a lot at the beginning that's not

24 even the boy talking.

25 MR. SANGER: Could I be heard on that part,

26 Your Honor?

27 THE COURT: Yeah.

28 MR. SANGER: I watched -- of course the 12165

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1 prosecution made the motion towards the end of the
2 day, and so I watched that thing in the middle of
3 the night, basically, again to see what it looked
4 like from the standpoint of playing it. And there's
5 a tremendous amount of prejudicial material by way
6 of police officers making statements that are
7 absolutely inadmissible in court.

8 On the other hand, to simply pick out, you
9 know, statements of Gavin Arvizo in a vacuum that
10 don't show that the police officer just said, you
11 know, "You're really brave. We want you to do this.
12 You're doing the right thing," and all the other
13 things that they were saying, you know, takes it out
14 of context. I don't think that we're prepared -- I
15 don't think the People are prepared either to
16 present a pared down version, nor are we.

17 THE COURT: This is -- excuse me. This is
18 one of those rulings that is not -- you know, if the
19 defense wants the whole tape played, then -- you
20 know, they don't want any of it played, but if it's
21 played, they want the whole tape played, then that's
22 all right. I would understand that.

23 MR. SANGER: I understand what the Court's
24 saying, and I'm just saying if we're going to come
25 up with a pared down version, I think we'd have to
26 meet and confer on that because they're going to
27 want some parts and --

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1 MR. SANGER: I don't think we can do it off

2 the cuff right now is my point.

3 THE COURT: Well, let me ask you this: Are

4 you saying that if they -- I understand that you

5 don't want to play it at all. Having made that

6 ruling, are you saying you would rather have it all

7 played than parts of it?

8 MR. SANGER: I can't absolutely say that

9 either. I think it probably should be edited, but

10 the question would be how would it be edited.

11 THE COURT: You're not going to agree on

12 that. I mean, you make the suggestion that you and

13 the prosecution could get together and agree on

14 that. That's not going to happen. I mean, you

15 couldn't agree on a simple stipulation on some

16 evidence that had no significance whatsoever. So I

17 just don't really --

18 MR. SANGER: I don't want to argue with the

19 Court on that. But I think we have agreed on quite

20 a number of things, Your Honor, in fairness.

21 THE COURT: This is --

22 MR. SANGER: But it seems somewhat

23 impractical, because we're at -- and Your Honor is

24 saying, you know, "Do you want all" -- "You don't

25 get nothing, so do you want all or part?" And what

26 I'm saying, I don't know what part they want to

27 show.

28 THE COURT: They wanted to show all -- you 12167

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1 know what they said. They said it yesterday. They
2 want all except from 49 minutes 50 seconds to 51
3 minutes 45 seconds and the last 20 seconds. I mean,
4 they told you what they wanted. They told me what
5 they wanted.

6 MR. SANGER: No, I understand that, Your
7 Honor. Maybe I'm not communicating here. I
8 understand that. Your Honor is suggesting they
9 should show a half an hour, more or less.

10 THE COURT: I thought, because it's a lengthy
11 tape and there's a lot of material there that
12 doesn't relate to anything, that they should show
13 less.

14 MR. SANGER: Right. And having had our
15 motion denied to exclude the whole thing, I don't
16 necessarily disagree with the Court, but I can't
17 agree unless I know what half hour they want to
18 play. So all I'm saying is, we have to at least
19 know what they're proposing if they're going to do
20 that. I would agree there's extraneous material on
21 the tape that probably shouldn't be shown, but I
22 don't know which half hour they want.

23 Does that make any sense?

24 THE COURT: Okay. That was just a suggestion
25 that they try to reduce the amount. I wasn't
26 ordering that.

27 MR. SNEDDON: Good morning, Your Honor.

28 First of all, I think we're in a position -- 12168

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1 I don't have a problem with what the Court
2 suggested. I think that the first part of the
3 video, where the -- what we might call the
4 rapport-building stage could easily be deleted out
5 or edited out.

6 Mr. Auchincloss doesn't have any witnesses
7 this morning, so he could go upstairs and begin the
8 editing process and come back with a suggestion. If
9 the Court would like us to do that, we'd be more
10 than glad to do that. I think probably that would
11 account for about 10 or 15 minutes, at least, of the
12 interview that I don't have a problem with. And we
13 would be willing to do that. I'm not saying that --
14 I mean, I'm -- I share the Court's concern about
15 reaching an eventual stipulation, but I'm willing to
16 do what we can do to at least take that part out and
17 move on with it. And so if you want us to do that,
18 we'll do that.

19 And absent that, then my position is --
20 other than the things that we've indicated to you
21 that we really feel should not go to the jury
22 because of the 352 nature of it -- to the defense,
23 not to us. But it's not appropriate, and I agree
24 with that, and I'm sure the Court does, too, having
25 heard what's in there. So that's our position, and
26 we'll do what we can to accommodate the Court.

27 MR. SANGER: Your Honor, I have a

28 suggestion. I'm just still a little taken aback. 12169

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1 I don't think the Court's fully aware of how much
2 cooperation there has been, despite the fights over
3 other things here.

4 THE COURT: I'm sorry, there has been a lot
5 of cooperation.

6 MR. SANGER: There we go. Thank you. A
7 little appreciation goes a long way at a time like
8 this.

9 THE COURT: You guys have really done a good
10 job on this.

11 MR. SNEDDON: You don't sound too sincere
12 about that.

13 THE COURT: No, I want to make Mr. Sanger
14 feel better.

15 (Laughter.)

16 MR. SANGER: Thank you. It's working. Just
17 another minute or two and --

18 THE COURT: And your last argument was
19 really excellent.

20 (Laughter.)

21 MR. SANGER: There you go. Thank you. That
22 would be the one I lost on this tape.

23 THE COURT: But a good argument nonetheless.
24 (Laughter.)

25 MR. SANGER: Well, what I would suggest is
26 this: With the consent or concurrence of the
27 District Attorney, I will ask Mr. Dunkle, who's my

28 associate lawyer in my office here in Santa Maria, 12170

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1 I'll ask him to go over to the D.A.'s Office. They
2 can get a running start if they want to, but at some
3 point this morning, if they would meet with him and
4 try to confer and try to work it out, we'll take our
5 best shot.

6 THE COURT: That's a good way to do it.

7 MR. SANGER: I think Mr. Mesereau and I
8 should have the final say, so we probably need to --

9 THE COURT: Confer.

10 MR. SANGER: -- have some time to confer,
11 but we'll try to do that.

12 Now, with regard to the Court's ruling that
13 the tape is coming in in one fashion or another, we
14 had indicated that we would need to then have Gavin
15 Arvizo made available. We'd also like to have
16 Janet Arvizo, Dr. Katz and Larry Feldman.

17 THE COURT: For a moment, I thought you were
18 going to say something else. But that's fine.

19 MR. SANGER: Could you indicate what it is
20 and I'll add it to the list?

21 So we'd like to have them available, and I
22 understand they were the People's witnesses and that
23 they would have a number to call them. We tried to
24 find a number for Dr. Katz to give him a heads-up
25 and we didn't have one, so --

26 THE COURT: All right. So I think that one
27 of your people should call them right away this

28 morning, right? 12171

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1 MR. SNEDDON: Yes, Your Honor. We'll do

2 that.

3 I want to tell the Court that, first of all,
4 we're not waiving any objection with regard to the
5 materiality of whether it's appropriate.

6 THE COURT: That's fine.

7 MR. SNEDDON: Okay. Second of all, my

8 understanding as of -- I'm trying to think of the

9 day, because I don't want to misrepresent to the
10 Court. Whenever it was that Larry King was here.

11 As of that point in time, Mr. Feldman was in South
12 Africa, and I didn't know that until I called up to
13 talk to him and he was gone and his partner told me
14 that.

15 So I will call the office today and find out
16 if he's back. But I know he's -- I know at that
17 point last week, whenever Mr. King was here, that
18 Mr. Feldman was in South Africa. So I'll do what
19 the Court told me to.

20 THE COURT: And you have the list of
21 witnesses that he just gave?

22 MR. SNEDDON: Right. There was four of
23 them. Dr. Katz, Mr. Feldman, Mrs. Jackson, and
24 Gavin.

25 THE COURT: All right.

26 MR. SNEDDON: And that's not a problem. We
27 already alerted the family. So that's not a

28 problem. 12172

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1 THE COURT: Okay. All right. Then --

2 MR. SNEDDON: Judge, if that's the
3 situation, then I think we can -- the other issue I
4 talked to you about, the letters with Mr. Geragos, I
5 guess we'll have Mr. Geragos come back tomorrow and
6 establish the foundation since we can't reach a
7 stipulation. Unless there's one that they reached.

8 (Off-the-record discussion held at counsel
9 table.)

10 MR. SNEDDON: If the Court agrees to receive
11 it into evidence based on the circumstantial nature
12 of the thing, like some of the Schaffel documents.
13 So I guess what I'll say is we'll move for
14 the admission of those. If the Court doesn't admit
15 it, then we would have Mr. Geragos come back
16 tomorrow. It looks like we're going to be here
17 tomorrow. But let's play it by ear and see what
18 comes about.

19 THE COURT: Well, I would prefer that, rather
20 than have Mr. Geragos come back, that both sides are
21 working so well together throughout this case.

22 MR. SNEDDON: I have no problem with that.

23 THE COURT: I thought we reached -- I thought
24 you reached some possible agreement when you were
25 talking to me just before we came --

26 MR. SNEDDON: That was on a different piece
27 of evidence, Your Honor. That was on the tape. And

28 I think Mr. Mesereau and I have -- I don't want to 12173

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1 speak for Mr. Mesereau, but I think we probably
2 worked that one out to our satisfaction.

3 But this is a different -- this is the
4 e-mails, the Brad Miller e-mails to Mr. Geragos that
5 the Court allowed us to --

6 THE COURT: That were seized in the search
7 warrant.

8 MR. SNEDDON: Yes, sir, these are the ones
9 that were the subject of the attorney-client
10 privilege and were released to us late, I think last
11 week. We got them on Saturday, actually, because of
12 the waiver, and that was the first time we saw them,
13 and so we determined that we want to have those
14 admitted into evidence.

15 And we'd so move. I could have them marked
16 right now, if you like, for identification.

17 THE COURT: Have them marked so I can look at
18 them and see what you're talking about.

19 MR. SNEDDON: Hand me the stickies.

20 MR. SANGER: I believe it's our position --
21 I'm sitting down at the microphone, so I'll stand.

22 It's our position that we need Mr. Geragos
23 with regard to the content. They are not
24 necessarily self-authenticating. And even if they
25 are, the relevance is not established without his
26 testimony, so that's why we're asking that he come
27 back up in order to -- it's not just perfunctory,

28 there is a reason for him to come up. 12174

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1 THE COURT: Okay.

2 MR. SNEDDON: Your Honor, the documents have
3 attached to them a one-page cover sheet. Actually,
4 I don't know if there's a page missing, but it's a
5 document from counsel to us. I really think that
6 probably should not be part of the exhibit. So with
7 their permission, I'll remove that and just have the
8 e-mails themselves marked for identification.

9 MR. SANGER: Could I see?

10 MR. MESEREAU: That's fine.

11 MR. SANGER: Yeah, that should be removed.

12 THE COURT: All right.

13 MR. SNEDDON: This would be Exhibit 901,
14 Your Honor. And it's a multi-page document. I
15 haven't counted them, but it's maybe 20 -- 20 pages,
16 and I'll hand that to the clerk.

17 THE COURT: I'd like that exhibit.

18 THE CLERK: Oh, sorry.

19 THE COURT: All right. The next issue that
20 we have is the motion to admit evidence concerning
21 Jordan Chandler.

22 Do you wish to be heard on that, Mr.

23 Sneddon?

24 MR. SNEDDON: Mr. Zonen is going to handle
25 that, Your Honor.

26 THE COURT: Mr. Zonen?

27 MR. ZONEN: Your Honor, I think we've

28 adequately stated our position in the pleadings. I 12175

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1 can tell you that with regard to the relevance of
2 that material, there was quite a bit of testimony
3 that was presented during the course of the defense
4 case about nothing untoward or inappropriate
5 occurring in Michael Jackson's bedroom and numerous
6 witnesses who have testified to the fact that many
7 children, particularly back in the 1993, '94, '92
8 period, who spent not just nights, but weeks and
9 even months in Michael Jackson's bedroom, in Michael
10 Jackson's bed, and it was a completely nonsexual
11 event.

12 The fact that this child was able to give a
13 description of a unique feature of his anatomy that
14 could not have been known by him except for a very
15 intimate acquaintance with Mr. Jackson is very good
16 circumstantial evidence of the fact that the
17 relationship between he and at least that child was
18 something more than casual and something more than
19 innocent.

20 In that regard, we'll submit, unless you
21 have questions.

22 THE COURT: Let me hear from the defense.

23 MR. ZONEN: Thank you.

24 MR. SANGER: I, once again, tried to keep
25 the brief brief. I hope the Court --

26 THE COURT: I appreciate you keeping your
27 briefs brief.

28 MR. SANGER: Yes. I don't want a lack of 12176

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1 volume to suggest that this didn't take well into
2 the night to get done here. And I don't want to
3 repeat everything, but I think because it is such an
4 important issue, we're right at the end of the case,
5 I feel compelled to speak about it just briefly, if
6 I may.

7 First of all, this seems to come directly
8 within the California Supreme Court's discussion in
9 the Carter case, which basically says it's not
10 proper to bring in evidence that magnifies evidence
11 that the opposition has not had a chance to meet
12 squarely during the case-in-chief, which we haven't,
13 because this was not offered, it was not hinted at.
14 It was not even in the original 1108 motion from
15 which the Court made a cut and reduced what they had
16 presented originally. So it wasn't even in there.
17 I mean, we had no notice to deal with these
18 issues -- with this issue at all. So there is
19 certainly unfair surprise, as stated directly in the
20 Carter case.

21 And Carter also says that the Court is
22 supposed to avoid dramatic evidence introduced late
23 in the trial that's going to have an undue effect.
24 Now, as we pointed out, this was not
25 offered. I mean, this is really a stretch to even
26 come up with any kind of an argument as to why this
27 should -- why they could even ask to bring this in.

28 And they're not asking to bring it in as 1108 12177

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1 evidence. They're asking to bring it in as 1101(b)
2 evidence.

3 And the idea is, I think they've said in
4 their pleadings, that this goes to the issue of
5 whether or not Mr. Jackson was shy or modest. Now,
6 that's not what Mr. Zonen just said when he got up
7 here and argued. I think he shifted the argument a
8 bit, if I'm not mistaken, and talked about things
9 happening in the bedroom.

10 They didn't offer -- I mean, we can't just
11 keep having a moving target here. They didn't offer
12 it in their moving papers. They didn't offer it for
13 that purpose. They offered it on the shy and modest
14 purpose. So it would be 1101(b) evidence on kind of
15 a collateral matter, if it ever happened. But it
16 didn't happen in this case in the defense.

17 We went through and did a word search on the
18 entire transcript, several different words, "shy,"
19 "modest," all sorts of things. We found one
20 question that used the word "shy," not even in this
21 context. It had to do with whether or not a maid
22 saw Mr. Jackson change his shirt. And the objection
23 was sustained to that question. So it was never
24 answered. So it didn't happen.

25 We also went through and -- just to be sure,
26 and read -- we read all the testimony from the key
27 witnesses in the defense who might have said

28 something like that if anybody said it. And the 12178

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1 only thing we can come up with is an investigative
2 report where the word -- I think "shy" -- it was
3 either "shy" or "modest," one of the two was used.
4 We quoted it in there. And it turns out that that
5 was never brought out from that witness on the
6 stand.

7 So it seemed to me that, when I was looking
8 at this, this was a pocket brief the District
9 Attorney had originally prepared in case somebody
10 did this. It didn't happen. Now they're trying to
11 bring it in by way of rebuttal, and it would just be
12 absolutely inappropriate as 1101, because it doesn't
13 rebut anything, okay?

14 What really they're trying to do, and I
15 think that's what I heard Mr. Zonen just argue, is
16 they're trying to argue this is 1108. And it
17 doesn't meet the criteria for 1108. It doesn't meet
18 the criteria the Court set down that it would be
19 somebody directly observing something. So it would
20 have the prejudicial effect of the jury considering
21 it, obviously, for 1108 purposes. Because it would
22 be very shocking to see pictures of -- anatomical
23 pictures and all that sort of thing.

24 So just from that standpoint, they've made
25 no -- show no basis. There's no foundation to admit
26 this as rebuttal, because there's -- they haven't
27 shown what they're rebutting under 1101(b). And

28 obviously, if they did that, the prejudice would be 12179

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1 so overwhelming, because it would go to the 1108 and
2 it shouldn't come in for that reason.

3 And as we said before, 1108 -- as the Court
4 is well aware, 1108 is a very delicate kind of an
5 issue. The jury is given tremendously prejudicial
6 evidence, that is, prejudicial in the sense that it
7 is propensity evidence, and that propensity
8 evidence -- under this weird law we have in

9 California that doesn't exist most other places,
10 propensity evidence is allowed to come in, but the
11 Court has to exercise discretion in limiting it, so
12 it doesn't overwhelm the trial. And the Court made
13 those rulings. And to bring this in at this point
14 and emphasize 1108 in rebuttal with something that
15 isn't even really 1108 evidence would be
16 tremendously prejudicial.

17 But when you get right down to it, the main
18 reason that it has to stay out is it violates
19 Crawford and the confrontation clause. It's not
20 admissible hearsay. It is testimonial directly
21 under Crawford. This is the kind of stuff that
22 Crawford is talking about, when police officers do
23 interviews, and they get information and they write
24 it down in reports, and then they preserve that and
25 the prosecution wants to bring it in, that violates
26 the confrontation clause. You cannot do that.

27 So you would have a violation of a federal

28 constitutional right were this allowed in, in any 12180

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1 event, and so the Court can start at either end.
2 Either just decide it on that and it's over, or you
3 look at the other end. It's not proper rebuttal,
4 because there was no evidence to rebut. And under
5 the Carter case, it's simply dramatic evidence that
6 would be overwhelming at the end of the trial and
7 really, in my opinion, and as we briefed, totally
8 meaningless. There is no probative value. But if
9 there was, by a stretch, it would be on a collateral
10 matter.

11 And so I think -- I feel very strongly about
12 this that this is absolutely inappropriate. And I
13 will submit it, Your Honor. Thank you.

14 THE COURT: Mr. Zonen?

15 MR. ZONEN: Just briefly with regards to
16 Crawford. This is not hearsay at all. It's not an
17 exception to hearsay. It's not hearsay.
18 The issue is whether or not this child had
19 knowledge of the existence of that particular spot.
20 And the evidence of his knowledge, certainly his
21 ability to draw that picture, would be
22 circumstantial evidence that he knew about it. It
23 would be the equivalent of a child being able to say
24 that a room was green. And he would only know that
25 if he had been in the room. It's not for the truth
26 of the matter that the room is green. We can show
27 that independently with the photograph as can we

28 show the spot with the photograph. But the fact 12181

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1 that a child would know that the room was green
2 would only be knowledge that the child would have
3 circumstantially because he was there or because
4 somebody told him.

5 In this particular case, it's the type of
6 information that was not commonly available at the
7 time, and circumstantially it would be relevant for
8 the fact that he must have seen that particular
9 spot, and therefore it's not testimonial. It's not
10 communication in that regard. It would not fit
11 within Crawford. It's simply not hearsay.

12 MR. SANGER: And if I may make just one
13 comment on that -- I know we shouldn't go back and
14 forth but --

15 THE COURT: I'd really like you not to do
16 that.

17 MR. SANGER: Very well, Your Honor.

18 THE COURT: I'm going to deny the request to
19 bring in the evidence of the blemished penis. This
20 is the reason: It's twofold, really. And under a
21 352 analysis, the Court agrees with the defense,
22 that shyness really was not an issue of any
23 proportion. I think you've reminded me -- I knew
24 there had been some statement somewhere in the trial
25 about shyness, but the -- I think you've reviewed
26 that with me, and I think I agree with -- my
27 recollection now has been refreshed to exactly what

28 that was. But I knew it was only a small thing to 12182

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1 start with, if anything. And you're saying it was
2 actually nothing.

3 But the analysis there would be, even if
4 shyness had been raised as an issue, the prejudicial
5 effect would far outweigh the probative value of the
6 shyness issue. And secondly, I think -- even though
7 your analysis is I think correct, I keep going
8 through it, but I think it is not hearsay. I still
9 think Crawford would apply to the ability to
10 cross-examine the boy -- or the -- you know, Mr.
11 Chandler. He's not a boy anymore -- on that issue,
12 and that's definitely not available, so that would
13 be my reasoning for excluding that evidence.

14 Was there anything else we needed to discuss
15 before we brought the jury in?

16 MR. ZONEN: Could we have just one moment?

17 MR. AUCHINCLOSS: Your Honor, we delivered
18 to the Court the only copy of the DVD of the -- oh,
19 that's already been delivered. Thank you.

20 THE COURT: The clerk has it. I've --

21 THE CLERK: Is it okay to release it?

22 THE COURT: Yes, I'll release it. I'm going
23 to release it to the District Attorney in accordance
24 with our agreement that he'll notify your associate
25 to work with him to --

26 MR. SANGER: Yes, certainly. And we'll need
27 a minute or two to get on the phone and arrange

28 that, if that's all right, Your Honor. 12183

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1 THE COURT: Yes.

2 MR. SANGER: Since you're there, there's one
3 housekeeping matter. And let me address that first.

4 Mr. Mesereau may have something.

5 Just one quick housekeeping matter. I

6 identified a phone record, for the record, at the

7 end of the day yesterday, and it was the last

8 exhibit marked for the defense, the number of which

9 is not directly in front of me.

10 Let me stand up, I'm sorry.

11 I talked to Mr. Sneddon, and when we offered

12 that exhibit, I just want the record to be clear, I

13 indicated that it was actually from the subpoenaed

14 materials. And I've clarified that with Mr. Sneddon

15 because I went back and checked. The same

16 information is in the subpoenaed materials. It's in

17 a different computer printout. This is from an

18 actual bill that Mr. Sneddon agrees to the

19 foundation.

20 Do we have the number, just so we're --

21 THE CLERK: 5108.

22 MR. SANGER: 5108. So the foundation is

23 taken care of, and I wanted to clarify that so there

24 wasn't any misrepresentation. And we'll address the

25 issue of the admissibility of that, and I think

26 we'll bring a witness to court to show the

27 relevance.

28 Thank you. 12184

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1 THE COURT: That's where we left it
2 yesterday. You're just clarifying where the
3 document came from.
4 MR. SANGER: Yes, sir.
5 THE COURT: All right. Is everybody ready
6 to bring in --
7 MR. SANGER: Well, I just need a couple
8 minutes. I've got to talk to Mr. Dunkle and find
9 out if he's --
10 THE COURT: All right. Would you --
11 MR. SANGER: Excuse me one second.
12 (Off-the-record discussion held at counsel
13 table.)
14 MR. SANGER: Oh, okay. The bailiff
15 indicated she called Mr. Dunkle for me and he will
16 be coming over, so I'll --
17 THE COURT: I'll give you a couple of
18 minutes to talk to him before we call the jury in.
19 Just do it as quickly as you can.
20 MR. SANGER: Yes. Yes, sir.
21 MR. NICOLA: Your Honor, there's one matter
22 that we might be able to take up. It's a subpoena
23 duces tecum for the Brad Miller telephone records.
24 It's premarked as Exhibit 448. It's been discovered
25 to Mr. Sanger. There's a certificate by the
26 custodian. We'd be offering that into evidence. I
27 don't know if the Court would like to look at that

28 now or when the jury comes in. 12185

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1 THE COURT: Does it have to do with your next
2 witness, or is this --

3 MR. NICOLA: We're going to be presenting
4 some more link charts. It will be brief telephone
5 testimony.

6 MR. SANGER: The only issue that I have with
7 that, I assume that it is from the correct source.
8 I did not know they were going to bring in Brad
9 Miller records today. I knew they were bringing in
10 Geragos records. I did not get -- bring over that
11 set of records. So if I could have just a moment on
12 that, when we have the break here, I'll take a look,
13 and I think it should be okay.

14 THE COURT: Okay.

15 MR. NICOLA: Thank you, Your Honor.

16 MR. ZONEN: Could we have a couple of
17 minutes before the jury is brought in?

18 THE COURT: Yes. I'm not going to call the
19 jury in until you tell me you're ready, but I'll ask
20 you to expedite it for me.

21 MR. ZONEN: We're going to make efforts to
22 contact the witnesses that they've requested for
23 tomorrow.

24 THE COURT: Okay.

25 (Recess taken.)

26 //

27 //

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

4

5 THE COURT: Good morning.

6 THE JURY: (In unison) Good morning.

7 THE COURT: Sorry for the delay, but it's

8 going to be a little bit this way as we get through

9 these rebuttal and perhaps surrebuttal issues.

10 Go ahead, Counsel.

11 MR. ZONEN: We'll call Gina Villegas to the

12 stand.

13 THE COURT: Please remain standing. Face the

14 clerk here and raise your right hand.

15

16 GINA VILLEGAS

17 Having been sworn, testified as follows:

18

19 THE WITNESS: Yes.

20 THE CLERK: Please be seated. State and

21 spell your name for the record.

22 THE WITNESS: My name's Gina Villegas. It's

23 G-i-n-a, V-i-l-l-e-g-a-s.

24 THE CLERK: Thank you.

25 MR. ZONEN: May I proceed?

26 THE COURT: Yes.

27 //

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1 DIRECT EXAMINATION

2 BY MR. ZONEN:

3 Q. Miss Villegas, good morning.

4 A. Good morning.

5 Q. What is your current occupation?

6 A. I am an office manager for Hollywood Ford.

7 Q. And what is Hollywood Ford?

8 A. Hollywood Ford is an automobile dealership.

9 Q. In Hollywood, I'm assuming?

10 A. Yes.

11 Q. And that's in Los Angeles County, correct?

12 A. Yes.

13 Q. And what is your position at Hollywood Ford?

14 A. I'm an office manager.

15 Q. What does that mean? What do you do?

16 A. I do payroll and I also do DMV for the

17 company.

18 Q. Are you familiar with the record systems

19 that they have at Hollywood Ford?

20 A. Yes.

21 Q. And you're familiar with how they keep

22 records of the purchases and sales of cars?

23 A. Yes.

24 Q. Were you asked to make a search of your

25 records at Hollywood Ford to determine whether or

26 not a car had been sold to a person by the name of

27 Janet Arvizo or Janet Ventura?

28 A. Yes. 12188

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1 Q. And for what period of time did you search?

2 A. I was told to search from 2002 to 2003, and
3 then I just took it upon myself to go back to 2000
4 to 2004, to make sure.

5 Q. So the earliest date you went to is what?

6 A. 2000. The year 2000.

7 Q. The year 2000?

8 A. Yes.

9 Q. Would that be January 2000?

10 A. Yes. The whole year of 2000, yes.

11 Q. Through 2004; is that correct?

12 A. Correct.

13 Q. Were you able to determine if Janet Arvizo
14 or Janet Ventura ever purchased a car from Hollywood
15 Ford?

16 A. She never did.

17 MR. ZONEN: Thank you. No further
18 questions.

19 THE COURT: Cross-examine?

20 MR. ZONEN: Oh, excuse me. If I could.

21 One -- one last question.

22 THE COURT: All right.

23 Q. BY MR. ZONEN: Were you able to determine
24 whether or not there had been other inquiries into
25 this exact matter, whether or not Janet Arvizo or
26 Janet Ventura had ever purchased a car?

