

**No. 13-56207**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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JOSEPH HUNT,

Petitioner-Appellant,

v.

TIM V. VIRGA, Warden

Respondent-Appellee.

---

Appeal from the United States District Court  
for the Central District of California  
District Court No. CV 98-5280 RHW

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**EXCERPTS OF RECORD - VOLUME IV**

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**DECLARATION OF DAVID SAPERSTEIN**

I, DAVID SAPERSTEIN, declare as follows:

1. I was born on June 30, 1946. I have a Ph.D. in physical chemistry from New York University. I work for International Business Machines (IBM). My title is manager of disk process development. I lead a group of 12 professionals. Our responsibility is to develop advanced disks for future disk drives that IBM will use in their computer products.

2. I served as a juror on the case, People v. Hunt, C15761, for nearly eight months. I served from April 13, 1992, which was the day of opening statements, until a jury deadlock was announced and hence a mistrial was declared on December 9, 1992.

3. I listened to over 50 witnesses give testimony concerning the disappearance (and subsequent sightings) of Ron Levin. I took notes of their testimony throughout the 7 month trial. These are a summary of my thoughts and opinions concerning what I heard.

4. Karen Marmor. I believed Ms. Marmor. I did not think that she came to court to lie for Mr. Hunt or that she had some reason to fabricate her testimony for Mr. Hunt's behalf. Obviously, it was a little peculiar that it took her seven years to recognize the significance of what she saw. I had

1 some doubt about her testimony because of that. I understood that her  
2 testimony was somewhat inconsistent with the people's theory and spe-  
3 cifically inconsistent with the details of Dean Karny's testimony. If one  
4 simplified that theory and Karny's testimony, one could still see the "to  
5 do" list as a step leading up to a homicide. However, the overall affect of  
6 Ms. Marmor's testimony on me was to reduce the impact of the people's  
7 case. Her testimony added to the reasonable doubt that I came to believe.  
8 Standing alone, her testimony would not have been enough to raise a rea-  
9 sonable doubt about the truth of the people's allegation that Mr. Hunt  
10 killed and robbed Ron Levin but, seen in conjunction with the 5 sightings  
11 witnesses (Connie Gerrard, Robert Robinson, Nadia Ghaleb, Carmen Cancho-  
12 la, and Jesus Lopez), her testimony had the affect of deepening my belief  
13 that the people had not met their burden of proof on the Levin allegations.  
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20 5. Sightings Witnesses. The five people that testified to having seen  
21 Levin made the largest impact on me of any of the Levin allegations relat-  
22 ed witnesses. Of these witnesses, Connie Gerrard was the most impor-  
23 tant, followed by Robert Robinson, Nadia Ghaleb, Carmen Canchola, and Je-  
24 sus Lopez.  
25

26  
27 Carmen Canchola and Jesus Lopez were the least persuasive of these  
28

1 witnesses because they were not acquainted with Ron Levin before the in-  
2 cident at the gas station.

3  
4 The fact that Robert Robinson both saw and spoke to Ron Levin in-  
5 creased the value of his sighting in my mind. The fact that he had this  
6 "voice print" as well as visual recognition to go with it, increased my  
7 confidence in the accuracy of his identification.  
8

9  
10 Nadia Ghaleb claimed to have seen Ron Levin only briefly, for just a sec-  
11 ond or two. I figure in her line of business she has had to learn to recog-  
12 nize people quickly. People have differing capacities to do this. We dis-  
13 cussed this during deliberations. When I drive I have nearly tunnel vision,  
14 I see only what is on the road directly before me. My wife, on the other  
15 hand, has excellent peripheral vision. She will notice things on the side of  
16 the road (e.g. a deer grazing on a hill). Some people can pick-up on periph-  
17 eral things and be right on. Others can not. I truly believe that. For Nadia  
18 Ghaleb I was convinced that she could see and recognize Ron Levin under  
19 the conditions she described. I found Ms. Ghaleb to be credible and I took  
20 her sighting seriously.  
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22  
23 Robert Robinson was not as high on my persuasiveness rating list of the  
24 sightings witnesses as he could have been. I had a lingering uneasiness  
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1 that he may have been courting publicity or that he could have incorrectly,  
2 and inadvertently, merged place and time. However, of all the witnesses  
3 only he had a "voice print" of Levin to go with the visual identification, as  
4 a result of actually speaking to Ron Levin. This was a very positive thing  
5 for the defense. One of the jurors made a point during deliberations over  
6 and over again. He said: "It only takes one sighting witness to raise a rea-  
7 sonable doubt." I thought this was very astute. We spent a fair amount of  
8 time on the sightings witnesses. In the final analysis their testimony  
9 carried a lot of weight in my mind.

14 Connie and George Gerrard. I believed them. There is a small amount of  
15 hesitation in my mind about whether they actually saw what they felt  
16 they saw, that is, Ron Levin, since they didn't speak to him. It is possible  
17 that the person they observed in the restaurant in Greece was not Ron Le-  
18 vin but merely someone who became worried for some reason and so left  
19 the restaurant suddenly. I think the unanswered question about the Ger-  
20 rard's was not their sincerity but why they didn't come forward immedi-  
21 ately. However, that concern was not so strong as to justify discounting  
22 their testimony. These two witnesses had a big impact on me.

27 I think that it is not too surprising that there have been no recent sight-  
28

1 ings of Levin. I gathered he was gay, he could have died of AIDS, and of  
2 course, there is always death due to natural causes. TV coverage is likely  
3 to bring out bona fide sightings witnesses. One sees that sort of phenom-  
4 ena occurring with certain crime-related TV shows where people come  
5 forward to reveal the location of suspects who have evaded the law for as  
6 long as 10 to 20 years. Therefore it did not surprise me that most of the  
7 sightings were during a period of intense media coverage.

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10  
11 6. Dean Karny. During direct examination, Dean Karny told a very horri-  
12 fying story which indicted Mr. Hunt. However the cross-examination of Mr.  
13 Karny began to nullify this indictment in my mind. In particular, that Mr.  
14 Karny lied under oath in his application to the State Bar<sub>x</sub> was a point that  
15 really hit me during deliberations. We all discussed how this really hurt  
16 his credibility with us. Here was the star prosecution witness within a  
17 few months of his immunity deal, lying to the State Bar by leaving out his  
18 involvement in two murder cases and the BBC. This became a very impor-  
19 tant point in the jury room. Also significant, but somewhat less impor-  
20 tant in its impeachment value, was that he had lied under oath during his  
21 Cantor Fitzgerald deposition. We talked about that too and agreed it nega-  
22 tively impacted his credibility. What really struck me and some of the  
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1 other jurors about his testimony concerning the Cantor Fitzgerald deposi-  
2 tion, was that it showed, along with other evidence, that he was part of  
3 the financial misconduct at the BBC. The prosecution said he was com-  
4 pletely out of this and that was Karny's testimony as well.  
5

6  
7 7. Tom May. When I think of Tom May, I first see him with his head hung  
8 below the microphone during cross-examination on the witness stand. The  
9 cross-examination of Mr. May was very effective. I felt Mr. May was tell-  
10 ing the truth about some things like the June 24th meeting. The problem  
11 becomes, if you lose confidence in the strength of a witness' commitment  
12 to tell the truth then you have a hard time knowing what is true and what  
13 is false in their testimony, and you begin to run the risk of sending an in-  
14 nocent man to jail. If you do not know when they are telling the truth,  
15 when they are exaggerating, and when they are lying out of spite or out of  
16 self-protection, then it becomes risky to rely on anything that witness  
17 says. There was so much in Tom May's testimony I felt was false that I  
18 had trouble deciding what I could trust. I believed that his testimony con-  
19 cerning his financial dealings (the bankruptcy declaration, his real estate  
20 loan application, the ITC deal, the Cantor-Fitzgerald checks) to be false.  
21 All of that was enough to show that he couldn't be trusted on financial  
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1 matters. This had the effect of forcing me to look deeper into Mr. May's  
2 possible motives for other statements that he made.  
3

4 The testimony and evidence on the ITC movie deal caused me to reflect  
5 that the publicity motive that the prosecution suggested might have been  
6 present for certain sightings witnesses, could also be said to apply to  
7 certain BBC witnesses.  
8  
9

10 8. Jerry Eisenberg. This was a witness who I felt was "willfully false".  
11 The defense microcassette tape recording of Mr. Eisenberg and others dis-  
12 cussing stolen automobiles was a very good piece of evidence. It was the  
13 tape and Mr. Eisenberg's reaction to it that allowed us to throw out the  
14 rest of his testimony using the "willfully false" jury instruction. Without  
15 that tape it would have been just Mr. Hunt's word against Mr. Eisenberg's.  
16 The tape supported Mr. Hunt's testimony and argument that there were  
17 factions in the BBC. It helped explain why some BBC witnesses appeared  
18 to be hostile to Mr. Hunt and some didn't. It gave us a feeling in the jury  
19 room for how BBC members could be deceptive. I was also uneasy about  
20 the fact that Eisenberg helped Gene Browning to set up a company while  
21 the BBC was collapsing. It served to show that Mr. Eisenberg was sleazy.  
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27 9. Evan Dicker. I liked Mr. Dicker. During deliberations however, as we  
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1 discussed him we reached a consensus that he had been less than candid  
2 with us. Others recalled how he only recalled what Joe Hunt supposedly  
3 said, never what he, or anyone else named as present, said. It was devel-  
4 oped that he drank heavily during this period. When asked about whether  
5 he brandished a gun at Tom and David May's, an incident described by two  
6 other prosecution witnesses, he said he didn't recall doing so. This hurt  
7 his credibility with me. Some jurors felt his testimony should be totally  
8 disregarded. I was left not knowing what to do with his testimony, and as  
9 a result what he had to say doesn't figure substantially, (except for reaf-  
10 firmation of the June 24th admission by Mr. Hunt), in my thoughts on the  
11 Levin allegations.

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16  
17 10. BBC Witnesses Overall. Mr. Hunt's cross-examination of these wit-  
18 nesses was crucial. Without the cross-examination they would have ap-  
19 peared to be victims of Joe Hunt. With the cross-examination, and with  
20 the other points Mr. Hunt brought up, they came off as deeply involved and  
21 people whose credibility was substantially called into question.

22  
23  
24 11. Justine Jagoda. I believed her. She was not making things up, in my  
25 view. Nor do I feel that she was trying to get publicity. I felt perfectly  
26 comfortable with her testimony. It was a factor which added to the doubt  
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28

1 that I had about what happened to Levin. It provided support for the sight-  
2 ings witnesses. She lived upstairs from Ron Levin and heard nothing on  
3 the night of June 6, 1984. The testimony of the sheriff's criminalist that  
4 there were no blood stains in the trunk, was important and helped to fur-  
5 ther the impression that nothing violent happened on the night of June 6,  
6 1984 at Ron Levin's.

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10 12. John Duron. He was Ron Levin's hairdresser. His testimony was  
11 very important. I believed him. I linked Detective Zoeller's testimony  
12 about the brown stain in the bath tub with Mr. Duron's testimony about Le-  
13 vin's sudden interest in dyeing his hair. I saw it as an explanation within  
14 reason for the missing comforter. Hair dye is very messy. While people  
15 are letting it set, it can leak down below the protective cap that is worn.  
16 I have seen this kind of leakage on occasion when my wife has dyed her  
17 hair. Given such leakage, if Ron Levin dyed his hair on June 6, 1984, the  
18 dye could have gotten on the comforter. Obviously given Levin's fastidi-  
19 ousness, he would not want to leave a stained comforter on the bed.

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24 13. Lynne Roberts. I found Ms. Roberts to be credible and a good wit-  
25 ness. It was not totally clear to me that she exonerated Mr. Hunt. Never-  
26 theless, her recall of June 6, 1984 is important. I believe, given the dis-  
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1 tance, times, and the testimony about no blood stains in the BMW trunk,  
2  
3 that it is not obvious how Mr. Hunt could have driven to Soledad Canyon and  
4 back and still talk to her at 10:30 PM.

5  
6 14. Detective King. He may be a good police officer but he made a very  
7 shabby witness for the prosecution. He kind of blew it. I found it unbe-  
8 lievable that he never took notes on his meeting with Mr. Hunt, then his  
9 chief suspect. Based on his demeanor and his testimony, Detective King  
10 was pretty much discredited.  
11

12  
13 15. Ted Woods. He was Mr. Hunt's high school debate coach. He was a  
14 rebuttal witness for the people. Overall, his testimony had the impact of  
15 supporting Mr. Hunt. Initially, I believed Mr. Woods when he said that Mr.  
16 Hunt had a serious personality flaw even in high school, but Robert Mack-  
17 ey, the defense witness who testified after him, nullified this testimony  
18 by confirming what Mr. Hunt had testified to earlier.  
19

20  
21 16. Carol Levin. I don't believe that she knew her son. I base this feel-  
22 ing on her cross-examination. While she testified on direct that Ron loved  
23 her, I did not believe it after listening to her cross-examination. Ron Le-  
24 vin didn't reciprocate her visits or phone calls often. Given the history of  
25 their early relationship (Camarillo State Hospital, the boarding schools,  
26  
27  
28

1 etc.), it isn't hard to believe that when and if the time came to flee, Ron  
2 Levin could totally break off the relationship. Based on what I heard, I  
3 could and did, discount her testimony that Ron Levin must be dead because  
4 he hadn't written in 8 years. Without the defense evidence about Camaril-  
5 lo and the boarding schools, Carol could say, "He loved me and of course he  
6 would contact me if he was alive", and make it stick.  
7

8  
9  
10 In light of the cross-examination, thinking about those postcards that  
11 Carol Levin got saying "Love Ronnie" just made me want to squirm. Carol  
12 Levin sold her son out when she sent him to live in boarding schools, etc.  
13 Whatever he did in the relationship later, like the postcards, I felt was  
14 calculated and not as a result of some deep affection for his mother.  
15

16  
17 17. The Option on 144 S. Peck. Martin Levin testified that Ron Levin  
18 gave him this option on the duplex Ron lived in as a partial payment on the  
19 sums Ron had borrowed from Martin and Carol Levin. Other evidence  
20 showed that Ron Levin had later sold the same option to three other peo-  
21 ple. This evidence, taken as a whole, was part of my understanding that  
22 Ron would take advantage of anybody and everybody. Later when Len Mar-  
23 mor testified that he was Ron's closest friend and that Ron would never  
24 "screw him", I thought "Oh yes he would!"  
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1  
2 18. Joe Hunt's Testimony. Mr. Hunt's explanations of most of the events  
3 were within reason and his testimony was quite lucid and detailed. His  
4 testimony provided a backdrop that allowed me to appreciate the signifi-  
5 cance of other defense witnesses. However, his testimony by itself would  
6 not have been enough to raise a reasonable doubt about the Levin allega-  
7 tions in my mind. The sightings witnesses were the key witnesses in that  
8 regard. His explanation of Jim Pittman's trip to New York provided a  
9 framework in which to see the possible innocent intention of the trip. In  
10 retrospect it did not seem reasonable that Mr. Hunt would send Mr. Pitt-  
11 man, a burly black man, to impersonate Levin. Also, the BBC members did  
12 use each others credit cards.

13  
14 It was important that Mr. Hunt testified. The "to do" list needed an ex-  
15 planation. While his explanation had its weaknesses, they were <sup>necessarily damning</sup> not ~~not~~  
16 and Karen Marmor gave his version a big boost. DS

17  
18 19. The most important witnesses on the Levin allegations were Connie  
19 Gerrard, Nadia Ghaleb, Robert Robinson, John Duron, Karen Marmor, Lynne  
20 Roberts, and Oliver Wendell Holmes. These were the witnesses that  
21 helped change my mind. As I stated in jury selection, I had seen the NBC  
22 miniseries and believed that Mr. Hunt was guilty. Despite this statement I  
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1 was not excused from service. I started with a strong disposition to be-  
2 lieve the prosecution witnesses. I developed a more objective viewpoint  
3 as I heard more of the defense case. I was left not knowing what happened  
4 to Ron Levin for sure. I was not totally comfortable believing either the  
5 defense or the prosecution's version. We spent over two weeks in deliber-  
6 ations discussing the BBC and Levin-related witnesses. In my view the  
7 prosecution definitely did not prove beyond a reasonable doubt that Mr.  
8 Hunt killed Ron Levin.

9 I declare that the foregoing is true and correct of my own personal  
10 knowledge, and that as to those matters stated upon information and be-  
11 lief, I believe them to be true.

12 Executed at Portola Valley, California, on January 22, 1993.

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David Saperstein  
DAVID SAPERSTEIN

**DECLARATION OF BARRY DEAN CREEKMORE**

I, BARRY DEAN CREEKMORE, declare as follows:

1. I was born on August 5, 1964. I work as a mechanic for United Airlines.

2. I served as a juror on the case, People v. Hunt, C15761, for nearly eight months. I served from April 13, 1992, which was the day of opening statements, until a jury deadlock was announced and hence a mistrial was declared on December 9, 1992.

3. In the course of that trial the prosecution called witnesses in an attempt to prove that Joe Hunt killed and robbed Ron Levin.

4. Dean Karny. Mr. Karny's explanation of "D:ld" on the 7 pages was probably a lie. Karny said it meant "dildo." That seemed ridiculous in context. Mr. Hunt's explanation was that it meant "Dean: Levin debtor". Now that meant sense. People do make abbreviations like that on their computers for file names. Besides, making Levin a debtor was something that one of the 7 pages dealt with.

I was very interested to find out that Karny lied under penalty of perjury on his State Bar applications. It made me think less of him, because he had already made a deal with the government.

1 I did not believe that Karny had no knowledge or involvement in defraud-  
2 ing investors either. It seemed to me everyone in the BBC was involved.

3 When he denied that knowledge or involvement, it was an outright lie.  
4

5  
6 5. Evan Dicker. I thought Mr. Dicker was a snake. The way he held him-  
7 self during cross-examination suggested to me that he was lying. I  
8 thought his failures of recollection were a ploy. Especially in the sense  
9 that he had perfect recall of everything Mr. Hunt supposedly did and said,  
10 but couldn't recall a thing about what he and Karny did and said. I wrote  
11 him off.  
12

13  
14 6. Tom May. He seemed eccentric. His eyes were very shifty. He was  
15 always looking at Mr. Vance and Mr. Piccinotti for help when Mr. Hunt was  
16 <sup>IT SEEMED BC</sup>pressuring him in cross-examination. I viewed his testimony with a lot of  
17 suspicion since he lied to the government in his bankruptcy petition, and  
18 lied a lot in relation to his other financial affairs. I felt that in light of  
19 this he would readily lie about Mr. Hunt's actions.  
20  
21

22  
23 7. Jerry Eisenberg. Mr. Eisenberg testified that he redrafted and revised  
24 the Microgenesis option agreement found at Ron Levin's apartment. How-  
25 ever, Lore Leis, Mr. Hunt's secretary, contradicted him. She said that she  
26 prepared the final agreement from a draft that was entirely in Mr. Hunt's  
27  
28



1 handwriting. Mr. Eisenberg hedged all of his answers. You could see the  
2  
3 gears turning every time Mr. Hunt asked a question. I decided he was cal-  
4  
5 culating his every statement and that he was not willing to give us his un-  
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7 filtered recollection. Mr. Eisenberg gave totally unbelievable responses to  
8  
9 Mr. Hunt's questions about the tape where he, Steve Taglianetti, and Jim  
10  
11 Pittman talked about stealing cars. Mr. Eisenberg denied that the tape was  
12  
13 of a conversation that he participated in. I didn't believe him.

14 8. Carol Levin. I felt Ron Levin's relationship with his parents was a  
15  
16 facade. He was using them. He was getting money from them while living  
17  
18 the high-life in Beverly Hills. He drove a Rolls Royce at the same time he  
19  
20 told them he couldn't pay his rent. He used them.

21 He probably regretted leaving them behind, but I believe Carol Levin  
22  
23 doesn't understand how he really felt <sup>BC</sup> The little gifts and two-line post  
24  
25 cards she brought didn't show a strong bond. I believe that Ron Levin held  
26  
27 a psychological grudge towards his mom. She had left him repeatedly. I  
28  
29 don't think he felt that she would really miss him. What goes around  
30  
31 comes around. It is no surprise to me that he treated her in the end, the  
32  
33 same way that she treated him.

34 Carol claimed to have such a good relationship with her son, yet she had

1 no idea he was convicted of mail-fraud until Ron was already in jail. She  
2 didn't even attend his preliminary hearing in Beverly Hills on the 12 grand  
3 theft charges! She didn't seem to know her son at all.  
4

5  
6 9. Martin Levin. I felt that it was extremely odd that Martin and Carol  
7 waited so long to report Ron's disappearance. It made me uncomfortable  
8 about his testimony. I also found the long period between Martin's discov-  
9 ery of the 7 pages in late June, and the point that he gave them to the po-  
10 lice in mid-August, to be very suspicious. He may have been helping Ron  
11 make good his escape, but of course he may not have been. However, Mar-  
12 tin's testimony undermined my confidence in the value of the 7 pages and  
13 the described circumstances in the house.  
14  
15  
16

17 Mr. Hunt made a good point about the fact that Martin's testimony to the  
18 effect that he found the 7 pages strewn all over the floor in the little of-  
19 fice didn't make sense within the Prosecution's story-line. If Mr. Hunt  
20 left them, he would have heard them fall. It seemed staged, almost as if  
21

22 Ron threw them on the floor to call attention to them, IF THEY WERE STRE  
23 ON THE FLOOR AT ALL (BC)

24 The fact that Ron's fingerprints were found on the Microgenesis file  
25 proved that he had put that file together -- not Mr. Hunt. I believed he  
26 kept the file so that he could have leverage on Mr. Hunt, Microgenesis, and  
27  
28

1 the BBC.

2  
3 10. Justine Jagoda. Ms. Jagoda was pretty eccentric but I found her to  
4 be believable. No one would put on an act like that! She proved that Ron  
5 Levin consistently abused his dog. Also, her testimony made me feel that  
6 it was far less likely that anything criminal happened at Ron Levin's that  
7 night. She heard nothing that night, neither shots nor slamming trunks. I  
8 think she would have heard something if there was something to hear, be-  
9 cause she was in bed reading, *ACCORDING TO HER TESTIMONY.* <sup>BC</sup>

10  
11  
12  
13 11. Karen Marmor. I found Ms. Marmor's testimony that she saw the "to  
14 do" list on Ron Levin's desk to be very important. I accepted her testimo-  
15 ny. She knew Ron Levin and was his neighbor. She turned Ron Levin down  
16 when she first met him. (Levin wanted to open some new accounts at the  
17 bank she worked at.) I thought that showed good judgment.