27 MR. SANGER: Objection, Your Honor, that

28 would call for hearsay. 12189

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1 MR. ZONEN: I'll change the question.

2 THE COURT: Overruled.

3 Q. BY MR. ZONEN: Go ahead and answer.

4 A. If I checked if there was other ways?

5 Q. Were there other inquiries about this exact

6 matter, whether Janet Arvizo or Janet Ventura had

7 purchased a car?

8 A. I got paperwork in the mail from another

9 attorney asking to -- to look for those files.

10 Q. And was that an attorney for Michael

11 Jackson?

12 A. I'm assuming it was. I don't really --

13 I can't be for sure because I didn't even bother to

14 look. I just looked for the names, if it was on

15 there, and I called back the person to let them know

16 that I didn't find anything under those names.

17 MR. ZONEN: Thank you. No further

18 questions.

19 THE COURT: Cross-examine?

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

21

22 CROSS-EXAMINATION

23 BY MR. MESEREAU:

24 Q. Good morning.

25 A. Good morning.

26 Q. Miss Villegas, we haven't met. My name is

27 Thomas Mesereau and I speak for Mr. Jackson.

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1 Q. Were you asked by the prosecutors to do a
2 search?

3 A. Yes.

4 Q. And when did they ask you to do that search?

5 A. It was Thursday -- I got a phone call on
6 Tuesday from a Detective Alvarez. He didn't
7 personally ask for me, he just asked if he could
8 speak to somebody who could do a search under
9 certain people's names.

10 Q. Okay. Now, did he ask you to determine
11 whether or not a money order was ever presented to
12 Hollywood Ford by someone named Janet Ventura?

13 A. No, that he did not ask me.

14 Q. Do you know, as you speak today, whether or
15 not someone named Janet Ventura ever presented a
16 money order in the amount of \$23,000 and zero cents
17 to Hollywood Ford at any time?

18 A. No, we never got a check from --

19 Q. Did he ask you to determine if Janet Ventura
20 ever presented a money order drawn on Washington
21 Mutual Bank to Hollywood Ford between 2002 and 2003?

22 A. Did he ask me to check for the check?

23 Q. Yes. Yes.

24 A. No. No.

25 Q. Did you look to see what deposits were made
26 at Hollywood Ford during that period of time?

27 A. No. I didn't look for the deposits.

28 Q. Do you know whether or not a Janet Ventura 12191

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1 essentially laundered a money order through
2 Hollywood Ford during that period of time?

3 MR. ZONEN: Objection, that's argumentative,
4 Your Honor.

5 THE COURT: Sustained.

6 Q. BY MR. MESEREAU: Let me ask you this: If
7 someone goes to Washington Mutual Bank and says,
8 "Prepare a money order payable to the order of
9 Hollywood Ford for \$23,000 and zero cents," and
10 someone shows up at Hollywood Ford with that money
11 order, what is the normal procedure for handling it?

12 A. The normal procedure for handling it is
13 making a receipt for the cashier's check. And also
14 we reference it -- they're called stock numbers.
15 Every car is identified by a number. So we
16 reference the number on there and the receipt number
17 on there, so that if something should come back,
18 fraud or NSF or however, then we know what deal it
19 belongs to.

20 Q. Let me ask you this: What does Hollywood
21 sell besides automobiles?

22 A. They sell service to vehicles, and they sell
23 parts.

24 Q. Okay. Now, if someone came to Hollywood
25 Ford with a money order to the amount of \$23,000
26 dated November 9th, 2001, and wanted to purchase
27 parts with that money order, could they do so?

28 A. I assume so. I've never seen that amount of 12192

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1 money being purchased for parts, but --

2 Q. And if they purchased parts for less than

3 \$23,000, would they get change?

4 A. On a money order, no.

5 Q. What would the procedure be to handle that

6 money order?

7 A. The procedure would be, we would wait 15

8 days for that -- we treat it as a check. We would

9 wait 15 days for it to clear and then we would

10 create an account where we would refund you the

11 money back after the 15 days had cleared.

12 Q. Now, to your knowledge, as an office

13 manager, if someone were to go to Washington Mutual

14 Bank, have a money order prepared that's

15 nonnegotiable, written in the amount of \$23,000 and

16 zero cents, payable to the order of Hollywood Ford,

17 and it says on the money order, "Remitter, Janet

18 Ventura," and then changed their mind about

19 presenting that money to Hollywood Ford, what would

20 the procedure be, if you know, to get that money in

21 your pocket?

22 A. Well, if it was done all in the same day, if

23 we made the receipt and it was done in the same day,

24 we would void out the receipt and give it back to

25 you. But if we've already deposited also into our

26 account, then again, we would wait 15 working days

27 for the check to clear.

28 Like I said, everything is set up by a stock 12193

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1 number, so that money would be holding with that
2 stock number and that account number. And then
3 we -- if there was no deal, they would say, "Hey,
4 there's no deal," and we refund back the money.

5 Q. How would you refund back the money?

6 A. With a Hollywood Ford check.

7 Q. And did the prosecutors ever ask you to
8 check to see if a Hollywood Ford check was ever
9 presented to someone named Janet Ventura?

10 A. No.

11 Q. Did they ever ask you to check to see if a
12 Hollywood Ford check was ever given to Janet Ventura
13 designated to receive that money on her behalf?

14 A. No.

15 Q. Okay. What if you get a cashier's check in
16 the amount of \$23,000, zero cents, payable to
17 Hollywood Ford, drawn on Washington Mutual Bank for
18 \$23,000, will you allow someone to negotiate that
19 instrument?

20 A. Negotiate to get --

21 Q. Yeah. Can they use that to purchase
22 something?

23 A. Yes.

24 Q. And how hard would it be to purchase
25 something with a cashier's check?

26 A. Not hard. It would -- I mean, they would
27 just present it, and --

28 Q. Could you use it almost as you could any 12194

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1 other check?

2 A. Yes.

3 Q. Okay. And if you see a cashier's check like
4 that, \$23,000, paid to the order of Hollywood Ford,
5 it says, "Remitter, Janet Ventura," and someone
6 wants to purchase something with that check, what is
7 the procedure at Hollywood Ford for authenticating
8 the check or making sure it's valid?

9 A. The same as we would treat any other check.

10 We would just deposit the same way, I mean, or
11 whatever they're purchasing, whether it's a vehicle,
12 parts or service, deposit it the same way.

13 MR. MESEREAU: Okay. May I approach the
14 witness, Your Honor?

15 THE COURT: You may.

16 MR. MESEREAU: Your Honor, I have a document
17 I'd like to mark next in order. Oh, it's already
18 marked?

19 MR. ZONEN: May I see it, please?

20 MR. SANGER: Your Honor, I have Exhibit 5098
21 and we'd like to put that up, if we could, please.

22 Q. BY MR. MESEREAU: Miss Villegas, I want you
23 to look at that exhibit, if you can. It's a little
24 bit blurry. You may notice at the top, you see
25 "Washington Mutual Bank, Paid to the Order of
26 Hollywood Ford." Do you see that?

27 A. Yes.

28 Q. And you see to the right, the date is 12195

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1 November 19th, 2001. The amount's \$23,000, okay?

2 A. Okay.

3 Q. It says, "Balancing Copy Non-Negotiable."

4 See that to the right?

5 A. Yes.

6 Q. It says under that, "Remitter, Janet

7 Ventura." Do you see that?

8 A. Yes.

9 Q. Now, if someone comes to Hollywood Ford and

10 presents them with that check --

11 A. Uh-huh.

12 Q. -- what can they do with that check at

13 Hollywood Ford?

14 A. They can either use it to deposit, you know,

15 money for a car or pay cash for a car, if that's the

16 total amount. I've never seen service or parts meet

17 any kind of total like that, but, I mean, I guess if

18 they're going to buy tons of accessories, maybe I

19 guess it would be.

20 Q. Okay. Did you determine whether or not

21 someone named Janet Ventura had ever purchased

22 anything from Hollywood Ford during that period of

23 time?

24 A. Janet Ventura did not purchase anything.

25 Q. Purchase anything?

26 A. Right.

27 Q. And do you know if anyone ever was presented

28 with that check for any purpose? 12196

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1 A. No, I don't know. I mean, I wouldn't think
2 so, because on any type of -- on the top part of the
3 check, there would have been our account numbers,
4 our receipt numbers. Even if you purchase, you
5 know, service or parts, there would be a repair
6 order number, a counter ticket number. And we also
7 do ask for people's driver's license, because we do
8 get fraud copies of cashier's checks or personal
9 checks. So we ask for a lot of identification.

10 Q. Okay. So basically you don't know what this
11 person, Janet Ventura, ever did with this particular
12 document?

13 A. No, I do not.

14 Q. You don't know why she had it drawn paid to
15 the order of Hollywood Ford?

16 MR. ZONEN: I'll object as irrelevant. I'll
17 object as irrelevant, beyond the witness's scope of
18 understanding.

19 MR. MESEREAU: That's what I'm trying to
20 determine, Your Honor.

21 MR. ZONEN: Lack of foundation.

22 THE COURT: You may answer.

23 THE WITNESS: Okay. I'm sorry, could you
24 repeat the question?

25 MR. MESEREAU: Yeah, sure. Let me withdraw
26 the question and repeat it.

27 Q. As you sit here today, you don't know

28 whatever happened to that document, correct? 12197

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1 A. No, I do not.

2 Q. And if Janet Ventura withdrew \$23,000 in
3 this form of a document from an account for the
4 benefit of her son, Gavin Arvizo, who was ill, you
5 don't know what she did with it?

6 MR. ZONEN: Your Honor, I'm going to object
7 as argumentative and beyond the scope of this
8 witness's knowledge.

9 THE COURT: Sustained.

10 Q. BY MR. MESEREAU: Now, let me refer you to
11 the document on the bottom, okay?

12 A. Okay.

13 Q. You may notice that the instrument on the
14 top says, "Remitter, Janet Ventura," the one on the
15 bottom has the name Janet Arvizo. Do you see that?

16 A. Yes, I do.

17 Q. And you see it says, "Payable to Hollywood
18 Ford"?

19 A. Correct.

20 Q. It's on Washington Mutual. Looks like a
21 receipt, okay?

22 A. Uh-huh.

23 Q. That's not something that you can find in
24 any of your records, correct?

25 A. No. Those are deposit or withdrawal slips
26 from Washington Mutual.

27 Q. Yeah. Okay.

28 A. So I wouldn't have that. 12198

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1 Q. Wouldn't have that at all?

2 A. No.

3 Q. Now, did anyone from the prosecution ask you

4 to check your records to see if the name Janet

5 Ventura came up anywhere?

6 A. In vehicle sales --

7 Q. Yeah. No vehicle sales.

8 A. No vehicle sales for Janet Ventura.

9 Q. Okay. And none for Janet Arvizo?

10 A. And none for Janet Arvizo either.

11 Q. So I guess it would be safe to say that

12 whatever was done with that check, you don't know

13 what happened to it?

14 A. Hollywood Ford --

15 MR. ZONEN: Object as speculative.

16 THE COURT: Sustained.

17 Q. BY MR. MESEREAU: And if whoever Janet

18 Ventura is, or Janet Arvizo, took that and endorsed

19 it and deposited it into some other account, that's

20 nothing you'd know about?

21 A. No.

22 MR. ZONEN: Objection. Asked and answered

23 and speculative.

24 Q. BY MR. MESEREAU: Did your records --

25 THE COURT: Overruled. You need to wait.

26 MR. MESEREAU: I'm sorry.

27 THE COURT: The answer is, "No." Next

28 question. 12199

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1 Q. BY MR. MESEREAU: Did your records indicate
2 whether a Janet Ventura had ever even been to
3 Hollywood Ford during these particular years?

4 A. I mean, if she came off the street to
5 inquire about a vehicle?

6 Q. Yes.

7 A. No, I'm sorry, I wouldn't know that. Just
8 the sale itself I would know.

9 Q. Okay. Now, at your business, if someone
10 comes in off the street, claims they're interested
11 in buying a vehicle or parts, is there any procedure
12 for keeping their name and address in a marketing
13 file, or a public relations file, or a file where
14 you would send promotional brochures, that kind of
15 thing?

16 A. Not for the accounting office purposes. But
17 for the salesman, I mean, he could keep her name to
18 contact her later to see if she's interested.

19 Q. Okay.

20 A. I've seen that happen.

21 Q. Now, would the individual salesperson be
22 responsible for that particular account information
23 or would the actual store keep the information?

24 A. Information, her personal information, like
25 an inquiry type of thing?

26 Q. Yes.

27 A. The salesman would have that.

28 Q. So basically, these are salespeople on 12200

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1 commission; is that the idea?

2 A. Yes.

3 Q. Okay. So they're responsible for their own
4 marketing files, their own index of potential
5 customers or clients?

6 A. Correct.

7 Q. The company itself wouldn't keep that
8 information?

9 A. No. Only the actual sale.

10 Q. And would the salesperson put that
11 information into a computer owned by the company, do
12 you know?

13 A. We're manual, we don't go off of computers.

14 Everything we have is manual.

15 Q. Now, what other -- let me rephrase that.

16 Specifically what was the task you were
17 asked to do by the prosecution?

18 A. The task I was asked to do was to look for
19 either a Janet Arvizo or Janet Ventura to see if she
20 had purchased a vehicle between the years 2002 and
21 2003.

22 Q. Now, if you wanted to find out whether or
23 not the company had any other information on Janet
24 Ventura, what other files could you have checked?

25 A. Um, as for sales or service, there wouldn't
26 really be anything I could check for that. I would
27 have to -- like I said, the reference on the check

28 would have a counter ticket number, which are all 12201

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1 filed numerically, and I can go back and look at
2 that.

3 Q. Okay. Okay. And is there any other source
4 of information on potential customers, clients,
5 whatever, that could possibly have any information
6 on Janet Ventura that you didn't check?

7 A. Just the service and the parts. I mean,
8 like I said, if that money was used for service or
9 parts, that would be the only thing.

10 Q. Okay.

11 A. The reference number would have to be there.

12 Q. Okay. All right. Now, were you asked to
13 check the name Janet Arvizo?

14 A. Yes.

15 Q. And nothing showed up for her either?

16 A. Nothing came up for her either.

17 Q. Okay. Let's see, did you check the name
18 Gavin Arvizo?

19 A. No, I just looked for "Arvizo." I didn't
20 have any Arvizos.

21 Q. And no Venturas either?

22 A. And no Ventura either.

23 Q. Okay. So we really don't know what happened
24 with that?

25 A. No, I do not.

26 MR. MESEREAU: Okay. Thank you very much.

27 MR. ZONEN: Happened with what? Objection;

1 THE COURT: Sustained.

2 Q. BY MR. MESEREAU: We don't know what really
3 happened to this \$23,000 that apparently a Janet
4 Ventura had paid to the order of Hollywood Ford,
5 really?

6 A. As for car sales, no.

7 MR. ZONEN: That's a misstatement of
8 evidence. Objection. And argumentative and
9 speculative.

10 THE COURT: Sustained.

11 MR. MESEREAU: Okay. No further questions.

12

13 REDIRECT EXAMINATION

14 BY MR. ZONEN:

15 Q. Is Hollywood Ford a check cashing service?

16 A. No.

17 Q. If I walk in there with a \$23,000 check and
18 tell you, "I'm not particularly interested in a Ford
19 product, but I have a check to cash," would they
20 cash it?

21 A. No.

22 Q. All right. Did you determine whether or not
23 any checks had been cashed on behalf of Janet
24 Arvizo?

25 A. I didn't look in the deposit books to see
26 anything like that.

27 Q. All right. But you would have records if a

28 check was cashed in conjunction with a purchase of a 12203

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1 car?

2 A. Right.

3 Q. There would be no other reason that somebody

4 would be cashing a check of that size?

5 A. No.

6 Q. If I walked in and said, "I'd like to buy a

7 \$20 sun visor and I'd like to pay for it with a

8 \$23,000 cashier's check," they might balk at that;

9 no?

10 A. I'm sorry?

11 Q. They might be resistant to selling me a

12 \$23,000 sun visor -- or excuse me, a \$20 sun

13 visor --

14 A. For 23,000 --

15 Q. -- with a \$23,000 check --

16 A. No.

17 Q. No?

18 A. Right.

19 Q. There was no record at all of a purchase of

20 a car by Janet Arvizo, a Janet Ventura?

21 A. No.

22 Q. And this information was given to the

23 defense in advance; is that right?

24 A. Yes.

25 MR. ZONEN: Thank you. No further

26 questions.

27 //

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1 REDIRECT EXAMINATION

2 BY MR. MESEREAU:

3 Q. Excuse me, what information was given to
4 the defense in advance?

5 A. About not purchasing -- Janet Ventura or
6 Janet Arvizo not purchasing a vehicle.

7 Q. Okay. But you didn't tell the defense what
8 Janet did with that money, correct?

9 MR. ZONEN: Objection; argumentative.

10 THE COURT: Sustained.

11 Q. BY MR. MESEREAU: You certainly -- the
12 prosecutor asked a question about providing
13 information to the defense. You couldn't provide
14 the defense any information whatever happened to
15 this money, right? You don't have that knowledge?

16 A. I don't have a car sale --

17 MR. ZONEN: I'll object --

18 THE WITNESS: I don't have a car sale for
19 that name.

20 Q. BY MR. MESEREAU: Yes, okay. The only
21 information you gave to the defense was that it
22 didn't look like a car was purchased, but what the
23 person did with that money is beyond your knowledge?

24 MR. ZONEN: I'll object as argumentative.

25 THE COURT: Sustained.

26 MR. MESEREAU: No further questions.

27 MR. ZONEN: No further questions.

28 THE BAILIFF: It's break time. 12205

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1 THE COURT: You may step down.

2 We'll take our break.

3 (Recess taken.)

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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE)

5 OF CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 12165 through 12206

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 26, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 May 26, 2005.

24

25

26

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

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

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

13

14

15

16

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 THURSDAY, MAY 26, 2005

20

21 8:40 A.M.

22

23 (PAGES 12208 THROUGH 12374)

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26

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

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1 APPEARANCES OF COUNSEL:

2

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19

20

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1 I N D E X

2

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

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

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

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

7

8 R E B U T T A L

9

10 PLAINTIFF'S VOIR WITNESSES DIRECT CROSS REDIRECT RECROSS DIRE

11

12 AGGERS, Donna 12213-Z 12217-SA 12228-Z 12229-SA

13 12230-Z

14 (Further)

15 ERWIN, George 12231-SN 12245-SA 12263-SN

16 MARQUEZ,

17 Theresa 12271-Z 12274-SA

18 DICKERMAN, William 12278-Z 12294-M 12325-Z 12329-M

19 CAUSER,

20 Christine 12335-SN 12337-M

21 VENTURA, Maria 12342-Z

22 (Re-called)

23 BONNER, Craig 12347-N 12362-SA

24 (Re-called) 12359-SN

25 (Contd.)

26

27

28 12210

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1 E X H I B I T S

2 FOR IN

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

3

4 157 Photo of view of electronic device under

5 the table on the bottom floor of Jackson's

6 master bedroom suite 12361 12363

7 159 Photo of close-up view of latch at top of door

8 within Jackson's master bedroom suite 12361 12363

9 160 Photo of close-up view

10 of ceiling electronic video device within

11 Jackson's master bedroom suite 12361 12363

12 447 Affidavit of custodian of

13 records for Exhibit No. 448 12348

14 448 Brad Miller phone records

15 for Pay Less Cellular 12346 12346

16 449 Mark Geragos phone records 12348 12350

17 460 Phone link chart prepared by Craig Bonner 12350

18 901 Brad Miller e-mails to

19 Geragos 12333 12333

20 903 Copies of documents from William Dickerman's office

21 containing communications between Dickerman and

22 Geragos 12278 12294

23 904 Copy of records from Dino's Moving & Storage 12233 12235

24 905 Copy of inventory made by

25 George Erwin 12241 12256

26 906 8-28-98 - Janet Arvizo's Kaiser Permanente

27 medical records 12272 12272

28 12211

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1 E X H I B I T S (Continued)

2 FOR IN DEFENDANT'S NO. DESCRIPTION I.D. EVID.

3

4 5109 West Covina Police Department records for

5 David Arvizo 12217 12220

6 5110 West Covina Police Department records for

7 Janet Arvizo 12217 12220

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1 THE COURT: Call your next witness.

2 Please remain standing. Face the clerk and

3 raise your right hand.

4

5 DONNA AGGERS

6 Having been sworn, testified as follows:

7

8 THE WITNESS: Yes.

9 THE CLERK: Please be seated. State and

10 spell your name for the record.

11 THE WITNESS: My name is Donna Aggers.

12 D-o-n-n-a, A-g-g-e-r-s.

13 THE CLERK: Thank you.

14

15 DIRECT EXAMINATION

16 BY MR. ZONEN:

17 Q. Good morning.

18 A. Good morning.

19 Q. What is your current occupation?

20 A. Records supervisor at the West Covina Police

21 Department.

22 Q. How long have you held that position?

23 BAILIFF CORTEZ: Your microphone's not on.

24 Q. BY MR. ZONEN: For what period of time have

25 you held that position, records supervisor?

26 A. West Covina, since August.

27 Q. And this is the West Covina Police

28 Department; is that correct? 12213

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1 A. Yes.

2 Q. West Covina is located in Los Angeles

3 County?

4 A. Yes.

5 Q. Were you asked to do a records check to

6 determine the time, release time, on a person who

7 had been taken into custody at West Covina City

8 Jail?

9 A. Yes.

10 Q. Was that person David Gavino Arvizo?

11 A. Yes.

12 Q. Do you have those records with you?

13 A. Yes.

14 Q. All right. And is this an arrest that

15 occurred on or about the 28th of August of 1998?

16 A. Yes.

17 Q. All right. Can you tell me when that person

18 was booked into the jail and when he was released?

19 A. He was arrested at 1813 hours, booked in the

20 jail at 2145 hours, and released on that same

21 evening at three minutes after midnight.

22 Q. So three minutes after midnight on the 28th?

23 A. On the 28th.

24 Q. So he was brought in on the 27th?

25 A. 27th, right.

26 Q. And released three minutes after midnight on

27 the 28th?

1 MR. ZONEN: Thank you. I have no further
2 questions.

3 MR. SANGER: Excuse me one second. There
4 was a change in the order of witnesses. I
5 apologize.

6 Miss Frey, do you have the West Covina
7 records? They were the ones that Steve Dunkle came
8 over and looked at and got a copy of yesterday.

9 Perhaps we should hand it to the Judge
10 first.

11 Your Honor, I was going to ask that -- there
12 were records that were subpoenaed from the West
13 Covina Police Department by the defense, and I
14 believe they were --

15 THE COURT: There's a return.

16 MR. SANGER: -- handed to you there by the
17 clerk.

18 THE COURT: Yes.

19 MR. SANGER: And I would like to have those
20 records marked as defense next in order.

21 THE COURT: Did you want me to open them?

22 I'm not quite sure why you handed me --

23 MR. SANGER: Yes, well, in case there was
24 any question. I would like them opened. I believe
25 they were opened previously.

26 THE COURT: They do not appear to have been
27 previously opened.

28 MR. SANGER: All right. Maybe that's a 12215

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1 different set. So let's live dangerously and find
2 out what's in the envelope if we may, Your Honor.

3 THE COURT: All right. They appear to be
4 West Covina City Jail booking records with the
5 appropriate subpoena attached and the declaration of
6 business records.

7 MR. SANGER: All right. May I approach and
8 check that out?

9 THE COURT: I'll let you decide how you want
10 them marked.

11 MR. SANGER: Please. Before they're all
12 stapled together, there might be two groups. Let me
13 take a quick look, if I may. Thank you.
14 I think the most appropriate thing to do,
15 Your Honor, now that I look at them, there appears
16 to be, in the materials handed to counsel, the
17 subpoena and then the declaration, and then there
18 appears to be a set of records pertaining to Janet
19 Arvizo and another set pertaining to David.
20 I would be interested in marking as separate
21 exhibits the set pertaining to Janet and the other
22 set pertaining to David, and then it would be up to
23 the Court and counsel as to what should be done with
24 the other documents. I don't think they're
25 relevant, except for foundation.

26 THE COURT: All right. I'll have them
27 marked separately as you've requested.

28 MR. SANGER: And then the other documents 12216

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1 would be lodged with the envelope and would remain
2 with the court files.

3 THE COURT: That would be fine.

4 THE CLERK: David's records are 5109 and
5 Janet's records are 5110.

6

7 CROSS-EXAMINATION

8 BY MR. SANGER:

9 Q. Okay. Miss Aggers, sorry to keep you
10 sitting there?

11 A. That's okay.

12 Q. I see you brought some papers with you.

13 Is that a copy of the same thing that was provided
14 directly to the Court?

15 A. Yes.

16 Q. All right. And you have reviewed the
17 records to testify to what you told us just a little
18 while ago; is that correct?

19 A. Yes.

20 Q. In other words, you wouldn't remember off
21 the top of your head everybody's booking
22 information?

23 A. No.

24 MR. SANGER: All right. I would like to
25 approach, if I may, Your Honor, with 5110, and show
26 the witness this packet of information.

27 THE COURT: You may.

28 MR. SANGER: That's the -- Janet. 12217

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1 MR. ZONEN: Yes, go ahead.

2 Q. BY MR. SANGER: Did you have occasion to
3 review the information pertaining to Janet Arvizo?

4 A. Briefly, when I sent this to the court.

5 Q. All right. So you were the actual person
6 that sent this in, then?

7 A. That's correct.

8 Q. Okay. And those records are, in fact, true
9 and correct records of the West Covina City Jail?

10 A. Yes.

11 Q. And they're kept in the ordinary course of
12 business as official police records; is that
13 correct?

14 A. Yes.

15 Q. And similarly, the records that you provided
16 with regard to David Arvizo, which I've marked as
17 5109, would also be true and correct records of the
18 West Covina City Jail, and they are official police
19 records; is that correct?

20 A. Yes.

21 Q. Kept in the ordinary course of business?

22 A. Yes.

23 Q. All right. So let's take a look at 5109.

24 And I'm going to ask if you can tell, by looking at
25 that packet, when Janet Arvizo was booked into the
26 West Covina City Jail.

27 A. 5110? 5109?

28 Q. I'm sorry, you're right. 5110, I'm sorry. 12218

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1 Let me restate it, just so we're clear.

2 Taking a look at 5110, Exhibit 5-1-1-0, can
3 you tell from those records when Janet Arvizo was
4 booked into the West Covina City Jail?

5 A. Yes.

6 Q. And when was that?

7 A. She was arrested at 1800 hours. And she was
8 booked in the jail at 1948 hours.

9 Q. Okay. And is there a different place to
10 book in females than males in that jail?

11 A. It's the same place.

12 Q. Same place. So you go into the booking area
13 and people are processed as they go through; is that
14 right?

15 A. Right.

16 Q. So it appears that Janet Arvizo was booked
17 into the jail before David Arvizo; is that correct?

18 A. That's correct.

19 Q. And what time does it show she was released?

20 A. At 2115 hours.

21 Q. So she was released before David Arvizo; is
22 that correct?

23 A. Yes. Yes.

24 MR. SANGER: All right. Now, may I approach
25 just to make sure we're literally on the same page,
26 here?

27 THE COURT: Yes.

28 MR. SANGER: They have this in a different 12219

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1 order for some reason. Excuse me one second, Your
2 Honor.

3 Okay. First of all, Your Honor, I'd like to
4 move into evidence 5109 and 5110 if I can, please.

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

6 MR. SANGER: And I think the easiest way to
7 do this, because we have different pagination here,
8 would be to put this up on the board, if I may, and
9 so I'd ask to show 5110, if that's all right.

10 THE COURT: Yes.

11 Q. BY MR. SANGER: First of all, in these
12 records with regard to Janet Arvizo, is there any
13 indication that Janet Arvizo was beaten up?

14 A. I didn't see any indication of that.

15 Q. Okay. And I'm going to turn to -- two,
16 three, four, five, six, seven -- I'm going to turn
17 to page seven and put that up, with the Court's
18 permission.

19 THE COURT: Yes.

20 Q. BY MR. SANGER: And again, this is of 5110.

21 Excuse me.

22 This form, are you familiar with this
23 particular form?

24 A. Yes.

25 Q. How many years have you worked for West
26 Covina?

27 A. This is my first year with West Covina.

28 Q. Have you worked elsewhere? 12220

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1 A. Yes.

2 Q. During your year, have you become familiar
3 with these forms at the West Covina Jail?

4 A. Yes.

5 Q. Okay. And is that one of the standard
6 forms?

7 A. Yes, it is.

8 Q. And it says, "County of Los Angeles
9 Sheriff's Department." Does West Covina have a
10 independent -- an independent police department, or
11 is it part of the sheriff --

12 A. Independent police department.

13 Q. And is the jail facility run by the sheriff
14 or the police?

15 A. Police department.

16 Q. Okay. So for some reason you're using an
17 L.A. County Sheriff's Department Medical Receiving
18 Screening Form; is that correct?

19 A. Yes.

20 Q. And that's something you use in the ordinary
21 course of business there, right?

22 A. Right.

23 Q. And what is the purpose of this particular
24 form?

25 A. Basically to screen the incoming
26 in-custodies to make sure there are no medical
27 problems that you need to be aware of.

28 Q. Can you go a little closer to the right 12221

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1 microphone there? Everyone has this problem,
2 especially when we ask you to turn around. Sorry.
3 All right. So, you want to find out if an
4 inmate comes in and they're suffering from any kind
5 of injury; is that right?

6 A. That's correct.

7 Q. Because you want to make sure that they
8 either have medical attention or something happens
9 so they're not just put in the jail and have a
10 further problem, right?

11 A. Right.

12 Q. If somebody was severely beaten, for
13 instance, you would want to know that when you book
14 them in, correct?

15 A. Correct.

16 Q. The first question on this form is, "Do you
17 require any medical attention?" And in Janet
18 Arvizo's case, it's checked "No"; is that correct?

19 A. That's correct.

20 Q. And then at the bottom of this form, there
21 is a place there for "Inmate Signature"; is that
22 correct?

23 A. Yes.

24 Q. And I know you're not a handwriting expert,
25 but you would expect that the inmate, in this case
26 Janet Arvizo, is the one that signed there; is that
27 right?

28 A. That's correct. 12222

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1 Q. And before somebody's booked into the jail,
2 unless they're unconscious or something else is
3 going on, they're required to sign this form in the
4 presence of an officer; is that right?

5 A. That's right.

6 Q. Okay. Now, if we look at the page preceding
7 that, there's a form here entitled, "Officer's
8 observations"; is that correct?

9 A. Yes.

10 Q. And is this also a form that's used in the
11 ordinary course of business there at the West Covina
12 City Jail?

13 A. Yes, it is.

14 Q. And what is the purpose of this form?

15 A. The same as the previous form. It's just
16 more in-depth, to see if there's any observation
17 that the jailer or officer would have indicating
18 injuries.

19 Q. And who is the one that actually fills out
20 this form?

21 A. The jailer.

22 Q. Okay. And the jailer is somebody whose job
23 it is to take people in and process them into the
24 jail; is that correct?

25 A. That's correct.

26 Q. So when you have somebody -- when you say
27 "jailer," you have a booking officer who's assigned

28 to take people in, fill out their paperwork, 12223

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1 correct?

2 A. Right.

3 Q. And that person is also supposed to observe
4 the individual to see if they have any visible signs
5 of injury, correct?

6 A. That's correct.

7 Q. And they look not only for actual injury,
8 but they look for symptoms of drug withdrawal,
9 mental illness issues, other issues; is that
10 correct?

11 A. That's correct.

12 Q. And once again, they are concerned to make
13 sure that they're not checking somebody in who has
14 injuries that may not be readily visible; is that
15 right?

16 A. That's right.

17 Q. All right. In this -- in this particular
18 case, it says, "Deputy Completing the Form," and
19 there's a deputy's name there; is that right?

20 A. Yes.

21 Q. With a badge number or employee number?

22 A. Yes.

23 Q. And that would be -- that would indicate
24 that that individual, whoever it is, did that
25 screening when Janet Arvizo came into the jail,
26 correct?

27 A. That's correct.

28 Q. And it says the form is "Approved By" -- it 12224

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1 looks like a doctor down there. Does that mean the
2 doctor actually conducted an examination of the
3 person?

4 A. I don't believe so.

5 Q. All right. So the doctor signs off in
6 general, saying that, you know, he's looked at the
7 form and it looks okay, and this -- as he goes
8 through this night's paperwork, it looks okay; is
9 that right?

10 A. Yes.

11 Q. And in this particular case for Janet
12 Arvizo, there is a "No" checked in each of the
13 categories on the form; is that right?

14 A. That's correct.

15 Q. And the way it works there, if you have a
16 "No" in every category, that means that the person
17 doing the actual booking has not seen any indication
18 that there's anything physically wrong with the
19 person or anything that would require medical or
20 psychiatric attention at that time; is that correct?

21 A. That's correct.

22 MR. SANGER: If you could leave it on for
23 just one second.

24 Q. All right. And then there are also other
25 questions -- and I'm going to turn to another page
26 in just a second. But there are other questions
27 that are asked to evaluate a person's mental

28 level -- let me withdraw that. 12225

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1 There are other questions that are asked to
2 determine a person's level of mental functioning; is
3 that correct?

4 A. That's correct.

5 Q. So you want to see if you have someone who's
6 developmentally disabled who may, you know, not
7 really be understanding what's going on; is that
8 right?

9 A. That's correct.

10 Q. And again, in this case, it appeared that
11 Miss Arvizo was, according to the records, was
12 functioning at an appropriate level; is that
13 correct?

14 A. Yes.

15 Q. Then there's a property inventory showing
16 what property was on the person's -- on the person
17 of the individual who was being booked into jail; is
18 that correct?

19 A. That's correct.

20 Q. All right. Now, is there also a process for
21 obtaining a booking photo?

22 And just as the lights go on, that's what
23 I'm going to put up. Anyway, if I may, Your Honor,
24 I'm going to put up the booking photo.

25 Is there a process for obtaining a booking
26 photo?

27 A. Do you mean during the booking process?

28 Q. Yes. 12226

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1 A. It's just done during the course of the
2 booking.

3 Q. Yes. Okay. So during the booking, you take
4 a photograph of the individual, correct?

5 A. Right.

6 Q. And in this case there is a photograph as
7 part of the records, here, of the West Covina City
8 Jail, correct?

9 A. That's correct.

10 Q. And if there were particular -- let me
11 withdraw that.

12 If you had an individual who had -- well,
13 let me withdraw that and just put this up. This is
14 the last page of the exhibit.

15 Is that a true and correct copy of the
16 booking photo that was taken at the time that Miss
17 Arvizo was arrested?

18 A. Yes, it is.

19 Q. And by the way, both Mr. and Mrs. Arvizo,
20 both Janet and David Arvizo, show as their residence
21 address 12643 Ramer in El Monte; is that correct?

22 A. I don't have her copy in front of me, but
23 his address shows that.

24 Q. All right. Let me show you this. And I'll
25 just put it up on the board, if I may.

26 A. Yes, it shows the same address.

27 MR. SANGER: Excuse me one second. I think

28 somebody was trying to get my attention. 12227

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1 (Discussion held off the record at counsel
2 table.)

3 MR. SANGER: Okay. And, Your Honor, I think
4 I offered both and they were received; is that
5 correct?

6 THE COURT: That's correct.

7 MR. SANGER: So I have no further questions.

8 Thank you.

9 THE COURT: Are there Social Security numbers
10 on that?

11 MR. ZONEN: We'll take a look at it. If
12 there are, we'll delete it.

13 MR. NICOLA: There are; halfway down on the
14 left.

15 MR. SANGER: Oh, there is. Hard to read. I
16 apologize, I put it up. I don't know if I got that
17 whole thing up there.

18

19 REDIRECT EXAMINATION

20 BY MR. ZONEN:

21 Q. Do you know if Miss Arvizo was actually put
22 into a jail cell?

23 A. I don't know that.

24 Q. If somebody is arrested and kept for less
25 than two hours on a misdemeanor, where are they
26 processed?

27 A. They may be placed in a cell temporarily.

28 Q. Okay. Is there a reception center that they 12228

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1 would be taken to?

2 A. There is.

3 Q. So they wouldn't go through the whole
4 process of actually changing clothes into the jail
5 garb, would they?

6 A. Not for a misdemeanor.

7 Q. Not for a misdemeanor.

8 And do you know if she was released on O.R.,
9 own recognizance, or she posted bail of any kind?

10 MR. SANGER: Objection; relevance.

11 I'm sorry. Objection; relevance.

12 THE COURT: Sustained.

13 Q. BY MR. ZONEN: This appears to be a fairly
14 prompt processing of an inmate; would that be your
15 opinion?

16 A. It would be.

17 MR. ZONEN: All right. I have no further
18 questions.

19 MR. SANGER: I have just one question, I
20 think, just to clear this up.

21

22 RE-CROSS-EXAMINATION

23 BY MR. SANGER:

24 Q. You said they are booked on misdemeanors; is
25 that right?

26 A. Yes.

27 Q. And a misdemeanor is a crime?

28 A. Yes. 12229

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1 Q. It's not like a traffic violation. It's an
2 actual crime in California; is that correct?

3 A. That's correct.

4 MR. SANGER: All right. Thank you.

5

6 FURTHER REDIRECT EXAMINATION

7 BY MR. ZONEN:

8 Q. I'll reask the question. Was she released
9 on O.R. or did she post a bond?

10 MR. SANGER: Objection; relevancy.

11 MR. ZONEN: It's relevant given the last
12 question.

13 THE COURT: Sustained.

14 MR. ZONEN: No further questions.

15 MR. SANGER: And obviously no further
16 questions.

17 THE COURT: You may step down.

18 Call your next witness.

19 MR. SNEDDON: I'll call George Erwin.

20 THE COURT: Come forward, please. When you
21 get to the witness stand here, remain standing.

22 Face the clerk over here and raise your
23 right hand.

24

25 GEORGE ERWIN

26 Having been sworn, testified as follows:

27

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1 THE CLERK: Please be seated. State and
2 spell your name for the record.

3 THE WITNESS: My name is George Erwin.

4 G-e-o-r-g-e, E-r-w-i-n.

5 THE CLERK: Thank you.

6

7 DIRECT EXAMINATION

8 BY MR. SNEDDON:

9 Q. Good morning, Mr. Erwin.

10 A. Good morning.

11 Q. And the microphone that you want to use is
12 the one over there. Yes, sir. And lean into it,
13 because we'll want everybody to hear what you have
14 to say.

15 You have a business in the Los Angeles area,
16 correct?

17 A. That's correct.

18 Q. And what is the name of that business?

19 A. It's Dino's Moving & Storage.

20 Q. And how long have you been associated with
21 Dino's Moving & Storage?

22 A. Oh, 25, 30 years.

23 Q. It's a family business?

24 A. It's a family business.

25 Q. Passed on to you and your brother?

26 A. Correct.

27 Q. And where is this? Give you a little free

28 advertising. Where is it located? 12231

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1 A. It's in North Hollywood.

2 Q. So could you give us a brief description of
3 what the nature of this moving and storage business
4 is that you have?

5 A. We are a third-generation family business,
6 referral-based, residentially oriented. We move
7 homes, and store as incidental to moving. We do
8 packing and relocating of homes.

9 Q. And when you are asked to store items, do
10 you have a storage facility that you use to do that?

11 A. Yes, we do.

12 Q. Is that located at your headquarters?

13 A. Yes, it is.

14 Q. And could you just describe generally to the
15 ladies and gentlemen of the jury what your storage
16 facilities are?

17 A. Our storage facility is a 12,500-square-foot
18 concrete tilt-up warehouse. It's a state-of-the-art
19 building. It is high security; motion detectors;
20 wired into the police and the fire department.

21 Inside the warehouse, we have hundreds of
22 vaults. Vaults are large wooden cubes approximately
23 five feet by seven feet by eight feet tall. They
24 stack three high. We have approximately 330 vaults
25 in the warehouse.

26 Q. Okay. Now, were you asked to come to court
27 here today and to bring some records in connection

28 with the storage of some items under the name of an 12232

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1 individual by the name of Bradley Miller?

2 A. Yes, I was.

3 Q. And did you bring your file?

4 A. Yes, I did.

5 Q. And you have the original documents in the

6 file; is that correct?

7 A. I do.

8 MR. SNEDDON: Okay. Your Honor, may I

9 approach?

10 THE COURT: Yes.

11 MR. SNEDDON: I'm just going to show them to

12 counsel.

13 MR. SANGER: I don't want to interfere with

14 counsel, but would it be appropriate for me to look

15 at them at the same time?

16 MR. SNEDDON: I was going to bring them to

17 you.

18 MR. SANGER: Oh. Then that's even better.

19 If I could have just a moment, Your Honor.

20 May I just have a second?

21 (Off-the-record discussion held at counsel

22 table.)

23 MR. SNEDDON: All right. Your Honor, with

24 the permission of counsel, I believe that -- let me

25 ask the witness for foundation, and then we'll just

26 make the offer.

27 Your Honor, I'm going to have a set of

28 documents marked as People's No. 904 for 12233

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1 identification purposes. Where shall I put it?

2 Q. Mr. Erwin, you were kind enough to bring
3 your original documents on the Bradley Miller file
4 to the court, correct?

5 A. That's correct.

6 Q. You also made copies of the originals that
7 are in your file, correct?

8 A. That's correct.

9 Q. And have you had a chance to compare the
10 copies that you made with the originals in your
11 file?

12 A. Yes, I have.

13 Q. And they're accurate with regard to the --
14 they're accurate with regard to the originals.
15 They're duplications of it, correct?

16 A. Yes, they are.

17 MR. SNEDDON: Your Honor, I would move --

18 Q. And these are kept in the normal course of
19 business at your establishment?

20 A. Yes.

21 Q. And they're prepared at or about the time of
22 the transaction?

23 A. Correct.

24 Q. And they're used in the conduction of
25 business for you; is that correct?

26 A. That's correct.

27 MR. SNEDDON: Your Honor, I would move that

28 Exhibit 904 be admitted. And we used the copies and 12234

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1 we'll allow the witness to take the originals back
2 to his office.

3 MR. SANGER: With the exception of the word
4 "conduction," I would not have an objection.

5 THE COURT: They're admitted.

6 And the agreement is you may take the
7 originals back.

8 MR. SANGER: I would like the witness to
9 keep the originals there until I finish
10 cross-examination.

11 THE COURT: Exactly.

12 Q. BY MR. SNEDDON: I'll try not to use any
13 more bad grammar in my questions to you.

14 All right. Your Honor, is the Elmo on the
15 right -- it should be, I think.

16 Mr. Erwin, I'm going to put these documents
17 up and just ask you a few quick questions about it,
18 all right?

19 A. All right.

20 Q. And you have the originals in front of you,
21 so if you need to look at them, but I think you
22 should be able to see from the board.

23 The first document I'm going to place up has
24 the actual tag "904" on it.

25 Now, with regard to this document, does this
26 document have a title?

27 A. Yes. This is a bill of lading.

28 Q. And what purpose does it serve? 12235

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1 A. It serves as a -- an accounting of where
2 we -- of origin and destination, and a time ruler
3 across the top for the time of arrival, time at a
4 location, transportation time to destination or next
5 pick-up or delivery. So it's a time accounting and
6 geographical locations.

7 Q. All right. If we could just scoot that
8 document down a little farther so we could see the
9 top of it.

10 No, the other way.

11 All right. It has a No. 5020 in the upper
12 right-hand corner. What is that? That's just the
13 receipt number?

14 A. That's just random printing -- it's a random
15 print number. When these are printed, they
16 routinely do sequential numbers.

17 Q. Underneath that is a date, or is a series of
18 numbers, "3-1-03." What is that?

19 A. That would be the date of the -- that this
20 activity took place.

21 Q. And then on the left-hand side of the
22 exhibit, "From," has the name "Brad Miller." Would
23 that be the person that you were doing business
24 with?

25 A. That's correct.

26 Q. And underneath that is an address that's on
27 Soto Street, and an apartment number. What would

28 that indicate? 12236

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1 A. That would be the pick-up location.

2 Q. Okay. And then where it says, "To," what
3 does that information indicate?

4 A. The "DMS" is our in-house -- it stands for
5 Dino's Moving & Storage. The Lot No. 439, which is
6 a number -- it's comparable to an account number
7 that we assign whenever we bring a lot into storage.

8 Q. Okay. And then there is a part of the form
9 that is not prefabricated or preprinted, with a
10 "CK#1477." What does that indicate, if you know?

11 A. That means that the charges on the bill of
12 lading were paid with that check number.

13 Q. Okay. Now, on -- where it indicates
14 "From: Brad Miller," there is information there with
15 a name and a phone number. What is the purpose of
16 that information?

17 A. That's a contact name, where it says, "See
18 Asaf," I believe.

19 Q. Okay.

20 A. Apparently they're a representative of Brad
21 Miller's or -- or I don't know. That would be the
22 contact person to see there.

23 Q. Okay. Let's go to the next document.

24 And this one, what is this particular
25 document?

26 A. All right. This is a service agreement. It
27 goes hand in hand with the bill of lading. And

28 it -- it simply -- it states the -- as a service 12237

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1 contract, it states the itinerary for the job, which
2 would be in this case a pick-up location, and
3 bringing the shipment to Dino's Storage. It's
4 assigned as Lot No. 439. States the hourly rate at
5 which we'll proceed.

6 Q. Okay. And this was also filled out on March
7 1st of 2003, correct?

8 A. That is correct.

9 Q. All right. Let's go to the next document.

10 This document has a "5025" at the upper
11 right-hand corner and a series of numbers, "3-5-02,"
12 underneath it. What is this document?

13 A. This is another bill of lading that was
14 issued for a continuation of the job.

15 Q. Now, I noticed that the first document had
16 "03" and this one appears to have "02." Is that a
17 "2" or a "3"?

18 A. Right, we do not use those numbers in our
19 system.

20 Q. What do you mean by that?

21 A. You're referring to the "5025" in the top
22 right-hand corner?

23 Q. I'm referring to the "3-5" and what appears
24 to be "02."

25 A. Well, it should be "03." I don't know if
26 it's an error or it's just illegible.

27 Q. But this transaction, this series of

28 transactions, occurred in '03, correct? 12238

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1 A. That's correct.

2 Q. Now, on this particular document is another
3 group of writings that are placed on it, and it
4 looks like a dollar sign.

5 What does that information on the
6 right-hand -- middle right-hand side of the document
7 indicate?

8 A. That's payment information again.

9 Q. For the services you provided?

10 A. Correct.

11 Q. The payment by check?

12 A. Correct.

13 Q. Okay. Let's go to the next document.

14 May I approach the witness for a moment,
15 Your Honor? It appears that there's one page
16 missing.

17 THE COURT: Yes.

18 MR. SANGER: Perhaps I could have a moment,
19 too, so I can figure out what's going on.

20 MR. SNEDDON: I'll show counsel what I think
21 is missing from the exhibit.

22 (Off-the-record discussion held at counsel
23 table.)

24 Q. BY MR. SNEDDON: Mr. Erwin, in your original
25 documents -- well, let me put it this way. Let me
26 just do it so we have it in evidence.

27 That's good. Well, drop it just a little

28 bit. There. 12239

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1 This document has a "No. 439" in the upper
2 right-hand corner, correct?

3 A. Correct.

4 Q. Okay. And it has a date of "3-1-03" on it,
5 correct?

6 A. That's correct.

7 Q. Could we scoot the exhibit up just a little
8 bit? All the way, so we -- okay. Keep going.

9 All right. That's good.

10 All right. Now, the information that's
11 contained on the bottom portion of this exhibit that
12 is part of 904, what is this information?

13 A. That is an inventory of the items that we
14 picked up.

15 Q. Now, what I want to ask you is, it appears
16 on the right-hand side that there's -- it says,
17 "Pick-up, 3-4-03." Do you see that?

18 A. Yes, I do.

19 Q. Was there more than one pick-up of goods at
20 this particular location?

21 A. There were two -- there were two pick-ups.

22 Q. When was the first one?

23 A. The first one was on 3-1-03, and the second
24 one was on 3-5-03.

25 Q. Okay. Now --

26 A. So that should read "3-5-03" for the second
27 pick-up there.

28 Q. Now, is there a document in your original 12240

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1 files that reflects just what was picked up the
2 first day, on 3-1-03?

3 A. Well, that document shows that.

4 Q. That shows -- okay.

5 Let me approach, if I might, Your Honor,
6 just so counsel and I can get this straightened out.

7 (Whereupon, an off-the-record discussion was
8 held between Mr. Sneddon and the witness at the
9 witness stand.)

10 MR. SANGER: I was going to say, could we do
11 it on the record so we all hear it, I guess is what
12 I was going to ask.

13 MR. SNEDDON: I'm going to have a document
14 marked as 905 for identification purposes, Your
15 Honor. I'll show it to counsel.

16 (Off-the-record discussion held at counsel
17 table.)

18 MR. SNEDDON: May I approach the witness and
19 ask him some questions about Exhibit 905, Your
20 Honor?

21 THE COURT: Yes.

22 Q. BY MR. SNEDDON: Mr. Erwin, do you recognize
23 the exhibit that I've shown you as 905?

24 A. Yes, I do.

25 Q. Do you find the original of that document,
26 905, in your file presently, currently?

27 A. Yes. I have the original document that this

28 was copied from after the first stage in the 12241

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1 development of the original.

2 Q. Okay. Would that be the exhibit that's on
3 the board right now?

4 A. No, sir, that is -- the exhibit on the board
5 now is a complete document. This is a copy after
6 the first pick-up. It's a copy of what -- of the
7 inventory at the time of the first pick-up.

8 Q. Okay. So that document -- go ahead.

9 A. And before we were called back to -- for the
10 second pick-up.

11 Q. So that document - and by "that," I mean 905 -
12 reflects the items that were picked up on the first
13 occasion, on March 1st?

14 A. Yes.

15 Q. All right.

16 A. I probably -- I probably made a copy -- when
17 I knew that this original was going to go back out
18 for a continuation of additional items, as a
19 caution, I made a copy of the original for myself --

20 Q. Okay.

21 A. -- to keep in the office, which I don't have
22 in my file because you have it.

23 Q. Thank you for sharing.

24 MR. SANGER: The problem is, I don't have it
25 either, so I'm just a little bit lost here. Perhaps
26 I could have just a moment with counsel to ask a
27 question off the record?

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1 (Off-the-record discussion held at counsel
2 table.)

3 Q. BY MR. SNEDDON: Okay. Mr. Erwin, the
4 document that you have in your hand is 905, and that
5 reflects the items that were picked up on the first
6 time, on March 1st, 2003, correct?

7 A. That's correct.

8 Q. All right. Now, the item that's on the
9 board that the ladies and gentlemen of the jury are
10 now viewing, that is a compilation of what was
11 picked up on both the first time and the second
12 time; is that correct?

13 A. That's correct.

14 Q. And that's an itemization, correct?

15 A. Yes, it is.

16 Q. And I noticed that in the column to the far
17 left of each of those items, there's a little "X."
18 Do you see that?

19 A. Yes, I do.

20 Q. What is the purpose of that "X" on the
21 document?

22 A. That "X" is -- is -- is placed there when
23 the item is checked off at the time that it leaves
24 storage.

25 Q. Okay. So when you release these items,
26 that's how you determine and document what you gave
27 back?

28 A. That's correct. It's checked off as it goes 12243

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1 out of storage.

2 Q. All right. Now, does your file reflect the
3 date in which these items were released?

4 A. Yes.

5 Q. And what was that date?

6 A. That would be October 1st, 2003.

7 Q. And that would be to a Major Jay Jackson and
8 a Janet Arvizo, correct?

9 A. That's correct.

10 MR. SNEDDON: Your Honor, if I haven't, I
11 move that 905 be admitted into evidence.

12 MR. SANGER: I have a problem. As far as I
13 can tell, it wasn't provided in discovery, and it's
14 not -- it's a copy that seems to be a fax Xeroxed
15 copy of something that's not in the witness's file.
16 So I'd like to have an opportunity to get a copy of
17 it, number one, and number two, ask some questions
18 before that's received.

19 THE COURT: All right. I'll withhold ruling
20 until he's had a chance to ask some questions.

21 MR. SNEDDON: That's fair enough.

22 Judge, has 904 been moved into evidence?

23 THE CLERK: Yes.

24 MR. SNEDDON: It has?

25 THE CLERK: Yes.

26 MR. SNEDDON: Thank you, ma'am.

27 I have no further questions, Your Honor.

28 MR. SANGER: To expedite -- this is yours. 12244

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1 This is mine. Okay.

2 Excuse me one second. This is the entire

3 exhibit here, 904?

4 MR. SNEDDON: As far as I know.

5 MR. SANGER: Okay. Fine.

6 Your Honor, could I ask to retrieve 905 and

7 see if there's somebody available, with the Court's

8 permission, to make a copy for both the parties? It

9 might make it easier.

10 THE COURT: Okay. Thank you.

11 MR. SANGER: Could the court staff do it?

12 The D.A.'s offered, but whatever is quickest.

13 THE COURT: That's what I say. Whatever is

14 quickest.

15 MR. SANGER: It's been returned to me to

16 hand to the bailiff, and --

17 THE BAILIFF: Just one of each?

18 MR. SANGER: No. Two. One for each side,

19 for two of us.

20 THE BAILIFF: It will be on yellow paper.

21 THE COURT: Yes.

22

23 CROSS-EXAMINATION

24 BY MR. SANGER:

25 Q. Let me ask you a few questions here while we

26 get that copied, and then we'll go through some of

27 your documents with a couple other questions.

28 First of all, I think you said you're the 12245

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1 owner and the proprietor of Dino's Moving & Storage;

2 is that correct?

3 A. That's right.

4 Q. And you mentioned it's a family business?

5 A. Yes.

6 Q. This is a business that belonged to your

7 parents at one time?

8 A. My Uncle Dino.

9 Q. Your Uncle Dino?

10 A. Yeah.

11 Q. All right. And your brother and you now are

12 the principals in the business?