18  
19  
20 She was very cooperative with both Mr. Hunt and Mr. Vance. I saw her as  
21 being fair and neutral. I felt that she just testified to the facts without  
22 bias. She also said that Levin beat his dog and that the dog went to the  
23 bathroom on the carpet.

24  
25 Dean Karny told us a story where the 7 pages could only have been left at  
26 Ron Levin's the night of June 6, 1984 or the morning of June 7, 1984. Kar-  
27  
28

1 en Marmor saw the 7 pages during broad day light in Levin's presence.  
2  
3 They both couldn't have been telling the truth. I believed Karen Marmor. It  
4 was an easy choice: a former officer at a bank vs. an immunized and self-  
5 admitted perjurer (e.g. the State Bar application).  
6

7 12. Dr. Herbert Avery. Dr. Avery gave us important information too. He  
8 told us that Ron Levin had been forced to have sex in jail. Also, that Ron  
9 Levin feared going back to jail, which was corroborated by other witness-  
10 es (Karen Marmor and Oliver Wendell Holmes)  
11

12 13. Jeffrey Melczer and Jerry Verplancke. Mr. Melczer was Ron Levin's  
14 civil attorney. Mr. Verplancke was from the Progressive Savings and Loan  
15 offices. Both said that Ron Levin knew that the FBI was investigating him.  
16 This was a key point. Even more reason why Levin would flee. However, I  
17 add to this that Levin rescheduled his bail on June 5, 1984, making con-  
18 cessions to get this accomplished. To me all of these things are a major  
19 red flag that says: "I fled. I am alive and I got away with it." THEN AGAIN  
20 I COULD BE WRONG, BUT IT MADE ME WONDER. (BC)  
21

22 14. John Duron. Mr. Duron knew about Ron Levin wanting to dye his hair.  
23 Levin came to his shop twice a month for years. Mr. Duron knew how vain  
24 Levin was about his looks. Levin always made sure his hair was perfect.  
25 Mr. Duron was surprised, and so was I, that Levin would want to dye his  
26  
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28

1 hair. I couldn't understand why Levin would want to do it at home, it just  
2 wasn't his style. It made me think: "What is this guy planning?"

3  
4 I felt that the hair-dye testimony better explained why the comforter  
5 and remote control were missing than the People's theory. Detective  
6 Zoeller had seen a brown stain in the bathtub. This should have been test-  
7 ed more thoroughly. Given that Levin called Mr. Duron right before he dis-  
8 appeared it stands to reason that this was hair dye. Len Marmor said Ron  
9 Levin's place was spotless. The evidence supported that the stain was  
10 fresh. I felt Levin got the hair dye, which Mr. Duron said took 45 minutes  
11 to set and was very messy, on his bedspread and then threw it out.

12  
13 It made no sense that Mr. Hunt or Jim Pittman would shoot Ron Levin on  
14 his bed and gamble that Levin's blood wouldn't soak through the bed or  
15 that the bullet wouldn't go into the mattress. On top of this the Sheriff's  
16 criminalist, Ms. A'Heren, analyzed the trunk carpet and found no blood.  
17 This helped tip the balance even farther to the defense. Sure Mr. Hunt  
18 could have had plastic in the trunk but why would Mr. Hunt think to put  
19 plastic in the trunk but not under Levin before shooting him on the bed.  
20 The main point is, there was no blood anywhere. Ms. A'Hearn was an im-  
21 portant witness.  
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1 15. Nadia Ghaleb. Ms. Ghaleb spotted Ron Levin on the street while driv-  
2 ing slowly down the street. I have recognized people in similar circum-  
3 stances. I am not 100% sure that she saw Ron Levin. However, she was  
4 sincere. On balance she helped the Defense.  
5

6  
7 16. Robbie Robinson. Mr. Robinson was also credible. He knew that if he  
8 came forward he would lose his job but he came forward anyway. I be-  
9 lieve he actually saw Levin because he spoke to him. This was the most  
10 believable of the sightings witnesses to me.  
11

12  
13 17. Carmen Canchola and Jesus Lopez. I felt Ms. Canchola and Mr. Lopez  
14 were very believable. Mr. Lopez didn't want to come forward. Ms. Cancho-  
15 la knew a lot of facts that were not in the Esquire article (e.g., the hair,  
16 the scar, etc.). The scar was a very important and telling aspect of the  
17 identification.  
18

19  
20 18. Connie and Jerry Gerrard. I thought the Gerrards were a little flaky.  
21 However, I thought that she believed she saw Ron Levin. What took away a  
22 little from her credibility was her description of the restaurant. It dif-  
23 fered a bit from her husband's.  
24

25 Over all I felt the sightings witnesses were a very powerful set of wit-  
26 nesses for the Defense. The fact that there were several of them made me  
27  
28

1 take them seriously.  
2

3 19. Oliver Wendell Holmes. Mr. Holmes was a key witness. Ron Levin  
4 had researched the legal risks of becoming a fugitive. This is glaring evi-  
5 dence of Levin's intentions.  
6

7 20. All the evidence that was brought out points to Ron Levin being  
8 alive. There certainly was reasonable doubt. I would even go a step fur-  
9 ther. I do not even believe the Prosecution proved their case on Levin by a  
10 preponderance of the evidence.  
11

12 21. If I had to pick the 6 most important witnesses that support this, I  
13 would pick: Oliver Wendell Holmes, Karen Marmor, Nadia Ghaleb, Scott  
14 Furstman, Robbie Robinson, and John Duron. The thorough impeachment of  
15 all the BBC witnesses, including Dean Karny, cleared the way for me to be  
16 persuaded by the Defense witnesses. Levin said he never wanted to go to  
17 prison.  
18

19 22. Overall, I felt that Ron Levin had been preparing to flee for a long  
20 time. I thought that he consciously manipulated Mr. Hunt and the BBCers  
21 to make money. Later, Mr. Hunt had him under a lot of pressure to sign a  
22 check. This angered Levin. I believe in this context, he saw the "to do"  
23 list that Mr. Hunt tried to intimidate him with as both an opportunity to  
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1 misdirect the authorities, and a way to get back at Mr. Hunt for threaten-  
2 ing him. After Mr. Hunt left it at Levin's, I believe Levin decided to use  
3 the "to do" list for these two purposes.  
4

5 Ron Levin used a lot of people who never even realized they were being  
6 used. He was involved in all different types of frauds. His use of the "to  
7 do" list was just more manipulation.  
8

9 What I liked about the Defense case most was that it was made up of all  
10 independent witnesses. The Prosecution relied heavily on the BBC wit-  
11 nesses. They were highly biased. They came off as the "liar's club", just  
12 as Mr. Hunt said.  
13

14 I declare under penalty of perjury under the laws of the State of Cali-  
15 fornia that the foregoing is true and correct of my own personal knowl-  
16 edge, and that as to those matters stated upon information and belief, I  
17 believe them to be true.  
18

19 Executed at San Bruno, California on January 20, 1993.  
20

21  
22  
23   
24 BARRY DEAN CREEKMORE  
25  
26  
27  
28



**DECLARATION OF SANDRA MARIA ACHIRO**

I, SANDRA MARIA ACHIRO, declare as follows:

1. I was born on May 7, 1965. I work as a dental assistant.

2. I served as a juror on the case, People v. Hunt, C15761, for nearly eight months. I served from April 13, 1992, which was the day of opening statements, until a jury deadlock was announced and hence a mistrial was declared on December 9, 1992.

3. I listened to over 50 witnesses give testimony concerning the disappearance (and subsequent sightings) of Ron Levin. I took notes of their testimony throughout the 7 month trial. These are my thoughts and opinions concerning what I heard.

4. A total of 8 of the 12 jurors ended our 26 day deliberation period making clear that they felt that the prosecution had not proved beyond a reasonable doubt that Joe Hunt had killed and robbed Ron Levin, or that he had committed the charged crimes against Hedayat Eslaminia. Beverly Paustenbach, Diane Farrar, and Barry Creekmore were vocal about believing that Ron Levin had fled to avoid prosecution. They also indicated by vote that they felt that the prosecution had not met its burden of proof on the Levin evidence under the jury instructions (SA)

1  
2 5. Early in the deliberations, we reviewed the testimony of all the pros-  
3 ecution BBC witnesses, (Dean Karny, Tom May, Evan Dicker, Jerry Eisen-  
4 berg, and Jeff Raymond). The testimony of each in turn was set aside by a  
5  
6 unanimous vote at that time as being unreliable. We spent hours discuss-  
7 ing each of these witnesses' testimony during deliberations. Despite con-  
8  
9 curring in this vote, 3 jurors, (Harriet Kumetat, Curtis Hackworth, and  
10 Trilby Collins), later indicated that they felt that certain things these  
11 witnesses said were true and that they were no longer prepared to disre-  
12 gard their testimony completely. All the way to the end of the trial, we  
13  
14 all agreed that the prosecution's BBC witnesses had each lied during parts  
15  
16 of their testimony.

17 6. A point that there was a near unanimous agreement on was that Carol  
18 Levin's belief that Ron wouldn't leave her without further contact was  
19  
20 wholly unfounded. We discussed how we were <sup>b</sup>sucked by the revelations  
21 during cross-examination of how, despite her earlier claim to a perfect  
22 relationship with her son, she had institutionalized Ron at an early age  
23 and how he had lived most of the rest of his childhood and adolescence at  
24 boarding schools. The cross-examination on these points and on many oth-  
25  
26 ers, (e.g. how Ron took advantage of his parents financially and only super-  
27  
28

1 officially reciprocated his mother's interest in him), was very effective.  
2

3 7. I recall Diane Farrar, who works at the NASA Ames Research Center  
4 as a public information specialist, saying at one point in the deliberations:  
5

6 "If there is one thing I am sure of, it is that Ron Levin is alive."  
7

8 I declare under penalty of perjury under the laws of the State of Cali-  
9 fornia that the foregoing is true and correct of my own personal knowl-  
10 edge, and that as to those matters stated upon information and belief, I  
11 believe them to be true.  
12

13 Executed at Milbrae, California, on January 15, 1993.  
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16 SANDRA MARIA ACHIRO  
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3. I listened to over 50 witnesses give testimony concerning the disappearance (and subsequent sightings) of Ron Levin. I took notes of their testimony throughout the 7 month trial. These are my thoughts and opinions concerning what I heard.

4. I thought that prosecution witnesses Tom May, Evan Dicker, Jeff Raymond, Jerry Eisenberg, and Dean Karny were lying throughout their testimony. In each case their credibility suffered, particularly during cross-examination.

5. Dean Karny. The proof that Karny had lied on his State Bar applications, both before and after he did his immunity deal, seriously damaged his credibility in my eyes. It showed that he was willing to down play his involvement in the BBC if he felt it was in his interest to do so. I thought

1 it extremely telling that he lied on his application even though the Cali-  
2  
3 fornia Department of Justice was involved in assisting him to become a  
4  
5 licensed attorney.

6 In cross-examination of Karny, Mr. Hunt asked him about a conversation  
7  
8 on a park bench that allegedly took place after Mr. Hunt returned from New  
9  
10 York in June of 1984. I did not believe that this conversation took place at  
11  
12 all due to an obvious contradiction that Mr. Hunt revealed by his question-  
13  
14 ing of Mr. Karny. At one point I recall Mr. Karny's testimony as being that  
15  
16 Jim Pittman had told him, prior to Mr. Hunt's return from London, all about  
17  
18 the events in New York. Mr. Karny said that Pittman described how he had  
19  
20 tried to impersonate Ron Levin. The problem with this testimony was that  
21  
22 Mr. Karny had testified at some other trial, that Jim Pittman did not real-  
23  
24 ize that Dean Karny knew about the alleged Levin murder plan until this  
25  
26 meeting on the park bench after Mr. Hunt had returned from London. This  
27  
28 was after the point that Karny had said that Pittman had supposedly told  
him everything. This contradiction as it played out on the stand was rather  
glaring. I decided that Karny had made up the entire "park bench" episode.  
It effected how I viewed Mr. Karny's credibility as a whole.

6. Tom May. I did not find Mr. May to be credible. One point that sub-

1 substantially affected my view of him was the deal he made with ITC Produc-  
2 tions concerning the BBC miniseries and his testimony about that deal. Mr.  
3 May made a fool of himself on the stand on this topic. On cross-  
4 examination I learned that the deal he and his brother made with this pro-  
5 duction company guaranteed them that they would be portrayed as "he-  
6 roes" and "innocent victims of Joe Hunt", as long as "facts to the contrary  
7 did not come out at trial". Of course, we learned that Jeff Raymond and  
8 Evan Dicker did deals with ITC Productions also. It became clear, and Mr.  
9 Hunt later argued this in his summation, that if all these guys stuck to-  
10 gether and corroborated with each other, they could really appear as he-  
11 roes. But if they said anything embarrassing about themselves or each  
12 other, they would be embarrassed on nationwide television. I felt this  
13 gave them a powerful incentive to testify in such a way about each other  
14 to make themselves appear in the best light.

15  
16  
17 7. The Levin Sighting Witnesses. I did not find the testimony of Carmen  
18 Canchola and Jesus Lopez to be very persuasive by itself. However, con-  
19 sidered along with the testimony of Mr. Oliver Holmes and Len Marmor that  
20 Ron Levin had a faint scar on his forehead, I began to believe that they ac-  
21 tually had seen Ron Levin. While the person Ms. Canchola described  
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1 matched Levin to a "T", she had never personally met Ron Levin before.  
2  
3 This weighed against her testimony. It was the addition of this one fact,  
4 that Levin had a scar on his forehead which, against his normally fair  
5 complexion, was almost invisible, that gave her identification the power  
6 in my mind to raise a reasonable doubt. In the harsh September Arizona  
7 sun, Levin's skin, except for the scar, would tan, thus making the scar  
8 more visible. Nothing about a scar was mentioned in the Esquire magazine  
9 article. At that point her testimony could no longer be dismissed as a  
10 mis-identification.  
11  
12

13  
14 However, the testimony of Connie and Jerry Gerrard just about bowled  
15 me over. They seemed to be very sensible and decent people. Ms. Gerrard  
16 had been in Ron Levin's company on a number of occasions and she posi-  
17 tively identified him. Particularly persuasive to me was her description  
18 of how Mr. Ron Levin inexplicably and suddenly pulled up stakes and left  
19 the cafe after he made eye contact with her, especially since she reported  
20 over hearing Levin and his friend, only moments before, discussing their  
21 good fortune in finding a restaurant open on Christmas day. She was not  
22 impeached in my view at all. She was much more credible than any BBC  
23 witness, and unlike that crowd, she had no reason to lie.  
24  
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1 Mr. Hunt also called Robert Robinson and Nadia Ghaleb. They had also  
2  
3 seen Ron Levin in the 1986 to 1987 time frame. Though credible witness-  
4 es they were, the 'clincher' witnesses about Ron Levin being alive were  
5  
6 Connie and Jerry Gerrard.

7 8. Levin To Flee. I have no doubt in my mind that Ron Levin fled to avoid  
8  
9 prosecution for his many criminal acts. Not only did we learn of his insu-  
10 rance frauds, the 12 grand theft charges, and his check frauds in the de-  
11 fense case, but he also owed over one million dollars when he skipped  
12 town. Mr. Jon F. Martin, an insurance investigator, had threatened Ron Le-  
13 vin with jail for insurance fraud. We learned through Jeffrey Melczer, Le-  
14 vin's civil attorney, and Jerry Verplancke, who worked at Progressive  
15 Savings and Loan, that Levin was aware that the FBI was investigating the  
16 Progressive check scam case that netted Levin \$150,000.00 in late 1983.  
17  
18 This was just six months before Levin fled. We also learned from Daniel  
19  
20 Wilson, an investigator who worked for Fidelity, I believe, that Fidelity  
21  
22 was seeking to prosecute Levin for the \$75,000.00 he had scammed from  
23  
24 them in May or June of 1984.

25 I believe that Levin was terrified about going back to jail. Dr. Avery  
26  
27 told us that Levin described being raped in jail back in 1979 on, when he  
28



1 was doing time on the mail fraud case. When Carol Levin was on the wit-  
2 ness stand, Mr. Hunt showed her a letter in her handwriting that said Ron  
3 Levin had a terrible fear of being locked up dating back from when she had  
4 committed him to the Camarillo State Mental Hospital. Mr. Oliver Holmes  
5 testified that Levin had described to him how he had been researching the  
6 extradition treaty between Brazil and the United States. This had a big  
7 impact on me. Mr. Holmes even said that Levin had called the State De-  
8 partment to find out when the treaty went into effect, apparently being  
9 told that it did not do so for about one year. This was proof to me that Mr.  
10 Levin had been considering fleeing for sometime. I believe that he ulti-  
11 mately did so.  
12

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17 9. The Seven Pages.

18 Possibly the most important witness on the issue of what happened to  
19 Ron Levin was Karen Sue Marmor. She was great! First of all, I trusted  
20 her. She used to be an officer at a bank, she was married to a former  
21 prosecution witness, she did not know Mr. Hunt at all, and she was very  
22 straight forward. When she said that she saw the "to do" list on Levin's  
23 desk, I was stunned. It all started to make sense to me. I believe Levin,  
24 after he got a hold of the "to do" list, decided to use it as cover to make  
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1 good his escape. He seemed to be thinking out-loud in Ms. Marmor's pres-  
2  
3 ence about doing just that. She testified that he said he was never going  
4 to go back to jail and that he might leave for New York and not come back.  
5 He also told Ms. Marmor that he had just been threatened . This corrobo-  
6 rated Mr. Hunt's defense in several crucial ways. As Mr. Hunt often said,  
7 the lists were only used as "props in a plan to intimidate Ron Levin". The  
8  
9 biggest point about Ms. Marmor's testimony to me is that her testimony  
10 and the prosecution's theory were totally at odds. Either you believed one  
11 or the other. Since Mr. Karny was the only witness that testified about  
12 the origin of the seven pages and how it was to be used and/or was used,  
13 it really came down to a question of whom did I believe, Karen Marmor or  
14 Dean Karny. On this level, there really was no contest. Mr. Karny had a lot  
15 of reasons to lie and, I felt, had in fact lied to us about a lot of things. Ms.  
16 Marmor did not have an immunity deal and was never impeached. Once I  
17 decided I believed Ms. Marmor, I knew Joe Hunt was innocent. Since Ron  
18 Levin had the "to do" list in his control and possession during broad day  
19 light and at a time when Joe Hunt was nowhere in sight, there was no way  
20 that this list could be the 'recipe for murder' that Karny claimed it was.  
21 In my mind, Ms. Marmor was a one person justification for an acquittal,  
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1 though I admit that many other witnesses supported her testimony by  
2 pointing to flight to avoid prosecution as an explanation for Mr. Levin's  
3 disappearance.  
4

5 10. John Riley. One of the more dramatic impeachments of Mr. Karny's  
6 story of what allegedly happened on June 6, 1984, came about through the  
7 testimony of Mr. John Riley. Mr. Riley was a former newspaper reporter  
8 and magazine correspondent, he presently is a freelance writer. He was  
9 very well-spoken. He testified that he had seen Ron Levin and Jim Pittman  
10 talking at some length in front of Levin's house in 1984. He accurately  
11 described Mr. Pittman's build, height, and weight. He also picked Pittman  
12 out of a photo line-up. There was really no question in my mind that he  
13 saw Jim Pittman with Ron Levin. However, according to Karny, Pittman  
14 and Levin never met before June 6, 1984. Karny had this whole story about  
15 what happened between Levin, Pittman, and Mr. Hunt on the night of June 6,  
16 1984, built around the fact that Levin supposedly didn't even know Pitt-  
17 man. Karny said that Mr. Hunt confirmed this to him during the "walk  
18 around the neighborhood" conversation that Karny said took place after Mr.  
19 Hunt allegedly killed Levin. Karny described how on this occasion Mr. Hunt  
20 had supposedly described a "scenario" that he used to attempt to convince  
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1 Levin to hand over his money under duress, but still leave Levin a basis to  
2 hope that he would survive the night if he cooperated. Pittman was sup-  
3 posed to have been introduced as a paid enforcer for the Chicago mob to  
4 whom Mr. Hunt was to have said he was deeply indebted. Karny testified  
5 that the idea was that Levin had never seen Pittman before and would not  
6 realize that Pittman was a BBC member. (Mr. Len Marmor also had seen  
7 Pittman at Levin's house in 1984.) As a result, Karny explained, the plan  
8 was to hoodwink Levin into believing that both he and Mr. Hunt were being  
9 pressured by this group whose representative was the physically imposing  
10 Pittman. Of course the lie to this was all proven by the evidence that Le-  
11 vin knew Pittman. How else could he have met Levin except through Mr.  
12 Hunt? I felt Mr. Hunt's argument was persuasive that Karny, unaware of  
13 their acquaintance with each other, had mistakenly woven into his scenar-  
14 io for that night this highly revealing flaw. Karny's whole plot for that  
15 night didn't make any sense with this in mind. Karny said that the "Chica-  
16 go enforcer scenario" was what was meant "Explain situation" on the "to  
17 do" list. In light of all of this, I didn't think so at all.

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25 11. John Duron.

26  
27 Mr. Hunt presented powerful evidence in support of his case through the  
28

1 testimony of John Duron. Mr. Duron was Levin's barber for years. Levin  
2 visited him every 2 weeks through out their business relationship. Mr. Du-  
3 ron was startled when, on the occasion of Levin's last visit to his hair sa-  
4 lon, Levin inquired about dyeing his hair and beard brown. Mr. Duron stated  
5 that this was surprising because the rather vain Levin and he had long  
6 agreed that Levin's gray hair was his most striking feature. Mr. Duron  
7 testified that he tried to talk Levin out of it. When Levin insisted, Mr. Du-  
8 ron offered to do it for him. Levin refused the offer but called back a  
9 week or or a week and a half later. Duron tried to talk him out of it again  
10 but Levin would not be put off. Mr. Duron gave Levin instructions. Since  
11 this was a week and a half after Levin's last visit and since Levin sched-  
12 uled visits regularly every 2 weeks for years, this had to have occurred  
13 right before Levin's flight. Detective Zoeller testified that he found an  
14 unexplained brown stain in Levin's bathtub which he had tested to deter-  
15 mine if it was blood, with negative results. Mr. Duron told us that hair dye  
16 can stain porcelain. As a result of all of this, I became convinced that Le-  
17 vin had altered his appearance to make good his escape. Obviously, he let  
18 it grow out later, probably as he became more secure over the years.