13 A. Yes, we are.

14 Q. And how long has the place been in

15 existence?

16 A. The facility that we're currently at?

17 Q. The business.

18 A. The business? Well, it started with grandpa

19 in the '50s, and Dino jumped in in the late '60s.

20 John and I got involved in early to mid-'70s.

21 Q. All right. And from what I gathered from

22 the way you started out, you're rather proud of the

23 business?

24 A. We are.

25 Q. Good.

26 A. We're very successful. We're referral-based

27 only.

28 Q. I heard that, and I was going to ask about 12246

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1 that. You're saying referral-based. So you don't
2 really put out a lot of advertisements. You get
3 referrals from satisfied customers and others; is
4 that correct?

5 A. That's correct.

6 Q. And you are bonded and licensed; is that
7 right?

8 A. We're licensed by the State of California
9 Public Utilities Commission.

10 Q. In order to maintain that license, do you
11 have to meet certain standards?

12 A. Yeah, definitely, you must comply with the
13 minimum requirements for insurance, property --
14 property and liability insurance, as well as
15 workers' comp.

16 Q. And if you maintain a professional
17 operation, you can keep your license, I take it?

18 A. Yes.

19 Q. And you have kept your license with the
20 Public Utilities Commission of the State of
21 California for how long?

22 MR. SNEDDON: Your Honor, I'm going to
23 object to this as being immaterial and irrelevant.

24 THE COURT: Overruled.

25 THE WITNESS: Oh, we -- our current license
26 was obtained in 1984, and it's been in place since
27 then.

28 Q. BY MR. SANGER: All right. And do you have 12247

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1 to -- when you say "insurance," I asked about
2 bonded. You have to have adequate insurance to
3 cover any liability for any malfeasance on the part
4 of Dino's, if there is any; is that right?

5 A. Yes.

6 Q. All right. And your job -- well, let me put
7 it this way: The work of Dino's Moving & Storage is
8 to assist people in actually moving from one
9 location to another in some cases; is that right?

10 A. Yes.

11 Q. So you have moving vans, and you have movers
12 who do their thing; is that right?

13 A. That's it.

14 Q. And you also have the storage facility you
15 told us about where you can store people's valuables
16 for them; is that right?

17 A. Correct.

18 Q. All right. Now, in this particular
19 situation, you've looked at your records, which you
20 brought with you, and it appears that there was an
21 initial engagement of your services for the date of
22 March the 1st, 2003, correct?

23 A. Yes.

24 Q. And there were services performed on that
25 date; is that correct?

26 A. Yes.

27 Q. Can you tell us what services were

28 performed? 12248

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1 A. Items 1 through 20 on the inventory were
2 picked up. They were tagged, inventoried, loaded
3 onto the truck, and stored in the warehouse.

4 Q. All right. So if I put up page four of the
5 exhibit, which I'll just move to the top there, this
6 is your warehouse receipt; is that right?

7 A. That's correct.

8 Q. And so you said Items 1 through 20.

9 Do we have our pointer?

10 A. No, it would be 1 through 19. And Number 20
11 would be the starting number on March 5th.

12 Q. All right. So what we see here, it is
13 blurry. Either that or my vision is going, here.

14 But right down this line here, it says 1
15 through, and it -- apparently the first number is
16 cut off, but that would be 19 right there.

17 A. Yes.

18 Q. It says, "Small box"?

19 A. Correct.

20 Q. And then somebody wrote a "2" in next to the
21 zero on this; is that correct?

22 A. Right. That's how we use this form.

23 Q. All right. On your original, is it cut off,
24 or is that the way -- it just goes 1 through 10
25 repeatedly. I guess it does, doesn't it?

26 A. It's -- it goes 1 through -- yeah, 1 through
27 10 without the 1.

28 Q. 1 through zero and then 1 through zero? 12249

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1 A. Right.

2 Q. So now that I figured that out -- all right.

3 And it isn't cut off. It's just not there. So this

4 one right above the 20 is where it cut off?

5 A. That was the last item on 3-1-03.

6 Q. Okay. The people that went to move this out

7 of the location were there for how long; do you

8 know?

9 A. I need to reference the bill of lading and I

10 can tell you.

11 Q. So would that be -- let me guess. Is that

12 this one?

13 A. Yes, that's the one.

14 Q. That's the one, okay. So the people who

15 came to do this move would have come to the

16 apartment on Soto Street, right?

17 A. Correct.

18 Q. With a truck, and they would have picked up

19 whatever is there, correct?

20 A. Yes. They arrived at 8:15. They loaded

21 until 9:30. They drove to the warehouse, stopped

22 for 15 minutes to -- for a break, and unloaded at

23 the warehouse from 10:30 to 11:00.

24 Q. All right. I was just pointing up there, so

25 I want to make sure I got this right. This is -- do

26 you count portal to portal? In other words, they

27 start the clock running when they drive from the

28 warehouse to the location? 12250

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1 A. No, generally -- well, yes, with storage --
2 with storage we do.

3 Q. All right. So 8:15 is when they would have
4 left the warehouse, correct?

5 A. 8:15 is when they arrived at origin.

6 Q. So you have some other time showing when
7 they --

8 A. Right. Seven o'clock.

9 Q. Okay.

10 A. There's a little -- there's an indication at
11 seven o'clock with a "WH" above the time ruler.

12 That's the time they left the warehouse.

13 Q. You're looking at the original, and you can
14 read what I'm showing with the pointer. There is
15 "WH," warehouse, "7:00." 8:15 is the time that they
16 arrive at the location?

17 A. Correct.

18 Q. And then they load from 8:15 to 9:30,
19 correct?

20 A. Yes.

21 Q. And then 9:30 to 10:15 is driving back to
22 the warehouse?

23 A. Yes.

24 Q. And they take a break, represented by the
25 "X," correct?

26 A. Correct.

27 Q. And then they offload the materials from

28 10:00 -- what is it? 10:30 to 11:00, correct? 12251

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1 A. Yes.

2 Q. All right. Now, when you look back at
3 this -- do you charge for packing if your people
4 have to go pack stuff up?

5 A. Yes, we do.

6 Q. Can you tell whether or not your people had
7 to pack stuff up?

8 A. It doesn't look like it, because there's no
9 materials listed on this bill of lading in the
10 section to itemize materials.

11 Q. Yes. If you look up here on the bill of
12 lading, this area, you would have packing materials
13 and that sort of thing; is that correct?

14 A. That's correct.

15 Q. All right. And when you look at page four,
16 which I'm putting up again with the Court's
17 permission --

18 THE COURT: Go ahead.

19 Q. BY MR. SANGER: If I may do it
20 retrospectively, it appears that the first five
21 items there, it says, "Wardrobe"; is that correct?

22 A. Yes.

23 Q. So that would represent things that are in a
24 wardrobe kind of a box; is that right?

25 A. That's correct.

26 Q. And then you have 6 through 10, it says,
27 "Small box." So it indicates things were packed in

28 small boxes; is that right? 12252

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1 A. Right. And No. 11 is a large box.

2 Q. Okay.

3 A. And No. 12's a four-foot-five cubic-foot
4 box. Number 11 and 12 are large boxes. 13, 14
5 are -- well, 13 is a dining table. 14 and 15 are
6 dining chairs. 16 is a picture. And 17's a
7 picture. 18's a large box. 19's a small box.

8 Q. All right. Now, as a part of being licensed
9 and taking pride in your business, you would expect
10 your employees to accurately record what they load
11 on and off the truck, correct?

12 A. Absolutely.

13 Q. And you would expect them to deliver to the
14 destination, in this case the warehouse, exactly
15 what it is that they picked up when they got to the
16 place where they're picking the things up, right?

17 A. Yes.

18 Q. Okay. Now, I don't mean to insult you, but,
19 I mean, that's an important part of your business,
20 is making sure --

21 A. Absolutely.

22 Q. All right. Now, this other document, which
23 was marked as 905, it hasn't been admitted yet, do
24 you have any idea where that came from?

25 A. It's likely that I made a copy of this
26 inventory when I knew that -- that we were going to
27 have to go back to get -- to finish the job. And so

28 subsequent to -- well, no, prior to sending this 12253

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1 document, this original document inventory, I made a
2 copy of the -- of the inventory as it -- as it
3 existed on -- after 3-1 and prior to 3-5.

4 Q. So --

5 A. Because --

6 Q. But you didn't keep a copy in your file?

7 A. Well, I did. And that's where that came

8 from. But I was visited by a couple of gentlemen
9 from the District Attorney's Office that asked for
10 copies of my file. And it seems to me that I gave
11 them that copy without noticing that it was not a
12 complete copy.

13 Q. In any event --

14 A. I probably assumed at the time that -- well,
15 here's a copy of the inventory in my file. You can
16 have this one, rather than making a copy. I had
17 over -- it seems to me that I must have overlooked
18 the fact that that was a copy of -- a freeze frame
19 picture in the middle of the job, after Stage 1 and
20 before Stage 2.

21 Q. That's okay. That's fair enough. I'm just
22 trying to find out, because it's obviously -- we
23 want to make sure it's accurate here.

24 And you're basically saying, now that you
25 compare it, it looks like that was the freeze frame
26 after the first move, right?

27 A. Right. And I can also tell there's

28 something on that document that's not on the 12254

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1 original, which is -- it has a fax stamp across the
2 top, and it has a signature under -- where the
3 contract signature belongs in the middle of the
4 page, where it says, "Per G.E."

5 Q. Yes.

6 A. "G.E." are my initials. My foreman, who
7 executed Stage 1 here, on the -- March 1st, got a
8 signature in the bottom left-hand corner, but didn't
9 get a signature in the middle of the page where the
10 "X" is. So I put "Per G.E.," acting on behalf of
11 Brad Miller, who hired me to do this job. And
12 subsequently I must have faxed that copy to Brad
13 Miller to have him sign the contract line, because
14 it's signed on that copy.

15 Q. Okay. Is Brad Miller a personal friend of
16 yours, by the way?

17 A. No.

18 Q. Was he just a customer?

19 A. I don't know him.

20 Q. Don't know him at all?

21 A. No. I know his assistant was a long-time
22 client of Dino's.

23 Q. Long-time client of your company?

24 A. Yes.

25 Q. Okay. I couldn't hear what you said.

26 All right. But you didn't know Brad Miller
27 himself. All right. So the mystery is going to

28 come to a close here somehow or another. This is 12255

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1 the page from 904 and it shows, "Per G.E."

2 Your Honor, I'm going to withdraw my

3 objection to the admission of 905.

4 THE COURT: All right. It's admitted.

5 MR. SANGER: And then I'll ask to put it up,

6 if I may.

7 THE COURT: Well, all right. Go ahead.

8 MR. SANGER: Is that all right? Okay.

9 Q. What I'm going to try to do is put it up

10 next to this, so we get this over with here, if we

11 can. Is that all right?

12 THE COURT: The only reason that I hesitated

13 was the District Attorney was going to put it up and

14 ask some questions, and you requested to ask him

15 some questions before that, so if he has no

16 objection, then --

17 MR. SNEDDON: I'll defer to counsel, Your

18 Honor.

19 THE COURT: All right. Go ahead.

20 MR. SANGER: Okay. Thank you. So -- all

21 right.

22 Q. If we put this up, that's as wide as it gets

23 here, so I'm going to slide it over. But on the

24 right is 905, and on the left is the page from 904,

25 and you can see here what you were talking about

26 when you say this seems to be a freeze frame. It

27 doesn't have the other items listed. It just goes

28 up to 19. But it otherwise appears to be a copy or 12256

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1 a faxed copy of the same document pretty much,
2 right?

3 A. Right.

4 Q. Now, when you say "pretty much," it looks
5 like somehow somebody got Brad Miller to sign this
6 one, but he obviously didn't sign the original,
7 because the original that had the new things added
8 on it still doesn't have his signature on it, true?

9 A. True.

10 Q. If we look up here, though, it appears that
11 this is actually a copy of the document in progress,
12 because it has the same notations, the same slant of
13 the writing and all that, right?

14 A. It is.

15 Q. Okay. There we go.

16 Now, the significance of this, I suppose, is
17 that on 3-1, 905 is what happened, and we went over
18 this with the boxes. So pretty much a bunch of
19 boxes were picked up, a table, some chairs and a
20 couple pictures, right?

21 A. Correct.

22 Q. All right. And it appears from this that
23 somebody had already prepared this house for -- or
24 this apartment for a move, and had boxed material
25 up; is that correct?

26 MR. SNEDDON: Object. Calls for a
27 conclusion and speculation.

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1 Q. BY MR. SANGER: In any event, it appears
2 that somebody had boxed things or at least there
3 were things in boxes by the time your people
4 arrived?

5 MR. SNEDDON: I'm going to object to that
6 also. No foundation.

7 THE COURT: Sustained.

8 Q. BY MR. SANGER: You indicated if your people
9 had boxed things, that you would have had a notation
10 on the --

11 A. Only if we used our materials. If there
12 were existing materials there, which oftentimes when
13 people are relocating they have some materials.

14 Q. All right. So --

15 A. So I wasn't there myself personally. So I
16 don't know -- yeah, I don't know.

17 Q. So you don't know, all right. Whatever it
18 was, the loading -- according to 904, the loading
19 and if there was any packing, would have occurred
20 between -- now I can't see anymore. What is
21 that? -- 8:15 and 9:30, right?

22 A. Yes. It would -- if there was any packing,
23 it would be incidental to loading.

24 Q. Okay. Now, it appears that on -- let's see,
25 which one is which?

26 Yes, on page four of 904, there's a notation
27 there, "3-4-03," and there's other documentation in

28 here that indicates that actually the pick-up 12258

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1 occurred on 3-5-03; is that correct?

2 A. Correct.

3 Q. All right. So your understanding, looking
4 at all the documents, is there was an initial move
5 of boxed materials and a couple tables, some chairs,
6 a couple pictures on 3-1.

7 And then 3-4, somebody came back, your
8 people came back and picked up a number of other
9 items; is that correct?

10 A. The actual pick-up, the second pick-up, was
11 on 3-5.

12 Q. I'm sorry, on 3-5. It says "3-4," but your
13 other records show it was actually 3-5?

14 A. Right.

15 Q. All of this went to your warehouse, then, on
16 3-5, right?

17 A. The second half went on 3-5.

18 Q. So all of it was in your warehouse by 3-5?

19 A. That's correct.

20 Q. And it was locked up and secure there?

21 A. It was secured in vaults.

22 Q. Was there any indication that anybody had
23 come to look at it or tamper with it between the
24 time it was placed there in early March and later
25 when it was removed?

26 A. No.

27 Q. And when was it removed?

28 A. On October 1st, 2003. 12259

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1 Q. And you would not have expected, based on
2 the professional running of your business, that
3 anybody would have tampered with this material in
4 any way from the time it was delivered to you to the
5 time that it was picked up; is that correct?

6 A. It's not possible.

7 Q. So I said "Is that correct"? You're
8 agreeing with me; is that --

9 A. That's -- yes.

10 Q. You're saying it's not possible that anybody
11 would have tampered with it in between?

12 MR. SNEDDON: Your Honor, vague as to time
13 as to what "in between" is.

14 MR. SANGER: I'm sorry, I'm clarifying the
15 same question, but let me reask it so we have a good
16 question.

17 Q. Between the time that the materials were
18 delivered to you and the time when they were picked
19 up by Janet Arvizo, or by Janet, whatever her name
20 was at the time, Janet and Jay Jackson, in that time
21 period was the material that was stored tampered
22 with in any way?

23 A. No.

24 Q. Now, when you provide movers for moving
25 purposes, do you ever provide cleaning services?

26 A. No.

27 Q. So --

28 A. We clean up our -- we pick up our own milk 12260

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1 cartons.

2 Q. So if you have movers come in and they bring
3 their lunch, they'll take their lunch and the bag,
4 or whatever, and throw it away, right?

5 A. We hope they will.

6 Q. Okay. But you don't -- you don't have
7 somebody come in with a vacuum cleaner and vacuum
8 the apartment?

9 A. Generally not.

10 Q. Is that possible that could happen, or --

11 A. It's possible. But I know most of our men
12 would not want to do that.

13 Q. All right.

14 A. Because they're movers.

15 Q. Is there anything in your file to indicate
16 that there was -- there were cleaning services that
17 were provided?

18 A. Nothing to indicate that.

19 MR. SANGER: All right. Now, with any luck,
20 did we get the disk?

21 It would have been the CD version of that.

22 (Discussion off the record.)

23 MR. SANGER: I apologize, Your Honor, but
24 we're trying to find the DVD of the moving and we're
25 honing in on it.

26 I would accept any assistance from the
27 prosecution if they know.

28 MR. SNEDDON: If I know what? I know a lot 12261

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1 of things, but --

2 MR. SANGER: The number of the exhibit on
3 the move.

4 MR. SNEDDON: The surveillance move?

5 MR. SANGER: The move of the items or --

6 MR. ZONEN: I think it's 817 or near 817.

7 It's near 813 to 817.

8 (Discussion off the record.)

9 MR. SANGER: I wonder if we could do this,
10 Your Honor. What I'd like to do, there were two
11 copies of this, if I'm not mistaken. One was
12 received and the other wasn't.

13 THE COURT: They can't hear.

14 MR. SANGER: Okay. Let's see if we can use
15 our time wisely here.

16 What I'd like to do is play the tape of the
17 move that's already been introduced into evidence.

18 We're just having a little difficulty making sure we
19 have the right tape.

20 Could I defer to Mr. Sneddon to go ahead
21 with his redirect, if any, and then try to do this
22 at the break?

23 MR. SNEDDON: Your Honor, first of all, I --
24 I object to the showing of this. He's indicated he
25 wasn't there, and he indicated his people don't do
26 any clean-up services. So what's the relevancy of
27 showing this to this witness?

28 MR. SANGER: There are two employees who 12262

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1 appear to be movers. There's a third person who
2 appears to be a cleaner, but I just want to
3 establish these are his people who were doing this
4 move.

5 THE COURT: You're not going to show the
6 whole video?

7 MR. SANGER: No, we don't need to show the
8 whole thing. I just need to show a clip of it so he
9 can look at it and tell us those are his people
10 doing the job.

11 THE COURT: Do you want to do your other --
12 do you have any other examination?

13 MR. SNEDDON: Yes, I do.

14 THE COURT: All right. Would you accommodate
15 him by doing that until the break?

16 MR. SNEDDON: I would, Your Honor.

17 THE COURT: Thank you.

18

19 REDIRECT EXAMINATION

20 BY MR. SNEDDON:

21 Q. All right. Mr. Erwin, we placed back up on
22 the board --

23 If we could have the lights, Your Honor,
24 please.

25 -- one of the documents containing your
26 file, and this is the one from 3-5-02, but you
27 really say it is '03, with the number "5025" at the

1 Does this particular bill indicate that
2 there were in fact boxes purchased, or that you
3 charged people for, for packing during the course of
4 this particular move?

5 A. Yes.

6 Q. All right. So it looks like, to me, there
7 was at least two and perhaps a third -- a fifth one
8 down here?

9 A. There's two small boxes, two medium boxes,
10 and one roll of tape.

11 Q. Okay. So that's tape. When I say it says
12 "1," that word is "tape"; is that right?

13 A. That's correct.

14 Q. Okay. So there were four boxes that were
15 used?

16 A. Yes.

17 Q. Okay. Now, if we could, I want the item,
18 the inventory items, please.

19 Thank you.

20 All right. Now, on the inventory items that
21 show all of the items collected over the two-day
22 process, do you see -- first of all, it looks like
23 there were some chairs taken, correct?

24 A. Yes.

25 Q. And a scooter?

26 A. A scooter, yes.

27 Q. And a refrigerator?

28 A. Yes. 12264

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1 Q. Okay.

2 A. And a mattress.

3 Q. And a mattress.

4 Now, with regard to the items that -- take a
5 second to review your original there, if you have
6 to, but do you see any plants at all that were
7 taken?

8 A. No.

9 Q. So there was -- no plants were taken during
10 the time that you went to the -- your movers were
11 there?

12 A. There's none on the inventory here.

13 Q. Okay.

14 A. And they wouldn't live well in the
15 warehouse.

16 Q. I understand that. Would you have
17 ordinarily taken them, though?

18 A. Not to our warehouse.

19 Q. What would you have done with them?

20 A. Sometimes we do transport plants over to
21 another location along the way. Some people will
22 keep their plants at a friend's house while we put
23 their belongings in storage, if there are nice
24 outdoor plants in planters that they want to keep.

25 Q. So if there were plants, let's say, for
26 instance, at this particular location, would your
27 workers unilaterally either leave those plants there

28 or throw them out? Do you know what your directions 12265

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1 and your policy would be on that, if the owner has
2 not made any arrangements with you?

3 A. We -- we're working for -- whatever the
4 client requests. That's what we would do.

5 Q. So if --

6 A. If they want them left, we leave them. If
7 they want them dropped off somewhere, we would do
8 that. If they want us to carry them to a dumpster,
9 I suppose we would do that for them. If they want
10 us to take them to the warehouse, we would advise
11 them that they're not going to survive --

12 Q. All right.

13 A. -- in the warehouse.

14 MR. SNEDDON: Fair enough. No further
15 questions. Thank you, Your Honor.

16 MR. SANGER: The problem is, without putting
17 it in the machine and looking at it, I'm not sure
18 which is which. From the notations that we have, it
19 appears to be Exhibit 813, but the DVD and the
20 sleeve of 813 does not appear to be that which was
21 described on the record. So we just need to look at
22 it. I apologize, Your Honor.

23 THE COURT: All right. Are the jurors going
24 to object if they get an extra five minutes?

25 No? All right.

26 (Recess taken.)

27 THE COURT: Go ahead.

28 MR. SANGER: Your Honor, I have to recite 12266

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1 something for the record.

2 I've talked to Mr. Sneddon about this and
3 the clerk. In the transcript, at page 6335, there's
4 a reference to playing a tape, Exhibit No. 813, and
5 a further reference to the fact that that was the
6 move from the house.

7 There's all sorts of possibilities as to
8 what could have happened here, but it turns out that
9 813, as it's marked by the clerk, is an exhibit that
10 did not come into evidence and is something else,
11 okay?

12 As far as I can tell, it appears that 818 is
13 in fact the exhibit previously referred to on the
14 record as 813. So I think if we just recite it,
15 we'll let the chips fall where they may.

16 THE COURT: The chips are someone misspoke
17 and that's what happened, and thank you for
18 correcting that.

19 MR. SANGER: Okay.

20 So 818 does show it was received into
21 evidence, and this does purport to be the video of
22 the house, so whatever the record shows before,
23 that's what we're going to play now, if that's all
24 right.

25 THE COURT: That's all right.

26 MR. SANGER: All right. Thank you.

27 What I'm going to do, with the Court's

28 permission, is start it, just so the witness can see 12267

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1 the very beginning, and then I'll fast-forward, and
2 I'll just use fast-forward, because it's very
3 shortly thereafter it shows the moving people, and
4 then we'll go from there.

5 THE COURT: Okay.

6 (Whereupon, a portion of a DVD, People's
7 Exhibit 818, was played for the Court and jury.)

8 Q. BY MR. SANGER: I'm going to pause here
9 right at the beginning.

10 There's a gentleman there who seems to be
11 doing some cleaning or something. Does he appear to
12 be one of your employees?

13 A. No.

14 Q. All right. And we see a date of March the
15 5th, 2003, just for the record.

16 Let me now play, and I'm going to go ahead
17 and fast-forward.

18 (Whereupon, a portion of a DVD, People's
19 Exhibit 818, was played for the Court and jury.)

20 Q. BY MR. SANGER: On the counter, we're now at
21 3:32. I'm going to freeze this for a second.

22 These gentlemen seem to have shirts that say
23 "Dino's Moving & Storage." Are those your people?

24 A. Yes.

25 Q. Do you know who they are from the back?

26 A. The foreground would be Joe Chavez, and the
27 background is Carlos Solano.

28 Q. And Mr. Chavez and Mr. Solano, have they 12268

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1 been employed by you for some time?

2 A. Quite some time. A few years.

3 Q. Are they trusted employees?

4 A. Very much.

5 MR. SANGER: Your Honor, unless somebody

6 wants me to play more, that's all I want to play.

7 THE COURT: Well, we're not going to take a

8 vote on it, so --

9 (Laughter.)

10 MR. SANGER: Very well.

11 So I'm going to press "Stop" and take the

12 thing out, and I have no further questions.

13 THE COURT: Anything further?

14 MR. SNEDDON: No, Your Honor.

15 THE COURT: All right. Thank you. You may

16 step down.

17 Now, the understanding was he can take his

18 original records with him?

19 MR. SNEDDON: That's correct, Your Honor.

20 THE WITNESS: I also still don't have a copy

21 of what was originally in my file.

22 THE COURT: That one sheet?

23 THE WITNESS: The in-progress with the

24 signature on it.

25 THE COURT: We can give you a copy of that

26 right now, can't we?

27 MR. SANGER: Yes. To save time, I'll just

28 give him my copy and I'll have another one made. 12269

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1 MR. SNEDDON: I have a copy of the other
2 one, so I'll just give him mine and you can keep
3 yours, and then we don't have a problem.
4 MR. SANGER: Just for the record, so we're
5 clear, I am returning 818, in that envelope, to the
6 clerk, along with the other exhibits.

7 THE COURT: All right. Thank you.

8 All right. Call your next witness.

9 MR. ZONEN: Theresa Marquez, please.

10 THE COURT: When you get to the witness
11 stand, please remain standing.

12 Face the clerk over here and raise your
13 right hand.

14

15 THERESA MARQUEZ

16 Having been sworn, testified as follows:

17

18 THE WITNESS: I do.

19 THE CLERK: Please be seated and state and
20 spell your name for the record.

21 THE WITNESS: My name is Theresa Marquez.

22 T-h-e-r-e-s-a, M-a-r-q-u-e-z.

23 THE CLERK: Thank you.

24 MR. ZONEN: May I proceed?

25 THE COURT: Yes.

26 //

27 //

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1 DIRECT EXAMINATION

2 BY MR. ZONEN:

3 Q. Miss Marquez, what is your current

4 occupation?

5 A. Custodian of records at Kaiser Permanente in

6 Baldwin Park, California.

7 Q. At what location, please?

8 A. Baldwin Park, California.

9 Q. Were you asked to make a determination as to

10 whether or not there were medical records belonging

11 to a Janet Arvizo --

12 A. Yes, we were.

13 Q. -- with a date of 8-28-98? In other words,

14 a visit to the ER room at a Kaiser facility on

15 8-28-98?

16 A. That's correct.

17 Q. And in fact, were there records of that day?

18 A. Yes, there are.

19 Q. And which Kaiser facility is that?

20 A. Baldwin Park Medical Center.

21 Q. Where is the Baldwin Park Medical Center?

22 A. It's located in the City of Baldwin Park off

23 the 10 freeway. You would get off on Baldwin Park

24 Boulevard.

25 Q. And that's in Los Angeles County?

26 A. Los Angeles County.

27 Q. Did you make a copy of those records for us?

28 A. Yes, I did. 12271

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1 Q. And do you have them with you?

2 A. Yes, I do.

3 Q. Could we have those, please?

4 (Whereupon, an off-the-record discussion was
5 held between Mr. Zonen and the witness at the
6 witness stand.)