19 It also provided me with a reasonable explanation for the missing com-  
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1 forter. Mr. Duron told us about how these dyes must be left in one's hair  
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3 for at least 45 minutes "to set". During that time one is free to get out of  
4 the shower, walk around, and relax. He described how many hair-color  
5 novices ruin their clothes and get it all over everything because of how  
6 difficult it is to handle during this period. Of course I knew that already.  
7  
8 It was easy to see how, lying down to watch television on his bed, Levin,  
9  
10 even if he thought he was being careful, could have stained his bedding.  
11 Naturally he couldn't leave that tell-tale clue behind. Given all the other  
12 evidence, Detective Zoeller's discovery of the stain, and Mr. Duron's testi-  
13 mony, I believe that is what happened. Levin got the hair dye on his com-  
14 forter and hastily scooped it up, along with the television remote control  
15 device, and threw them out. Corroborating this was Blanche Sturkey, Le-  
16 vin's maid, who testified that only Levin and she knew where the spare  
17 comforter was.  
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21 12. Justine Jagoda. Ms. Jagoda was very firm about her recollections of  
22 the night of June 6, 1984. She had heard nothing that night. She testified  
23 that on other occasions she had heard Levin beat his dog, a slap followed  
24 by a yelp. Apparently, her bedroom was right over Levin's old bedroom.  
25  
26 She recalled the night because she was questioned by someone the next  
27  
28

1 day as to whether she heard anything unusual. She testified that she was  
2 up late reading a book. The television set was not on and the windows  
3 were open. Karny had said that he had heard the silenced gun shot and that  
4 it was very loud, as loud as a very loud clap of the hand. Ms. Jagoda felt  
5 that she would have heard that easily. She said she heard nothing unusual  
6 at all, not even a trunk being slammed or the dog yelping. This was more  
7 evidence which was inconsistent with the People's theory. I thought her  
8 testimony was important because it was ear-witness evidence, not hear-  
9 say from biased witnesses.

10 13. I am aware that the Prosecution witnesses testified that Ron Levin  
11 left some money behind, but it was a small amount in relation to the near-  
12 ly one million dollars in illicit income he apparently had during his last 18  
13 months or so in Beverly Hills. (\$150,000.00 from Progressive; \$50,000.00  
14 from American Express; \$75,000.00 from Fidelity USA; \$250,000.00 worth  
15 of camera equipment never returned; \$500,000.00 worth of insurance  
16 fraud per Jon Martin; \$15,000.00 from Len Marmor; \$30,000.00 from Joe  
17 Hunt and the BBC; \$100,000.00 from Merrill Lynch; \$20,000.00 to  
18 \$30,000.00 from Levin's parents; \$20,000.00 from his maid; etc.; etc.)

19 14. Also, Ron Levin did do some things inconsistent with a fixed-  
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1 advance-planned-flight-to-avoid-prosecution scheme. His plans to fly to  
2 New York, the address labels Martin Levin spoke of, and paying for his in-  
3 surance in advance (I think) as well. However, the evidence reflected that  
4 Levin ultimately decided to flee, not that he knew all along that he was  
5 going to do so. Karen Marmor described Levin saying: "I'm not going to  
6 jail", and "Maybe I won't come back from New York", during her very last  
7 conversation with Levin. Oliver Wendell Holmes was summoned by Levin  
8 on June 6, 1984 to return a key Levin had given him to Levin's house. That  
9 key, Mr. Holmes said, provided him access to Levin's home so that he could  
10 work in preparation for Levin's eventual trial on the 12 grand theft charg-  
11 es. Why did Levin decide on June 6, 1984 that it was no longer necessary  
12 to do that work? Scott Furstman said Levin did a surprising about-face on  
13 his criminal case, agreeing to return property to the victims in exchange  
14 for bail concessions on June 5, 1984. Why? So that his dad wouldn't be  
15 left holding the bag, I thought. There was no other explanation. Ron Levin  
16 had a year of premium left on his bail bond at that point! The list goes on  
17 and on .....

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26 15. In the end I felt that the set of circumstances that put the "to do"  
27 list in Levin's hands, and the likelihood of more criminal charges on top of  
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1 the 12 felony counts he already faced, brought Levin to the decision to  
2 flee. Of course, 5 people have seen him since then, so the fact that he did  
3 flee is not really open to debate any longer.  
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5  
6 16. I believe an innocent man is behind bars. In my own heart and based  
7 on the proof that I have heard and seen, I believe that Ron Levin was alive  
8 at least until Christmas of 1987, when he was seen by Connie and Jerry  
9 Gerrard on the island of Mykanos in the Mediterranean. Setting aside Mr.  
10 Hunt's notorious reputation, all the testimony coming from neutral and  
11 non-partisan witnesses (those with no personal stake in the case), points  
12 with one accord to the fact that Ron Levin fled prosecution for a variety  
13 of crimes that he had committed. The BBC witnesses were a thoroughly  
14 disreputable and unreliable lot. Their statements were in conflict with  
15 an impressive number of facts attested to by more reliable witnesses.  
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17 Carol and Martin Levin are only guessing. Basically, they believe what  
18 they need to believe. There is not a shred of physical evidence to prove  
19 violence occurred at Ron Levin's home other than the implications of a  
20 missing comforter and remote control.  
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25 However, Karyn got the Beverly Hills Police reports about the circum-  
26 stances at Levin's home before he made the statement. I also found more  
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1 believable, given Karny's general dishonesty, the hair dye scenario.

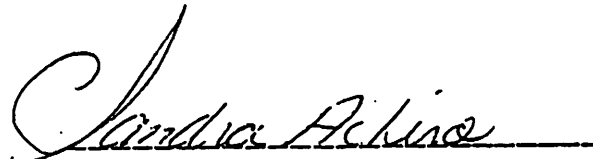
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3 17. In the end I felt that the June 24, 1984 "confession", attributed to  
4 Mr. Hunt, had to be interpreted in light of the fact that: (1) Levin was  
5 planning to flee; (2) Karen Marmor saw the 7 pages at Levin's home before  
6 the night of June 6, 1984; and (3) People have seen Ron Levin alive since  
7 June 6, 1984.  
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10 In my view, it is silly, given all the evidence, to say I'm not going to be-  
11 lieve Karen Marmor and 5 sightings witnesses because Mr. Hunt said he  
12 killed Ron Levin. All those guys, and Levin too, pulled a lot of hoaxes, they  
13 said a lot more than they meant rather frequently. There is the old saying:  
14 "Just saying it doesn't make it so." I looked at the BBC and saw believa-  
15 ble motives for Mr. Hunt to make that statement, given the white collar  
16 crime and car stealing atmosphere of the BBC. However, the key point is  
17 that the un-biased witnesses and the eye-witnesses are a much more di-  
18 rect route to the truth than a "hearsay" case. One can spin theories about  
19 what people like Levin and the BBC members knew versus what they said  
20 endlessly. One can argue the whys and wherefores either way. In the end  
21 the overall trend of the evidence coming from untainted sources was all in  
22 one direction: towards Mr. Hunt's innocence. I believe Mr. Hunt is innocent  
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1 and that Ron Levin was alive through, at least, late 1987.  
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3 I declare under penalty of perjury under the laws of the State of Cali-  
4 fornia that the foregoing is true and correct of my own personal knowl-  
5 edge, and that as to those matters stated upon information and belief, I  
6 believe them to be true.  
7

8 Executed at Millbrae, California, on December 23, 1992.  
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12 SANDRA MARIA ACHIRO  
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**DECLARATION OF WILLIAM E. GILG**

I, WILLIAM E. GILG, declare as follows:

1. I am an attorney at law licensed to appear before all the courts of the State of California.

2. I have been assisting Joe Hunt in Case # C15761, People v. Hunt, since February of 1989.

3. This case concerned what happened to Hedayat Eslaminia on July 30th and July 31st of 1984. The jury voted 8 to 4 in favor of acquitting Mr. Hunt after a 26 day deliberation period.

4. The people sought under Evidence Code section 1101, and were granted, the right to present evidence related to the disappearance of Ronald George Levin in their case-in-chief. The judge ruled that this evidence would be admissible for the jury's use for a limited purpose in their deliberations on the issues of intent, motive, and identity in the Eslaminia case. They were instructed that the evidence was not to be considered at all if the prosecution did not establish by a preponderance of the evidence that Mr. Hunt in fact robbed and then killed Ron Levin. True copies of the two jury instructions related to this evidence are attached hereto as Exhibits #1 and #2 to this declaration.

5. The People called 21 witnesses in their case-in-chief and 3 witnesses in rebuttal to testify concerning the Levin allegation. They were as follows:

1. Dean Karny
2. Tom May
3. Jerry Eisenberg

- 1 4. Evan Dicker
- 2 5. Jeff Raymond
- 3 6. Jack Friedman
- 4 7. Chuck LeBeau
- 5 8. Dean Factor
- 6 9. Michael Broder
- 7 10. Carol Levin
- 8 11. Martin Levin
- 9 12. Richard Liebowitz
- 10 13. Joe Vega
- 11 14. Robert Jordan
- 12 15. Blanche Sturkey (testimony from Joe Hunt's L.A. trial was
- 13 read by stipulation)
- 14 16. Les Zoeller
- 15 17. Scott Furstman (testimony from Joe Hunt's L.A. trial was read
- 16 by stipulation)
- 17 18. James Foulk (testimony from Joe Hunt's L.A. trial was read
- 18 by stipulation)
- 19 19. Lori Leis
- 20 20. Anil Varma
- 21 21. Dr. Choi (testimony from Joe Hunt's L.A. trial was read by
- 22 stipulation)
- 23 22. Detective King (rebuttal)
- 24 23. Detective Convey (rebuttal)
- 25 24. Ted Woods (rebuttal)
- 26 6. In addition there were stipulations entered into by the defense and
- 27 the prosecution concerning the following:
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Exh. 201  
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282-430

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- A. That Jim Pittman's handwriting appeared on the records, which were People's Exhibits 68A through 68G in Case A090435, in several places. These exhibits were the records of the Plaza Hotel and related to Jim Pittman's visit to New York on June 7th to June 11th of 1984.
- B. That the phone records of the Plaza Hotel admitted in Joe Hunt's L.A. trial were the records of that hotel and reflected calls from its guest rooms during the period of Mr. Pittman's stay there.
- C. That the "7 pages" or the series of lists (i.e. "at Ron Levin's to do") found at Ron Levin's were all in Joe Hunt's handwriting.
- D. That the lists were checked for the fingerprints of Tom May, Evan Dicker, Martin Levin, Ron Levin, Jeff Raymond, Joe Hunt, Dean Karny, and Robert Levin, with only Dean Karny and Joe Hunt's prints finding a match on the pages. It was further stipulated that Ron Levin's prints, and not Joe Hunt's, were found on a green file folder in which a group of documents related to Microgenesis were found at Ron Levin's house. This file was People's Exhibit 94 in Case A090435.

7. The defense called 40 witnesses in its case-in-chief and 4 witnesses in rebuttal with something to say pertinent to the Levin case. They were:

- 1. Neil Adelman
- 2. Henry Cheung
- 3. Frank Hargrove

4. Bernard Krause
5. Connie Gerrard
6. Jerry Gerrard
7. Robert Robinson
8. Robert Tur
9. Nadia Ghaleb
10. Carmen Canchola
11. Jesus Lopez
12. Lynne Roberts
13. Robert Pacillio (testimony from Joe Hunt's L.A. trial was read  
by stipulation)
14. Patricia Towers (testimony from Joe Hunt's L.A. trial was  
read by stipulation)
15. Joe Hunt
16. Daniel Wilson
17. Daniel J. Holland
18. Jerry Verplancke
19. John Rollingson
20. Paul Edholm
21. Brent Kley
22. Robert Garden
23. Jonathon Hayes
24. Sandra Kammenir
25. Dr. Herbert Avery
26. Dr. Presley Reed
27. Karen Marmor

Exh. 201

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292-432

28. Len Marmor
29. John Reeves
30. Erin A'Heren
31. Jeffrey Melczer
32. John Riley
33. John Duron
34. Justine Jagoda
35. Fedrico Cano
36. Oliver Wendell Holmes
37. Jon F. Martin
38. Josephine Casson
39. Frank Vassallo
40. Dr. John Thornton
41. Robert Mackey (rebuttal)
42. Dan Dobrin (rebuttal)
43. Antonio Samaniego (rebuttal)
44. Bill DiVita (rebuttal)

8. Between the defense and the prosecution, 31 witnesses who testified in Joe Hunt's L.A. trial on the Levin allegation (Case A090435) testified in this trial. In addition, the substance of three prosecution witnesses in the L.A. trial (Mr. Clason, Mr. Kuhn, and Mr. Wagenbrenner), was covered by stipulations concerning the identity of certain fingerprints on the "to do" lists and Ron Levin's Microgenesis file. 36 witnesses were called by the defense who did not testify in Joe Hunt's L.A. trial on the Levin allegations. A list of the witnesses falling into the above-described categories

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Exh. 201

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222-433



1 is attached to this declaration as Exhibit #3.

2 I declare under penalty of perjury under the laws of the State of Cali-  
3 fornia that the foregoing is true and correct, except as to those matters  
4 stated upon information and belief, and as to them, I believe them to be  
5 true.

6 Executed at Redwood City, California on December 24, 1992.

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9 WILLIAM E. GILG,  
10 Attorney at Law  
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Exh. 201

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202-434

*Three*  
 (Two Pages) CALJIC 2.50 (Page One)  
 EVIDENCE OF OTHER CRIMES

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified	✓	Withdrawn	
		Given on Court's Motion			

Judge

2.50/1

Evidence has been introduced for the purpose of showing that the defendant committed [a crime] ~~{crimes}~~ other than that for which [he] ~~{she}~~ is on trial.

Such evidence, if believed, was not received and may not be considered by you to prove that defendant is a person of bad character or that [he] ~~{she}~~ has a disposition to commit crimes.

Such evidence was received and may be considered by you only for the limited purpose of determining if it tends to show:

[The existence of the intent which is a necessary element of the crime charged;]

EX-201  
 28a-435

EXHIBIT #1  
 843

[The identity of the person who committed the crime,  
if any, of which the defendant is accused;]

[A motive for the commission of the crime charged;]

[The defendant had knowledge of the nature of things  
found in [his] [her] possession;]

[The defendant had knowledge or possessed the means  
that might have been useful or necessary for the  
commission of the crime charged;]

[The defendant did not reasonably and in good faith  
believe that the person with whom [he] [she] engaged or  
attempted to engage in a sexual act consented to such  
conduct;]

[The crime charged is a part of a larger continuing  
plan, scheme or conspiracy;]

[The existence of a conspiracy].

For the limited purpose for which you may consider  
such evidence, you must weigh it in the same manner as  
you do all other evidence in the case.

-8 -  
Exh. 201  
2ER-436

# 1

You are not permitted to consider such evidence for  
any other purpose.

Requested Forcible 2.50d.

- 9 -

Exh 201  
2ER-437

FF 1

Print Date 12/88

People v. Joseph Hunt, No. C-15761

**CALJIC 2.50.1**

**EVIDENCE OF OTHER CRIMES BY THE DEFENDANT PROVED BY A  
PREPONDERANCE OF THE EVIDENCE**

**2.50.1**

Within the meaning of the preceding instruction, such other crime or crimes purportedly committed by the defendant must be proved by a preponderance of the evidence. If, however, you find that the evidence of the Levin allegations is necessary for you to establish the identity of the defendant as being responsible for the death of Hedayat Eslaminia, or to establish the required intent on the part of the defendant as to any of the charged crimes, or to establish the motive of the defendant concerning the allegations relating to Hedayat Eslaminia, then the Levin allegations must be proved beyond a reasonable doubt. You must not consider such evidence for any purpose unless you are satisfied that the defendant committed such other crime or crimes.

The prosecution has the burden of proving these facts by a preponderance of the evidence unless the facts are necessary for you to establish the identity of the defendant as being responsible for the death of Hedayat Eslaminia, or to establish the required intent on the part of the defendant as to any of the charged crimes, or to establish the motive of the defendant

- 10 -  
Exh. 201  
292-438

EXHIBIT #2  
846

concerning the allegations relating to Hedayat Eslaminia, in which circumstance the prosecution has the burden of proving the Levin allegations beyond a reasonable doubt.

-11-  
Exh. 201  
292-439

#2

DECLARATION OF  
RICHARD CHIER

I, Richard Chier, declare as follows:

1) I have reviewed the testimony of Robbie Robinson as given by him on April 23 and April 29 of 1996 before the Honorable Judge Stephen Czuleger of the Superior Court of Los Angeles County.

As I wrote in my declaration of November 15, 1995:

"I was troubled when I learned that Barens had waived the right to interview or call Mr. Robinson without ever personally interviewing Mr. Robinson. I had no part of that decision. Although it was clear that Mr. Wapner felt Mr. Robinson was lying, I don't recall hearing anything in his report which seemed inherently unbelievable to me. At a minimum, if I had not been barred from proceedings on the matter, I would have seen that the defense interviewed Mr. Robinson personally and that we did our own investigation."

Had I interviewed Mr. Robinson in 1987 and Mr. Robinson given substantially the same answers to the questions posed of him in April 1996, I would have been strongly inclined to call him as a witness. Of course, having never met Mr. Robinson in person, I must make one reservation. I would not have called him if there was something in his demeanor which would have caused, in my estimation, a jury to reject his testimony. I certainly saw nothing to suggest that this would be the case in the April 1996 transcript. He appears to be a reasonably articulate and coherent witness - one whose general credibility would have compared favorably with the prosecution's star witness, Dean Karny.

2) I do not recall having been apprised of the Ghaleb sighting. I am told that this sighting took place a couple of blocks above the intersection of Wilshire and San Vincente. I have read the testimony of Ms. Ghaleb of April 29, 1996. Her testimony appears to me to be credible and was not, in my view, impeached in any material respect on cross-examination. Provided there are no serious drawbacks in her demeanor, I am certain that I would have presented her testimony in a motion for a new trial if I had been aware of it. I did present Louise Waller's testimony in such a motion. If I had been told of the Ghaleb sighting at any time prior to sentencing, I am utterly certain that I would have either interviewed her myself or caused my investigator to interview her.

3) I made the decision to call Louise Waller as a witness in the penalty phase of Mr. Hunt's trial. I personally interviewed her before doing so. Mr. Barens was not present during that interview. To the best of my recollection I heard of Ms. Waller for the first time the night before the verdict was rendered in Mr. Hunt's case. Had I been aware of Ms. Waller and been able to interview her prior to the verdict, I am certain that I would have called her as a witness on Mr. Hunt's behalf in the guilt phase.

I declare under penalty of perjury that the foregoing is true to the best of my recollection and belief. Executed in L.A. county  
on June 12, 1997 Richard C. Chier

Richard C. Chier 848

## DECLARATION OF JOSEPH HUNT

I, Joseph Hunt, declare as follows:

1. I wanted hearing counsel to call Carmen Canchola and Jesus Lopez as witnesses at the 1996 evidentiary hearing. I placed Carmen Canchola and Jesus Lopez on all the defense witness lists I submitted to hearing counsel. I have retained copies of these lists. These lists were submitted, verbatim, to the hearing court, and up to and including the April 10, 1996 witness list, included their names. The lists submitted after April 10, 1996 were prepared by counsel and were not based upon drafts that I submitted to them. I interrupted the proceedings on March 29, 1996 (See HT 9(27)) to remonstrate with counsel for waiving the right to call these witnesses and for counsel's failure to make a record of my position concerning them.

2. There is no paragraph 2.

3. There is no paragraph 3.

4. There is no paragraph 4.

5. I described to hearing counsel orally, and in written memoranda - which I have retained, the legal theories described in Section I, Claim 2, Contentions 3 and 4 in the petition. (Burden of proof issues regarding the new evidence claims, see 1997 ptn. at pp.79-88.) I urged counsel to present these claims to the hearing court.

6. I told hearing counsel of the significance of Carmen Canchola's recollection of seeing a scar on the forehead of

page 1.

Exh 156

292-405



the man she saw in September of 1986 in Tucson, Arizona. I prompted counsel to make a record of the fact that Levin had such a scar. (See questions asked during the hearing at HT 236, 242, 252-3.) I repeatedly urged counsel to analyze the sightings evidence in terms of the corpus delicti rule. I wrote memoranda to them (and I have kept copies of these documents) expressing my 'theory of prejudice' involving the corpus delicti rule. Towards the end of the hearing I even enlisted an attorney named Eric Multhaup to help me to convince hearing counsel to present the corpus delicti issue (See the petition at pp.111-125) to the hearing court. It seemed clear to me that the most powerful theory under the California new evidence standard and the ineffective counsel standard, was to argue the effect of the new evidence of innocence and the evidence of ineffective assistance of counsel in terms of the impact of said evidence on a hypothetical 'reasonable juror's' assessment of corpus delicti under CALJIC 2.72. Eric Multhaup even faxed a message to hearing counsel urging them to present the theory. I first raised the theory to hearing counsel in 1994.

7. Evan Dicker, Tom May, Carole Levin, Dean Karny, Jeff Raymond, Martin Levin, and Jerry Eisenberg testified in my San Mateo Trial in 1992. The transcripts of their testimony were lodged with the Court of Appeals in May of 1993 and with the hearing court in March of 1996. The scope of their direct testimony on the Levin case in 1992 was nearly identical to that of their direct in 1987, during my trial on the Levin charges.

Other than a two inch column in 1985, nothing appeared in the Los Angeles Times concerning the BBC cases until November 7, 1986. I base this upon my review of the Los Angeles Times during the intervening months and a NEXXUS (Mead data corp.) search I had done in 1994. Towards the end of 1986 the Daily News, which at the time was still called the Valley News and Green Sheet) also began to cover the case.

8. There is no paragraph 8.

9. As attachments 1 and 2 to this declaration establish, I aggressively urged counsel to file a detailed factual and legal rebuttal to respondent's Return. These attachments are true copies of memos I gave to hearing counsel at or around the date on the memos.

10. There is no paragraph 10.

11. There is no paragraph 11.

12. I attempted to manage the investigation into matters relevant to the anticipated evidentiary hearing. I had managed to locate over 100 worthwhile witnesses when I was supervising the San Mateo case investigation and felt that counsel's schedules would not permit them to be as thorough as I would be. My efforts were stymied by hearing counsel however. They repeatedly countermanded my directions to the investigator regarding the interview of various potential witnesses. Counsel did not disagree with me about the need to make the interviews in question. The problem was that they claimed they wanted to be present during the interviews because they did not trust the investigator to handle them - this is what they said - alone. Unfortunately, hearing counsel proved to be

wholly unavailable for such work; the interviews never got done. In addition a variety of SDT's that I drafted would get snarled up in 'paper' bottlenecks at their office, some never to be seen again. As a result of these difficulties, I was not able to obtain interviews of the parties suing Barens for negligence. (See ptn. at p.136(c) and 138(h).) The weakness of these offers of proof during the 1996 evidentiary hearing stemmed from counsel having thwarted petitioner's efforts in this regard. (i.e the offers of proof related to the Flier litigation, the 15 malpractice lawsuits filed against Barens, etc.)

13. On December 20, 1995 I waived my client-attorney privilege. I expressly limited the waiver to those matters relevant to the resolution of my ineffective counsel claims and the hearing transcript of December 20, 1995 will bear out this assertion. I was not able to obtain a copy of this transcript, so I was not able to cite to a page.

14. I did not attend Barens' Nov. 7, 1995 Deposition (See H.Ex.267) and was not shown Barens interrogatories (H.ex. 310) prior to them being served on him.

15. Jeff Raymond had a deal with I.T.C. productions, inc. I obtained a copy of the contract when I subpoenaed the files from I.T.C.

16. I subpoenaed records from ITC productions Inc. in 1989 or 1990. Present in the papers I received was an interview of Tom Frank May in which he admitted having authored (along with Dave May and Jeff Raymond) a list which described stealing items from the BBC warehouse, such as the attrition mills. Tom Frank May described how I found the list in the interview. Tom told the interviewer that the list reflected a planned practical joke.

17. Barens and I discussed the movie deal Tom May, David May, Jeff Raymond, Evan Dicker, and Detective Zoeller made prior to the trial. The deal was discussed in a magazine called The Equator. Barens knew the parties to the deal. (i.e. I.T.C. productions.)

I am highly familiar with Tom May's testimony at Jim Pittman's preliminary in Beverly Hills Municipal Court and his 1985 trial in Santa Monica Superior Court. (Case A090435.) I have also reviewed copies of the interview reports for the statements that he made to the police. I subpoenaed and obtained copies of I.T.C. productions interview transcripts for their interviews of Tom May. Det. Zoeller has testified that he was not informed in 1984 about the Chathouse meeting. (See petition pp.369-372.) In addition, Tom May's story about the pre-June 24, 1984 meeting testing of BBC members with murder scenarios first appears in the records after the ITC deal was done.

19. While John Jensen was testifying during the 1996 evidentiary hearing, my attorney reached a point where he had run out of questions. I asked counsel to ask Mr. Jensen about matters described at p.25 of H.ex.235 before Mr. Jensen was excused. Jensen's notes reflected more information than hearing counsel elicited from Mr. Jensen after this prompt from me. Mr. Jensen's notes, which were marked for identification as H.ex.235, reflected that Barens had told him that a \$6 million dollar option payment was part of the Microgenesis/Kilpatrick deal. When I asked counsel to make sure that this part of Mr. Jensen's conversation with Barens was described in testimony, I was told that they had done all they need to on the subject.

20. I recall watching Barens approach Tom May in the courthouse hallway in 1987 after telling me he was going to try to interview him. This was during a recess of Tom May's testimony at my trial.

Ex. 14 is a true copy of the transcript of the microcassette that was received in evidence as ex. 1102 during my 1992 trial in San Mateo. I personally recognized, through long association with the parties, the voices of Eisenberg, Tagliantetti, and Pittman on the tape. Also, I have listened to the entire tape, comparing it to the transcript which is exhibit 14 to this petition, and the transcript is accurate.

During 1994 and 1995, I prepared a 300 page summary of prior statements of Arthur Barens and related documents. The summary broke the information down by topic using full quotes from the source material. The object was to put at hearing counsel's finger tips all the information, topic by topic, necessary to cross-examine Barens. Nearly every inconsistency in Barens' statements highlighted in this petition was delineated in the summary. Nonetheless, Mr. Klein failed to attempt to impeach Barens in many of these areas. I discussed my feelings about his performance with Crain, who agreed that he (Crain) should handle further witness examinations of important witnesses. Klein had been suffering through a rash of serious maladies; this may have had something to do with his lack of preparedness for the Barens cross. Despite the transfer of responsibilities to Crain, there remained, in my view, problems with the witness examinations. Crain's cross of Declyn O'Donnel

left many unexploited opportunities, given the number of impeaching documents available to him. I used the weekend break during Kilpatrick's cross-examination to write out a 30 or so page list of questions for Kilpatrick based on the documents I had. Crain followed this script on May 13, 1996, and Kilpatrick was forced to repudiate the position that he and O'Donnel had taken on May 9, 1996. (See ptn. pp.178-182.) I have retained a copy of the questions that I wrote out longhand for Mr. Crain's use. A comparison of this list with Crain's cross of Kilpatrick will demonstrate that his cross-examination of Kilpatrick during the second day that witness was on the stand was nearly verbatim from the script I had prepared for him.

[Note: ¶21 appears out of order on the next page.]

22. The words "Hairdresser" and "Hairdye" appear in several places on the lists I prepared for meetings with, or submission to, Arthur Barens between 1985 and 1987. One such list is hearing exhibit 283. (See HT 1475, in evidence HT 2213.) These lists reflect my communication to Barens of the need to interview Levin's hairdresser about the possibility that Levin had obtained help dyeing his hair before he fled the area.

23. While reviewing the files of Ostrove, Levin's conservator, which I subpoenaed prior to my 1992 trial, I found a copy of a thick file containing copies of every check Levin used to pay his landlord between 1979 and June of 1984, and extensive correspondence between them. There were checks drawn on Carol Levin's account throughout, including some in 1984. Also, there were other accounting records showing other substantial sums paid by Carol and Martin Levin on Ron's

behalf in the conservator's records. Based on these records, I caused a SDT to be served on Carol and Martin Levin. In the end I had accumulated evidence that Ron had "borrowed" over \$40,000 from his parents between 1981-1984, including about \$6,000 in the first half of 1984.

24. Levin was 6'1½". I obtained through an SDT his medical records. This is what the chart said. It also comports with my recollection of his stature. I will produce the records on request. Presently they are in storage in Los Angeles.

21. (Out of Order) I made available all the supporting citations to the 1987 and 1992 trial records, and the related theories of prejudice (See 1997 petition at pp.189-194 - on the BMW carpet issue), to hearing counsel before they filed their Denial.

25. I alerted hearing counsel to the legal theories and grounds for prejudice related to the Hillcrest claim presented in the 1997 habeas petition at pp.251-262 prior to the filing of the Denial through extensive, citation-rich, memoranda and summaries.

26. Prior to Barens' November 7, 1995 deposition (See H.ex.267, in evidence HT 2207), I sent to hearing counsel a lengthy memorandum listing the questions I wanted asked of Barens concerning the ethical problems he alluded to in his declaration (H.ex.G). The questions exclusively focused on Barens' state of mind during trial and I asked hearing counsel to be careful to adhere to this limited scope of questions. I have retained a copy of these questions.

Prior to the preparation of Barens' interrogatories (H.ex.310) I asked hearing counsel to show me the questions before they were sent to Barens. They did not do so. I saw both the questions and the answers at the same time, a few days after Barens had responded to them.

27. The very day that I received a copy of Barens' answers to the interrogatories I mailed to Barens' attorney, Jeff Brodey, a copy of the notice which is now attachment 8 to this declaration. (See Attachment #8, regarding the scope of the client-attorney waiver.)

28. There is no paragraph 28.

29. I did not hear about Nadia Ghaleb until sometime in 1989. Dan Dobrin forwarded to me some interview and investigation reports he obtained from Jeff Brodey. I have been unable to locate the people referred to as the "Nippers" sighting. (See ex.33.) Unfortunately the May 4, 1987 letter from Mr. Wapner, the trial prosecutor, to Barens does not mention the names of the people who made the sighting directly. This circumstance and the passage of time have made it impossible, at least seemingly, to recover the lead.

30. Exhibit 15, a report of Doctor Krause concerning the Eisenberg tape (ex.14), accurately summarizes Mr. Krause's testimony of September 8, 1992 in my trial in San Mateo county. A transcript is unavailable at this time. Footnote 101 of the petition accurately summarizes the facts of his testimony. (See 1997 petition at p.376.)

31. I was not told by Chier or any other party that



Barens admitted the reason he had acceded to Judge Rittenband's terms of appointment in January of 1987 was that "he could not help himself when it came to money." I first learned of this remark in mid-1995. When Chier told me of this remark and the surrounding circumstances, he told me that he was divulging the information with the greatest reluctance. He remarked that he was disgusted with the way Barens was attempting to justify his conduct in 1987.

32. I have hearing counsel a draft in 1995 of the section II part 2 claim 3. (See 1997 petition at page 346.) In fact, the text of my draft was nearly identical to the wording of the claim as presented in this petition. I asked that they include the claim in the supplemental petition that was to be filed before the hearing court.

¶33 to ¶35 do not exist.

36. I had no idea that Mr. Jonathan Milberg knew anything of importance about Ron Levin, or even of Mr. Milberg's existence, until I read his declaration in August of 1996.

37. I first saw the report of the pre-1987 police interview with Alph Gore in 1995 while I was reviewing copies of documents that hearing counsel had retrieved in 1995 from the District Attorney's files. I brought this report to hearing counsel's attention for the reasons given at pages 364 to 365 of the petition. Given the prosecutor's testimony at HT 890 to 897, I presume Barens obtained a copy of this report prior to trial.

38. When I was a child, my father often got drunk and told tales of how he had physically triumphed over his enemies when he was a teen and a young adult in Wisconsin. From his

relatives I have recently learned that he had made these stories up. As far back as I can remember, I recall my father recounting these types of tall-tales - often for hours at a time. His delivery was forceful and dramatic. One would have to see him in action to know just how dramatic. I can not help but wonder if these tirades are a source, or the source, of my impulse (during the years when I was age 16 to 24) to create 'Walter Mitty' type stories to cope with my problems.

39. SUPPLEMENTAL PETITION ISSUES.

A. I discussed with Mr. Klein the need to file a supplement and amend the petition on several occasions in 1994. I have available to me copies of memos that I gave to him on the subject.

B. By early to mid-1995 nearly all the grounds ultimately presented in the March 29, 1996 supplemental petition or petition for writ of habeas corpus were known to me and counsel. (See attachments 3 to 7 of this declaration.) As evidence of this I refer parties reviewing this declaration to attachments 3 to 7 to this declaration. I gave these memos to hearing counsel Klein within a day or two of each of the dates upon which they were written. The dates reflected on the headings of the memos are accurate. In my May 11, 1995 memo (See attachment 6), I elaborate upon the various claims that became the March 29, 1996 supplemental petition. The post script to that memo states, "As we discussed time is of the essence. If we hope to consolidate all these content-

ions and have 1 hearing - perhaps we should get a continuance. We must file by 6-1-95!" (See attachment #6.)

C. Hearing counsel repeatedly advised me that they would write the supplemental petition and collect the declarations for the petition. During the period through the filing of the Denial in September of 1995 they often discouraged me from contacting witnesses related to our claims directly. When I met with such parties it was because I chose to ignore their advice in favor of doing work that seemed otherwise destined to be neglected. My legal diary from that period shows that I called Mr. Klein on 11 occasions between April 11, 1995 and May 10, 1995 to urge him to prepare (as he insisted that he himself must be the one to do so) the supplemental petition. For example on May 5, 1995 my diary includes this passage, "I pointed out to [Mr. Klein] that we needed to file a supp[lemental] writ of H. C. pronto given the new issues we identified...." I have retained the diary and will continue to do so for use as evidence in any hearing later held on this subject.

D. Counsel repetitively reneged on his promise to prepare and file a supplemental petition. Based on the hearing court's previous rulings, I believed that the court would not accept any pleading that I filed in pro per and I believed that it was procedurally imperative that I file said supplement in superior court and seek consolidation of its supplemental claims with those otherwise before the court through the O.S.C. Beholden as I was to counsel, a great

deal of time was lost as Mr. Klein labored through a long period marred for him by cataract surgery, a death penalty trial, a crisis related to high blood pressure, and 3 or 4 vacations in Paris, France.

I was constantly thrown off balance by counsel's forever unfulfilled promises to work on the supplemental petition or various parts thereof. In the early stages, after my request for pro per status was denied, I felt that I had to do what I could to keep a cordial working relationship with unwanted counsel. When they insisted that they would handle aspects of the supplemental petition, including the typing and editing of my draft, it seemed sensible to rely upon them to do these things. They also insisted that it would be best if they collect certain supporting documents for the petition. In all cases, the work they promised to do was delayed for reasons that I could only speculate upon. As the beginning of the evidentiary hearing approached my wife and I made arrangements through a lawyer we know to have my draft of the petition edited and typed into final form. My wife spent over \$2,000 to do this. News that we were pulling the project out from underneath hearing counsel seemed to galvanize them into action. Nonetheless, the first 21 pages of the supplement that they filed were in fact sent to them by this other lawyer.

E. All the exhibits attached to the March 29, 1996 supplemental petition were collected or drafted by me. Of course, many of the declarants substantially revised the drafts of their declarations that I prepared for them based

page 13.

Exh. 156  
2ER-417

on their interview or otherwise known to me.

F. I drafted the entire petition and was the first to identify all of the issues identified in it. Based upon Mr. Klein's direction to me, my draft focused solely on factual allegations. He was to interweave appropriate citations to the law. In late January or February of 1996 my long-languishing draft of the supplement was taken up by Mr. Crain.

G. The only supplemental claim unknown to me by May 11, 1995 was the Ivan Werner conflict of interest claim. I did not have this particular insight into Arthur Baren's state of mind behavior until September 1995 when Mr. Crain discovered the May 4, 1987 Ivan Werner letter in the District Attorney's files. (See ex.33.)

H. I became aware of the below listed facts pertinent to the supplemental petition at the times indicated in the column at right:

#### FACT

#### TIMING

The existence of a sighting witness named Ivan Werner.

Approx. Mid-1995

The fact that penalty phase sighting witness Louise Waller contacted Baren's office a week or more before the guilt phase verdict.

(See attach 6)

Around May 11, 1995

The fact that the trial judge's hatred of Chier predated my 1987 trial; the Cantillen incident; the "Wander" landlord tenant incident; the conversation between Mr. Wager and Judge Rittenband.

May 1, 1995  
during a phone  
call with Chier.

The facts described in Rowan Klein's declaration. (See ex.8.)

As a result of an  
analysis of Baren's  
Bills that I did in  
March of 1995.

page 14.

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2E2-418

Barens' confession to Chier that he had sold Chier and I out "for the money."

May 1, 1995 in a phone conversation with Mr. Chier.

The fact that the Ivan Werner Barens was disclosed to Barens on or before May 4, 1987

September, 1995

The fact that Barens did not disclose the fact of the Werner sighting to Hap Lee or Chier

Sept/Oct 1995

The information in Casey Cohen's file concerning Judge Rittenband's remark to Barens about seeing that I get the gas chamber

On April 11, 1995 after my March 29, 1995 interview of Mr. Cohen. The note was in a file he sent me.

Claims concerning the inadequacy of Barens' cross-examination of Gene Browning.

In knew the key facts by late 1991

Claims concerning Barens counterproductive cross-examinations of the key prosecution witnesses.

The analysis was done by me in early 1995.

The I.A.C. claims in Section II, Part 2, Claim 6 (See petition pp.348-366.)

Generally around 1991

Found a reference in Dan Dobrin's interview report with Chier to landlord tenant issues between him and Judge Rittenband.

April 5, 1995

Interviewed Casey Cohen  
Interviewed John and Martie Jensen  
Interviewed Lewis Titus

March 30, 1995  
March 23, 1995  
2nd. half 1995

[End of section re supplemental petition.]

40. Timeliness of the 1997 habeas petition. I received a copy of most of the pleadings and transcripts from the 1996 evidentiary hearing by mail in September or late August of 1996. From that time until the date of this declaration, I worked an average of 7 hours a day to research, draft, and type this petition. During this period I had an a prison job assignment which occupied me for approximately 30 hours of every week.

41. I have read and possess a transcript of the hearing in late 1988 which records the dismissal of the Penal Code §§ 187 and 211 charges against my codefendant, James Pittman, after a jury deadlocked 8 to 4 in favor of acquittal. The judge was the Honorable Steven Albracht, Santa Monica Superior Court. Pittman had also been tried to a hung jury on the same case in 1985. (See LASC # A090435.) Judge Lawrence Rittenband presided over this trial. (RT 498.) My San Mateo jury deadlocked 8 to 4 in favor of acquittal. This split also applied to the Levin allegations. (See supp. hab. ptn. of May 1993 at Exhibit G to that petition [Dec. of Juror Sandra Achiro].) Thus, in the 4 cases where the Levin charges were advanced by the prosecution 3 ended in mistrial.

42. In preparing for my San Mateo trial I obtained a copy of the H.ex. VV (a microcassette collected by Det. Zoeller from Levin's residence which recorded Levin's concerns about being arrested by the FBI) as a result of a SDT I caused to be served on the Beverly Hills Police Department for all records and evidence collected from Ron Levin's home. I also, interviewed Jeffrey Melczer and subpoenaed Progressive Savings and Loan's file, the conservator's files, and the FBI's files concerning Levin. There were many different records in these files that showed that Ron Levin had learned that the FBI was investigating him. (e.g. Bills from Melczer listing meetings and calls to S/A FBI Underwood, Steier's Bills regarding the same, progressive employee Verplancke's memos describing remarks to Levin, Levin's notes and memos, etc.)

43. I gave to hearing counsel a summary of the facts supporting the Order To Show cause issue 2(e) "FBI/Progressive" claim prior to filing the Denial. That summary included references to documents described in the 1997 petition at p.194-202 which were in existence prior to the date of the summary. I updated it for statements Barens made in 1995 as we received them.

44. I presented to hearing counsel prior to the filing of the Denial, a report containing the citations and referenced material from my 1987 and 1992 trials, and from the July 1991 petition, which I used to create the argument at page 215 to 227 of the 1997 petition - regarding Levin's lack of familial ties. I have retained a copy of this report.

45. The eiseberg tape (ex.14) became exhibit 1102 and the transcript became exhibit 1103, in the San Mateo trial.

46. While in Los Angeles in 1994, I had private investigator Ted Woolsey do a civil records search of lawsuits filed against Arthur Barens. I was subsequently given a stack of 15 to 20 complaints against Mr. Barens for, inter alia, fraud, professional negligence, breach of fiduciary and ethical duties, etc. The copies of these suits are in storage in Los Angeles and I have no cost effective means of gaining access to these records. This is why I have not attached copies to this petition or listed case numbers here.

47. Exhibit 1 is a true copy of ledgers received in 1995 from Barens as a result of a SDT that I prepared. Petitioner's copy of that SDT (and related indicia) is in storage in Los Angeles.



48 and 49. Barens told me that I should attempt to organize the defense files during the period from Thanksgiving into January since he would be otherwise engaged. Accordingly, I had the entire defense files, minus the pleadings section, all police reports, transcripts, etc., at my house when Barens went on his annual Christmas Ski trip. Barens told me that he devoted himself to his family during this trip and would have no time to work on the case, a practice I could well respect. The files shown in the photos taken during the January 8, 1997 search, and received in evidence during the January 1987 "Barber" (as in Barber v. Municipal Court) hearings show that the entire defense file was at my house during the search of that residence by the Calif. D.O.J. on January 8, 1987. After I was convicted, Barens asked me who I wanted him to call in the penalty phase of the trial. I was unaware at that time why the penalty phase coordinator, Casey Cohen, had quit. All I knew was that no witnesses had been interviewed for the penalty phase. Barens told me to "get my witnesses together" and have them call him to schedule an appointment. My family and the Roberts' family began to call people and would arrange for potential witnesses to visit Chier and Barens. Those helping me began to report their shock at Barens' obvious lack of interest and initiative. Witnesses to these facts would be Brooke, Bobby, and Lynne Roberts and Katherine Hunt and Kathy Gamsky.

50. Towards the end of the defense case, I realized from speaking to Barens that he had not begun to prepare his closing argument. I set about writing one for him, thinking

what I prepared would enrich what he would later do himself. However, at some point I realized that Barens was not likely to make any advanced preparation for the argument, other than perhaps what he could do the night or day before, and so I turned my outline into a speech for him to use. I prepared the speech on an Apple Macintosh computer that I had at my disposal at home. All that Barens did with my draft was to delete certain sections and lines that he did not feel comfortable presenting. I had not studied law, other than the corpus delicti rule and certain matters related to search warrant law. This is one reason why Barens' closing argument makes no attempt to interweave references to the Jury Instructions with the argument, beyond those that Lay people know about, like the reasonable doubt instruction.

51. There is no paragraph 51.

52. There is no paragraph 52.

53. Jeffrey Melczer represented me in the civil suit filed by Browning against me in 1985. Melczer was introduced to me by Levin. Melczer had told me about the FBI's interest in Levin and about Martin Levin's call to him of June 1984. I told Barens about the contents of this call but he never interviewed Melczer.

54. I found exhibit 44, Verplancke's memo, in the materials that I received from the SDT I caused to be served on Progressive. As a result, I called Verplancke as a witness in 1992, for the reasons given at page 356 of the 1997 petition.

55. During 1986 and 1987 Barens often remarked about his wealth. He said he owned the Barens Law Building on Santa Monica Blvd. He bought a Mercedes 500 SEC right before

trial. Barens described himself as a self-made millionaire and said that his wife had inherited millions as well. He said that his personal injury law practice more than covered his overhead each month.