7 (Off-the-record discussion held at counsel
8 table.)

9 MR. ZONEN: Could I approach the witness,
10 Your Honor?

11 THE COURT: Yes.

12 Q. I'm showing you now Exhibit No. 906. Is
13 this in fact what you just handed me?

14 A. Yes, it is.

15 Q. And are those in fact an accurate copy of
16 the medical records from Kaiser Hospital?

17 A. Yes, they are.

18 Q. For that date of 8-28-98; patient, Janet
19 Arvizo?

20 A. Correct.

21 MR. ZONEN: I would move to introduce those
22 records into evidence.

23 THE COURT: They're admitted.

24 MR. SANGER: I'm sorry, Your Honor. I
25 haven't quite had a chance to finish looking at
26 them, if I could. We just received them.

27 MR. ZONEN: If I could go on with just a

28 different question, then. 12272

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1 MR. SANGER: I don't mind if he goes ahead

2 while I'm looking at them.

3 THE COURT: Okay. Go ahead.

4 Q. BY MR. ZONEN: Can you tell us the time --

5 there's a registration time that's logged in these

6 reports when a patient comes in; is that correct?

7 A. That's correct.

8 Q. What does the registration time reflect?

9 A. This reads 1:11 a.m.

10 Q. 1:11 in the morning; is that right?

11 A. Yes.

12 Q. All right. Now, what does that mean,

13 "registration time"?

14 A. That's actually the time they come to the

15 desk and they ask to see a physician, and they are

16 actually checked into the ER.

17 Q. So that's the first time they actually meet

18 with somebody at the hospital facility?

19 A. Correct.

20 MR. ZONEN: Okay. Subject to the

21 introduction of this exhibit into evidence, I have

22 no further questions.

23 MR. SANGER: And I'll submit it as far as

24 the admission of the documents

25 THE COURT: All right. I'll admit the

26 records.

27 MR. SANGER: I was doing too many things at

28 once. What is the exhibit number, if I could ask, 12273

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1 please?

2 THE CLERK: 906.

3 MR. SANGER: Thank you.

4

5 CROSS-EXAMINATION

6 BY MR. SANGER:

7 Q. Okay. So it appears that this person came

8 to Kaiser Permanente on the 28th at 1:11 in the

9 morning; is that right?

10 A. That's the time that this member was checked

11 in, yes.

12 Q. All right. So somebody -- are you familiar

13 with this particular facility?

14 A. Yes, I am.

15 Q. So somebody walks into -- they can walk into

16 the emergency room; is that correct?

17 A. That's correct.

18 Q. And they would be met by somebody who would

19 assess their immediate need for medical assistance;

20 is that correct?

21 A. Well, the procedure would be they would walk

22 in. They would speak to the receptionist. Their

23 medical record number would be taken. They would be

24 asked a few questions. Then they'd be asked to be

25 seated until a physician can come up to see them.

26 Q. So when they walk in and have that first

27 contact, that would be the time of registration; is

28 that correct? 12274

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1 A. That's correct.

2 Q. So this person walked in shortly before 1:11

3 in the morning of the 28th?

4 A. Yes.

5 Q. And it appears, from the records, that the

6 person was released that evening, right?

7 MR. ZONEN: I believe that may be a

8 misstatement; vague. "Released that evening."

9 MR. SANGER: It was early in the morning,

10 so however you want to put it.

11 Q. Early in the morning. It appears that the

12 patient was released later that morning; is that

13 correct?

14 A. Yes, it does.

15 Q. About what time?

16 A. The latest time I see on here is 4:15 for

17 the last note.

18 Q. And it indicates at 4:15 in the morning,

19 "DC'd," right?

20 A. Yes.

21 Q. That's "discharged"; is that correct?

22 A. That's correct.

23 Q. "Discharged in good condition," correct?

24 A. Yes.

25 Q. And she was prescribed aspirin?

26 A. I don't know what she was prescribed. Not

27 by this note. I believe the first page, we have a

28 prescription of Motrin 400. 12275

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1 Q. Okay. That was at 2:45 she was given some
2 Motrin?

3 A. I am looking at the first page which
4 indicates a prescription of Motrin. Let's see.
5 It's indicating that at 2:45, she was given Motrin.

6 Q. All right. And then when people come in at
7 that time of the early morning, is that a fairly
8 busy time for the emergency room, usually?

9 A. That's difficult to say. We don't have
10 trends of busy times and slow times.

11 Q. Okay. I guess you can have a major problem,
12 but that's one of the times when you're likely to
13 see people coming into the emergency room, right?

14 A. You know, I really don't want to say that
15 that's so, because in looking at the records, again,
16 looking at trends, there isn't a definite trend as
17 to if it's a peak time or not.

18 Q. Okay. If there are other people there, then
19 the person has to wait?

20 A. Correct.

21 Q. And then they're eventually seen by a
22 physician; is that correct?

23 A. Correct.

24 Q. And then it appears here that she was seen
25 somewhere around 1:45?

26 A. Well, if you look at the first page on the
27 top, after "Time Registered, Triage Time," that's

28 when the nurse actually talked to her. 12276

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1 Q. The triage time was what? 1:15?

2 A. 1:15. And then they probably put her in a
3 room until the physician can see her.

4 Q. So in the ordinary course of things, she
5 eventually had some X-rays; is that right?

6 A. That's correct.

7 Q. And all of that came back negative?

8 A. "Normal study."

9 Q. And then it -- and then it shows, "4:15,
10 Discharged in good condition"?

11 A. Correct.

12 MR. SANGER: All right. Very good. No
13 further questions.

14 MR. ZONEN: No further questions.

15 And the exhibit is in; is that correct?

16 THE COURT: The exhibit is admitted.

17 MR. ZONEN: Thank you.

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

19 MR. ZONEN: We'll call William Dickerman to
20 the stand.

21 THE COURT: He's recalled; is that correct?

22 MR. ZONEN: Yes. Re-call him. Thank you.

23 Who's doing Mr. Dickerman? Oh, okay.

24 (Off-the-record discussion held at counsel
25 table.)

26 THE COURT: Come to the front of the

27 courtroom. You were previously sworn. You may be

28 seated. 12277

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1 WILLIAM DICKERMAN

2 Having been previously sworn, resumed the

3 stand and testified further as follows:

4

5 MR. ZONEN: May I proceed, Your Honor?

6 THE COURT: Yes.

7 MR. ZONEN: May I approach the witness?

8 THE COURT: Yes.

9

10 DIRECT EXAMINATION

11 BY MR. ZONEN:

12 Q. Mr. Dickerman, good afternoon. And we are

13 just at good afternoon.

14 A. Good afternoon.

15 BAILIFF CORTEZ: Microphone's off.

16 MR. ZONEN: Thank you. If the trial goes

17 another four months, I will learn.

18 Q. Thank you for coming back. We have a few

19 questions to ask you about a few exhibits.

20 You brought with you a collection of letters

21 and communications; is that correct?

22 A. Yes, I did.

23 Q. And I'd like to show you right now a

24 collection of documents that's before you that is

25 now marked as People's Exhibit No. 903; is that

26 correct?

27 A. Yes.

28 Q. And could you take a look at those very 12278

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1 rapidly, just to assure yourself that those are the
2 same documents or a copy of documents that you
3 brought with you today; is that right?

4 A. Yes.

5 Q. And those are copies of documents that you
6 have in your file?

7 A. Yes.

8 Q. And that file you brought with you today; is
9 that right?

10 A. Yes, I did.

11 Q. So to the extent that you have actual
12 copies, the actual copies you brought with you, and
13 these are copies of copies?

14 A. I've also got originals that were faxed.

15 Q. And originals that were faxed; is that
16 right?

17 A. Yes.

18 Q. Now, do these represent communications
19 between you and an attorney by the name of Mark
20 Geragos?

21 A. They sure do.

22 Q. You testified previously to some
23 communications, and some of those letters were shown
24 to you previously; is that right?

25 A. Yes.

26 Q. All right. But I'd like to specifically go
27 over some of these letters and talk to you about how

28 they were communicated specifically to Mr. Geragos; 12279

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1 is that all right?

2 A. Sure.

3 Q. Let's begin with the very first letter on
4 this collection of documents that is marked 903.

5 And this letter is dated March 26th, 2003. Is this
6 a letter that you authored?

7 A. Yes, it is.

8 Q. Is this a letter that you sent to Mr.

9 Dickerman -- excuse me, Mr. Geragos?

10 A. I had it messengered to Mr. Geragos.

11 Q. All right. And explain what you mean by
12 having had a messenger deliver it.

13 A. I or my secretary phoned Allstar Messenger
14 Service, which is the attorney service/messenger
15 service I've been using for about 15 years, put in
16 an order, filled out a form, had them come over,
17 told them to deliver it to Mr. Geragos, and they
18 took it.

19 Q. All right. In this particular letter dated
20 March 26th, 2003, do you refer to the passports and
21 visas belonging to your clients, the Arvizos?

22 A. Yes, in paragraph two at the bottom of the
23 first page.

24 Q. And the delivery service that you use and
25 have been using for 15 years, is it your experience
26 that they are reliable and responsible in delivering
27 letters?

28 A. I don't think I've had a problem with them 12280

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1 in delivering anything in 15 years, whether it's
2 court documents or letters or anything else.

3 Q. Let's please go to the next document on
4 here, and that's the one -- it's about four pages
5 in. It begins with "Allstar Messenger" is the
6 heading on the top. That, plus the next page after
7 that, what are those two documents?

8 A. The first document is my copy of the form
9 that was filled out and given to the messenger
10 service, along with the letter to be sent. So there
11 are, I believe, three pages of it. The first one
12 they take, and the last one is a pink copy. I have
13 the original here, and that is what I kept for my
14 files.

15 Q. And that also is dated March 26th, '03?

16 A. Yes.

17 Q. The second page is what, please?

18 A. The second page is the invoice from Allstar
19 Messenger Service for that delivery, reflecting that
20 I owe them \$14.75 for delivering the letter to
21 Geragos & Geragos.

22 Q. All right. Move to the next page, if you
23 would, please. Is this a letter to Mr. Geragos as
24 well?

25 A. Yes.

26 Q. And is the date on this April 3rd, 2003?

27 A. Yes.

28 Q. All right. In this letter, do you reference 12281

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1 a prior letter that you sent him?

2 A. Yes, I referenced the March 26th letter that
3 I just testified about.

4 Q. And how was this letter, the April 3rd
5 letter, delivered to Mr. Geragos?

6 A. That was by fax. On my fax machine to his
7 fax machine.

8 Q. All right. Now, if you'll turn to the next
9 page, the page right after the April 3rd, 2003,
10 letter, is that a facsimile transaction report?

11 A. Yes, it is.

12 Q. Explain what that is, please.

13 A. Every time a fax is sent from my office, I
14 get a report showing that the fax was received or it
15 wasn't received, and the reason if it wasn't
16 received.

17 Q. All right. Is this generated by your fax
18 machine?

19 A. Yes, it is. It's a machine that I had -- I
20 no longer have, but I had it for 10, 12 years.

21 Q. All right. Was it your experience that when
22 this machine tells you a fax has been transmitted,
23 that it actually had been?

24 A. Always.

25 Q. Did you ever have an occasion where the
26 machine told you the facsimile had been transmitted
27 and in fact it hadn't?

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1 Q. Does this piece of paper now, and we're
2 dealing with the one that says April -- April 3 at
3 6:16 p.m., does this indicate that the fax that you
4 had sent to Mr. Geragos on the 3rd of April in fact
5 had been transmitted?

6 A. Yes.

7 Q. And at what time of the day was that?

8 A. It says 6:16. The fax machine always ran a
9 couple minutes off, so it could have been 6:14 or
10 6:12, something like that.

11 Q. Go to the next page, please. Is the next
12 page a cover letter from Geragos & Geragos, a fax
13 cover sheet?

14 A. Yes, it is.

15 Q. Does that contain Mr. Geragos's fax number?

16 A. Yes, it does.

17 Q. All right. Is that in fact the same fax
18 number that you sent the prior communication to?

19 A. Yes. It says that right on the transaction
20 report.

21 Q. All right. And in fact, all of your
22 communications sent to Mr. Geragos were sent to that
23 same fax number; is that correct?

24 A. Yes. That's correct.

25 Q. Let's move to the next page. Is the next
26 page a letter from Mr. Geragos dated April 6th,
27 2003?

28 A. Yes, it is. 12283

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1 Q. All right. Now, that's two sentences, is it
2 not?

3 A. Yes.

4 Q. Would you read it out loud to us?

5 A. "Dear Mr. Dickerman: Thanks for your letter
6 of April 3, 2003" --

7 MR. MESEREAU: Objection. Hearsay. The
8 letter -- the document speaks for itself.

9 THE COURT: It is speaking for itself. He's
10 just reading it.

11 MR. MESEREAU: Okay.

12 THE COURT: That's how it talks.

13 (Laughter.)

14 THE COURT: Go ahead, Counsel.

15 Q. BY MR. ZONEN: Go ahead and please read it.

16 A. "Thanks for your letter of April 3, 2003.

17 Please give me a call so that we can make
18 arrangements."

19 Q. Now, in your experience as an attorney, when
20 you get a letter back from somebody else who thanks
21 you for a letter dated a particular date, that tends
22 to suggest that they got that letter; is that right?

23 A. In my experience, always.

24 Q. All right. Now, going back to your letter
25 of April 3rd, 2003, let's turn back a few pages, the
26 letter that he acknowledges that you received --

27 A. That I -- oh, sorry.

28 Q. Do you have it in front of you? 12284

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1 A. Yes.

2 Q. The letter of April 3rd, 2003, that he
3 acknowledges that you received, what -- in the first
4 sentence, what do you say in that letter?

5 A. "Dear Mr. Geragos: On March 26th, 2003, I
6 wrote you and asked that you deliver certain items
7 to my office by April 1."

8 Q. You don't have to go any further than that.

9 That letter that he acknowledged receiving
10 referred to the March 26th, 2003, letter, the one
11 that demanded the passports and the visas; is that
12 correct?

13 A. It's the only letter I wrote on March 26th.

14 Q. All right. Now, let's move on.

15 We left off with Mr. Geragos's letter to you
16 that's dated April 6th, 2003. Go to the next page,
17 please. Is that next page a letter from you to Mr.
18 Geragos dated April 8, 2003?

19 A. Yes.

20 Q. Do you refer to passports, visas and birth
21 certificates in that letter?

22 A. Yes. In the third paragraph.

23 Q. All right. How is this letter communicated
24 to Mr. Geragos?

25 A. By fax machine to the same number as the
26 others that I had faxed.

27 Q. And did you in fact keep a transaction

28 report from your fax machine indicating whether it 12285

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1 had been successfully faxed?

2 A. Yes. That's the next document.

3 Q. And that's the next page; is that correct?

4 A. Yes.

5 Q. That transaction report indicates what?

6 A. That on April 8th at 7:18 p.m., I faxed two
7 pages to Mr. Geragos's fax number, and that it was
8 received.

9 Q. Okay. Let's move on, please, to the next
10 page. The next page is a letter from you dated
11 April 9, 2003; is that correct?

12 A. Yes.

13 Q. This is also a letter to Mark Geragos; is
14 that correct?

15 A. Yes.

16 Q. Okay. Was this letter faxed to him?

17 A. Yes.

18 Q. Was that letter received by him, or at least
19 was it -- did your fax machine indicate that it went
20 through?

21 A. Yes.

22 Q. All right. In that letter of April 9, 2003,
23 do you reference passports, visas and birth
24 certificates?

25 A. Yes.

26 Q. Actually, you demand their return to your
27 client; is that correct?

28 A. Yes, I asked that he, quote, "immediately 12286

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1 deliver to me," along with the documents you just
2 mentioned, some other items.

3 Q. Now, the next page again, as we acknowledge,
4 was the transaction report on the fax machine?

5 A. Yes.

6 Q. Please now go to April 11, 2003. Is that
7 the next page?

8 A. Yes.

9 Q. Is that a letter from you to Mr. Geragos?

10 A. Yes.

11 Q. Was that faxed to him as well?

12 A. Yes. At the same number.

13 Q. And the transaction report indicates that
14 that letter was processed as well?

15 A. Yes.

16 Q. Please move to the next one. We now have a
17 letter from Mr. Geragos to you, April 15, 2003; is
18 that correct?

19 A. Yes.

20 Q. Okay. And that is a letter from Mr. Geragos
21 that appears to be one sentence?

22 A. Yes.

23 Q. All right. What does that sentence read?

24 A. "We have retrieved various items from
25 storage and would appreciate your advising us as to
26 where they should be delivered."

27 Q. Did Mr. Geragos up to this point, either by

28 telephone or in any other communication, indicate to 12287

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1 you anything about passports belonging to your
2 clients, the Arvizos?

3 A. He -- in one conversation, I think it was on
4 March 31st, I asked him about passports and visas,
5 following up on the letter that -- well, when he
6 called me, because he wanted additional time to
7 respond to the March 26th letter, we talked about it
8 briefly. He didn't exactly know what I was talking
9 about. I think he said that there were -- there
10 were passports around that he had heard of, but he
11 didn't know what it was -- what that was about.

12 Q. Okay.

13 A. I understood he was going to find out and
14 get back to me. He never did.

15 Q. Did he ever?

16 A. He never got back to me on that. He never
17 responded to any of my letters asking for any of
18 these items, except for items in the storage unit.

19 Q. Okay. Moving on to the next page, a letter
20 dated April 22, 2003 --

21 A. Yes.

22 Q. -- is that a letter that you sent to Mark
23 Geragos?

24 A. Yes.

25 Q. And this letter is dated April 22nd, 2003.
26 Do you once again demand the return of their
27 possessions, including their passports?

28 A. Yes. 12288

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1 Q. Was this letter delivered in some fashion to
2 Geragos & Geragos?

3 A. It was faxed at about 2:17 p.m. to the same
4 fax number as I previously stated, and it indicates
5 that it was received.

6 Q. Okay. Move on to the next page, a letter
7 dated May 12, 2003, from you to Mr. Geragos; is that
8 correct?

9 A. Yes.

10 Q. All right. In this letter, do you fax this
11 letter to him?

12 A. Yes.

13 Q. And did your fax report, the next page in
14 these documents, indicate that it was received?

15 A. Same as all the others, yes.

16 Q. Next letter, please, the next page. Is this
17 a letter from Geragos & Geragos, from Mark Geragos
18 to you?

19 A. Yes.

20 Q. And the date is May 15, 2003; is that
21 correct?

22 A. Yes.

23 Q. All right. In this letter, does he
24 acknowledge receipt of a prior letter from you?

25 A. Yes, my letter dated May 12th.

26 Q. Does he refer to passports at all?

27 A. No.

28 Q. Move to the next one, please. May 15, 2003. 12289

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1 Is this a letter from you to Mr. Geragos?

2 A. Yes.

3 Q. And in this letter, do you once again ask
4 him to return immediately your clients' passports
5 and birth certificates?

6 A. Yes. And the last sentence of the second
7 paragraph, and you can see my frustration, because I
8 underlined "immediately," and I had been getting no
9 response, so I was quite disturbed.

10 MR. MESEREAU: Objection; move to strike.

11 THE COURT: I'll strike the -- after "Yes."

12 Q. BY MR. ZONEN: But the word "immediately"
13 is, in fact, underlined; is that correct?

14 A. Yes.

15 Q. All right. Now, did you send this by
16 facsimile?

17 A. Yes.

18 Q. And do you have a transaction report that
19 indicates it was, in fact, processed?

20 A. Yes.

21 Q. All right. Can you tell us when this letter
22 was processed?

23 A. It says 4:33 p.m., May 15, to the same fax
24 number.

25 Q. I'm sorry?

26 A. To the same fax number.

27 Q. Okay. The next page is a fax cover sheet

28 from Mr. Geragos; is that correct? 12290

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1 A. Yes.

2 Q. And the next page after that is a letter
3 from Mr. Geragos back to you?

4 A. Yes.

5 Q. Now, the letter is dated, from Mr. Geragos
6 to you, May 17, 2003; is that correct?

7 A. Yes.

8 Q. Please read to us the first sentence of that
9 letter.

10 A. "Thank you for your histrionic letter dated
11 May 15, 2003."

12 Q. Are communications getting a little testy at
13 this point?

14 A. Yes.

15 Q. Okay. But he acknowledges receiving the May
16 15, 2003, letter?

17 A. Yes.

18 Q. And the May 15, 2003, letter specifically
19 demands the immediate return of your clients'
20 passports and birth certificates; is that true?

21 A. Yes.

22 Q. Let's move on to the next, a letter from you
23 dated May 20, 2003. You sent that to Mr. Geragos?

24 A. Yes, by fax.

25 Q. By fax. Again, the same fax number?

26 A. Identical.

27 Q. All of these are to the same identical fax

28 number? 12291

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1 A. Yes.

2 Q. And you, once again, have a transaction
3 report indicating that that letter was properly
4 processed.

5 A. Yes.

6 Q. May 29, 2003, another letter from you to
7 Mr. Dick -- from you to Mr. Geragos; is that
8 correct?

9 A. Yes.

10 Q. Properly faxed that same day, May 29.
11 The next page is a letter from Mr. -- the
12 cover sheet of a fax from Mr. Geragos to you; is
13 that correct?

14 A. Yes.

15 Q. And then the next page after that is a
16 letter from Mr. Geragos to you dated June 2nd, 2003?

17 A. Yes.

18 Q. All right. It references your letter of
19 May 29, 2003; is that correct?

20 A. In the first sentence.

21 Q. All right. Does not mention anything about
22 passports, does it?

23 A. No.

24 Q. And finally, the last page of that is a
25 document that appears to be a fax to you from
26 Bradley Miller; is that correct?

27 A. Yes.

28 Q. And that's dated June 12th, 2003; is that 12292

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1 correct?

2 A. Yes.

3 Q. Up until this facsimile was sent to you by
4 Brad Miller, did they ever tell you where your
5 clients' possessions were?

6 A. No.

7 Q. Did Mr. Geragos or anybody from his office
8 ever acknowledge the fact that there were passports
9 that belonged to your client and were in his
10 possession?

11 A. No.

12 MR. ZONEN: No further questions.

13 I will move to admit -- excuse me. One more
14 second.

15 Q. Mr. Dickerman, the documents -- the copies
16 that you have before you that are the collection,
17 a complete -- let me do that one more time.

18 Exhibit 809 -- 803 --

19 A. 903.

20 Q. 903. It's Friday, isn't it? Thursday.

21 I'll start again.

22 Exhibit No. 903, a collection of documents
23 that are, in fact, communications between you and
24 Mark Geragos, is this a complete collection of the
25 letters that were sent by you to Mr. Geragos and
26 returned from Mr. Geragos to you?

27 A. As far as I know, yes.

28 Q. And this is an accurate copy of each of 12293

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1 these documents; is that right?

2 A. Yes.

3 MR. ZONEN: I would move to introduce into

4 evidence Exhibit No. 903.

5 MR. MESEREAU: No objection.

6 THE COURT: It's admitted.

7

8 CROSS-EXAMINATION

9 BY MR. MESEREAU:

10 Q. Mr. Dickerman, I'd like to refer you to

11 your letter which purports to be dated March 26th,

12 2003. Do you see that?

13 A. Yes.

14 Q. Is that letter signed?

15 A. This document does not bear a signature.

16 Q. Do you have a copy of a signed letter of

17 March 26th?

18 A. No.

19 Q. Do you normally sign letters that you send

20 as a lawyer?

21 A. Always.

22 Q. Why didn't you sign this one?

23 A. I did sign the letter. This is a copy.

24 Q. Does anyone know where it is, a copy of the

25 signed letter?

26 A. I didn't -- apparently I didn't sign -- I

27 didn't copy the signed letter. I probably ran a

28 duplicate from the printer. And I usually do not 12294

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1 copy my signature because it's easier to run a copy
2 from the printer than to go to the Xerox machine.

3 Q. Let's look at your letter of April 3rd,
4 2003. Does that have a signature of you?

5 A. It does, because that was a document that
6 was faxed. That's the exact copy of what was faxed.

7 Q. You're suggesting that when you messenger
8 copies of your letters you don't sign them, but when
9 you fax copies of your letters you do sign them?

10 A. No.

11 Q. What are you suggesting?

12 A. A document that is faxed is the exact
13 document with the signature. I made -- I have an
14 original of a letter that I mail or messenger, and
15 the original would be signed, and very often I don't
16 copy the signature, but I run a second copy out of
17 the printer.

18 Q. Have you been in touch with the prosecutor
19 about these letters before you testified today?

20 A. Yes.

21 Q. Did he ask you to look in your file to get
22 copies of your letters?

23 A. I'm not sure. But I told him I had copies
24 of my letters.

25 Q. Did he ask you to look in your file and look
26 at the copies of the letters you claim you sent to
27 Mark Geragos?

28 A. I don't remember specifically. 12295

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1 Q. So far, there is no copy you've been able to
2 find of a March 26th letter that you actually
3 signed, true?

4 A. Yes.

5 Q. Yet, we have other letters in this package
6 that you did sign, right?

7 A. That's right. And as I explained, they are
8 copies of precisely the document that I faxed. I
9 would not fax a document without my signature.

10 However, I did messenger the document with my
11 signature.

12 Q. How do you know that if you don't have a
13 copy of the signed letter?

14 A. Because I sign my letters before they go
15 out.

16 Q. Where is the copy?

17 A. I didn't make a copy of my signature.

18 There's no reason to make a copy of my signature.

19 The -- these copies are of faxes that were sent that
20 were faxed. They are faxed, obviously, with my
21 signature.

22 Q. When you make a demand letter like the
23 letter of March 26th on behalf of a client, do you
24 routinely sign the letter?

25 A. Always.

26 Q. Where is the signed copy?

27 MR. ZONEN: That's argumentative.

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1 Q. BY MR. MESEREAU: You don't have a signed
2 copy, do you?

3 MR. ZONEN: Objection; asked and answered.

4 THE COURT: Sustained.

5 Q. BY MR. MESEREAU: Let me refer you to the
6 first page of your March 26th, 2003, letter. I'd
7 like to refer you to the last paragraph. It's
8 number two. Do you see that?

9 A. I do.

10 Q. You say as follows: "The Arvizos demand
11 that Jackson immediately return to them," and I want
12 you to look at Item B, "The papers they have signed,
13 including passport, visa applications, school
14 documents, documents in connection with the legal
15 action in Britain concerning 'Living with Michael
16 Jackson.'" Do you see those words?

17 A. I do.

18 Q. Isn't it true that later, after you sent
19 this letter, assuming you sent it, your client,
20 Janet Arvizo, denied ever authorizing a legal action
21 in Great Britain?

22 MR. ZONEN: I'm going to object as compound
23 and vague and exceeding the scope of the direct
24 examination.

25 BAILIFF CORTEZ: Microphone's off.

26 MR. MESEREAU: He introduced it into
27 evidence, Your Honor.

28 MR. ZONEN: This letter's been in evidence. 12297

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1 THE COURT: Sustained. Exceeds the scope of
2 direct.