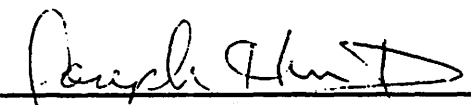
56. I told Barens that there was no basis in fact to a story attributed to me that I had killed a couple of Mexicans in a knife fight as a teen. I did not know or associate with Mexicans as a teen. Nor, did I possess a knife. My brother had been "jumped" by some Mexicans when he was a teen. Somehow, I reacted to the trauma of seeing my brother's condition after the beating he had received, by conceiving a story about how I had been similarly attacked but had triumphed over my knife-wielding assailants. This was the seed of the canard that I told Tom May.

57. I obtained copies of the records related to a multi-million dollar methamphetamine ring that the Federal Government alleged Gene Browning had been laundering money for and assisting the manufacturing operations of. The records, which are in storage in Los Angeles, reflect that Browning plead guilty to perjury charges in exchange for concessions on four other charges against him. Browning agreed to testify against his erstwhile confederates.

58. I obtained the other loan documents which are described in the 1997 petition at page 389 (1st. paragraph). Those assertions accurately reflect the contents of the documents in question. The documents are in storage in Los Angeles and can not be cost effectively accessed by me. I am indigent. (Assets: \$300.)

60. Out of court, during the 1987 trial, Richard Chier and I discussed the fact that Barens did not seem to be an effective cross-examiner. We discussed how we wished that he (Chier) could do the rest of the cross-examinations, after we watched Barens bungle Jeff Raymond's cross-examination.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Executed in Folsom (Sacramento County) on February 16, 1997.

  
\_\_\_\_\_  
Joseph Hunt, Declarant  
and petitioner in pro per.

RE: INTERVIEW WITH NADIA GHALEV

On May 11, 1987, I interviewed Ms. Ghalev at the restaurant in the Hollywood Roosevelt Hotel. Ms. Ghalev is employed at this hotel as the Director of Public Relations. Her date of birth is November 18, 1952.

She indicated that prior to coming to the Roosevelt, she lived and worked in the Beverly Hills area for many years. She described herself as one of the original "Theodore Girls" at the Theodore's Boutique. She stated that she had worked at the front desk of the Vidal Sassoon Salon. She also had a boutique in Beverly Hills. This was during the 1970's.

Between approximately 1978 and 1982, she worked at the front desk of Mr. Chou's Restaurant in Beverly Hills. During her entire time in Beverly Hills, and particularly while she was employed at the restaurant, she came to know Ron Levin. She stated that while at the restaurant, Levin would "drop in" without a reservation. He would often come by once a week, and then not come by for an extended period of time. He often came between 9:00 and 10:00 at night. He liked to eat in a front booth. She stated that he never called to make reservations.

She described him as a distinctive character with a "certain look that was like a little renegade". She described him as an "oddball" and a "real Beverly Hills character". She last saw him in 1981 or 1982. She recalls him coming into the restaurant during the evening. She indicated that in spite of her position at the hotel, she "never watches T.V.". She indicated that she also does not read the local newspapers. She generally consults only the New York Times. Because of this, she was only dimly aware of this case until recently.

In January or February of 1987, she was driving to work between 8:20 and 8:30 a.m., when she saw a man who she believed was Ron Levin. She was eastbound on San Vicente Drive between Bundy and Wilshire. As she drove down the street, she observed a man she believed to be Levin getting into her right, on the south side of the street.

She recalled noticing him and immediately recognizing him as Ron Levin. She recalled thinking to herself, "There's that funny Ron. I wonder what happened to him after all these years." She did not take any particular notice about this. She recalled that he was bearded when she saw him. She

KR:AA010349:5/13/87

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RE: INTERVIEW WITH NADIA GHALEV  
Page Two

believed he was alone she saw him. She could not recall what kind of clothes he was wearing, or what activity he was engaged in. She believed he may have been involved in getting in or out of a car.

She stated that ordinarily she does not drive down San Vicente Boulevard to come to work. Ordinarily, she drives down Sunset Boulevard. She stated that she was on San Vicente Boulevard, because there was a lot of traffic in the vicinity of the Brentwood School. She stated that several days prior to her seeing Levin, her regular commuter pattern had been disrupted by the start of construction on Sunset Boulevard near the Brentwood School.

Within two or three days of this construction starting, Ghaev changed her route to go down San Vicente and avoid the construction delay. It was on this first day of detouring, that she observed Levin. She believes the date could be narrowed down by this construction, as well as the fact that she later spoke to a friend of hers who had children at the Brentwood School. This friend informed her that the construction was under way during some kind of a school holiday. -

She stated that she was dimly aware of this case some time ago. And recalls seeing an article in a publication regarding the matter. She stated that she flipped through the article looking for the names of any people that she might know, and did not recognize any. She stated that she had not known Levin's last name, so when she saw it in the article she did not recognize it.

She stated that she rarely watches T.V., but was monitoring the news broadcast in the few days following the crash of the airplane with Dean Paul Martin in it. She was close friends with the young Martin, and was very concerned about his condition. She stated that this was in late March of 1987. While watching the T.V. news of Martin, she noticed the news story on the BBC trial and Levin's murder. Her initial thought was, "That's impossible, I just saw the guy." She took no action on it though because she was preoccupied with the news of Martin's death.

Approximately a week and one-half later, on April 11th, she was at a baby shower attended by a law clerk of Jeffrey

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- 3 -

RE: INTERVIEW WITH NADIA GHALEV  
Page Three

Brodey. She got into a discussion with this clerk, and revealed to her the information she acquired.

Ghalev stated that there were two things she was sure of: (1) that when she initially saw the individual on San Vicent Drive, she was sure that it was Ron Levin, (2) that when she saw the news story about Levin's death, her immediate response was that it was impossible.

Nonetheless, she stated that it was possible that she was mistaken in her identification of him. She indicated that her sighting was only for a brief moment. Still, she said "Ronny was like that though. It wouldn't surprise me (if he was still alive)."

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

**IN RE ) CASE NO.**  
**JOE HUNT ) A090435**  
**ON HABEAS CORPUS, )**

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**Certified Copy**

**DEPOSITION OF:**

**ARTHUR BARENS, ESQ.**  
**TUESDAY, NOVEMBER 7, 1995**  
**8:35 A.M.**

**FILE NO. 110795**  
**REPORTED BY JEANINE CURCIONE**  
**C.S.R. NO. 10223**

**JEANINE CURCIONE, CERTIFIED COURT REPORTER**  
**(310) 390-8944**

Exh 152  
250-519  
Exh 267  
873



1 DEPOSITION OF ARTHUR BARENS, ESQ., THE WITNESS,  
2 TAKEN AT 8:35 A.M., TUESDAY, NOVEMBER 7, 1995, AT  
3 3201 WILSHIRE BOULEVARD, SUITE 312, SANTA MONICA,  
4 CALIFORNIA, BEFORE JEANINE CURCIONE, C.S.R.  
5 NO. 10223, PURSUANT TO COURT ORDER.

6

7 APPEARANCES OF COUNSEL

8 FOR PETITIONER JOE HUNT:

9

KLEIN & CRAIN

10

BY: ROWAN K. KLEIN, ESQ.

11

3210 WILSHIRE BOULEVARD

12

SUITE 312

13

SANTA MONICA, CALIFORNIA 90403

14

15 FOR ARTHUR BARENS:

16

BRODEY & PRICE

17

BY: JEFFREY BRODEY, ESQ.

18

9777 WILSHIRE BOULEVARD

19

SUITE 900

20

BEVERLY HILLS, CALIFORNIA 90212

21

22 ALSO PRESENT:

23

ANDREW J. MC MULLEN,

24

DEPUTY DISTRICT ATTORNEY

25

MICHAEL YOKOM

2

JEANINE CURCIONE, CERTIFIED COURT REPORTER  
(310) 390-8944

F. Exh 152

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I N D E X

WITNESS	EXAMINATION	PAGE
ARTHUR BARENS, ESQ.		
	BY MR. KLEIN	4
	BY MR. CRAIN	140

E X H I B I T S

NO.	PAGE	DESCRIPTION
1	50	LETTER WITH ENCLOSURES TO MR. ARTHUR BARENS FROM FRED WAPNER DATED MAY 4, 1987
2	52	TWO PAGES OF HANDWRITTEN NOTES

INFORMATION REQUESTED

PAGE      LINE  
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SANTA MONICA, CALIFORNIA;  
TUESDAY, NOVEMBER 7, 1995, 8:35 A.M.

ARTHUR BARENS, ESQ.,  
having been first duly sworn, was  
examined and testified as follows:

MR. KLEIN: It's 8:35 now. Can we  
agree on the time so we will go until 12:05 with a  
15-minute break wherever it's convenient for you.

EXAMINATION

BY MR. KLEIN:

Q. Mr. Barens, you've taken depositions  
before?

A. Yes, sir.

Q. So you're familiar with the process?

A. Yes.

Q. So I don't need to explain it to you?

A. I don't believe so, sir.

Q. When were you hired to represent Joe  
Hunt?

A. I don't recall specifically. I  
believe 1985 or 1986.

Q. Do you have anything that would

1 with Bobby Roberts?

2 A. No, sir, nor did he discuss it with  
3 me.

4 Q. And you never discussed it with  
5 Mr. Titus?

6 A. No.

7 Q. And you never discussed it with Joe  
8 Hunt?

9 A. No, sir.

10 Q. And you would not do anything like  
11 that because it would be unethical?

12 A. It would be illegal and unethical.

13 Q. Why did you decide to associate  
14 Richard Chier?

15 A. I had known Richard Chier for over 20  
16 years and held him in very, very high esteem. I  
17 knew him to be a criminal law expert with  
18 considerable experience. I had worked together with  
19 Mr. Chier professionally, I knew him socially, and I  
20 held him in the greatest regard.

21 Q. What was your financial arrangement  
22 with Mr. Chier when you brought him on?

23 A. That we would -- in a general sense  
24 pay the expenses for which we were obligated and  
25 split the fees prospectively on an equal basis.

16

1 Q. And what was your fee arrangement with  
2 Mr. Hunt at that time?

3 A. I don't specifically recall, sir. I  
4 don't believe I had a fee arrangement with  
5 Mr. Hunt. I believe that Mr. Hunt's fees were  
6 defrayed in part by Bobby Roberts and ultimately by  
7 the public.

8 Q. You had a promissory note that Bobby  
9 Roberts had signed payable to you?

10 A. I believe there was such a note.

11 Q. And that was for \$50,000?

12 A. I don't believe specifically, but that  
13 may have been the case.

14 Q. At some point you needed to seek funds  
15 from the State to pay for Mr. Hunt's defense?

16 A. Yes, sir.

17 Q. When was that?

18 A. I don't recall, but I believe it was  
19 during the trial proceeding. It may have preceded  
20 the actual commencement of the trial. I'm not sure.

21 Q. Well, there was a hearing about this  
22 on January 29, 1987, and it appears that your  
23 initial applications to the County were made in  
24 writing for a court appointment around the middle of  
25 December, 1986. Does that sort of refresh your

17

1           A.       I think at that point in time it was a  
2 gentleman named Hap Lee.

3           Q.       And did you have him do anything in  
4 connection with Roby Robinson?

5           A.       I believe that he spoke with  
6 Mr. Robinson, but again, I'm -- my recollection of  
7 those facts regarding Mr. Robinson is vague.

8           Q.       So you've told us why you decided not  
9 to put Mr. Robinson on.

10          A.       That and the fact that I believe  
11 everything that Mr. Robinson had stated about his  
12 professional and employment background I had been  
13 advised was inaccurate.

14          Q.       How did you find out about Nada  
15 Ghaleb?

16          A.       I don't recall sir.

17          Q.       Do you remember that she contacted one  
18 of Mr. Brodey's staff?

19          A.       I'm sorry. I don't recall how I  
20 became aware of her.

21          Q.       What did you do to investigate her  
22 sighting?

23          A.       I believe she was interviewed, and I  
24 believe one other time -- one more time I had seen  
25 some sort of written summary. I have very little

47

1 recollection concerning anything she had to say or  
2 any contacts with her. I remember her name as I  
3 indicated before, but that's about all I recall as I  
4 sit here.

5 Q. So you don't know who interviewed her?

6 A. I do not, sir.

7 Q. And you don't remember whether you  
8 actually saw any report concerning her?

9 A. My best recollection is that I did see  
10 a writing concerning that witness.

11 Q. Why didn't you decide to use her?

12 A. I do not recall why I did or did not  
13 decide to use her.

14 Q. Louise Waller, how did you find out  
15 about her?

16 A. I'd have to answer the same way I did  
17 about Nadia. I don't recall. I will say I think  
18 the person who described Louise Waller to me was  
19 Richard Chier.

20 Q. I think that's how you became aware of  
21 her. She contacted him.

22 A. Thank goodness I remember something  
23 accurately, sir.

24 Q. What happened after you learned of her  
25 existence?

1           A.       I believe that Mr. Chier was  
2 interviewing that individual and came to a  
3 conclusion, which I deferred to, concerning whether  
4 or not she would be used.

5           Q.       And what happened?

6           A.       I don't recall what the decision was,  
7 sir.

8           Q.       She testified at the penalty phase.

9           A.       I'm glad to hear that.

10          Q.       Why didn't she testify at the guilt  
11 phase?

12          A.       I don't even know if we were aware of  
13 her during the guilt phase, sir.

14          Q.       If you were aware of her during the  
15 guilt phase, why would you have used her in the  
16 penalty rather than the guilt?

17          A.       Sir, I don't recall what her  
18 statements were or her testimony, as you've just  
19 seen. I didn't even recall that the individual  
20 testified during the guilt phase. As I indicated a  
21 few moments ago, I have an extremely limited  
22 recollection of that individual.

23          Q.       The person in Kentucky that claimed to  
24 have been -- to have seen Ron Levin alive, what did  
25 you do to investigate that lead?



1           A.       Well, I believe that we were told by  
2 Mr. Wapner that that had been disproven on some  
3 basis. I believe it was something in Wapner's  
4 file. I'm not sure.

5           Q.       Did you investigate that lead?

6           A.       Not that I recall, sir.

7           Q.       I have a letter dated May 4, 1987,  
8 addressed to you. I'm going to mark it as Exhibit 1  
9 for this proceeding.

10                               (The document referred to was  
11                               marked by the C.S.R. as Exhibit 1 for  
12                               identification and attached to and  
13                               made a part of this deposition.)

14 BY MR. KLEIN:

15           Q.       Would you take a look at this letter.  
16 It's a letter from Mr. Wapner to you.

17           A.       All right sir. I've looked at your  
18 exhibit.

19                               MR. BRODEY: Could we take a brief  
20 break? I have to return a phone call.

21                               MR. KLEIN: Sure.

22   (Recess taken.)

23 BY MR. KLEIN:

24           Q.       Did you ever see this May 4, 1987,  
25 letter before?

50

1 A. Yes, sir.

2 Q. In this letter it makes reference to a  
3 person named Ivan Werner?

4 A. Yes, sir.

5 Q. You remember seeing this person's name  
6 in this letter when you received it in May of 1987?

7 A. I believe -- yes, I do recall seeing  
8 that name in that letter.

9 Q. Was that the first time you ever saw  
10 that name?

11 A. I believe I heard something about that  
12 individual before I saw it in the letter.

13 Q. When did you first hear about that  
14 individual?

15 A. I believe it was in court.

16 Q. From whom?

17 A. I'm not sure. It might have been  
18 Mr. Wapner.

19 Q. Is it on the record?

20 A. I don't know, sir. And again, I'm  
21 saying I'm not even sure that communication  
22 occurred.

23 Q. How long before you received this  
24 letter did that communication occur?

25 A. I'm not sure the communication ever

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1 occurred, sir. I'm just saying -- and I'm  
2 speculating, and I want to be clear on that as I sit  
3 here today that I had some recollection that from  
4 some source I heard that person's name prior to  
5 receiving this letter.

6 Q. What did you do when you first heard  
7 this person's name in terms of investigating?

8 A. I believe that Mr. Chier had mentioned  
9 it to Mr. Hap Lee, but I believe there was some  
10 investigation occurring on this. But again, I'm not  
11 sure, sir.

12 Q. What was done?

13 A. I don't know, sir.

14 Q. To your knowledge, did any person on  
15 your behalf contact Mr. Ivan Werner?

16 A. I do not know one way or another, sir.

17 Q. And I have another document. It's a  
18 two-page note, and I'll mark it Exhibit 2. Have you  
19 ever seen this before?

20 (The document referred to was  
21 marked by the C.S.R. as Exhibit 2 for  
22 identification and attached to and  
23 made a part of this deposition.)

24 THE WITNESS: I do not specifically  
25 recall ever seeing this before, sir.

1 Q. Did you have some relationship with  
2 him during the Hunt trial?

3 A. Yes, sir.

4 Q. What was that?

5 A. Mr. Friedman is my sponsor in  
6 Alcoholics Anonymous and has been for 13 years and  
7 is a close personal friend of myself and my family,  
8 and he is also, by whatever coincidence, my life  
9 insurance salesman. That is an odd relationship,  
10 isn't it? Well, never mind. There seems to be some  
11 overlap.

12 Q. When the case was assigned to Judge  
13 Rittenband, did you discuss with Mr. Chier whether  
14 he might have any problems with Judge Rittenband?

15 A. Yes, we did.

16 Q. What was the discussion?

17 A. We discussed that -- we both were  
18 skeptical about Rittenband. We were skeptical about  
19 his judicial philosophy. We were concerned about  
20 Judge Rittenband.

21 Q. Did you talk with Mr. Chier about any  
22 prior involvement that he may have had with Judge  
23 Rittenband?

24 A. I believe Mr. Chier had discussed his  
25 experience with Judge Rittenband with me in an

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1 do with some defendant -- and again, I could be way  
2 off on this, Counsel; so I want to tell you that I'm  
3 speculating -- that the judge had taken exception to  
4 some defendant Mr. Chier had represented that the  
5 Judge did not care for and judged Mr. Chier on  
6 that. I remember there was something that came up  
7 during the trial, as I recall today, that seemed to  
8 have produced what Mr. Chier felt was a reservoir of  
9 bad feelings by the judge. Although certainly I  
10 don't recall the judge ever making reference to that  
11 case.

12 Q. Did Mr. Chier ever tell you about any  
13 telephone conversations that he had had with Judge  
14 Rittenband about a landlord/tenant situation?

15 A. I'm not aware of that, sir. I don't  
16 recall that at all. Mr. Chier talking on the  
17 telephone with the judge about a landlord?

18 Q. Some personal landlord/tenant matter.

19 A. If Mr. Chier told me that, sir, I  
20 certainly have no recollection of that, nor is my  
21 memory refreshed by your reference.

22 Q. At some point you agreed that  
23 Mr. Chier would no longer speak in front of the  
24 jury?

25 A. There was an agreement that I was

1 bludgeoned into by the judge to restrict  
2 Mr. Chier's -- and let's be clear on this -- to  
3 restrict the opportunities where Mr. Chier could  
4 participate. I never agreed to it, nor did I ever  
5 acquiesce in this, nor did that ever, in fact, turn  
6 out to be the case, as Mr. Chier later on in the  
7 proceedings was able to address the jury and  
8 cross-examine witnesses. This was a source of  
9 ongoing going acrimony between Judge Rittenband and  
10 myself throughout the trial.

11                   There was also a point -- and which is  
12 further evidence on this -- the judge expelled  
13 Mr. Chier from the courtroom in a rather bizarre  
14 moment, and I refused to proceed until Mr. Chier was  
15 readmitted to the courtroom.

16               Q.       How did the judge bludgeon you into  
17 this occurring?

18               A.       I don't recall, to be candid with you,  
19 sir. I just recall there was an extremely  
20 contentious environment as developed between  
21 Mr. Chier and the judge where they were constantly  
22 at one another in a rather vitriolic manner. I came  
23 to a point where I, frankly, became distracted by  
24 this daily competition and fighting between them.

25               Q.       At some point you say the judge

## DECLARATION OF BOBBY ROBERTS

I, Bobby Roberts, declare as follows:

1. I am 60 years old. For a number of years I was a Talent Manager. My clients included Ann-Margret and the Mamas and Papas. I produced the first Death Wish <sup>Movie</sup> starring Charles Bronson. I founded the Dunhill record label and later sold it to A.B.C. I was an executive at Lorimar for a number of years. I presently manage Mort Sahl and am active in several businesses.

2. I am the father of Brooke Roberts. She was dating Joe Hunt when he was arrested in 1984. After speaking to my daughter and other family members, I became convinced that Joe Hunt was wrongfully accused. My wife and my daughter had personal knowledge of Mr. Hunt's whereabouts on the night of June 6, 1994. What they told me was at odds with the Prosecutions's theory of Levin's supposed death. They testified on Joe Hunt's behalf in his unsuccessful trial in Los Angeles and in the trial that ended in an acquittal in San Mateo County.

3. My wife and I decided to help Joe Hunt if we could. On a friend's advice we retained Arthur Barens to represent Joe. Neither Joe nor I had any experience in criminal procedure, so we relied utterly on Mr. Barens for guidance as to his expertise and credentials. Mr. Barens represented to me that he was highly experienced. He told me he had handled a number of murder trials; I later learned this was incorrect. However, Mr. Barens later associated Mr. Richard Chier with the case which eased my mounting concern that Mr. Barens would not be skilled enough to handle it. He did this in keeping with our understanding that he would retain second counsel both at the preliminary hearing and at the trial to

-2-

1 assist him.

2 4. Attached to this declaration are checks paid by me to Mr.  
3 Arthur Barens totaling \$50,000.00. Each bears my signature and was  
4 drawn on my bank for the purpose of paying Mr. Hunt's legal related  
5 expenses.

6 The check dated \_\_\_\_\_ for \$25,000.00 and attached to this  
7 declaration was given to Mr. Barens as payment in full for handling  
8 Mr. Hunt's preliminary hearing on charges of having killed Ronald  
9 Levin.