3 MR. MESEREAU: Okay.

4 Q. Let me go to the next page, number four.

5 A. Yes.

6 Q. You asked for copies of any model release
7 your client, Janet Arvizo, signed involving footage,
8 right?

9 A. Can you point me to the line?

10 Q. Sure. Paragraph number four. One, two,
11 three, four, five -- I'd say at 5, 6 -- lines 5, 6
12 and 7 in paragraph number four.

13 A. Where it says, "Titled "This Model
14 Release'"?

15 Q. Yes.

16 A. Okay.

17 Q. Now, did you have a copy of a model release
18 when you wrote the letter?

19 A. I don't remember.

20 Q. Did Janet Arvizo tell you she had negotiated
21 and signed a model release?

22 MR. ZONEN: Objection; exceeds the scope of
23 the direct examination.

24 THE COURT: Sustained.

25 Q. BY MR. MESEREAU: Let's go to the letter you
26 claim you sent to Mr. Geragos on April 8, 2003. Do
27 you see that?

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1 Q. Let's look at the first paragraph. One,
2 two, three -- well, the first complete sentence.
3 Excuse me, I'm sorry. The second complete sentence.
4 Could you please read that sentence to yourself?

5 A. Okay.

6 Q. You say in your letter to Mr. Geragos,
7 referring to the apartment, "She tells me that,
8 contrary to what you said about there being a
9 truckload, she had very few possessions, since she
10 lived in a bachelor apartment. She does not believe
11 that much, if any, furniture was removed."

12 Was that what Janet Arvizo told you about
13 her address at Soto Street?

14 MR. ZONEN: Objection; exceeds the scope of
15 the direct examination.

16 THE COURT: Sustained.

17 Q. BY MR. MESEREAU: In that paragraph, are you
18 referring to the Soto Street address in East Los
19 Angeles?

20 MR. ZONEN: Objection; exceeds the scope of
21 the direct examination.

22 THE COURT: Sustained.

23 Q. BY MR. MESEREAU: Let me refer you to a
24 letter of April 11, 2003, that purports to be to
25 Mr. Geragos from you. Do you see that letter?

26 A. Yes.

27 Q. And in the second letter, you write, "My

28 clients have also learned that Mr. Jackson has 12299

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1 produced or is producing and that FOX will broadcast
2 a program involving home videos or home movies."

3 Do you see that?

4 A. Yes.

5 Q. Did your client tell you that?

6 MR. ZONEN: Objection; exceeds the scope of
7 the direct examination.

8 THE COURT: Sustained.

9 Q. BY MR. MESEREAU: Let's move to a letter
10 from Mr. Geragos to you, which is signed and faxed
11 on April 15th, 2003. Do you see that?

12 A. Yes.

13 Q. Mr. Geragos says to you, "We have retrieved
14 various items from storage and would appreciate your
15 advising us as to where they should be delivered,"
16 right?

17 A. Yes.

18 Q. And did you immediately advise him where to
19 deliver the items?

20 A. No.

21 Q. Why not?

22 A. Well, if you go back to previous letters,
23 and I don't know which exactly they are without
24 going through and reading them, I had requested, on
25 numerous occasions, I believe, that Mr. Geragos give
26 us a list of what there was, and to tell us where it
27 was. And I had told him that what we were most

28 interested in were passports, visas, birth 12300

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1 certificates and these other things that are
2 included in the March 26th letter that apparently he
3 says he didn't receive, but that he acknowledges
4 having received in phone conversation and refers to
5 in subsequent letters.

6 It was obvious to me that he was skirting
7 the issue and trying to make the issue different
8 from what it was, which was to get back these items.

9 And we were not talking about the items in storage.

10 We were talking really about the passports, visas,
11 items of clothing that apparently were taken at
12 Neverland, and the other documents and tapes and
13 whatnot that was mentioned very specifically in
14 March 26th -- in the March 26th letter.

15 Q. Let me ask you the question again. You may
16 not have understood.

17 Mr. Geragos, on April 15th, says to you,

18 "We have retrieved various items in storage and
19 would appreciate your advising us as to where they
20 should be delivered."

21 My question is, why didn't you tell him
22 where to deliver them?

23 A. I'm just referring to these letters, because
24 I know there is voluminous correspondence here about
25 this specific issue.

26 Well, if you look at the April 22nd letter,
27 you'll see I wrote, quote, "Your April 15" -- yes, I

28 had asked for these items to be delivered 12301

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1 immediately. There was no reason for there to be
2 any discussion, any movement, any mailing, any
3 anything to get back the passports, visas, birth
4 certificates and those other materials.

5 Mr. Geragos never referred to those, except
6 in this one conversation that I referred to. He
7 never responded in these letters, and it was clear
8 he was dodging the issue. And I kept on writing to
9 him saying, "These are the things that we want," and
10 I didn't want him skirting the issue by dealing with
11 things that were not at issue.

12 And I wrote in that letter on April 22nd,
13 quote, "Your April 15 letter," that's the one you
14 just referred to, "ignores the specific requests and
15 refers simply to," quote, "'various items,'" period,
16 close quote. "As to those referred to above, you
17 already have my instructions for delivery. I
18 demand, for the fourth time, that you comply with my
19 request," period, close quote.

20 And then the second paragraph, here's the
21 more specific answer to your question: Quote, "As
22 for any other items," and that's referring to, I
23 guess, the items that he was referring to in the
24 April 15 letter, "I repeat my request of March 26th
25 that," quote, "'Jackson immediately provide a list
26 of all" -- "of all," bracket, "my clients'," closed
27 bracket, "personal property that he possesses or

28 controls or stored, whether it was left at 12302

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1 Neverland, removed from my clients' apartment, or
2 obtained in any other way. They also demand to know
3 the precise location of all such property, and the
4 identity, address and phone number of each person
5 with access and/or a key to any place where the
6 property is located.'"

7 And that's a close quote, because I'm
8 quoting the March 26th letter.

9 And I continue, "In order to know what to do
10 with items other than those I have asked you
11 repeatedly to deliver to me," and there I'm
12 referring to the passports, visas, birth
13 certificates and items of clothing, "my clients need
14 to know what and where it is. They have a right to
15 know, too," period, close quote.

16 And then I go on to discuss something else.

17 Q. I understand --

18 A. Did that answer your question?

19 Q. No, it doesn't. I understand all the
20 legalese in your letters. What I'm asking you is,
21 where do you tell them where to deliver the
22 material? Show me some place.

23 A. I didn't tell them where to deliver the
24 materials.

25 Q. So he asked you where to deliver it, and you
26 would not respond?

27 MR. ZONEN: I believe the witness was

28 interrupted. 12303

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1 THE COURT: It's asked and answered.

2 Q. BY MR. MESEREAU: Did your client tell you
3 that no furniture was stored on her behalf? And I'm
4 referring to Janet Arvizo.

5 A. I don't remember specifically, but if it's
6 in the letter, then that's what happened.

7 Q. Well, in your letter of May 12th, you still
8 haven't told them where to deliver it, right?

9 A. As of May 12, he still hadn't told us what
10 there was, where it was stored and who had stored
11 it. I asked him very specific questions since March
12 26th. I asked him for a list of what there was, who
13 had possession of it, where it was. They had a
14 right to know those things. And his intention to
15 just dump whatever he felt like dumping was not what
16 we were about. It was quite easy for him to tell us
17 where the stuff was. That's what I wanted to know.
18 My client wanted to go out there and retrieve the
19 items, not to have them delivered, actually,
20 anywhere.

21 What I wanted delivered and what I told him
22 repeatedly, over and over and over again, was
23 deliver the passports, birth certificate, visas,
24 clothing, to my office.

25 Yes, he knew exactly where to send those
26 materials.

27 Q. And when you didn't respond to his letter of

28 April 15th asking you where he should deliver the 12304

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1 possessions, you knew exactly what you were doing,

2 didn't you?

3 MR. ZONEN: Objection; argumentative.

4 THE COURT: Sustained.

5 Q. BY MR. MESEREAU: You and your client were

6 trying to set up Mr. Jackson for a lawsuit, true?

7 MR. ZONEN: Objection; argumentative.

8 THE COURT: Sustained.

9 Q. BY MR. MESEREAU: Did you have your

10 profit-sharing arrangement with Larry Feldman at

11 this time?

12 MR. ZONEN: Objection; argumentative.

13 THE COURT: Beyond the scope.

14 THE WITNESS: Could I respond to that?

15 THE COURT: No. It's beyond the scope. Next

16 question.

17 THE WITNESS: Your Honor, could I correct a

18 statement that I made in previous testimony?

19 Because it seems to make a big difference here to

20 Mr. Mesereau.

21 MR. MESEREAU: Your Honor, I think, with all

22 due respect to the witness --

23 THE COURT: Next question.

24 MR. MESEREAU: Okay. All right.

25 Q. Now, I'd like to refer you to Mr. Geragos's

26 letter to you of May 15th, 2003. Do you have that

27 in front of you?

28 A. May 15th? 12305

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1 Q. Yes. 2003.

2 A. Got it.

3 Q. And I'm referring you to -- excuse me, let
4 me start off -- let me withdraw the question.

5 First, Mr. Geragos indicates that your
6 landlord refused delivery of items, correct?

7 A. Yes.

8 Q. And it is true that your landlord did refuse
9 to accept items Mr. Geragos had arranged to deliver
10 to your office, correct?

11 A. Mr. Geragos had not arranged to deliver
12 anything to me at any time, any place. The
13 landlord -- well, I don't know, "landlord."
14 Landlord's representative, the person that I deal
15 with at the property, left me a phone message about
16 some -- some things being attempted to be dropped
17 off. I got that at home, as I was observing -- or
18 at the end of observing a religious holiday, which
19 Mr. Geragos full well knew I was doing, because it
20 was on my answering machine, and told me that these
21 items were attempted to be delivered.

22 And I came back to the office the next day,
23 saw an e-mail, I believe -- I forget who it was
24 between, and I wrote an e-mail back to the office
25 manager named Salome Ahadi and told her -- she was
26 expressing some pique about this having happened
27 because no arrangements were made.

28 And I said to her, and I'm almost quoting, 12306

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1 "I would apologize if I had any idea what this was
2 about." And I said, "I knew nothing about it, made
3 no arrangements, made no agreement, have no
4 knowledge about it whatsoever."

5 Q. Let me refer to your letter of May 12th,
6 2003, to Mr. Geragos.

7 A. Yes.

8 Q. Don't you confirm in the first paragraph
9 that Mr. Geragos sent movers to your office with
10 furniture?

11 A. Yes, according to what the office manager
12 had told me. I don't know for sure whether there
13 was furniture or what was involved.

14 Q. You didn't know for sure?

15 A. I wasn't there. I wasn't there. As I say,
16 I got this phone message --

17 Q. Right --

18 A. -- and that's it.

19 Q. Don't you write the following, Mr.

20 Dickerman: "This then will serve to confirm that on
21 April 24th at about 9:30 a.m., you sent purported
22 movers to my office laden with a huge amount of
23 furniture and possibly other items that the movers
24 told the receptionist and building services
25 representatives I had directed and arranged to be
26 delivered"?

27 You confirm that an attempted delivery was

28 made of items and furniture, correct? 12307

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1 A. It wasn't from my personal knowledge, but
2 that's what it says. That's based on what I was
3 told at the office. I have no reason to believe
4 that that's not correct.

5 And I go on, if you want to keep this in
6 context --

7 Q. Sir, I'll --

8 A. -- to state that there was no such --

9 Q. I'll ask the questions.

10 A. -- arrangement.

11 Q. I'll ask the questions.

12 A. Well, if you want to get to the truth here,

13 Mr. Mesereau, instead of playing games --

14 Q. Mr. Dickerman --

15 A. -- I'll be happy to explain all of this, and

16 then we can have a reasonable trial where the facts
17 come out instead of implications.

18 THE COURT: Just a minute, Counsel. You're

19 not an advocate here. You're a witness.

20 THE WITNESS: Sorry, Your Honor.

21 THE COURT: Everyone understands what

22 position Mr. Mesereau is in and what position you're

23 in. Now, I want you to listen to the questions and

24 answer the questions.

25 THE WITNESS: I will, Your Honor.

26 Q. BY MR. MESEREAU: Mr. Dickerman, when you

27 wrote these letters on behalf of Janet Arvizo, did

28 you think it was her right to decide what materials 12308

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1 would stay in storage, paid by someone else, and
2 what materials you would accept when you felt like
3 accepting them?

4 MR. ZONEN: Objection. Argumentative and
5 compound.

6 THE COURT: You may answer the question. Do
7 you want it read back?

8 THE WITNESS: No, but I'm not willing to
9 waive the attorney work-product privilege. He's
10 asking for my thoughts, and those are out of bounds,
11 as he well knows.

12 THE COURT: I think you need to listen to the
13 question.

14 Have the question read back.

15 (Record read.)

16 THE WITNESS: He's asking for my thoughts.
17 My thoughts are my work-product. I'm not willing to
18 waive the privilege.

19 THE COURT: The work-product privilege
20 doesn't apply in criminal cases. I know you're a
21 civil attorney, so I'll give you a little leeway
22 here.

23 THE WITNESS: I am. All right.

24 I'm sorry, could you read it back one more
25 time?

26 THE COURT: What I'm going to do, though, is
27 ask you to rephrase it so that I know the question

28 you're attempting to ask. 12309

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1 MR. MESEREAU: Yes.

2 Q. Mr. Dickerman, in one of your earlier
3 letters to Mr. Geragos, you confirm your belief that
4 although there may be little furniture stored for
5 Janet Arvizo, there in fact may be some, correct?

6 A. You'd have to point me to the letter. I --

7 Q. Sure.

8 A. I don't have the letters memorized.

9 Q. Okay. Let me refer you to your letter of
10 April 8th, 2003.

11 A. Okay.

12 Q. In that first paragraph, referring to your
13 client, Janet Arvizo, you say that, "She does not
14 believe that much, if any, furniture was removed."

15 A. Right.

16 Q. Do you see that?

17 A. Yes.

18 Q. Now, did she tell you she did not believe
19 that much, if any, furniture was removed?

20 A. She must have, or I wouldn't have put it in
21 the letter.

22 Q. Did you ever confirm whether or not any
23 furniture was removed from the Soto Street
24 apartment?

25 A. I'm not sure what the Soto Street apartment
26 is, so I guess the answer would be no.

27 Q. Wasn't that the apartment that Janet

28 purported to live in? 12310

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1 A. I don't know about the address. I don't
2 know the street name.

3 Q. Well, what -- what apartment are you
4 referring to in your letter?

5 A. An apartment that they lived in. I don't
6 know that she ever referred to the address.

7 Q. And Janet Arvizo never told you where the
8 materials were taken from?

9 A. She told me they were taken from her
10 apartment, but I don't know that there was any
11 reason to tell me an address, a street number or a
12 street name. Or maybe she did and I just don't
13 recall it. The name of the street was not
14 important.

15 Q. Was the purported home of Janet Arvizo,
16 where materials were taken, allegedly, against her
17 will, important to you?

18 MR. ZONEN: I'm going to object as
19 argumentative and irrelevant.

20 THE COURT: Sustained.

21 Q. BY MR. MESEREAU: Are you saying under oath
22 you didn't know what the address was of the
23 apartment where possessions were supposedly taken
24 from?

25 A. I may have known then. I don't remember
26 now. The name is not familiar to me.

27 Q. Did you review your file before you agreed

28 to testify today for the prosecution? 12311

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1 A. I didn't review my file. I made copies of
2 the documents that have been put in evidence.

3 Q. How many meetings have you had with any
4 representative of the prosecution before testifying
5 today?

6 A. I don't know what you mean by "meeting."

7 I was upstairs in the room awaiting testimony. And

8 Mr. Zonen came up and I gave him these documents.

9 If that's a meeting, I don't know. One today and

10 one before the last time I testified. And I

11 testified to Mr. Sneddon -- meeting Mr. Sneddon,

12 gosh, I don't know, two years ago, or a year and a

13 half ago.

14 MR. ZONEN: I'll object as to irrelevant,

15 anything beyond the prior testimony, and asked and

16 answered.

17 THE COURT: Overruled. You interrupted the

18 witness.

19 I'm not sure you had completed your answer.

20 THE WITNESS: Yeah, I don't know what you

21 mean by a "meeting." A meeting can be defined as

22 two people in the same room together.

23 I never had a meeting for the purpose of

24 discussing testimony or reviewing documents.

25 Q. BY MR. MESEREAU: You don't know how to

26 define the word "meeting"?

27 A. As I said, a meet -- you define it and I'll

28 tell you whether I had them. 12312

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1 As I said, I was with Mr. Zonen for a couple
2 of minutes upstairs. If that's a meeting, then,
3 yes, I had a meeting with Mr. Zonen today. And I
4 had a meeting with him the time -- before I
5 testified last time.

6 And I met with Mr. Sneddon long before there
7 was a case, I guess. But a long, long time ago.

8 Just an introductory meeting, you know. I -- I
9 think that's it.

10 Q. Well, Mr. Dickerman, in this series of
11 correspondence with Mr. Geragos, you were
12 threatening to sue Mr. Jackson on behalf of the
13 Arvizos for a number of things, including
14 withholding possessions from Ms. Arvizo that were
15 taken from an apartment, correct?

16 A. You'd have to point me to that.

17 Q. Well --

18 A. I don't know that I ever threatened to sue
19 Mr. Jackson on behalf of the Arvizos for anything.

20 Q. Let's go to your first letter, then, on the
21 26th. Do you see that letter, the one that you
22 didn't sign?

23 A. I signed it.

24 Q. Okay. You just don't have a copy. The one
25 you claim you signed, but there is no copy, correct?

26 A. Correct.

27 Q. Okay. Let's look at the last paragraph. It

28 says, "The Arvizos expect Jackson to comply with the 12313

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1 demand to cease contacting and intimidating them
2 immediately. His failure to heed this demand will
3 force my clients to seek a civil restraining order
4 and perhaps to vindicate their rights in other
5 ways."

6 A. Yes.

7 Q. You're not threatening a lawsuit?

8 A. Well, when you say "a lawsuit," I think of
9 actually a civil -- a full-blown civil action. To
10 get a restraining order is -- I guess technically
11 it's a lawsuit, but it's a quick thing. You go down
12 to court, you put in a declaration, perhaps have
13 some testimony, and it's done really quickly.

14 Q. But, sir, it says, "They may seek a civil
15 restraining order and perhaps to vindicate their
16 rights in other legal ways," right?

17 A. That's correct. And it's purposefully vague
18 there. I didn't threaten a lawsuit. "Other legal
19 ways" meaning anything that we can legally do is a
20 possibility, sure.

21 Q. Like what, for example?

22 A. Well, there --

23 Q. That isn't a lawsuit?

24 A. There's a writ of possession. You can't do
25 anything without actually filing a Complaint or a
26 Petition. In order to get a court order, as you
27 well know, having practiced civil law yourself, you

28 need to file some kind of an action. You can call 12314

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1 that a lawsuit. You can call it an action. You can
2 call it -- I believe the civil procedure refers to a
3 number -- I think the Code of Civil Procedure refers
4 to a number of different kinds of action.

5 So as I say, when I refer to a lawsuit, when
6 I ask somebody, "Do you want to file suit?" I'm
7 talking about a full-blown civil action with causes
8 of action that you eventually go to trial on to
9 recover, usually, damages for your client.

10 Saying various other legal ways could have
11 been, as I say, a writ of possession, which is, yes,
12 you have to file some kind of a Complaint or a
13 Petition, or whatever else there was.

14 There was no decision made here as to what
15 was going to be done, so to say "other legal ways"
16 leaves open anything that my clients decided to do.

17 Q. Including lawsuits, true?

18 A. Sure.

19 Q. That's your first letter, right?

20 A. My first letter to Geragos.

21 Q. Yes.

22 A. Yeah.

23 Q. Was that the first letter you ever wrote to
24 anyone on behalf of Janet Arvizo?

25 A. I think so.

26 MR. ZONEN: I will object as exceeding the
27 scope of the direct.

28 THE COURT: Overruled. The answer is in. 12315

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1 Q. BY MR. MESEREAU: Now, when you first met
2 your client, Janet Arvizo, you didn't ask about the
3 address of the apartment that she was complaining
4 about?

5 MR. ZONEN: Objection; asked and answered.

6 THE COURT: Sustained.

7 Q. BY MR. MESEREAU: Now, let me refer you to a
8 letter from Mark Geragos to you of May 15th, 2003.

9 Do you see that letter?

10 A. Yes.

11 Q. Mr. Geragos writes the following to you:

12 "Since it appears that you are not equipped nor
13 willing to receive the property at your office, we
14 suggest that a simple matter in which to resolve
15 this situation is for your client to assume the \$100
16 a month charge for the rental units in which the
17 property is being stored." Do you see that?

18 A. Yes.

19 Q. Did you agree to that in your next letter?

20 A. You're referring to the May 15 letter in
21 which I say, quote, "You seem to believe that if
22 you repeat or imply a falsehood often enough it will
23 be believed." Is that --

24 Q. That's correct. Did you think it was false
25 that he said the unit cost \$100 a month?

26 A. No. What I was referring to was his
27 statement that we had somehow agreed, or that he was

28 acting properly in having these materials deposited, 12316

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1 or he tried to deposit them at my office, when there
2 was no arrangement, when he knew that I was out for
3 a religious holiday, and we had no agreement
4 whatsoever, and he had never responded to any of the
5 requests to know what there was, where it was, who
6 had possession of it.

7 Q. Now, the day you learned that Mr. Geragos
8 had a mover appear at your office, did you call him
9 back and say, "I'm back in the office. Let's
10 arrange to deliver it at a certain location"?

11 A. No. What I did was carry on correspondence
12 with Mr. Geragos. I believe at one point, and I
13 think there's a letter here, that when it turned out
14 that he was being totally deceitful and dodging and
15 not responding, I believe I told him that we should
16 have no further communications orally, but that
17 everything should be in writing.

18 The reason these things are in writing,
19 which I usually -- I just never had an experience
20 with anybody where there's this series of letters to
21 get an answer to a question.

22 The reason for this writing is just to
23 document the impossibility of getting him to do what
24 I had asked him to do so many times, which was a
25 simple request: Give us the passports, the visas,
26 the birth certificates. In fact, the other
27 materials were not that critical. What my clients

28 wanted were the passports, birth certificates, 12317

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1 visas, the other documents that were very specific.

2 Q. Did your client prefer that someone else
3 continue to store the furniture at their own
4 expense?

5 MR. ZONEN: Objection. Asked and answered
6 and argumentative.

7 THE COURT: Sustained.

8 Q. BY MR. MESEREAU: In any of these letters,
9 do you tell Mr. Geragos where to deliver the
10 furniture?

11 THE COURT: Counsel, that's asked and
12 answered.

13 MR. MESEREAU: Okay.

14 Q. Let me refer you again to the paragraph on
15 the Geragos letter to you of May 15th, 2003. He
16 asked you on that date --

17 A. I'm sorry, what date?

18 Q. I'm sorry, May 15th, 2003.

19 A. Okay.

20 Q. Mr. Geragos says, "Since we have not been
21 able to resolve this," he asks if your client will
22 assume the \$100 a month charge for the rental units,
23 right?

24 A. Yes.

25 Q. And what was your response to that?

26 A. Well, that same day I responded to him
27 detailing his lie about having had an arrangement to

28 drop off those materials. 12318

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1 And then I said, in the next paragraph,
2 quote, "I will consider your suggested resolution
3 once you comply with my previous requests that you
4 provide a list of all items you intend to," quote,
5 "deliver," period, close quote.

6 "I was told there was a massive amount of
7 furniture in your," quote, "'delivery,'" close
8 quote, "while my clients, who lived in a bachelor
9 apartment, had very few possessions and little, if
10 any, furniture. Your client, thorough deception,
11 makes mine understandably reluctant to take his or
12 your word for anything. I'd also like you to
13 deliver immediately," underlined, "my clients'
14 passports, birth certificates, and the clothing
15 items previously described."

16 And there, in the final paragraph, is my
17 request that he not communicate with me in any way
18 but writing, because I did not want any more -- I
19 hate to say this about another lawyer. I did not
20 want any more lies. And if they were in writing,
21 I didn't think that he was going to lie, although he
22 continued to do so.

23 Q. I understand. Let me reask my question
24 again.

25 In your response to Mr. Geragos, Mr.
26 Dickerman, do you ever tell him, one, where to
27 deliver the items, or two, that your client will

28 assume the cost of representing the unit? Anywhere 12319

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1 in all your verbiage, do you say anything about
2 either of those issues?

3 A. Yeah. I said once he complies with my
4 previous requests -- I don't know if there's a
5 problem. Is the microphone on? Maybe you're not
6 hearing me. It says -- well, now it's not. Oop, is
7 it on now?

8 It says that once he complies with my
9 previous requests made over a period of, let's see,
10 March, April, May, almost two months, that I would
11 be happy to do what he wanted.

12 Again, my clients' immediate concern was not
13 to get the items back from the vault. That was not
14 the big deal.

15 Q. And does your client care about who paid to
16 store them?

17 A. My client agreed subsequently to pick up the
18 tab once they knew where the items were, absolutely.

19 Q. Months later, correct?

20 A. I don't believe so.

21 Q. Well, let's keep going, okay?

22 A. Excuse me, just to complete the answer --

23 Q. Sure.

24 A. -- the final paragraph of that May 15 letter
25 says, quote, "Finally, your blatant dishonesty
26 regrettably compels me to instruct you to act only
27 on my written authorization, instruction or

28 agreement." 12320

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1 Q. I understand all the words.

2 What I'm trying to find out is, two months

3 after your March 26th letter, you've never told him

4 where to deliver the items and you've never agreed

5 to have your client pay the costs of storage, true?

6 A. Well, he asked about the cost of storage

7 later on, and --

8 Q. Can you answer my question?

9 A. Yeah, of course.

10 Q. Please do.

11 A. The letters say what they say. But to make

12 it sound like I was dodging --

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

14 nonresponsive to the question.

15 THE COURT: Sustained.

16 Q. BY MR. MESEREAU: Well, let's go -- let's

17 keep going and see if you ever tell him where to

18 deliver the material, okay?

19 We've got a letter that you sent him on

20 May 20th, 2003, right? Is that correct?

21 A. Yes.

22 Q. That's approximately two months since your

23 first letter of March 26th, 2003, right?

24 A. Yes.

25 Q. Have you still told him where to deliver

26 anything?

27 A. You're referring to the letter in which I

28 say, "My clients are willing to assume payment for 12321

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1 storage of their possessions”?

2 Q. Yes.

3 A. And the one where I say, “I ask that you
4 provide the precise location of all such property,
5 and the identity, address and phone number of each
6 person with access and/or a key to any place where
7 the property is located”?

8 Is this the letter that says, “You have
9 never responded to that more than reasonable
10 request”? And the one where I go on to say, “If my
11 clients are to,” quote, “assume payment on the two
12 storage lockers,” close quote, “as you requested
13 they do, they will obviously need that information,
14 as well as any agreements that are to be assumed. I
15 look forward to receiving all such information at
16 once.”

17 Q. It wasn't until two months later that you
18 agreed to pay the costs on behalf of your client,
19 true?

20 A. Not two months after -- two months after
21 what?

22 Q. Well, from March 26th to May 20th, you went
23 back and forth with all this verbiage, and it wasn't
24 till May 20th that you ever agreed to assume the
25 costs of the storage facility, true?