10 Subsequent to the preliminary hearing Mr. Barens and I agreed  
11 that I would pay him a total of \$50,000.00 to represent Mr. Hunt at  
12 trial. This was to be payment in full for Barens' services on  
13 Hunt's behalf in the "pretrial" and "trial" stages of the Superior  
14 Court proceedings. Mr. Barens promised to associate an experienced  
15 co-counsel for the work in Superior Court, just as he had done in  
16 Municipal Court. It was further agreed that I would have no  
17 further obligation to him. I gave him three checks for a total of  
18 \$20,000.00. A true copy of these checks are attached to this  
19 declaration. I gave him a \$30,000.00 note promissory not on  
20 7/25/85 for the balance. A true copy of that promissory note is  
21 attached to this declaration. The \$20,000.00 in checks and the  
22 \$30,000.00 note were consideration in full for Mr. Barens handling  
23 Mr. Hunt's trial. The note has language to this effect.

24 In December of 1984, I wrote Mr. Barens a \$5,000.00 check to  
25 pay investigation costs. A true copy of that check is attached to  
26 this declaration. \$2,500.00 of that was returned to me about a  
27 year and a half later.

28 / / /

-2-  
Exh 150  
122-397



1           5.     I recall being present when Ryan Hunt gave Arthur Barens  
2 \$5,000.00.     This was during the time Joe was in jail in 1985.  
3 later, but before Joe was released on bail, Ryan Hunt gave me a  
4 check made out to me for \$5,000.00 drawn on Valley State Bank. I  
5 endorsed that check over to Mr. Barens as one of the payments I  
6 made on the promissory not.

7           6.     I was never asked by Mr. Barens to pay on the promissory  
8 note. Mr. Hunt was doing his best to pay Mr. Barens and free me of  
9 my obligation under the note both before and after he was released  
10 on bail. Mr. Hunt's attorneys and I were concerned that Mr. Hunt  
11 not work on anything other than his case while he was out and we  
12 attempted to discourage him from seeking gainful employment during  
13 that time. We all felt his position on bail was tenuous and  
14 thought it best to stick near my house and to do little that would  
15 have required him to be alone.

16           7.     I attributed Mr. Barens failure to demand payment on the  
17 note to Mr. Hunt's efforts to pay down the note. I was at all  
18 times throughout 1986 and 1987 able to discharge my obligation  
19 thereunder many times over. I never repudiated the note. Indeed,  
20 the note was obviously good and enforceable on its face.

21           I declare under penalty of perjury that the foregoing is true  
22 and correct to the best of my information and belief.

23           Executed this 1<sup>ST</sup>th day of DECEMBER, 1995 at Beverly  
24 Hills, California.

25 DEC 1<sup>ST</sup> 1995  
26 Dated

27 Bobby Roberts  
28 Bobby Roberts

DECLARATION OF JOSEPH HUNT

I, JOSEPH HUNT, declare as follows:

1. I am the Petitioner in In Re Hunt, Case Number A090435, Los Angeles Superior Court.
2. While going through copies of materials derived from the files of Dan Dobrin, my appellate attorney up until April 7, 1993, I came across an interview of Louise Waller that had been done by Keith Rohman (my co-defendant's investigator) on April 22, 1987. April 22, 1987 was the day I was convicted. The report made clear that Ms. Waller had initially contacted the law offices of Arthur Barens and that she had done so at least a week before I was convicted. The report also makes clear that those representing me did not respond to her call for over a week. To my knowledge, Louise Waller was first interviewed by my investigator on April 29, 1987 - a week after I was convicted.
3. When I came across this report of April 22, 1987 by Keith Rohman I immediately brought it to Rowan Klein's attention - the ineffective assistance of counsel implications were obvious. My recollection had always been that we first heard of the Waller sighting within a day or two of the verdict. I had no idea that she had contacted Mr. Barens well in advance of the verdict.
4. Mr. Dobrin has told me that he obtained copies of all Keith Rohman's investigatory reports during the time he was researching and drafting my appeal and writ of habeas corpus (i.e. sometime between 1989 and 1991) as a result of an agreement he reached with Jeff Brodey.
5. I was present for the first 15 to 20 minutes of that certain conference held between Carmen Canchola, Jesus Lopez, Richard Chier and Arthur Barens on March 29, 1987 in the conference room of the law offices of Arthur Barens at 10209 Santa Monica Blvd., Los Angeles, California. Carmen and Jesus were introduced to me. They seemed polite and cooperative. They were quite forthcoming about the circumstances in which they saw Levin. I saw no hint of hostility towards me or my attorney at that time, though they did allude to the rough treatment and protracted treatment they had endured in Arizona as a result of their efforts to cooperate with the police.

6. Mr. Chier first told me about Mr. Wager's report to him of the judge's pre-trial remarks about me and Mr. Chier in 1995. I immediately informed Mr. Rowan Klein. The implications to our conflict of interest, right to counsel, and judicial bias claims were clear.
7. I was totally unaware that Mr. Casey Cohen had kept notes and letters reflecting his experience of Arthur Barens' conduct before and during my trial. I recall that Dan Dobrin asked me before my appeal was filed whether he should get a copy of the report of Casey Cohen's interview of me. I told him that there were no facts of any relevance to our appellate claims in the document. I also said that there was some material in the report that I felt was rather embarrassing to certain members of my family. Mr. Cohen had asked me extensive questions about my family history. Every family has its embarrassments. In this instance they pertained to people other than myself. I had reluctantly divulged them to Mr. Cohen, for the limited purpose of cooperating with his efforts to survey facts germane to the penalty phase. With that matter behind me, I certainly did not want to disseminate a record bearing on private family affairs. Mr. Dobrin told me that he would pass on getting Cohen's file then.
8. When I reached Los Angeles in 1994, I contacted Mr. Cohen. He came to visit me at the Los Angeles County Jail. I interviewed him about his experiences with my attorneys. He mentioned that he had kept notes and letters relating to his interactions with them. It had not occurred to me that he would have documented his interactions with them since I felt I had been his "subject." He said that he had documented his relationship with them a little more thoroughly than he normally does due to questions that arose in his mind concerning Arthur Barens professionalism and competence.
9. I asked for and received a copy of Mr. Cohen's file and turned those documents over to Mr. Klein in 1995. It was the first time I had seen them.

///

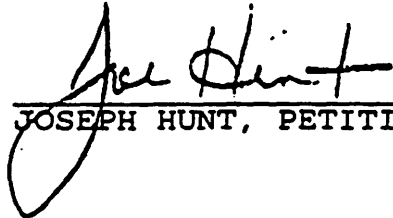
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10. Up until the time in 1995 when I first saw these documents I was unaware that the judge had confided to Mr. Barends in the judge's chambers that he (the judge) planned to see to it I would be sent to the gas chambers.

Executed on 12/18/95 at Los Angeles County Jail, Los Angeles, California.

I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection, information and belief.

  
JOSEPH HUNT, PETITIONER

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Los Angeles Times

★ ★ Sunday, December 7, 1986 - Part 1 3

# New Allegations Surface in 'Billionaire' Club Murder Case

By LOIS TIMNICK, Times Staff Writer

Reports that the victim in the so-called Billionaire Boys Club murder case has been seen alive, that the state's key witness may be linked to a Hollywood murder and that a defense attorney once suggested faking evidence surfaced in a Redwood City courtroom Friday, where four members of the investment and social group are facing trial in another murder.

Asst. Atty. Gen. John Vance informed the court about the developments during pretrial motions for defendants Ben Dost, Joe Hunt and Reza Eslaminia, who are charged with the 1984 murder of Eslaminia's father, Hedayat.

If the allegations are proven—and all three are far from conclusive—the Los Angeles case would be thrown out and the Northern California case seriously compromised, attorneys said.

In Santa Monica, DBC leader Joe Hunt, 27, is on trial for the 1984 murder of Beverly Hills journalist and pianist Ron Levin, whose body has never been found. Also charged is Hunt's bodyguard, Jim Pittman,

33, whose first trial ended with a hung jury. He will be retried for Levin's murder and then for Eslaminia's.

According to sources present at Friday's hearing who asked that their names not be used because much of the information was earlier sealed by a Santa Monica judge:

• A couple in Tucson, Ariz., reported to authorities in October that they had seen a man matching Levin's description. The couple, who had seen his photo in a magazine, said they saw him at a filling station, driving an expensive, classic car, and accompanied by a young man. Both have passed polygraph tests, picked his photo from a police lineup and provided a detailed description that included a physical feature that Levin is known to have but which is not apparent in photographs.

• The name of Dean Karny, the prosecution's star witness in both cases, has come up in connection with the murder of Richard Blyer, 21, whose decomposed body was found Oct. 19 stuffed in a trunk in a room at

the Hollywood Center Motel. (Los Angeles Police Cmdr. William Booth confirmed Saturday that "Karny's name has come up" in the investigation, but declined to say whether he is considered a suspect. "We have made no arrests and issued no warrants," he said.)

Hunt's attorney, Arthur Barends, reportedly received an anonymous letter alleging "a cover-up" of Karny's possible involvement in the murder. Karny, a former DBC member, has been granted immunity in the other two murder cases in exchange for his testimony, and is now in the California Witness Protection Program.

• A former associate of defense attorney Barends has told the Los Angeles County district attorney's office that Barends once suggested "that what we needed was a witness who would say that he had seen Levin in Rio de Janeiro." This person, he allegedly said, could be an actor who would then be given a job by Bobby Roberts, a producer with whom defendant Hunt is now living.

Jury selection in Hunt's Santa Monica trial was

interrupted for in-chambers discussions of the new information before it surfaced in the courtroom of San Mateo County Superior Court Judge Robert Miller.

However, in Santa Monica, Superior Court Judge Lawrence Rittenband issued a gag order and ordered the transcripts of those discussions sealed at the request of attorneys on both sides. Rittenband partially lifted his order late Friday to allow Barends to respond to the allegation against him and said he would consider rescinding it entirely Monday.

Until then, attorneys in the Los Angeles case said they would not comment on the startling developments.

Barends said he often jokes that he'd like to have a photo of Levin having coffee in a Las Vegas cafe, but that any allegation that he ever suggested faking evidence is "a pure unadulterated cheap shot" by the prosecution. He pointed out that the attorney who made the allegation was fired from Barends' firm and

Please see C.L.B. Page 29

Hollywood homicide: ~~playing a significant role~~ in the Redwood City case, Nolan said, since he told authorities the details of Eslaminia's death and led them to the victim's remains.

"I'm extremely concerned . . . that the police not cover up the possible involvement of a government witness," Nolan said, noting that Karny "has been immunized for two homicides. . . . Careful scrutiny is in order."

The Billionaire Boys Club saga of rich kids, big money and murder

gloves on; ~~expensive dog.~~

The defense maintains that Levin skipped town to avoid facing grand theft charges and that Hunt's boast of killing him was merely posturing. Two months after Levin's disappearance, club member Reza Eslaminia's wealthy father, a former Iranian government official, was slain in a San Francisco suburb. Karny testified during a preliminary hearing in the case that he ~~came with Eslaminia~~

going on there."

The U.S. Senate race, in which Democratic Sen. Alan Cranston narrowly defeated Republican Ed Zschau, cost more than \$25 million. The gubernatorial race, in which Republican Gov. George Deukmejian trounced Democrat Tom Bradley, cost more than \$20 million.

Field said the money spent in the Deukmejian-Bradley race "had no effect."

U.S. Reportedly Proposes Big Medicare and Medicaid  
 Budget Plan Slashes \$90 Billion Over Five Years  
 Part I Sunday, December 7, 1986

Los Angeles Times

# CLUB

Continued from Page 3

has a history of drug and mental problems.

Barens said he is further disturbed by the prosecution's delay in providing information that could exonerate his client. "They have withheld information concerning witnesses who may be helpful to the defense," he said.

Los Angeles Deputy Dist. Atty. Fred Warner, who is prosecuting Hunt, said that the allegation concerning Barens was conveyed to the defense immediately. He said he could not comment on the substance or timing of the other two charges.

In Northern California, defense attorney Tom Nolan, who represents Dostl, said he is anxious to receive police reports about Dean Karny's connection, if any, to the Hollywood homicide. "Karny plays a significant role" in the Redwood City case, Nolan said, since he told authorities the details of Eslamian's death and led them to the victim's remains.

"I'm extremely concerned . . . that the police not cover up the possible involvement of a government witness," Nolan said, noting that Karny "has been immunized for two homicides. . . . Careful scrutiny is in order."

The Billionaire Boys Club saga of rich kids, big money and murder has drawn national attention. The defendants are well-educated young men from well-to-do, well-known Westside families who were drawn into a money-making

scheme that involved millions of dollars and two mysterious deaths. And their charismatic leader, Joe Hunt, who attended prep school in the San Fernando Valley with several boys who would later join his venture, attracted both investors and followers willing to relinquish control of their money and personal lives.

Former members of the group have told authorities that Hunt boasted of having killed Levin, an acquaintance who had played a financial hoax on him, and of having forced him to sign a check for \$1.5 million, which later bounced.

Levin disappeared in June, 1984. Although his body has never been found, prosecutors have one piece of evidence they believe is crucial: a list in Hunt's handwriting and bearing his fingerprints. Headed "At Levin's TO DO," it lists such items as "close blinds, scan for tape recorder, tape mouth, handcuff, put gloves on, explain situation, kill dog."

The defense maintains that Levin skipped town to avoid facing grand theft charges and that Hunt's boast of killing him was merely posturing. Two months after Levin's disappearance, club member Reza Eslamian's wealthy father, a former Iranian government official, was slain in a San Francisco suburb. Karny testified during a preliminary hearing in the case that he, along with Hunt, Dostl, Pittman and Reza Eslamian, had kidnaped the 56-year-old Eslamian with the intent to force him to sign his assets over to his son and to the BJC.

## Pollster Finds Waste in Huge TV Ad Budgets

SACRAMENTO (AP)—Pollster Mervin Field says California politicians wasted tens of millions of dollars on television commercials this year because all of those ads were targeting viewers who weren't interested.

"When you have low (voter) turnout and high expenditures on television, you have something that is not too efficient," Field told a Sacramento Press Club luncheon Friday.

He noted that product advertisers have extensive market research showing that their ads reach their intended audience, but not political advertisers. "You have this big money being dumped into one medium, where you have viewers who are not interested in what's going on there."

The U.S. Senate race, in which Democratic Sen. Alan Cranston narrowly defeated Republican Ed Zschau, cost more than \$25 million. The gubernatorial race, in which Republican Gov. George Deukmejian trounced Democrat Tom Bradley, cost more than \$20 million.

Field said the money spent in the Deukmejian-Bradley race "had no effect."

"The governor's race was over almost a year ago," he said. "With the sense of economic well-being, there is no sense to turn out an incumbent that the public sees as doing a good job."

-2-  
 Exh 141  
 250-372



**BEVERLY HILLS POLICE DEPARTMENT  
SUPPLEMENTAL REPORT**

NCIC/CTI CA0191000

1. CASE NUMBER <b>8405436</b>
2. DATE & TIME REPORTED <b>4-17-87 / 1445 Hours</b>

3. RE: <input type="checkbox"/> CRIME REPORT <input type="checkbox"/> ARREST REPORT	<input type="checkbox"/> INCIDENT REPORT <input checked="" type="checkbox"/> FOLLOW-UP REPORT	<input type="checkbox"/> WORTHLESS DOCUMENT <input type="checkbox"/> OTHER (Specify)
--	--	---

4. CODE SECTION/TITLE OF INCIDENT <b>187/ 211 P.C.</b>	5. CODE <b>V</b>	6. REFERENCE NAME (LAST, FIRST, MIDDLE) <b>Levin, Ronald G.</b>	7. <input type="checkbox"/> CHECK IF ADDITIONAL NAMES LISTED
---	---------------------	--	--

**8. NARRATIVE**

On the above date, D.D.A. Fred Warner (D.A. handling the murder trial of Joseph Hunt) ~~received a phone call~~ from Robert Robinson stating that he had seen Ron Levin while standing in line, in Westwood, for a movie in the summer of 1986. *There was no telephone call, I went to know the person.*

On 4-17-87, at 1445 hrs., I/O telephoned Robert Robinson at his residence. I/O identified himself and asked about the sighting of the victim, Ronald G. Levin. Robert Robinson stated that on a weekend day approx a week after the movie; Crocodile Dundee, came out, he was standing in line at a theater in Westwood when Ron Levin came up to him and said "Hi" to him. I/O asked him when this was, what month. Mr. Robinson stated that it was probably in the summer of 1986. I/O thought that he had stated that it was at the end of the summer and asked him if he had said the end of the summer. Mr. Robinson stated that it was in the summer, more the middle. I/O commented that he sounded positive. He stated "Yes" that he was positive. He further stated that it was approx. a week after the movie started, that he heard good reviews about the movie when it opened and remembers that he went the following weekend.

I/O asked him who had gone to the movie with him that night. Mr. Robinson stated that he was alone. I/O asked him what Ron Levin was wearing. He stated that he doesn't know, that he thinks that he was wearing casual clothing. I/O then asked if he had spoken to Ron Levin. He stated that they talked for a minute, that Ron Levin came up to him and said "Hi" and they exchanged how are yous. Robert Robinson then said that he was in line for a movie, and Ron Levin stated that he had to go. They each said good-bye and Ron Levin continued walking down the street.

I/O asked how he knew Ron Levin. He stated that he knows him from the Press Room down at L.A.P.D. That he had seen him approx. 4-5 times down there. He further stated that the last time that he had seen Ron Levin was many months before the time in Westwood, maybe as long as a year or so before.

*I did not say this*  
I/O asked how often he goes to the movies. He stated that he use to go, at approx. the time that he saw Ron Levin, once a week. I/O asked him how he knows that he had gone to see Crocodile Dundee when he saw Ron Levin. He stated that he remembers that night in particular because he was standing so long in line to see the movie and learned that

9. RECORDING/REPORTING OFFICER(S) <b>L. Zoeller</b>	10. ID # <b>00080/205 /</b>	11. DIV. <b>02</b>	12. POSSE BY	13. NARRATIVE CONT'D
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**SPECIAL INSTRUCTIONS TO RECORDS**

COPIES TO: <b>1</b> <input checked="" type="checkbox"/> CRIME <input type="checkbox"/> DETECTIVES <input type="checkbox"/> CRIME PREVENTION <input type="checkbox"/> CS <input type="checkbox"/> SPECIAL PROBLEMS <input type="checkbox"/> CRT LIAISON <input type="checkbox"/> PACKET	IDENTIFICATION <input type="checkbox"/> OUTSIDE AGENCY <input type="checkbox"/> OTHER	PAGE <b>1</b> OF <b>3</b>	RECEIVED INTO RECORDS <b>20 APR 1987 15 49</b>
12. SUPERVISOR APPROVING <b>Edmond 312</b>		13. DATE <b>4-20-87</b>	14. TIME <b>0941</b>

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**BEVERLY HILLS POLICE DEPARTMENT  
CONTINUATION REPORT**

1. CASE NUMBER

8405436

NCIC/CCH CA0191000

2. NARRATIVE

the line wasn't even the ticket line which meant that he would have to wait in another line for the tickets and then wait in the movie line again. He didn't even see the movie that night. He went the next night to another theater. I/O asked what the name of the theater was where he had seen Ron Levin. He stated that he didn't know the name, that it is on the corner of Gayley and an unk. street. It was at a theater where only one movie is shown at a time. Its across the street from where three movies play at once, a brown theater. *down the block*

I/O asked why he did not report this until now. He stated that he just saw his name on the news, that he wasn't aware of him being missing until that time. As he is a reporter for the City News Service, working the "police beat", I/O was surprised that he had not heard of the case within the court system, as there had been a lot of news coverage of the trial of Joseph Hunt. I/O asked if he read the paper as part of his job. He stated "no" that he tries to avoid alot of news stories when he gets off work. I/O asked if he watched the news on television. He stated yes he watches the news. I/O asked what channel? He stated channel 4. I/O stated that there has been alot of news coverage of the case on channel 4 and asked if he had not seen any of that coverage. He stated that he heard some references to this trial (the Hunt trial) but didn't hear anything about the victim being Ron Levin.

I/O then determined that the studio that made Crocodile Dundee was Paramount. I/O telephoned the studio (468-5000; Denise Urbanski) who stated that the movie was released on September 26, 1986.

3. RECORDING/REPORTING OFFICER(S)

L. Zoeller

4. SUPERVISOR APPROVING

*Edmond 312*

PAGE 2 OF 3

NARRATIVE CONT'D

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2 En-369

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PD-05



-3-

# **BEVERLY HILLS POLICE DEPARTMENT** **ADDITIONAL NAMES (GENERAL)**

1. CASE NUMBER

8605436

NCIC/CII CA0191000

SUBJ. CODES: V-VICTIM G-PARENT/GUARDIAN W-WITNESS R-REPORTING PARTY P-PARTY INVOLVED

2. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME

Robinson, Robert "Robbie"

3. CODE

P

4. DOB

5. AGE

6. SEX

M

7. RACE

8. HGT.

9. WGT.

10. HAIR

11. EYES

12. RESIDENCE ADDRESS

STR. NAME/S

APT/SUITE #

13. CITY

14. ST

15. ZIP

16. RES. PHONE # ( )

465-4071

17. BUSINESS ADDRESS

STR. NAME/S

APT/SUITE #

18. CITY

19. ST

20. ZIP

21. BUS. PHONE # ( )

461-NEWS

22. OPERATOR LIC. #

☐ ID CARD ONLY

23. ST

24. OCCUPATION/TYPE BUS.

Reporter for City News Service

25. COMMENTS: (Language restrictions, pertinent physical items, relationships to others involved.)

26. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME

27. CODE

28. DOB

29. AGE

30. SEX

31. RACE

32. HGT.

33. WGT.

34. HAIR

35. EYES

36. RESIDENCE ADDRESS

STR. NAME/S

APT/SUITE #

37. CITY

38. ST

39. ZIP

40. RES. PHONE # ( )

41. BUSINESS ADDRESS

STR. NAME/S

APT/SUITE #

42. CITY

43. ST

44. ZIP

45. BUS. PHONE # ( )

46. OPERATOR LIC. #

☐ ID CARD ONLY

47. ST

48. OCCUPATION/TYPE BUS.

49. COMMENTS: (Language restrictions, pertinent physical items, relationships to others involved.)

50. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME

51. CODE

52. DOB

53. AGE

54. SEX

55. RACE

56. HGT.

57. WGT.

58. HAIR

59. EYES

60. RESIDENCE ADDRESS

STR. NAME/S

APT/SUITE #

61. CITY

62. ST

63. ZIP

64. RES. PHONE # ( )

65. BUSINESS ADDRESS

STR. NAME/S

APT/SUITE #

66. CITY

67. ST

68. ZIP

69. BUS. PHONE # ( )

70. OPERATOR LIC. #

☐ ID CARD ONLY

71. ST

72. OCCUPATION/TYPE BUS.

73. COMMENTS: (Language restrictions, pertinent physical items, relationships to others involved.)

74. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME

75. CODE

76. DOB

77. AGE

78. SEX

79. RACE

80. HGT.

81. WGT.

82. HAIR

83. EYES

84. RESIDENCE ADDRESS

STR. NAME/S

APT/SUITE #

85. CITY

86. ST

87. ZIP

88. RES. PHONE # ( )

89. BUSINESS ADDRESS

STR. NAME/S

APT/SUITE #

90. CITY

91. ST

92. ZIP

93. BUS. PHONE # ( )

94. OPERATOR LIC. #

☐ ID CARD ONLY

95. ST

96. OCCUPATION/TYPE BUS.

97. COMMENTS: (Language restrictions, pertinent physical items, relationships to others involved.)

98. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME

99. CODE

100. DOB

101. AGE

102. SEX

103. RACE

104. HGT.

105. WGT.

106. HAIR

107. EYES

108. RESIDENCE ADDRESS

STR. NAME/S

APT/SUITE #

109. CITY

110. ST

111. ZIP

112. RES. PHONE # ( )

113. BUSINESS ADDRESS

STR. NAME/S

APT/SUITE #

114. CITY

115. ST

116. ZIP

117. BUS. PHONE # ( )

118. OPERATOR LIC. #

☐ ID CARD ONLY

119. ST

120. OCCUPATION/TYPE BUS.

121. COMMENTS: (Language restrictions, pertinent physical items, relationships to others involved.)

122. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME

123. CODE

124. DOB

125. AGE

126. SEX

127. RACE

128. HGT.

129. WGT.

130. HAIR

131. EYES

132. RESIDENCE ADDRESS

STR. NAME/S

APT/SUITE #

133. CITY

134. ST

135. ZIP

136. RES. PHONE # ( )

137. BUSINESS ADDRESS

STR. NAME/S

APT/SUITE #

138. CITY

139. ST

140. ZIP

141. BUS. PHONE # ( )

142. OPERATOR LIC. #

☐ ID CARD ONLY

143. ST

144. OCCUPATION/TYPE BUS.

145. COMMENTS: (Language restrictions, pertinent physical items, relationships to others involved.)

SPECIAL INSTRUCTIONS TO RECORDS

146. RECORDING/REPORTING OFFICER(S)

L. Zoeller

147. SUPERVISOR APPROVING

Edmond 312

PAGE 3 OF 3

148. ☐ CHECK IF ADDITIONAL NAMES LISTED

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2EA-370

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PD-02

LOUISE WALLER: 1745 CAMINO PALMERA. LOS ANGELES. CALIFORNIA.  
(213)874-0726

On April 29, 1987, Louise Waller was interviewed in the Garden Room of the Century Plaza Hotel, Century City, California. The purpose of the interview was to learn the circumstances of her reported sighting of an adult male that she stated was Ronald Levin. Conversely, the State of California in People v. Joe Hunt has maintained that Ronald Levin was a victim of a homicide in 1984, although the remains of Ronald Levin have never been found.

Ms. Waller began her interview by indicating that between February 16, 1987 and March 18, 1987 (approximately) she was employed by the law offices of Todd Hinden located in the Deauville Building, Century City North, 10100 (Little) Santa Monica Blvd., Century City, California. Ms. Waller stated that she saw a person previously known to her as Ronald Levin standing in the lobby at the security officer's desk in her employer's building. Ms. Waller described the encounter with Ronald Levin as having occurred on a Saturday in the later afternoon. She thinks that this Saturday was more likely to have been in the month of March rather than February, but she is not sure. Ms. Waller stated that she had just descended in the elevator and upon exiting it she observed Ronald Levin standing at the security officer's desk, which she estimated to be about fifteen feet away from the elevator. Two other male adults were standing in the same vicinity as Ronald Levin, but she does not know if they were together. Ms. Waller stated

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Richard Chier, Esq.  
RE: People v. Hunt  
May 6, 1987

that she is unable to identify or describe these two subjects or the security guard that was on duty during this incident.

Ms. Waller then explained that all employees and visitors must sign in or out and display their driver's licenses on Saturdays. She added that she does not know whether Ronald Levin performed this procedure; however, she did not see him in possession of a driver's license. She also did not see the other two individuals conform to the building's admission policy.

After exiting the elevator, Ms. Waller stated that she passed within ten feet of Ronald Levin, who moved away from the security desk at this time in an unknown direction. Ms. Waller indicated that she continued on her way without making any attempt to follow or continue to observe Ronald Levin. When queried as to why she did not make an effort to observe him further, she replied that she had no reason to want to follow him because she was not aware of his disappearance at the time and she does not do things like that.

Ms. Waller described Ronald Levin as having mostly grey hair, clean shaven, 6'0" - 6'2", and his weight to be about 190 pounds. She does not recall the specific clothing he was wearing on the date of her

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observation of Ronald Levin and could not describe him any further. Ms. Waller cannot specify the exact Saturday of her observation because she worked every day of this period with only two days off.

When asked how she knew it was Ronald Levin that she saw in the Century City North building, she indicated that she used to see Ronald Levin everyday when she worked at 9401 Wilshire Blvd. (probably Los Angeles) during the years 1974 and 1975. This was approximately twelve to thirteen years before her recent observation of Ronald Levin. Ms. Waller stated that during those years, she was employed by Paul Fitzgerald, Gershon Horn and Arthur Morganstern; criminal attorneys who offices were located in a Phejan suite on the tenth floor of the office building on Wilshire Boulevard. She stated that the tenants on the tenth floor shared the same telephone, visitor reception and mail services. It was during the use of these central services that she saw Ronald Levin on a daily basis for approximately eighteen months. She stated that Ronald Levin had an office or business on the tenth floor; however, she never knew the name of it or where on the tenth floor it was specifically located because the tenth floor halls were shaped in a square that soon blocked one's view of somebody leaving the reception area.

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Ms. Waller recalled that during her frequent contacts with Ronald Levin, they never had a conversation. She stated that he had a nice appearance and premature gray hair. She stated that the most striking thing about the man was his face ... he had an attractive face. She does not remember the color of his eyes and did not take notice of them during her most recent observation of Ronald Levin. When asked if she could describe Ronald Levin's vehicle that he used in 1974 and 1975, she replied without hesitation that Ronald Levin drove a white Rolls Royce. When queried as to where it was parked at 9401 Wilshire Blvd., she stated that she could not remember where she parked, let alone him. Ms. Waller did not provide any further details or information regarding Ronald Levin during the years of 1974 and 1975.

Ms. Waller stated that she never knew Ronald Levin was missing or that anything had happened to him until she saw his picture on Jerry Dunphy's channel 7 news (she thinks at 6:30 p.m.). This occurred within a few days after she sighted Ronald Levin at the Century City North building between February 16, 1987 and March 18, 1987. Ms. Waller stated that the news program she viewed displayed a picture of Ronald Levin that was not clean shaven. The picture, therefore, in her opinion, did not compare to the way he looked in 1974 and 1975, nor the way he looked between February 16, 1987 and March 18, 1987.

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H. K. LEE INVESTIGATIONS

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RE: People v. Hunt  
May 6, 1987

She stated that she has been married twice and divorced twice. Her first marriage was at the age of nineteen in Atlanta, Georgia to a Billy Waller (who is now deceased) and they were divorced when she was twenty-three years of age. In 1967, she married a Howard Wotring in Las Vegas, Nevada, which ended in divorce in 1968 after lasting nine months. Howard Wotring was a former Los Angeles Police Officer and he has resided in Reno, Nevada since 1968. She mentioned that she is the mother of two children, which were not identified.

Ms. Waller described her education as being an A and B student in high school and she has attended Santa Monica City College off and on, and that she has taken real estate courses from a private school.

Ms. Waller denies that she has ever been arrested nor institutionalized. In addition to the surname of Waller and Wotring, she stated that her maiden name was Galbreath which she says she has never used in California; however, alluded to the fact that she had used it in Georgia.

Ms. Waller was queried about past and current litigation. She stated that she has been involved in approximately four (4) civil cases, which she described as divorces and mostly landlord-tenant disputes. She

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May 6, 1987

stated that she currently has a workman's compensation case pending for sexual harassment by a former employer. She identified her former employer as Brown and Woods, 450 Roxbury, for whom she worked approximately seven months. She stated that her claim is against Alan Brown and described briefly the cause as "he wanted to play and I didn't", and, "I think a person should be able to decide for themselves". Ms. Waller stated that she had stress effects from the ordeal, but did not require or receive any professional counseling. When queried as to whether she had received any psychological or psychiatric counseling in the past, she replied that she did in the late 1970s. She further explained that she made four visits to an unidentified male psychiatrist in Beverly Hills regarding a problem that had to do with a situation involving her parents at which time she was told by the psychiatrist, "You don't need one".

Ms. Waller emphasized the fact that she wants her workman's compensation case to remain confidential. She stated that she did not file a civil suit for that reason and the fact that she did not want to be blackballed in the industry.

It should be noted before concluding this report that this interview was under a time constraint because Ms. Waller had to be at work at

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RE: People v. Hunt  
May 6, 1987

9:00 a.m. and our interview commenced at approximately 8:20 a.m.. Ms. Waller appeared to be cooperative throughout the interview and she voluntarily answered questions regarding her personal background.

\*\*\*\*\*



## DECLARATION

**I, Keith Rohman, do declare as follows:**

1. In 1987 I was a licensed private investigator with California license PI10349. I was working for attorney Jeffery Brodey on behalf of his client, Jim Pittman, in the matter of People v. James Pittman, Los Angeles Superior Court case #A090435.

2. On April 22, 1987 I interviewed Louise Waller. On that same date I prepared a summary of my interview with Ms. Waller. A copy of that summary is attached to this declaration and bears my initials on it.

3. While I no longer have an independent recollection of this interview, the attached report represented my best recollection of my interview with Ms. Waller.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct of my own personal knowledge except as to those matters stated on information or belief, and as to those, I believe them to be true. Executed on November 29, 1995 at Los Angeles, CA by \_\_\_\_\_.

**Keith Rohman**

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Exh 138  
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RE: INTERVIEW WITH LOUISE WALLER

On April 22, 1987 at 8:15 A.M. this subject was interviewed at the Garden Room at the Century Plaza Hotel in Century City, CA.

Ms. Waller is currently employed as a Legal Secretary at the Law Firm of Sidley and Austin (213-553-8100) in Century City, CA. She resides at 1745 Camino Palmero #301, Los Angeles, CA 90046 (213-874-0726). She was born on March 31, 1939. Her true name is Lola Louise Waller.

She stated that she came to know Ron Levin during the mid-1970's when she was employed with the firm of Fitzgerald, Horne and Morgenstern as a Secretary. Their offices were in a "Fegen" Suite on the 10th floor at 9401 Wilshire Blvd. She worked for Gerson Horne for 1 1/2- 2 years between 1973-1976.

While she was at the firm, Ron Levin also had offices in the same suite. Because Horne was often in court, she had a lot of time to wander the hallway and socialize with the other secretaries. This happened most often around the central switchboard and mail area. In the course of this, she would often see Levin. She believed he was an attorney also, because almost everyone else in the suite were attorneys.

She stated that she does not recall speaking with him and described him as a "reserved guy" who kept his distance. None the less during the time of her employment there, she believes she saw him at least once a day. He would come by the mail area and pick up his messages and mail. She also recalls seeing him driving a white Rolls Royce.

In January and February of 1987, Waller was working for the firm of Brown and Woods at 450 Roxbury, Beverly Hills, CA. Also in the building was the firm of Irving, Cohen and Jessup. Waller knew the office manager, Kathy Hill, from when they both worked at 9401 Wilshire in the 1970's. At one point prior to Waller leaving that job in mid February, Hill asked her if she remembered Ron Levin. Waller stated that "the name rings a bell," but she couldn't place the face. She stated she thought she would remember him, if she saw his face. Hill told her that there were reports that Levin was missing and had been murdered.

Waller stated that she does not read the Los Angeles Times or the Herald-Examiner. On a daily basis she reads the Wall Street Journal and Investor's Daily. She stated that she occasionally watches the Channel 7 Evening News. She stated that until she spoke with Kathy Hill in February 1987, she had not read any articles or seen any television programs about this matter. She had no knowledge of Levin's disappearance. 907

INTERVIEW WITH L. WALLER

On February 16, 1987, she went to work for attorney Todd Hindin who has offices at 10100 Santa Monica, Los Angeles, CA. She worked for him until March 18. At some point during that month she was working on a Saturday or a Sunday. She was leaving the office at 4:30-5:00 P.M.

As she came out of the elevator, she began walking the approximately 10 feet towards the security desk. At this point she first observed a male Caucasian, approximately 6'1" tall, 200 lbs., with short greying hair worn blown back from his forehead. She stated the man was clean shaven and was wearing casual jeans. She does not recall what else he was wearing, but does not believe he had a sports jacket on.

The man was standing by the security desk. There were two shorter men also standing near him, but she does not know if they were connected to him. She indicated that to gain admittance to the building on a weekend all visitors must sign in and show identification. (These are clearly records we need to obtain, as well as interviewing the guard on duty.)

She walked right by this man, within one foot. She did not speak with him. She immediately recognized him as someone she knew, but could not place who it was. When she got home, she spoke with a friend and asked "Did you ever see someone, but you can't remember his name?" (She could not recall the friend she spoke to about this.) She told this friend that it was annoying to her that she couldn't remember his name. She later recalled that it was someone she had known from 9401 Wilshire, but still could not recall the name. (Waller indicated she would check her pay records to try to figure out exactly which weekend this occurred.)

About two or three days later she was watching the Channel 7 news program with Jerry Dunphy when she saw a story about the Levin case. It was then that she realized the man she'd seen was Ron Levin. She thought about coming forward for approximately a week and spoke with friends about what she should do. She then called Baren's office. No one returned her call for a week, but she was later contacted.

She stated she has no question in her mind that the man she saw was Ron Levin. She stated that until I told her, she was unaware that there were other reports of Levin being alive.

EVALUATION:

Louise Waller is 48 year old female Caucasian, approximately 5'7", 120 lbs, with a full head of blonde hair going grey. She speaks with a slight southern accent. She is an attractive woman with delicate features. She expresses herself clearly and recalls the facts without difficulty. She speaks in a calm and credible manner. She would make an above average witness appearance.

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KR:AAC10349:4/22/87

Exh 138  
2ER 367

LOS ANGELES COUNTY DISTRICT ATTORNEY  
BUREAU OF INVESTIGATION

## INVESTIGATOR'S REPORT

REPORT MADE BY: INVESTIGATOR PATRICK MAC MAC	DATE: 11-24-86	CHARGE: 187 PC-MURDER	FILE NO. 86-P-3090
SUSPECT:  HUNT, JOSEPH HENRY		COMPLAINANT: FRED WAFNER, DDA CAREER CRIMINAL UNIT  VICTIM: LEVIN, RONALD GEORGE (DECEASED)	

## SYNOPSIS OF FACTS:

Case opened 10/30/86. Date of last report 10/30/86. Complainant requested that a District Attorney Investigator be present when an interview takes place with suspect's ex-defense attorney, LEWIS TITUS. On 11-23-86, LEWIS TITUS was interviewed with complainant present.

PENDING

## DETAILS:

Attorney LEWIS TITUS, who was a co-counsel with attorney ARTHUR BARENS at the preliminary hearing stage of suspect's trial has since terminated from ARTHUR BARENS'S employ and also from the case of HUNT. Mr. TITUS had contacted the complainant sometime during the latter part of the week of November 17, 1986, and indicated that he (TITUS) may have some information about ARTHUR BARENS and the defense of HUNT. Subsequent to calling complainant, TITUS contacted the State Bar, ethics division, and also asked an unnamed Superior Court judge to give an opinion about revealing information that may violate an attorney/client privilege. Having that in mind, TITUS voluntarily agreed to meet and be interviewed.

On 11-23-86, 1530 hrs, the suspect's ex-defense attorney, LEWIS TITUS was interviewed at the Los Angeles County District Attorney's Interview Room. The complainant was also present. Mr. TITUS was asked by complainant if he (TITUS) would grant Investigator MacMac permission to tape record the interview. TITUS indicated he would prefer that no recording of the interview take place. It was agreed that the conversation would not be tape recorded.

DISTRIBUTION:

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Exh 136  
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TITUS was asked about what took place with BARENS at the Los Angeles County Hall of Justice Jail. TITUS stated that sometime between January and early March of 1985, he (TITUS) was asked by ARTHUR BARENS to accompany him to the Hall of Justice Jail (HOJJ) to interview the suspect, HUNT. When they arrived at HOJJ, BARENS decided to go alone to see HUNT. TITUS took BARENS' blue jaguar to Phillippe for a french dip sandwich, much time later, BARENS returned from HOJJ. TITUS further stated that as they sat in the car on Broadway next to the Hall of Justice, BARENS proceeded to state to TITUS, "How do you like this as a scenario?" "we locate a person who would testify that they saw RON LEVIN in Rio." (Rio DeJaneiro) TITUS told BARENS, "it won't work" "it won't work because you don't put on an affirmative defense at a preliminary hearing," BARENS told TITUS that it could work because BOBBY ROBERTS (who is the father of HUNT'S girlfriend and an important hollywood producer) could get an actor who could have known LEVIN by sight. This person would be sent to Rio for a week or so. He or she would come back and with stand the rigors on cross on how they knew it was LEVIN. ROBERTS would then reward the person with a part in "Dallas" or some show. TITUS said to BARENS, "it's not going to stand up, it's a crime, it's unethical, it's stupid, and it won't work."

TITUS stated the conversation took place in the parked car on the side of HOJJ between 6:30 pm and 7:00 pm. TITUS went on to say that the whole conversation took no more that 20 minutes. TITUS said that the visitor's log on HUNT could be checked at HOJJ and that BARENS' second visit to HUNT would be the date that this happened. TITUS was asked if BARENS had talked to BOBBY ROBERTS or HUNT about it. TITUS replied that he did not know if BARENS had talked to anyone about it. TITUS was asked if he (TITUS) knew where this idea originated from. TITUS stated that he did not know if it was BARENS' idea, HUNT'S idea, or ROBERTS' idea. TITUS went on to say that ROBERTS kept calling him at odd hours in the early morning. TITUS said that he does not remember any of the conversations.

TITUS was then asked about an incident that occurred on 6/24/85, in Beverly Hills. The complainant told TITUS that on 6/24/85, ARTHUR BARENS phoned the Beverly Hills Police at 0240 hrs, and told the desk officer that a person just called him (BARENS) and threatened him saying, "I've got a .22 and I'm gonna come over there and put six(6) rounds in your belly." TITUS replied, "I wouldn't own a .22, it's a lousy gun. Why would I shoot him in the stomach?" "No, I did not make that phone call."

TITUS was then asked about his background. TITUS stated that he has received a 68% medical disability pension from LASO in 1981. This as a result of a 3/28/68, assault and battery incident as a deputy sheriff in Montrose. He (TITUS) was beaten with a pipe on the skull, shoulders, back, neck and stomach. He (TITUS) was placed on valium medication, and as a result, got addicted to the drug in 1969. TITUS was hospitalized for prescription addiction in 1972. TITUS has been in and out of hospitals. TITUS has been hospitalized for depression and alcohol. The last hospitalization was in August '85, for 2 1/2 months



for alcohol dependency as a result of stress derived from the LAPD chinatown murder case in which he (TITUS) was counsel to one of the three defendants.

TITUS stated that he joined AA (Alcohol anonymous) in Nov '85. The last drink he had was on 2/8/86. TITUS said that he does not drink and that he does not take drugs.

TITUS was asked when the first association with BARENS took place. TITUS stated that he had been dating BARENS' secretary, Delores. BARENS was always asking him (TITUS) to work for him. TITUS started taking some cases from BARENS. TITUS said he defended BITTIKER with AL GABER. TITUS said that BARENS and TITUS were co-counsel on the chinatown murder case and that on the day of the preliminary hearing, BARENS showed up at 8:25 am and told TITUS, "certain people in Beverly Hills don't appreciate me (BARENS) doing this pre-lim." TITUS said that BARENS just walked away and left him (TITUS) to do the preliminary hearing.

TITUS was then asked again to tell about the conversation that he had with BARENS at the Hall of Justice Jail.

TITUS said that BARENS got into the car that was parked on Broadway on the side of HOJJ. BARENS said to him (TITUS), "how do you like this as a scenario?" "BOBBY ROBERTS would send an actor or actress to Rio or some other place that LEVIN would hide at. This person would stay there for about a week. This person would see RON LEVIN and call out to him. RON LEVIN would turn around, appear to recognize him and then split. This person would then turn up on the witness stand." TITUS said that he (TITUS), told BARENS that it wouldn't work, it was unethical and it was stupid. TITUS said that there would appear to be no connection to BARENS, and that the compensation would be for the actor/actress to have a part on a show like "Dallas" or some other major show.

TITUS was asked why BARENS might have called Beverly Hills Police about the gun incident (the .22 and six rounds in the stomach). TITUS invoked the attorney client privilege on other incidents because it might cause some serious animosity between him and BARENS.

TITUS was asked if he (TITUS) told anyone else about the "actor/witness in Rio" incident. TITUS stated that a very good friend, MIKE GRAHAM, has known about this for a long time. (MIKE GRAHAM is an investigative reporter associated with the Daily News)

TITUS said that it was MIKE GRAHAM who encouraged him (TITUS) to come forward. Mr. TITUS offered future cooperation in regards to what happened. TITUS stated, "if I have to testify, I will, but I'm not looking forward to it."

The interview terminated at 1730 hrs.

- 3 -

Exh 136  
2 En-362

10-20-5-  
C-44-137A

# Mackey & Associates

Confidential Investigations & Special Services

License Number PI 9984

Post Office Box 8024

Rowland Heights, California 91748

Voice & Fax (909) 627-4474

Telephone Interview of Ivan Warner

May 8, 1995

On May 6 and 7th, 1995 I left telephone messages for Ivan Warner. On May 8, 1995 at 12:00 noon I spoke with Ivan Warner via telephone. Mr. Warner explained that he gave a statement to a previous investigator, Theodore Woosely, and asked if I was from his office. I explained I am a new investigator working on this case. I asked him if I would be able to come out and meet with him to discuss with him the information he previously had given to Woosely. He asked if I were to obtain the following information he would be willing to meet with me to do a follow up interview.