26 A. No, that's false. And you know it's false,
27 because there was no vault discussed by Mr. Geragos

28 or even acknowledged early on. So to say it's two 12322

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1 months from the date when I asked for items that
2 were never responded to, you know that's false.

3 So, no, it was not two months.

4 Q. Did your client ever assume the costs of the
5 storage locker?

6 A. I don't know whether they did or not.

7 Q. You don't know till today? You don't know
8 at all?

9 A. I understood that -- well, I know that they
10 told me that they would do so, and I transmitted
11 that information to -- it was either Geragos or
12 Miller, sure.

13 Q. Well, let's look at Miller's fax to you of
14 June 12th, 2003. Do you see that?

15 A. Yes.

16 Q. It's the last document in this package,
17 right?

18 A. Right.

19 Q. Brad Miller sends you a message: "Dear Mr.
20 Dickerman: Sorry I was not able to get back to you
21 yesterday. My office manager, Karen, let me know
22 you called this morning."

23 So, in fact, you're not just reducing
24 everything to writing. You're making phone calls,
25 aren't you?

26 A. My comment about writing was to Geragos. I
27 have no understanding of a connection between

28 Geragos and Miller except that Miller's doing 12323

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1 something on his behalf.

2 Q. What does that mean? What does that mean?

3 A. I didn't have a problem with Mr. Miller.

4 Q. Please explain what you mean by that. He's

5 doing something on his behalf, but you don't think

6 he has anything to do with him?

7 MR. ZONEN: Objection. Argumentative --

8 THE WITNESS: I knew nothing about --

9 MR. ZONEN: -- and exceeding the scope of

10 the direct examination.

11 THE COURT: Sustained.

12 Q. BY MR. MESEREAU: Let's look further at Mr.

13 Miller's fax to you, Mr. Dickerman, on June 12th.

14 It says, "Janet's belongings were packed and loaded

15 by Dino's Moving & Storage, 12641 Saticoy Street

16 South, North Hollywood, California. They then

17 placed the items in storage at their facility where

18 they have remained since, occupying, I believe, two

19 vaults. I just sent a check to Dino's for storage

20 payment May and June. Please call John at Dino's,

21 (818) 503-3999, and make whatever arrangements are

22 necessary to transfer the storage from myself to

23 either you or your client. Tell Dino's they can fax

24 whatever paperwork is necessary for me to sign," and

25 it gives the fax number. "Thank you, Brad," with a

26 cc to Mark Geragos.

27 You didn't know he had a connection with

28 Geragos when you got that fax? 12324

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1 MR. ZONEN: Objection. Argumentative and

2 exceeding the scope of the direct.

3 THE COURT: Overruled.

4 THE WITNESS: Well, I don't know exactly what
5 you mean by "connection." Obviously they had
6 something to do with each other, yeah. But I had no
7 problem with Miller, when you talk about putting
8 things in writing. I --

9 Q. BY MR. MESEREAU: Well, you got this fax of
10 June 12th, correct?

11 A. Yes.

12 Q. What did you do about it on behalf of your
13 client, Janet Arvizo?

14 A. I'm pretty sure I called my client, and told
15 them that we had now located the items, and I
16 believe I asked them whether they wanted to assume
17 the cost, and I think Janet Arvizo said she did.

18 Q. Did she?

19 A. I don't know. I don't know what happened
20 after that.

21 MR. MESEREAU: No further questions.

22

23 REDIRECT EXAMINATION

24 BY MR. ZONEN:

25 Q. The last letter that Mr. Geragos -- that
26 Mr. Mesereau asked you about dated June 12th, 2003,
27 that identifies Dino's Moving & Storage, is that the

28 first communication you had from anybody identifying 12325

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1 where your clients' property was stored?

2 A. Yes.

3 Q. Did Mr. Geragos ever tell you where the
4 property was stored?

5 A. Never.

6 Q. Did Mr. Geragos ever tell you that he had
7 the passports that belonged to your client?

8 A. No.

9 Q. Let's go back to the letter that's dated
10 May 12th, 2003. That's the one where you wanted to
11 move on a little bit, and let's go back to the
12 beginning of this letter.

13 MR. MESEREAU: Objection; move to strike.

14 THE COURT: Stricken.

15 Q. BY MR. ZONEN: May 12th, 2003, your letter
16 to Mr. Geragos, do you have that in front of you?

17 A. Yes.

18 Q. Read -- the first two sentences end with the
19 words "to be delivered." If you'd read those out
20 loud, please.

21 A. "Dear Mr. Geragos: I thought I had
22 previously memorialized by letter your April 24th
23 stunt with the movers, but I find I did not. This
24 then will serve to confirm that on April 24, at
25 about 9:30 a.m., you sent purported movers to my
26 office laden with a huge amount of furniture and
27 possibly other items that the movers told the

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1 had directed and arranged to be delivered.”

2 Q. Stop right there.

3 That was the part that Mr. Geragos read to
4 you -- that Mr. Mesereau read to you; is that
5 correct?

6 A. Yeah. At least part of it, yeah.

7 Q. Go ahead, now, and read the next sentence
8 that you wrote.

9 A. “As you know, and knew then, and as my
10 correspondence reflected, there was no such
11 arrangement. In fact, much to the contrary, I asked
12 you on numerous occasions to deliver just the
13 passports and certain other documents and a few
14 items of Gavin Arvizo’s clothing. Not only did you
15 never deliver those items, you never even
16 acknowledged any intention or interest in doing so.”

17 Q. Now, this is actually another letter I had
18 not pointed out to you earlier where you refer to
19 the passports again; is that right?

20 A. That’s right.

21 Q. So this is the May 12th letter that refers
22 to your clients’ passports?

23 A. Yes.

24 Q. And previously I identified five different
25 letters. That’s actually May 6th; is that correct?

26 A. I haven’t been counting.

27 Q. All right. Now, did you know in advance, at

28 the time of the delivery of the contents of your 12327

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1 clients' apartment to your office building, that Mr.

2 Geragos was going to do that?

3 A. I'm sorry, did I know whether -- did I have

4 any advance notice that he was going to do it?

5 Q. Yes. Yes.

6 A. None.

7 Q. Did he ever call you and say, "We're going

8 to just go ahead and deliver your clients' property

9 to your office"?

10 A. Never.

11 Q. Are you a sole practitioner?

12 A. Yes.

13 Q. How large is your office?

14 A. One, sometimes two.

15 Q. All right.

16 A. Well, and sometimes other attorneys that I

17 associate in on cases. But as a regular matter, one

18 and a secretary.

19 Q. Okay. And do you have room to store a

20 refrigerator and possessions from even a small or

21 modest studio apartment?

22 A. I have no storage whatsoever except for some

23 files. I keep everything off site. I would

24 never -- I could never store anything in the

25 building. I have no agreement with them to do so.

26 Q. If you had been asked in advance to accept

27 possession of the Arvizo family residence at your

28 office, would you have agreed? 12328

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1 A. No, I --

2 MR. MESEREAU: Objection; calls for
3 speculation.

4 THE WITNESS: It doesn't call for
5 speculation. I certainly wouldn't have. I couldn't
6 have.

7 THE COURT: Just --

8 MR. ZONEN: Mr. Dickerman, you can't do
9 that, okay? Please, just answer the question.

10 THE WITNESS: Sorry.

11 THE COURT: The objection is overruled.

12 Q. BY MR. ZONEN: Would you have agreed to
13 that?

14 THE COURT: Read the question back.

15 (Record read.)

16 THE WITNESS: Absolutely not.

17 Q. BY MR. ZONEN: All right. And nobody
18 contacted you from Mr. Geragos's office in advance;
19 is that correct?

20 A. That's correct.

21 MR. ZONEN: No further questions.

22

23 RE-CROSS-EXAMINATION

24 BY MR. MESEREAU:

25 Q. Mr. Dickerman, isn't it true that at one
26 point Mr. Geragos was so frustrated because you
27 would not let him know where to deliver --

28 MR. ZONEN: I'm going to object as to 12329

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1 whether or not Mr. Geragos --

2 Q. BY MR. MESEREAU: -- your client's property

3 that --

4 MR. ZONEN: -- was frustrated as exceeding

5 the scope, and --

6 Q. BY MR. MESEREAU: -- that he had to write

7 you a letter --

8 THE COURT: Just a moment.

9 Q. BY MR. MESEREAU: He wrote you a letter

10 threatening to auction it off if you didn't tell him

11 where to deliver it or accept responsibility for

12 storage, right?

13 THE COURT: Just a moment. You're going to

14 have to start over. The question is garbled by

15 interruption.

16 MR. MESEREAU: I'm sorry.

17 Q. Isn't it true, Mr. Dickerman, that at one

18 point Mr. Geragos was so frustrated at your

19 unwillingness to tell him where to deliver the items

20 in storage, that he told you if you don't tell him

21 where to deliver it, he's going to possibly let it

22 be subject to auction by the owner of the storage

23 facility, right?

24 MR. ZONEN: I'll object as speculative as to

25 whether or not he was frustrated.

26 THE COURT: Sustained.

27 Q. BY MR. MESEREAU: Do you have the May 17th

28 letter from Mr. Geragos to you? 12330

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1 A. Yes.

2 Q. Let me just go through that letter with you.

3 "Dear Mr. Dickerman: Thank you for your
4 histrionic letter dated May 15, 2003. Beyond your
5 bluster and personal attacks, please remember that
6 you have a duty to resolve this matter in the most
7 efficient manner possible. In that regard, please
8 advise us as to whether your clients will accept our
9 offer that they assume payment on the two storage
10 lockers."

11 Next paragraph: "As to your request for an
12 inventory of the property, our offer allows your
13 clients immediate possession of all their property,"
14 period. "We will waste no further time or resources
15 of our client. You have caused us the unnecessary
16 expense of one delivery attempt and we will not
17 waste additional funds for the sole purpose of
18 placating you."

19 "Lastly, please be advised, in the event
20 your clients, one, refuse to assume the payments on
21 the storage lockers, or two, fail to promptly remove
22 the property therein, the property may ultimately be
23 subject to auction by the storage facility. Govern
24 yourself accordingly. Very truly yours, Mark
25 Geragos."

26 You wrote him back and still didn't tell him
27 where to deliver it, right?

28 A. You're referring to the letter where I tell 12331

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1 him that we're willing to assume payment and take
2 delivery once he complies with the request I've been
3 making since March 26th, for almost two months.

4 Q. So your --

5 A. Is that the one?

6 Q. -- your position was, "Give me what I want,
7 and you keep storing what I don't want at your
8 expense"?

9 MR. ZONEN: Objection. Argumentative and
10 asked and answered.

11 THE COURT: Sustained.

12 MR. MESEREAU: No further questions.

13 MR. ZONEN: No further questions.

14 THE COURT: All right. You may step down.

15 We'll take our break.

16 (Recess taken.)

17

18 (The following proceedings were held in
19 open court outside the presence and hearing of the
20 jury:)

21

22 THE COURT: Excuse me, I just stepped in
23 quickly because I understand there's -- you want to
24 put a stipulation on the record; is that right?

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

26 THE COURT: Okay.

27 MR. ZONEN: Do we already have this exhibit

28 identified? We do. We turned it in to the Court. 12332

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1 THE COURT: Yes, I just handed it back to the
2 clerk. It's 901.
3 MR. ZONEN: Thank you, Your Honor.
4 Exhibit 901 we're going to stipulate can be
5 admitted into evidence subject to the stipulation
6 that these are from Brad Miller's computer. They
7 are e-mail communications between Brad Miller and
8 Mark Geragos, and that the deletions that are in
9 here, the deletions are done with Court approval,
10 directed by Mr. Geragos, and they delete sections
11 that refer to other clients.

12 THE COURT: All right. Do you agree with
13 that stipulation?

14 MR. MESEREAU: Yes, Your Honor.

15 THE COURT: I'll approve that stipulation,
16 and that relieves the necessity of Mr. Geragos'
17 appearance tomorrow; is that correct?

18 MR. ZONEN: I believe so, yes.

19 MR. MESEREAU: Yes. My understanding is he
20 would like to fly out of town --

21 THE BAILIFF: Microphone.

22 MR. MESEREAU: My understanding is Mark
23 Geragos would like to fly out of town tomorrow, and
24 we have no objection to that, but I would not want
25 to tell him to do so until the Court approves.

26 THE COURT: I'm asking you. Do either of
27 you -- do either of you have any need for Mr.

28 Geragos to appear tomorrow? 12333

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1 MR. MESEREAU: No, Your Honor.

2 MR. ZONEN: No.

3 THE COURT: So we can release him to go

4 where he wants to go?

5 MR. ZONEN: Yes.

6 THE COURT: All right. That will be fine.

7 MR. MESEREAU: Thank you.

8

9 (The following proceedings were held in
10 open court in the presence and hearing of the
11 jury:)

12

13 (Off-the-record discussion held at counsel
14 table.)

15 MR. MESEREAU: Excuse me, Your Honor.

16 THE COURT: Would you face the clerk and
17 raise your right hand, please.

18

19 CHRISTINE CAUSER

20 Having been sworn, testified as follows:

21

22 THE WITNESS: I do.

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

25 THE WITNESS: Christine --

26 BAILIFF CORTEZ: Ma'am, be seated first.

27 THE WITNESS: Christine Causer.

28 C-h-r-i-s-t-i-n-e, C-a-u-s-e-r. 12334

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1 THE CLERK: Thank you.

2 THE COURT: Counsel, before you ask a
3 question, there's -- can you give us an indication
4 of -- I'm speaking to all of you -- are we going to
5 have a full day tomorrow on evidence? Does that
6 seem to be the situation?

7 MR. MESEREAU: I think we might, Your Honor.

8 THE COURT: Okay. Go ahead, Counsel.

9 MR. SNEDDON: Thank you.

10

11 DIRECT EXAMINATION

12 BY MR. SNEDDON:

13 Q. Mrs. Causer?

14 A. Yes.

15 Q. Mrs. Causer, you're going to have to lean
16 into the --

17 A. Right here?

18 Q. The other one.

19 A. Oh. Okay.

20 Q. There we go. Thank you very much.

21 Mrs. Causer, you live in the Los Angeles
22 area?

23 A. Yes.

24 Q. And what is your current occupation?

25 A. I work as a visitation -- visitation
26 services at a mortuary.

27 Q. That's at Rose Hills?

28 A. Yes, it is. 12335

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1 Q. Now, at one point in time, did you work as
2 an intern for the Mid Valley News?

3 A. Approximately four or five years ago.

4 Q. And was the person that you worked for
5 Connie Keenan?

6 A. Yes.

7 Q. She was the editor at that time?

8 A. Yes.

9 Q. And you're familiar with Mrs. Keenan?

10 A. Yes.

11 Q. And in connection with your work with Mrs.

12 Keenan, did you become involved in writing an

13 article for the Mid Valley News?

14 A. Yes, I did.

15 Q. Now, I want to ask you some questions, some

16 specific questions. Did you ever tell Mrs. Keenan

17 that you had delivered a cooked turkey to the Arvizo

18 family?

19 A. Not a cooked turkey.

20 Q. Okay. You delivered a turkey, did you not?

21 A. Yes.

22 Q. And when you delivered that turkey to the

23 Arvizos, did you also give them some money?

24 A. Yes.

25 Q. How much did you give them?

26 A. Five dollars.

27 Q. That was a lot of money to you at that time,

28 wasn't it? 12336

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1 A. It was -- it was somewhat -- not really a
2 lot, but it was a token amount, really.

3 Q. Did you tell Mrs. Keenan that you had done
4 that?

5 A. Yes.

6 Q. And did you get in trouble for doing that
7 from her?

8 A. Yes, I did.

9 Q. Did you ever tell Mrs. Keenan that, when you
10 delivered the uncooked turkey to the Arvizo family,
11 that Mrs. Arvizo said to you, "That's nice, but I'd
12 rather have money"?

13 A. No.

14 Q. You never made that statement to her?

15 A. No, I did not.

16 Q. Did you ever tell Mrs. Keenan that the
17 Arvizo family was going to lose their home as a
18 result of what -- the medical expenses connected
19 with their son Gavin?

20 A. I don't believe so.

21 MR. SNEDDON: No further questions, Your
22 Honor.

23

24 CROSS-EXAMINATION

25 BY MR. MESEREAU:

26 Q. Good afternoon, Miss Causer.

27 A. Hello.

28 Q. Miss Causer, my name is Tom Mesereau. I 12337

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1 speak for Mr. Jackson.

2 You did have a discussion with Miss Keenan
3 about Janet Arvizo's reaction to your bringing the
4 turkey, did you not?

5 A. Yes.

6 Q. And what did you tell her Janet Arvizo's
7 reaction was?

8 A. I just felt that she rather discarded it.
9 She didn't seem really pleased.

10 Q. And did Janet Arvizo proceed to tell you
11 anything about her financial condition?

12 A. Yes. She did mention the medical expenses
13 were uncovered by the insurance that they have --
14 had at the time or didn't have anymore.

15 Q. And did she tell you that her car had been
16 repossessed?

17 A. Yes.

18 Q. Did she tell you that one chemotherapy
19 injection cost more than \$12,000?

20 MR. SNEDDON: Your Honor, I'm going to
21 object. This is beyond the scope of the direct
22 examination. I --

23 MR. MESEREAU: I don't believe so, Your
24 Honor.

25 MR. SNEDDON: I was specific as to her
26 conversation with Mrs. Keenan.

27 THE COURT: Sustained. It's beyond the

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1 Q. BY MR. MESEREAU: Now, did you tell Miss
2 Keenan that Janet Arvizo told you that one
3 chemotherapy injection cost more than \$12,000?

4 A. I don't think I said "more." I think I said
5 "12,000."

6 Q. And did you tell Mrs. Keenan that Janet
7 Arvizo told you her car had been repossessed?

8 A. Yes.

9 Q. Did you tell Mrs. Keenan that Janet Arvizo
10 said they had a deteriorating financial condition?

11 A. Yes.

12 Q. And did you tell Mrs. Keenan that Janet
13 Arvizo said they no longer had medical insurance?

14 A. Yes.

15 Q. Did you tell Mrs. Keenan that Janet Arvizo
16 said the financial toll on the family has been
17 undescrivable?

18 A. I don't recall those words, actually.

19 Q. Would it refresh your recollection if I just
20 show you this article?

21 MR. SNEDDON: Well, which article?

22 MR. MESEREAU: The article written by Miss
23 Causer.

24 Q. Might that refresh your recollection on what
25 that word was?

26 A. Probably.

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

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1 Q. BY MR. MESEREAU: Have you had a chance to
2 review that portion of the article?

3 A. Not recently.

4 Q. Okay. I mean just this second, did you have
5 a chance to look at that?

6 A. Just recently now, yes.

7 Q. Does it refresh your recollection about what
8 you told Miss Keenan?

9 A. Yes.

10 Q. And did you tell Miss Keenan that Janet
11 Arvizo told you that the financial toll on the
12 family has been undescrivable?

13 A. Yes.

14 Q. Now, did you tell Miss Keenan that Janet
15 Arvizo told you that becoming a comedian is Gavin's
16 dream?

17 A. Yes.

18 MR. SNEDDON: Your Honor, that's double
19 hearsay. I'm sorry. Double hearsay.

20 THE COURT: Just a moment, please.

21 MR. MESEREAU: Sure.

22 THE COURT: It's overruled.

23 Q. BY MR. MESEREAU: I'm sorry, I didn't hear
24 your answer, Miss Causer.

25 A. Yes.

26 Q. Okay. And did you tell Miss Keenan that
27 Janet Arvizo told you that before his illness, he,

28 meaning Gavin, attended Rush Hour and became friends 12340

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1 with Chris Tucker, who has become a big brother to
2 him?

3 A. Yes.

4 Q. And did you tell Miss Keenan that Janet
5 Arvizo told you that Suli McCullough, a stand-up
6 comic on The Jamie Fox Show, was also an important
7 support to Gavin?

8 A. Yes.

9 Q. Did you tape-record your interview with
10 Janet Arvizo?

11 A. Yes.

12 Q. And at some point did you double-check to
13 see if the fact about the chemotherapy costing
14 \$12,000 was correct?

15 A. Yes.

16 Q. That wasn't a typographical error, was it?

17 A. I don't believe so.

18 MR. MESEREAU: I have no further questions,

19 Your Honor.

20 MR. SNEDDON: No questions.

21 THE COURT: All right. Thank you. You may

22 step down.

23 Call your next witness.

24 MR. ZONEN: We'll call Maria Ventura. Maria

25 Ventura.

26 We need an interpreter.

27 THE COURT: I'll remind you that you're still

28 under oath. You're still under oath. And you may 12341

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1 be seated.

2 MRS. VENTURA: Okay, of course.

3

4 MARIA VENTURA

5 Having been previously sworn, resumed the

6 stand and testified further as follows:

7

8 DIRECT EXAMINATION

9 BY MR. ZONEN:

10 Q. Miss Ventura, good afternoon.

11 A. Good afternoon.

12 Q. I'd like to direct your attention, please,

13 to the 27th of August of 1998.

14 A. That's fine.

15 Q. All right. On that particular occasion, in

16 the evening hours, did you proceed to a shopping

17 mall in the West Covina area?

18 A. Yes.

19 Q. Did you go there for purposes of picking up

20 your grandchildren?

21 A. Yes.

22 Q. Was that the day your daughter Janet and her

23 then-husband David were arrested?

24 A. Yes.

25 Q. When you got to the shopping mall, was

26 either David or Janet still there? Were either one

27 of them still there?

28 A. Janet was there, a police officer, a patrol 12342

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1 car, and the kids.

2 Q. Okay. Did you -- which kids?

3 A. Gavin and Star.

4 Q. Did you take the children home with you?

5 A. Yes.

6 Q. Was Janet taken by the police?

7 A. Yes.

8 Q. How long did the children stay with you?

9 A. Till the next day.

10 Q. All right.

11 A. Because I called her. The kids were not

12 well.

13 Q. All right. What was the matter with the

14 children?

15 A. They complained all night. Star was

16 complaining about a headache, and Gavin, his arm.

17 And I gave them Tylenol.

18 Q. All right. The next day, did somebody take

19 them to the doctor?

20 A. Yes, both of them.

21 Q. Okay.

22 A. Janet and David.

23 Q. All right. Did David or Janet see either of

24 the boys from the time you picked them up?

25 MR. MESEREAU: Objection; foundation.

26 MR. ZONEN: Let me reask that question

27 again.

28 Q. You took the two boys from the shopping mall 12343

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1 directly to your house; is that true?

2 A. No. I went to see if I could get my
3 daughter out.

4 Q. Okay. Where were the boys when you went to
5 get your daughter?

6 A. With me.

7 Q. In the car?

8 A. We walked over there to the police station.

9 Q. It's not too far from the shopping mall?

10 A. No, the mall is right there, and then we
11 just came like that in the car, and then we got out
12 and went in.

13 Q. Was your husband with you?

14 A. He was driving.

15 Q. Okay. And were you able to get your
16 daughter out at that time?

17 A. No.

18 Q. And did you then go back to your home?

19 A. Yes.

20 Q. And that's your home in El Monte?

21 A. Yes.

22 Q. All right. And did you stay at your home
23 that night with your two grandsons, Star and Gavin?

24 A. Yes.

25 Q. Do you know approximately what time it was
26 that Janet and her husband David arrived at your
27 house and took the boys?

28 A. The next day. 12344

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1 Q. All right. Do you know approximately what
2 time the next day that was?

3 A. I don't remember.

4 MR. ZONEN: Thank you. No further
5 questions.

6 MR. MESEREAU: No cross-examination.

7 THE COURT: All right. Thank you. You may
8 step down.

9 Call your next witness.

10 MR. SNEDDON: Re-call Detective Bonner, Your
11 Honor.

12 THE COURT: All right. Be seated. You're
13 still under oath.

14 DETECTIVE BONNER: Thank you.

15

16 CRAIG BONNER

17 Having been previously sworn, resumed the
18 stand and testified further as follows:

19

20 MR. NICOLA: Your Honor, before I begin
21 questioning Detective Bonner again, I brought up the
22 issue of an SDT. I think we'll need it admitted
23 into evidence. Mr. Sanger mentioned he needed to
24 get his reports. I believe he's had time to do
25 that.

26 MR. SANGER: Well, that would assume facts
27 not in evidence, but if we're talking about the Brad

28 Miller phone records, we can proceed with those. 12345

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1 MR. NICOLA: Premarked as Exhibit 448.

2 MR. SANGER: We can proceed with those, Your
3 Honor.

4 THE COURT: So I'll --

5 MR. NICOLA: May I approach the clerk, Your
6 Honor?

7 THE COURT: You're consenting to their
8 admission, Counsel?

9 MR. SANGER: Yes. In other words, they were
10 subpoenaed.

11 THE COURT: Okay. So 448 is admitted.

12 MR. SANGER: Well, the question -- all
13 right. They're subpoenaed, and so I don't know what
14 part he's going to mark, so I'll wait until I find
15 out.

16 THE COURT: Well, you're not -- I
17 misunderstood. You're not consenting to their
18 admission. You want him to proceed. I'm not sure
19 what you're agreeing to. That's all.

20 MR. SANGER: Okay. I had earlier indicated
21 to counsel that I needed time to look at this. I
22 don't need any more time to look at them, but I
23 don't know what he's going to do with them.

24 THE COURT: You're not agreeing to anything.

25 MR. SANGER: Assuming he's not marking the
26 affidavit, if he wants to mark the phone records --
27 just to make it easy, so we can get it done, if he

28 wants to mark the phone records as a particular 12346

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1 document or a particular exhibit, I have no
2 objection to that. And I'll agree that there is a
3 foundation laid, provided, pursuant to the subpoena.

4 MR. NICOLA: We actually marked the envelope
5 that all of those documents came in. We would
6 withdraw the actual affidavit of the custodian of
7 records prior to introducing them into evidence.

8 THE COURT: All right.

9 MR. NICOLA: I don't believe there's an
10 argument they're the Brad Miller phone records for
11 January, February and March of 2003. And I would
12 ask just a couple of foundational questions prior to
13 moving them into evidence.

14 THE COURT: All right. Go ahead.

15

16 DIRECT EXAMINATION

17 BY MR. NICOLA:

18 Q. Detective Bonner, placed in front of you are
19 the contents of Exhibit 448; is that correct?

20 A. Correct.

21 Q. And the first page of those documents
22 appears to be the certification of the custodian of
23 records from Pay Less Cellular; is that true?

24 A. That's true.

25 Q. And have you examined a copy of these
26 documents and ascertained what they are?

27 A. Yes, I have. And they are the cellular

28 telephone records for an account belonging to 12347

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1 Bradley Miller.

2 Q. Do they cover a period of January through
3 March of the year 2003?

4 A. They do.

5 MR. NICOLA: We'd move Exhibit 448 into
6 evidence at this time, Your Honor, save the
7 certificate of authenticity.

8 MR. SANGER: All right. And I have no
9 objection.

10 THE COURT: Well, they're admitted.

11 MR. NICOLA: Thank you.

12 THE COURT: And let's mark the certificate
13 of -- or let's just lodge the certificate.

14 MR. NICOLA: We can also mark it as Exhibit 447,
15 if that works.

16 THE COURT: All right. All right. Mark it
17 447, but it does not go in evidence.

18 MR. NICOLA: Madam Clerk?

19 Q. Detective Bonner, I've handed you Exhibit
20 449, and do you recognize those cellular telephone
21 records for Mark Geragos and the firm Geragos &
22 Geragos?

23 A. That's correct.

24 Q. And do they cover a period of January
25 through March of the year 2003?

26 A. I believe February through March of 2003.

27 MR. NICOLA: Okay. And I believe, Your

28 Honor, counsel agreed to a stipulated foundation on 12348

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1 those records, and we move those into evidence, if
2 I'm accurately representing the stipulation.

3 THE COURT: Just offer them in.

4 MR. SANGER: It's a little bit confusing
5 because counsel's got different numbers than we had
6 before. Let me just look.

7 I had 460. Is 460 just the diagram?

8 MR. NICOLA: 449 are the actual --

9 MR. SANGER: Is this 449? No. That's all
10 460. All right. Let me take a look at 449.

11 Just a moment, please.

12 If I may approach for that.

13 THE COURT: Yes.

14 MR. SANGER: With regard to 449, I've
15 decided to say I don't have a horse in this arena,
16 but -- if I can, but 449 does have apparently the
17 other -- what would be sensitive, confidential
18 attorney-client phone numbers, I would suppose, from
19 a law firm. And I think, as an officer of the
20 court, as I said before, we should be cautious with
21 that. If it's being admitted, there's -- unless
22 there's some protective order, it would be open to
23 the public.

24 I don't want to make a big thing out of it, but
25 I think I should make that point to the Court.

26 MR. NICOLA: May I respond, Your Honor?

27 THE COURT: Yes.

28 MR. NICOLA: With respect to all the phone 12349

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1 numbers, all the phone records that were exhibit --
2 that were introduced throughout this trial, we'd
3 make a motion that they be sealed from public view
4 at the end of the case, and that they only be shown
5 to court personnel, the attorneys and the jury.

6 THE COURT: You'll have to file a formal
7 written motion.

8 MR. NICOLA: We will.

9 THE COURT: But assuming you're going to do
10 that, I'll admit the records with that
11 understanding.

12 MR. NICOLA: Thank you, Your Honor.

13 And finally, if I may approach the witness
14 with Exhibit 460. That's --

15 MR. SANGER: Yeah, 460 I've got.

16 Q. BY MR. NICOLA: Detective Bonner, is Exhibit
17 460 a series of telephone link charts and supporting
18 documentation that you created for the rebuttal
19 portion of this case?

20 A. That is correct.

21 Q. And with respect to Exhibit No. 449 and
22 Exhibit No. 448, did you examine the contents of
23 those telephone tolls for Mr. Miller and Mr. Geragos
24 in coming up with your charts --

25 A. I did.

26 Q. -- as exhibited in Exhibit 460?

27 A. That's correct.

28 Q. And does the period of time of Exhibit No. 12350

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1 460 cover the months of February and March of 2003?

2 A. That is correct.

3 Q. Okay. If you could turn your attention to

4 the first two pages, 2-4 and 2-5.

5 A. 2-4 and 2-6?

6 Q. Excuse me, 2-4 and 2-6. You put the year

7 '05 on that?

8 A. That is incorrect.

9 Q. It is '03?

10 A. Yes.

11 Q. Do the rest of the charts show the proper

12 year of 2003?

13 A. They do.

14 Q. Now, with respect to the link charts in

15 Exhibit 460, did you try to show the communications

16 between telephones registered to Mr. Geragos,

17 Mr. Miller and the other unindicted co-conspirators

18 in this case?

19 A. That is correct.

20 MR. SANGER: I'm going to object to the

21 characterization by counsel and move to strike. My

22 point being it should be, at the very least,

23 "alleged."

24 THE COURT: All right. Use the word

25 "alleged," at least.

26 MR. NICOLA: I would substitute the word

27 "other" with "alleged."

1 THE WITNESS: That's correct.

2 Q. BY MR. NICOLA: Okay. With the alleged

3 co-conspirators in this case.

4 Can you quantify for the jury, please,

5 generally, approximately how many communications

6 within that period of time occurred between the

7 phone -- the cell phone registered to Mr. Geragos

8 and the cell phone registered to Mr. Miller?

9 A. A minimum of 50 telephone calls.

10 Q. And the cell phone belonging to Mr. Geragos

11 and the cell phone belonging to Mr. Schaffel?

12 A. In excess of 15 telephone calls.

13 THE REPORTER: 15?

14 THE WITNESS: 15.

15 Q. BY MR. NICOLA: Did you note any

16 communication between the cell phone registered to

17 Mr. Miller and Mr. Frank Cascio?

18 A. Yes, I did. There were in excess of 60

19 telephone calls between those two telephones.

20 Q. Generally, without going into each exhibit

21 in there --

22 If I could please have "Input 4," Your

23 Honor, please.

24 I'd like to show you the chart you've

25 created for February 12th of 2003.

26 THE COURT: Should it be "Input 4"?

27 MR. NICOLA: "Input 4."

1 MR. NICOLA: Ahh. Thank you, Mr.

2 Auchincloss.

3 Q. Now, this appears to resemble the charts you
4 previously testified about, with the exception of a
5 number of links. If you could explain the
6 differences to the jury, please.

7 A. Absolutely.

8 Basically what we did here is, in reviewing
9 the records of Brad Miller and the Geragos records,
10 we found that there were links between Geragos, Brad
11 Miller, Marc Schaffel and Cascio, and because of
12 that, we also included the existing phone analysis
13 involving the alleged co-conspirators as well as
14 Neverland Ranch.

15 Q. Did you find any three-way calls between the
16 phones of Geragos & Geragos, Brad Miller and Marc
17 Schaffel?

18 A. On the 12th, there was one three-way call
19 between Mr. Geragos, Mr. Miller and Mr. Schaffel.

20 Q. And do your records indicate whether or not
21 Mr. Geragos, or the phone registered to Mr. Geragos,
22 was the initiating party in that three-way
23 conversation between those three phones?

24 A. My recollection is that it was, yes.

25 Q. Okay. If you could turn your attention to
26 the chart for February 19th, please, of 2003.

27 Once again, if you could explain to the jury

28 the difference in this chart compared to the chart 12353

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1 you testified to in the People's case-in-chief.

2 A. In the original charts, we did not have the
3 Brad Miller or Geragos & Geragos records. Upon
4 including these records, we found connections
5 between Geragos and Miller, and Miller and several
6 of the co-conspirators. Because of that, we have
7 included them within this graphic.

8 MR. SANGER: Objection and move to strike
9 the answer.

10 MR. NICOLA: Can we try to refer to the
11 "alleged co-conspirators," Sergeant?

12 THE WITNESS: I thought I did, but --

13 MR. NICOLA: Okay.

14 THE COURT: Is that the objection, Counsel?

15 MR. SANGER: That was the objection, Your
16 Honor.

17 THE COURT: All right.

18 Q. BY MR. NICOLA: With respect to the chart
19 and your spreadsheet, which is I believe the last
20 part of Exhibit 460, did you try to capture all of
21 the calls on the spreadsheet on these diagrams?

22 A. Yes, I did.

23 Q. And there were a few that you didn't put on
24 here for one reason or another?

25 A. Correct.

26 Q. Is there a link on February 19th between the
27 Marc Schaffel phone and the Geragos & Geragos phone

28 directly? 12354

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1 A. That's correct. There should have been one.

2 Q. Okay. And were there any three-way calls on
3 the 15th?

4 A. Again, I believe there was one three-way
5 call involving Mr. Schaffel's phone, Mr. Miller's
6 phone and Mr. Geragos's phone.

7 Q. Okay. And when did the toll records become
8 available to you for the Geragos & Geragos phones?

9 A. I believe that was on Tuesday of this week.

10 Q. And that was pursuant to a court order?

11 A. I believe so.

12 Q. If you could turn your attention, please, to
13 the February 20th, 2003, chart. Once again, you
14 just added the Brad Miller tolls, the Geragos and
15 Geragos tolls to the alleged co-conspirators?

16 A. That's correct.

17 Q. Do your records reflect whether any
18 three-way calls between the Brad Miller phone,
19 Geragos phone and the Schaffel phone occurred on
20 Thursday, February 20th of 2003?

21 A. I believe there was one call, yes.

22 Q. And with respect to the telephone calls
23 between the Miller phone and the Cascio phone, were
24 those predominantly one direction or both
25 directions?

26 A. My recollection is both directions.

27 Q. In analyzing the records for the entire

28 period between February 1st and the end of March of 12355

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1 2003, did you find daily or nearly daily contact
2 between the Brad Miller phone and the Geragos &
3 Geragos phone?

4 A. "Nearly daily" would probably be the better
5 terminology.

6 Q. And if I asked you the same question with
7 respect to the Brad Miller phone and the Frank
8 Cascio phone, how would you answer that?

9 A. "Nearly daily" again.

10 Q. Was there also a substantial amount of
11 contact between Mr. Amen and Mr. Schaffel during
12 that period of time?

13 A. Yes, there was.

14 Q. Or at least the phones registered to them?

15 A. Correct.

16 MR. NICOLA: If I may have just a moment,

17 Your Honor.

18 Q. Sergeant Bonner, if you would turn to the
19 next chart. Not the next chart, the chart for
20 Saturday, February 22nd of 2003.

21 I'm sorry, I misled you. I do want to go to
22 the 21st. I apologize.

23 And does the chart for February 21st of 2003
24 accurately reflect the phone records that you
25 analyzed for the individuals seen up there on the
26 chart?

27 A. That is correct.

28 Q. Okay. I only want to ask you specifically 12356

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1 about the call between the Geragos phone and the
2 Schaffel phone, and calls between the Geragos phone
3 and the Brad Miller phone.

4 Do your records show that the call from the
5 Geragos phone to the Schaffel phone was one placed
6 by the Geragos phone?

7 A. The Geragos and Schaffel connection was from
8 Geragos's phone to Schaffel's phone.

9 Q. Okay. With respect to the calls between the
10 Geragos phone and the Miller phone, were those one
11 directional or both directions?

12 A. Both directions.

13 Q. Okay. Generally, with respect to the phone
14 calls between the Geragos phone and the Schaffel
15 phone, were those conversations longer than one or
16 two minutes? I'm asking about the whole volume.

17 A. In general, usually they were longer. They
18 were usually 10- to 13-minute telephone calls.

19 Q. Okay. If I asked you the same question with
20 respect to the Geragos phone and the Miller phone,
21 what would your answer be?

22 A. Again, usually more than one to two minutes.
23 But in this case, more like the four- to six-minute
24 time frame.

25 Q. If you could turn to the chart for February
26 22nd, 2003, a Saturday. And with respect to the
27 calls between the Geragos phone and the Brad Miller

28 phone, were those generally over one minute in 12357

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1 length?

2 A. Yes.

3 Q. And can you tell us what time of day those
4 calls began?

5 A. The first telephone call I have is at about
6 9:26 a.m. for five minutes.

7 Q. And that's from the Miller end to the
8 Geragos end?

9 A. I believe that's actually the Geragos phone
10 calling the Miller phone.

11 Q. Oh, I apologize.

12 And if you could tell us when those calls
13 last came in on the 22nd.

14 A. The last call I have is at 5:23 p.m. for
15 three minutes. Again, a call from Geragos's phone
16 to Miller's phone.

17 MR. NICOLA: If I may yield the questioning
18 to the District Attorney, Your Honor.

19 MR. SNEDDON: Could I have the lights,
20 please?

21 (Off-the-record discussion held at counsel
22 table.)

23 MR. NICOLA: While they're talking, may I
24 offer Exhibit 460 into evidence, Your Honor?

25 MR. SANGER: I think before it's admitted, I
26 do have a reason to ask some questions.

27 THE COURT: All right.

28 MR. SANGER: I'd like to do that. Thank 12358

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1 you. I can wait until cross-examination, unless the
2 Court wants me to do it on voir dire.

3 MR. SNEDDON: All right. We'll just wait.

4 I'm sorry.

5 (Off-the-record discussion held at counsel
6 table.)

7 MR. SNEDDON: All right. We're just going
8 to go ahead.

9 I gave you a copy of this this morning,
10 right?

11 MR. SANGER: Yes.

12

13 DIRECT EXAMINATION (Continued)

14 BY MR. SNEDDON:

15 Q. Sergeant Bonner, I think you previously
16 testified in this case that you were present at the
17 Neverland Valley Ranch on November 18th, 2003,
18 during a portion of the execution of the search
19 warrant, correct?

20 A. That is correct.

21 Q. And during the course of the execution of
22 that search warrant, you had occasion to go into
23 what we call the master suite or master bedroom of
24 the defendant in this case, Mr. Jackson, correct?

25 A. That's correct.

26 Q. And during the time that you were in Mr.
27 Jackson's room, the master suite, let's just call it

28 that for right now, master bedroom, did you hear the 12359

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1 chimes go off in that area?

2 A. Yes, I did.

3 Q. Now, did you at that time have occasion to
4 examine the mechanism by which the chimes were
5 activated?

6 A. No.

7 Q. Now, did you go back on December the 4th of
8 2004?

9 A. Correct.

10 Q. And you were on the premises at that time;
11 is that correct?

12 A. Yes, I was.

13 Q. Did you have occasion at that time -- and
14 you were in the bedroom, Mr. Jackson's bedroom,
15 correct?

16 A. I was, yes.

17 Q. Both upstairs and downstairs, correct?

18 A. Correct.

19 Q. Did you have occasion at that time to
20 examine the mechanism by which those chimes were
21 activated?

22 A. I did. I was present, along with the
23 security personnel who was examining it and
24 explaining the workings to us.

25 Q. And were you present when the chimes were
26 actually activated during the time that you were in
27 the bedroom suite on that particular occasion?

28 A. I was. 12360

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1 Q. Were you also present in the bedroom on the
2 18th of November of 2003 when the chimes were
3 activated?

4 A. Yes, I was.

5 Q. Now, I want to show you some photographs.

6 (Off-the-record discussion held at counsel
7 table.)

8 MR. SNEDDON: Your Honor, I've had three
9 photographs -- they've been marked for
10 identification purposes and I've shown them to
11 counsel. They're marked as 157, 159 and 160 for
12 identification purposes.

13 May I approach the witness, Your Honor?

14 THE COURT: Yes.

15 Q. BY MR. SNEDDON: Detective Bonner, let's
16 start with the photograph that's marked as 157 for
17 identification purposes, okay? Do you recognize
18 that photograph?

19 A. Yes, I do.

20 Q. Do you recognize what's depicted in that
21 photograph?

22 A. This is a picture --

23 Q. Before you tell me what it is, just tell me,
24 do you recognize what's depicted?

25 A. Yes, I do.

26 Q. And is it an accurate depiction of what it
27 purports to represent?

28 A. Yes, it is. 12361

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1 Q. Let's turn to 159. And do you recognize
2 what's depicted in the exhibit People's 159?

3 A. Yes, I do.

4 Q. And is that an accurate depiction of what it
5 purports to represent?

6 A. Yes, it is.

7 Q. All right. And let's go to 160. All right.

8 Now, with regard to 160, do you recognize what's
9 depicted in that photograph?

10 A. Yes, I do.

11 Q. Is that an accurate depiction of what it
12 purports to represent?

13 A. Yes, it is.

14 MR. SNEDDON: All right. I move that 157
15 and 159 and 160 be admitted into evidence, Your
16 Honor.

17 MR. SANGER: Could I voir dire briefly on
18 that, please?

19 THE COURT: Yes.

20

21 VOIR DIRE EXAMINATION

22 BY MR. SANGER:

23 Q. Did you take those photographs?

24 A. No, I did not.

25 Q. Do you know who took them?

26 A. I know -- I do not specifically know who
27 took these exact photographs, no.

28 Q. Do you know what date those particular 12362

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1 photographs were taken on?

2 A. I do not, other than one of the two days

3 that we were out there.

4 Q. Do you believe that because you believe that

5 would be the two days that somebody might have had

6 access to take those sorts of photos?

7 A. And because I know -- I have reviewed these

8 and I know that it came out of the photographs that

9 our forensics people took during the service of our

10 warrants.

11 MR. SANGER: I don't think that's an

12 adequate foundation, but I don't know if the Court

13 can understand the basis without looking at the

14 photographs and perhaps having us approach for a

15 moment.

16 THE COURT: All right. Do you want to bring

17 the photographs over?

18 MR. SANGER: Yes.

19 Thank you.

20 And may we approach?

21 THE COURT: Yes.

22 (Discussion held off the record at sidebar.)

23 THE COURT: Let's see. Did you offer those?

24 MR. SNEDDON: They're admitted. I'm sorry,

25 I'm taking your job over. I think I asked that they

26 be admitted.

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

1 MR. SNEDDON: I'm sure no offense was taken

2 at that, Your Honor.

3 THE COURT: I was almost ready to hand it

4 over to you.

5 MR. SNEDDON: That would be a big mistake.

6 THE BAILIFF: You need to turn your

7 microphone on so they can hear you.

8 MR. SNEDDON: It's on.

9 THE BAILIFF: No, him.

10 MR. SNEDDON: Judge, I don't think your mike

11 is working.

12 THE COURT: My mind is -- oh, my mike.

13 (Laughter.)

14 Q. BY MR. SNEDDON: Detective Bonner -- excuse

15 me. Detective Bonner, with regard to the chimes

16 system at the Neverland Valley Ranch connected with

17 the defendant's bedroom - okay? - did you actually

18 have occasion to be present when the chimes were

19 activated on November 18th, 2003?

20 MR. SANGER: Asked and answered, twice.

21 MR. SNEDDON: I'm trying to go back and

22 satisfy your --

23 MR. SANGER: The objection is asked and

24 answered.

25 THE COURT: Overruled. Go ahead.

26 THE WITNESS: Yes, I was.

27 Q. BY MR. SNEDDON: And did you also -- were

28 you present on the 12th -- I mean, on the 4th of 12364

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1 December of 2004 during the time that you were out
2 there when the chimes were activated?

3 A. Yes, I was.

4 Q. And did you personally participate in
5 experiments to determine how the various chimes were
6 activated?

7 A. Yes, I did.

8 Q. And did you personally observe the sensors
9 that activated certain portions of the chimes?

10 A. Yes, I did.

11 Q. And did you personally hear those chimes
12 when they were activated?

13 A. Yes, I did.

14 Q. Now, with regard to -- we're going to put
15 some photographs up on the board.

16 Are you also familiar with the mechanism by
17 which the door -- by which entry into the door of
18 the suite to Mr. Jackson's bedroom can be accessed?

19 A. Yes, I am.

20 Q. All right. Now, let's put some photographs
21 up on the board. And let's begin with 160.

22 All right. Do you recognize what's depicted
23 in the photograph People's Exhibit 160 in evidence?

24 A. Yes, I do.

25 Q. Would you tell the jury what that is?

26 A. That is a curtain motion sensor. It is
27 mounted on the ceiling and it sends down what can

28 probably be best described as a blanket of the 12365

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1 sensor, and as soon as you walk into that blanket,
2 it would then set off whatever it's supposed to set
3 off.

4 Q. And in this case --

5 MR. SANGER: Excuse me, I'm sorry. I'm
6 going to move to strike the answer as being an
7 opinion without a foundation.

8 THE COURT: Sustained.

9 Q. BY MR. SNEDDON: In this particular case,
10 did you actually conduct experiments with regard to
11 this particular sensor as depicted in the
12 photograph, Exhibit 160?

13 A. Yes, I did.

14 Q. As you walked past the sensor, what
15 happened?

16 A. As I walked underneath the sensor, the alarm
17 sounded within the living space of the master
18 bedroom suite.

19 Q. And could you tell the jury where this
20 particular sensor is located in the hallway to Mr.
21 Jackson's bedroom?

22 A. That sensor is located just outside of the
23 door that leads into the living space of Michael
24 Jackson's master bedroom suite.

25 Q. All right. Now, let's -- let's turn to 157.
26 Do you recognize what's depicted in the
27 photograph 157?

28 A. Yes, I do. 12366

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1 Q. In particular, do you recognize what's
2 depicted, the little white -- what appears to be a
3 white rectangular box in the middle -- in the center
4 of the photograph?

5 A. Yes, I do.

6 Q. And what is that?

7 A. That is the alarm enunciator, which was set
8 off when you broke the plane of the curtain sensor
9 that was on the ceiling outside of his bedroom.

10 Q. Now, was there more than one curtain sensor
11 outside of Mr. Jackson's bedroom?

12 A. Yes, there was.

13 Q. Was there a second sensor?

14 A. There was a second sensor that was located
15 down the hallway, just prior, at the doorway leading
16 into what I guess could be called a foyer or
17 entryway to the house.

18 Q. So that if you're in the foyer and you open
19 the doors and walk through those doors down the
20 hallway to Mr. Jackson's bedroom, there's a sensor
21 up by those doors?

22 A. Yes.

23 Q. And do they activate a chime within the
24 room?

25 A. During the -- on both November 18th, 2003,
26 and December 4th, 2004, there was no activation of
27 an enunciator within the room when you walked under

28 those -- the curtain sensor that was closest to the 12367

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1 foyer.

2 Q. Now, you had occasion to review the defense
3 exhibit that was admitted in this case with regard
4 to the three scenes where the maid was asked to walk
5 out the door and down the hallway, correct?

6 A. That's correct.

7 Q. In those particular scenes that you
8 observed, the sensor at the far end of the hallway
9 near where the doors from the foyer are was working
10 during the course of those videos, correct?

11 A. I believe --

12 MR. SANGER: Objection. Move to strike the
13 answer for the purpose of objecting. There's no
14 foundation for this opinion.

15 THE COURT: Well, sustained, the foundation
16 objection.

17 Q. BY MR. SNEDDON: Were you present on the
18 18th of November of 2003 where you saw people walk
19 through the entryway, through those doors from the
20 foyer into the hallway, to begin to walk down to Mr.
21 Jackson's bedroom? Were you present and did you
22 hear any alarm go off when they did that?

23 A. No.

24 MR. SANGER: Objection. Wait, excuse me.
25 Objection. That's compound. And I move to strike
26 the answer, because it would be without foundation
27 as to at least one of those two parts.

28 MR. SNEDDON: Judge, I asked him if he was 12368

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1 present.

2 THE COURT: All right. I'll overrule the
3 objection. The question is basically whether he
4 heard an alarm go off on that date when someone
5 walked under the sensor, right?

6 MR. SNEDDON: That's basically it, when he
7 was present.

8 MR. SANGER: And the objection is -- yeah,
9 the objection is no foundation that he was present
10 while somebody was walking under that sensor.

11 THE COURT: All right. The objection is
12 overruled.

13 Do you understand the question?

14 THE WITNESS: I do.

15 And the answer is that, yes, I was there,
16 and, no, it did not activate anything when somebody
17 walked under the sensor.

18 Q. BY MR. SNEDDON: Was that the same situation
19 in December when you went -- December of 2004 when
20 you went back?

21 A. That's correct.

22 Q. Now, so we could probably orient this for
23 the ladies and gentlemen, the exhibit that's on the
24 board there, which is 160, I believe.

25 MR. NICOLA: 157.

26 Q. BY MR. SNEDDON: 157, the one with the white
27 box in the middle, can you tell the ladies and

28 gentlemen of the jury, where is that located in Mr. 12369

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1 Jackson's bedroom? Is it on -- let's start, first
2 of all, is it on the first floor or on the second
3 floor?

4 A. It's on the first floor in the living area
5 of the master bedroom suite.

6 Q. Where in the living area of the suite?

7 A. It was located underneath a bookcase/cabinet
8 that was backed against a wall nearest the -- as
9 you're walking into the room, the left bathroom.

10 Q. Would that be the bathroom where the Jacuzzi
11 is?

12 A. That's correct.

13 Q. All right. Now, did you determine that --
14 that there was another one of these devices that's
15 depicted in the photograph, 157, within the room?

16 A. That's correct.

17 Q. Where was the second device located?

18 A. It was located on the ground, underneath a
19 red and gold chair, also could be considered a
20 throne, I suppose.

21 Q. Where was that located in Mr. Jackson's
22 bedroom?

23 A. That was located against the same wall, but
24 this chair was located immediately next to the
25 doorway that led into the right bathroom where --
26 the bathroom that had the stairwell leading to the
27 upstairs sleeping quarters.

28 Q. Now, on -- in December of 2004 when you were 12370

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1 out there, did you participate in some -- did you
2 personally participate in some experiments to
3 determine whether or not the device located under
4 the throne chair, that's similar to the one depicted
5 in 157, was working?

6 A. Yes.

7 Q. Did you determine whether or not it was
8 working?

9 A. There was at no point in time, in walking
10 under any of the sensors, that that enunciator was
11 activated.

12 Q. So you call it an enunciator; is that
13 correct?

14 A. That's the correct terminology.

15 Q. But the one depicted in 157, over by the
16 entrance to the bathroom where the Jacuzzi is, was
17 working?

18 A. It was working, correct.

19 Q. Now, on November the 18th of 2003, when you
20 went out to execute the search warrant - okay? - on
21 that particular occasion, did you personally
22 determine whether or not the enunciator that was
23 located under the throne seat, as you referred to
24 it, was working on that date?

25 MR. SANGER: That would be a "yes" or "no."

26 Otherwise, I have an objection.

27 THE COURT: Okay. Answer "yes" or "no" only.

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1 Q. BY MR. SNEDDON: You were able to make a
2 determination? "Yes" or "no."

3 A. Yes.

4 Q. And what was it?

5 MR. SANGER: I'm going to object. No
6 foundation.

7 THE COURT: Overruled.

8 You may answer.

9 THE WITNESS: It was not working.

10 Q. All right. Let's show the last photograph.

11 That should get us through the rest of the day.

12 This is 159 in evidence, and particularly I want to
13 direct your attention to the small white device that
14 is located by the doorway.

15 First of all, do you know what that is?

16 A. Yes, I do.

17 Q. And how do you know what it is?

18 A. Because I was present when the security
19 personnel analyzed it, and I also tested that
20 object.

21 Q. Yourself?

22 A. Yes.

23 Q. All right. And what is that? What function
24 does it serve?

25 MR. SANGER: I'm going to object.

26 THE WITNESS: It's a motion sensor.

27 MR. SANGER: I'm going to object. It calls

28 for hearsay. 12372

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1 THE COURT: Overruled.

2 You may answer.

3 THE WITNESS: It is a motion sensor that,
4 when activated, unlocks the entry/exit doors to
5 Mr. Jackson's personal bedroom, allowing a person to
6 walk out without needing a key.

7 Q. BY MR. SNEDDON: Okay. So, the view that
8 the jury has of this particular exhibit, and let's
9 direct your attention directly to the door itself,
10 where would you be standing if you were looking at
11 that door?

12 A. You are inside Mr. Jackson's living area of
13 his personal bedroom, looking out into the hallway
14 which leads to the foyer.

15 MR. SNEDDON: Your Honor, I think this would
16 be an appropriate time to --

17 THE COURT: All right. We'll take our
18 recess. See you tomorrow, 8:30. Remember the
19 admonition.

20 (The proceedings adjourned at 2:30 p.m.)

21 --o0o--

22

23

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25

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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE OF)

5 CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR, CSR

13 #3304, Official Court Reporter, do hereby certify:

14 That the foregoing pages 12213 through 12373

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 26, 2005, and thereafter

19 reduced to typewriting by computer-aided

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

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