He told me that the particular funeral he saw Ron Levin at in the Spring 1985 stands out in his mind because he remember it being at 1218 Glenden Way where a lot of movie stars from the past have been buried. He told me that the person who was being buried that day was a Jewish man who was cremated and buried at this cemetery. He remember this particular man had committed suicide by hooking his car exhaust into his sauna. He knows this funeral occurred March of 1985 because he and his wife had just returned from Brazil. He also told me that this person worked at Superior Stamp and Coin on Olympic in Los Angeles. He also remembers the area that this person's ashes were laid to rest was in a newer section of the cemetery.

Mr. Warner said if I were able to get a name of the person who committed suicide he would be able to assist us in this matter. He says his time is very limited and if I were able to get this information before my interview with him it may save a lot of time for both of us. He also told me that he knows he saw Ron Levin at this funeral and it still sticks in his mind until this day that he saw Ron Levin at this funeral.

End of Interview.

Case Pending.

Frank A. Mackey

Frank A. Mackey  
5/8/95

-1-

Exh 135

ZEL 590

## DECLARATION OF FRANK MACKEY

1  
2 1. I, Frank Mackey, am licensed by the State of California  
3 doing business under license number PI 9984. I have been a  
4 licensed private investigator since July 29, 1983 and have  
5 investigated in excess of 1500 cases, not to include locates,  
6 personal protection or my work with the San Bernardino Sheriff  
7 Department. I have conducted investigations for the Los Angeles  
8 Criminal Courts, major corporate law firms, private clients, Los  
9 Angeles County Health Department and Los Angeles County Council.  
10 I have investigated for both prosecution and defense clients. I  
11 am also a POST certified commissioned deputy sheriff for the  
12 County of San Bernardino assigned to specialized detectives,  
13 general assignment.

14 2. That on July 25, 1995 at 11:20 a.m. I met with Mr. Ivan  
15 Warner at his residence in Beverly Hills. Other people in  
16 attendance were Mr. Ivan's wife, Irene and Lisa Repetti who is my  
17 assistant. I provided a brief summary of why I was interviewing  
18 Mr. Warner and thanked him for meeting with me today. Mr. Warner  
19 said he worked for Pierce Family Mortuary for 15 years as a  
20 funeral director and embalmer. He is currently employed with  
21 Mount Sinai as a funeral director and embalmer. Mr. Warner said  
22 he saw a picture in the Los Angeles Times in 1988 that fit the  
23 description of a man who he distinctly remembered attending a  
24 funeral at Pierce Family Mortuary in 1985. Mr. Warner contacted  
25 the Beverly Hills Police department and spoke with an  
26 investigator on the case (maybe Zoeler). He told the detective  
27 that he was working a funeral service in 1985 and that he was



1 sure he saw Ron Levin in attendance at the funeral. He said he  
2 gave the investigator his information but never heard back from  
3 the police and in 1994 Theodore Woosely contacted him.

4 3. I asked Mr. Warner to recall the funeral that he saw  
5 Levin attend. Mr. Warner said he was at the door of the main  
6 chapel and that he was seating people and parking cars and that  
7 it was a memorial service with no body, the body had been  
8 cremated. He cannot remember the name of the person whose  
9 funeral it was because he had not made the arrangements for the  
10 family. Mr. Warner remembers there being about 40 people in  
11 attendance at this funeral. He was also standing by the guest  
12 book while people were signing in and he specifically remembers a  
13 striking looking man who was dressed immaculately in a grey shirt  
14 with white collar, grey tie and grey hankie, grey leather shoes,  
15 he wore a beard. The man's jewelry looked expensive he wore a gold  
16 ID bracelet, a gold coin ring and gold watch. He could not  
17 recall if this man was attending the funeral with anyone. 4.  
18 Mr. Warner says he remembers seeing this man between May and  
19 April 1985 because he and his wife had just returned from Rio de  
20 Janero. He verified the date by referring to he and his wife's  
21 passports.

22 5. I asked Mr. Warner to recall the person's name whose  
23 funeral this was and Mr. Warner said he just remembers the dead  
24 man was Jewish and from the Westside and the information he  
25 remembers people speaking of at the funeral was the decedent  
26 committed suicide by asphyxiating himself with carbon monoxide in  
27 a sauna room. He recalls that this man worked in the gold

1 bullion industry and had defrauded some customers.

2 6. I showed Mr. Warner the Los Angeles County Coroner's  
3 death record computer printout for February 15 through April 15,  
4 1985. Mr. Warner carefully reviewed the printout but didn't  
5 recall any of the names as being familiar.

6 7. I showed Mr. Warner the certificate of death of Judith  
7 Moreno (Levin's niece) but this rang no bell for Mr. Warner.

8 8. I showed Mr. Warner a series of photographs. The first  
9 picture was the picture sent to plastic surgeons. Mr. Warner  
10 looked at the upper left picture and identified the picture and  
11 said this is the same guy he saw. He signed by the picture he  
12 identified. He next looked at the 8"x10" photo and said it was  
13 close to looking like Levin. He then looked at the 5"x7" and  
14 said, "Yes, definitely him, with beard, definitely". He looked  
15 at the second 5"x7" black and white photo with two pictures on it  
16 and said this was the man. He signed and dated the photographs  
17 he identified.

18 9. I asked Mr. Warner if he would be able to testify to the  
19 information he just gave and Mr. Warner responded in the  
20 affirmative. I asked if Mr. Warner had ever spoken with Mr. Hunt  
21 or Ms. Gondolfo and he responded, "No". Mr. Warner said the only  
22 person he has spoken with is Mr. Woosely and now myself. Mr.  
23 Warner added that without a doubt the man in the picture he was  
24 shown by myself was the man he recalls being at the funeral in  
25 1985.

26 10. I asked Mr. Warner if he could be mistaken and he said  
27 "Yes I could be but I'm not. That's the man I saw at the

1 funeral".

2 I declare under penalty of perjury that the foregoing is  
3 true and correct and if called upon to testify in a Court of Law  
4 I would be able to do so. Signed this 14th day of August 1995.

5 Frank A. Mackey  
6 Private Detective

7 Exhibits

- 8 1. Plastic Surgeon's letter with 4 black and white copied  
9 pictures  
10 2. 8-1/2" x 11" color copy of 8"x10" color photograph  
11 3. 5"x7" photograph with 2 black and white photos  
12 4. 5"x7" black and white photograph  
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The man we are looking for used to go by the name of Ronald George Levin. He has used many other names. A picture and some identifying information are attached.

We are trying to locate this man as part of our determined effort to settle certain dire questions raised by Mr. Levin's disappearance on June 6, 1984. Recently we received word that Mr. Levin had surgery to alter his appearance.

Please take a long look at the photographs and contact us if you have any reason to believe he has been your patient.

Dated: 8-25-1991

Sincerely,

*William E. Gilg*

WILLIAM E. GILG,

Attorney

On behalf of

Joseph Hunt



Ron Levin: May have Faked his Death

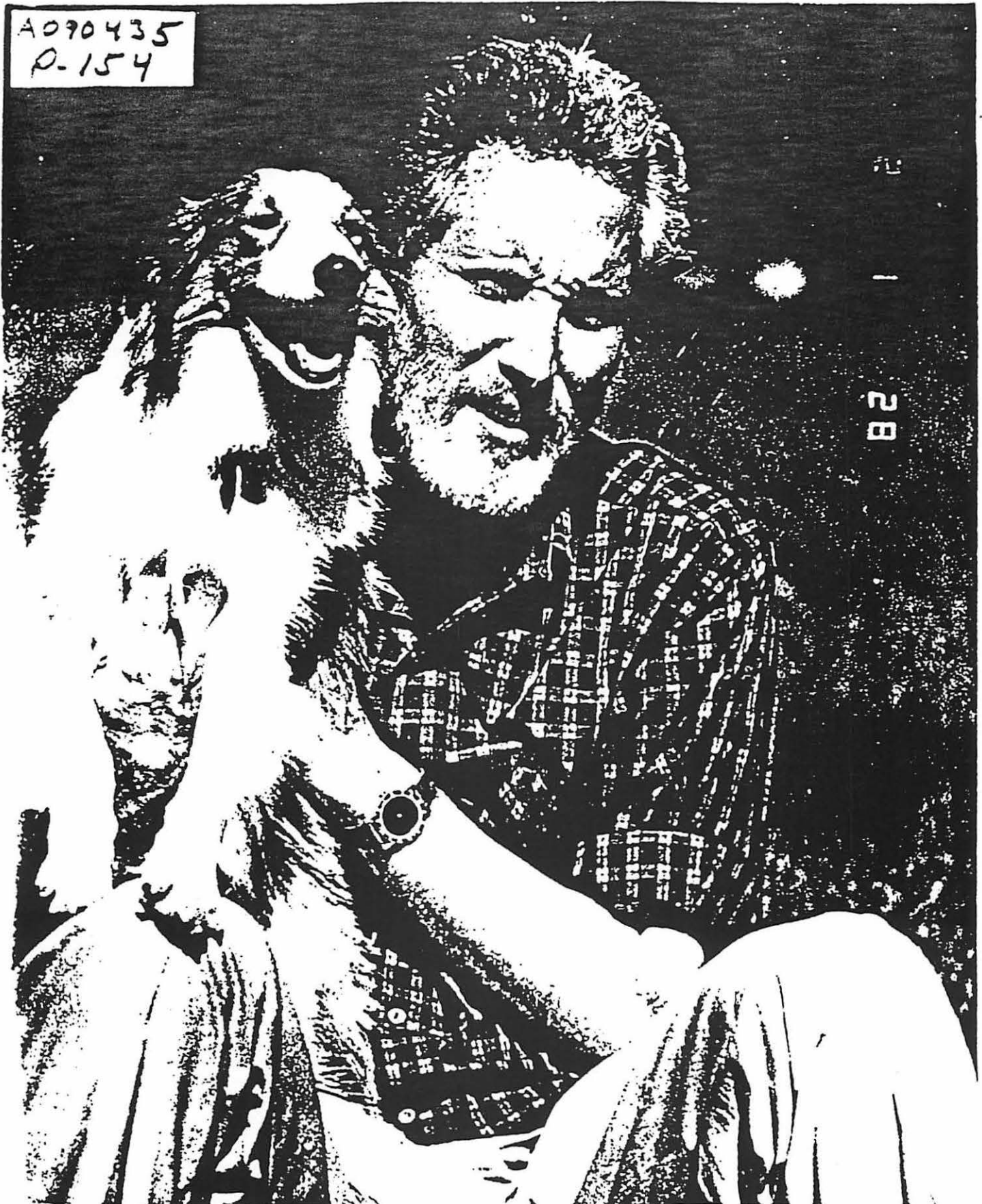


Ron Levin: Fugitive Felon



If you have seen him call (415) 369-2949. Calls will be treated confidentially.  
The top two photos were taken in 1984; the bottom two in 1980.

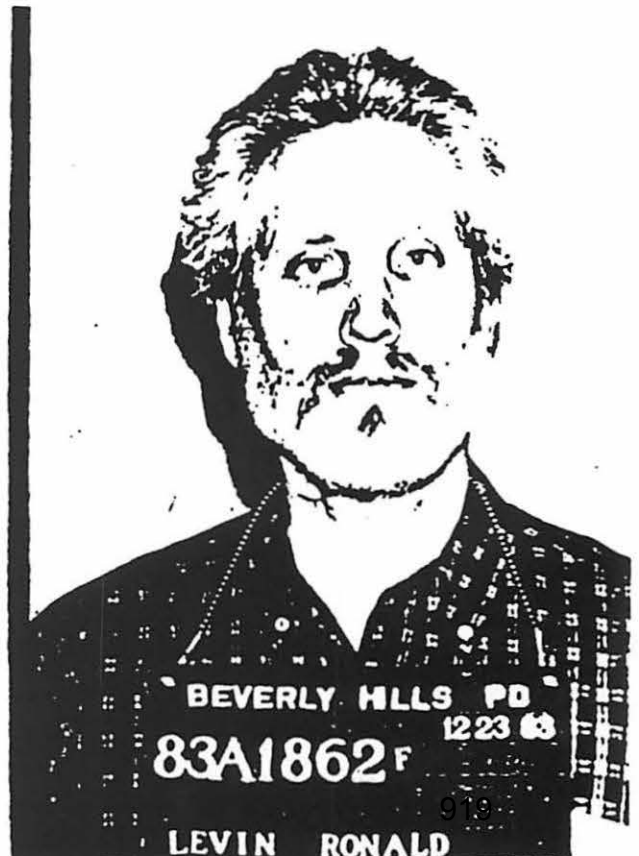




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Exh 135  
282596

John L. Wynn  
7-25-95

9001



8-  
282597 Exh 135



7483

James E. Morrow  
7-25-95



282598

-9-

Exh 135

920



OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF LOS ANGELES  
BUREAU OF BRANCH & AREA OPERATIONS  
1725 MAIN STREET  
SANTA MONICA, CALIFORNIA 90401  
(213) 458-5351

IRA REINER, DISTRICT ATTORNEY

DENIS K. PETTY, DIRECTOR

May 4, 1987

Mr. Arthur Barens  
10209 Santa Monica Boulevard  
Los Angeles, CA 90067

Dear Mr. Barens:

Enclosed is the notice of Intention to Introduce Evidence in Aggravation Pursuant to Penal Code Section 1903. In addition, I am sending you copies of the Santa Ana and Irvine Police Department reports concerning two of the incidents referred to in the "notice." I believe I have given these to you long ago, but I am sending them again just in case.

I believe you already have all of the reports regarding the Eslaminia murder. If you do not, please advise me and I will furnish you with what I have. If you need more time to prepare for the penalty phase, please advise me as soon as possible.

Three more people now claim to have seen Ron Levin alive. Ivan Werner says he saw someone who looked like Levin at a memorial service at the Westwood Village Mortuary in August 1986. He says Levin would have signed the guest book. Mr. Werner's work telephone is (213) 723-1125 and his home telephone is (213) 931-9848.

Mr. Richard Reed, a deputy jailer in Kentucky claims Levin was in his jail a few weeks ago. They kept no records since it was a misdemeanor, but Detective Zoeller has traced the person and he is now in custody in Florida. We are in the process of having the records mailed to us.

-1-

Exh 133  
2 en 358

921



Finally, ABC television called Detective Zoeller to say that they had received a call from an anonymous female who said she was at Nippers night club on Friday, April 24, 1987 and the owner pointed to a man on the dance floor and said it was Ron Levin. The owner purportedly said Levin goes there all the time.

I will be out of the office most of Monday and Tuesday this week but you can always reach me through the district attorney command post at (213) 974-3607.

Very truly yours,

IRA REINER

By  
FRED WAPNER,  
Deputy District Attorney

enclosure

FW:lr

-2-

Exh 133  
2-2 359

922

DECLARATION OF JOE HUNT

I, JOSEPH HUNT, DECLARE AS FOLLOWS:

1. After I was convicted, I obtained data on Progressive Savings and Loans dispute with Ron Levin from the following sources:
  - a) A subpoena on Progressive Savings and Loan to which McKenna, Conner, and Cuneo (their attorneys) responded. The return on this subpoena contained the report of Jerry Verplancke (regarding Levin's statement that he was raising venture capital for Cyclotronics). There were several references to the FBI's investigation of the Progressive matter in the file McKenna provided.
  - b) A subpoena on David Ostrove, Levin's conservator. This file was less complete than McKenna's.
  - c) A subpoena on the Beverly Hills Police Department. They had a copy of what they represented to be Ron Levin's file on the Progressive litigation. This file contained letters between Jeffrey Melczer, an attorney representing Levin on the case, and Ron Levin.
  - d) The BBC's records. We had been served a copy of the complaint.
2. I have reviewed the bills of the investigators who worked on my 1987 case and those of Arthur Barens and Richard Chier. Based on that review and my own recollection, I state that Mr. Barens never attempted to interview any prosecution witnesses whatsoever except when he approached certain BBC members in the courthouse hallway.
3. Microgenesis of North America owned the trailer that was parked on the Shadow Mountain Mining Corporations' Mineral claim (near Baker, California) in August and September of 1984. The trailer had been bought at my direction. I provided the money for the purchase by depositing money in Microgenesis' account at the Bank of America La Brea Rosewood branch. Neither Tom nor David May ever invested cash in Microgenesis (or any BBC company). They were not stockholders in Microgenesis. All the money made available to Microgenesis came from two sources: A.) payments to Microgenesis on deals I negotiated on its behalf or B.) money deposited in its accounts at my direction that I raised from other sources. The banking records of Microgenesis are voluminous. These records have been available to both sides since 1985 and will bear out the above claims.

4. I have received and reviewed reports generated by the Beverly Hills Police Department on case A090435 from a variety of sources over the years. I am exceedingly familiar with those reports. I have never seen a police report of the Beverly Hills Police Department which describes a 1984 meeting involving Tom May, David May, Jeff Raymond, and myself at the Charthouse Restaurant in Westwood.
5. Prosecution witness Gene Browning's March 1985 deposition was taken by an attorney representing me in a civil suit between Browning and myself. I obtained a copy of that deposition and provided it, and a summary thereof, to Arthur Barends before our 1987 trial began. I have a copy of that summary in my files to this day.
6. The BBC's litigation file in the case of William Morton (and P.M. Recovery Systems) versus Microgenesis of North America was available to Barends after 11-7-85, the day I was released on bail. A large number of BBC originated files had been kept by my father pending my release. Mr. Barends never showed any interest in reviewing these files. The short biography of Gene Browning that appears as an exhibit to this supplemental Writ of Habeas Corpus was part of the records of the BBC. It was prepared from information supplied by Gene Browning.
7. The transcript quotations in the supplemental writ to Pittman's 1985 trial and his preliminary hearing are accurate.
8. After I went pro per, while reviewing discovery materials in the files accumulated by Parker Kelly, I came across a three page financial statement executed by Gene Browning on a form provided by First Interstate Bank. I recognized it as a document used by my attorney, Lewis Titus, during the cross-examination of Browning in my preliminary hearing in case A090435 in 1985. After reviewing that transcript and Browning's testimony in other BBC trials and hearings, I decided to subpoena First Interstate Bank's records on Mr. Browning. Some of the documents I obtained through that SDT are attached to this supplemental writ. There were checks from Medallion Minerals, a company owned by a Mr. Wogamon (the name that was on the check). This was the lead that allowed me discover that Browning had been arrested and charged with involvement in a methamphetamine manufacturing ring and that he pled guilty to perjury. I was looking for information that would go to Browning bias, interest, and motive to falsely attribute inculpatory statements to me and to lie in other matters relating to his relationship to

Microgenesis of North America, Inc. Mr. Browning had made false claims under oath concerning his ownership of the attrition milling technology and the three Microgenesis funded attrition mills prior to my trial. I had discussed this with Mr. Titus and Mr. Barens (as Mr. Titus' cross-examination of Browning reflects). After Mr. Titus left the case, Mr. Barens showed no interest in pursuing leads to potential Browning impeachment materials.

9. I first learned of Ivan Warner in 1994. Rowan Klein told me that he had received a phone call from the gentleman and asked me if I had ever heard of him. I had not. I first saw the letter dated 5-4-87 from Mr. Wapner to Mr. Barens in 1985.

I worked very hard on my defense in case C15761, San Mateo Superior Court. The prosecutor had notified me that he would be presenting the Levin case related witnesses in this case in chief under 1101 (3) of the Evidence Code. I had a series of investigators in Los Angeles over a four year period who had been appointed to help me interview witnesses and collect evidence concerning the Levin allegations. These investigators included Ted Woolsey, Cynthia Endelyei, Marshall Gaines, and Dale Kelley. I never knew of Ivan Warner and consequently never asked anyone to investigate this sighting. I had every other sighting witness contacted and interviewed (i.e. the Gerrards, Ms. Waller, Mr. Robinson, the Williams (Florida), Ms. Ghaleb, Ms. Canchola, Mr. Lopez). I even arranged for an investigator to go to Mykonos, Greece to follow up on the Gerrard Christmas 1987 sighting. In 1991, using money given to me by friends, I did a mailing to every plastic surgeon in the country to ask them if they had done any work on Ron Levin recently. Four photos were enclosed in the mailing. I would never have neglected following up on any sighting let alone one of an easily contacted man like Ivan Warner.

10. Mr. Barens told me about the Kentucky sighting orally. I relayed the information he gave me to Hap Lee. Mr. Lee was, as I recall, in Tennessee at the time. I was in court when this sighting was referred to. Mr. Chier was present when Mr. Barens told me about the Kentucky sighting. I was in custody at that time. To the best of my knowledge the sighting referred to variously as the "Kentucky", "Tennessee", and "Florida" sighting in the records is just one sighting - the fellow that was in custody in Kentucky and later transferred to Florida. Tennessee came into it because that was where Mr. Lee was on an unrelated matter when I heard of the sighting. To my knowledge, there never was a sighting in Texas. However, I did have potential penalty phase witnesses in that state.

11. I was not consulted about Robbie Robinson by Barens. I was not present during either the 4-20-87 or 4-21-87 hearings regarding Robinson. I didn't see these sections until after my sentencing. Mr. Hap Lee did not interview Mr. Robinson until after I was convicted. (He did so as a favor to Dan Dobrin in 1988.) To my knowledge no one associated with the defense interviewed Mr. Robinson in 1987.
12. During late 1983 or early 1984, the core BBC members decided to transfer ownership of their cars to a company we were forming, West Cars of North America. The idea was to give West Cars some assets so that it would be able to get financial statements, import bonds, credit, etc. The May Brothers put in 3 cars (that I recall): a Cadillac "La Salle" (from 1932 or so), a corvette and a 1964 Lincoln Continental. The cars were insured under West Cars' policy. A file of pink slips of these cars, and of other West Cars' vehicles, was kept at the office. That file disappeared at the time the important contracts concerning Microgenesis disappeared - in late August of 1984. The title documents to two cars owned by West Cars that I had allowed Gene Browning to drive were in that file (a 728i BMW and a Subaru "brat"). I later found parts of that file in the Microgenesis trailer on the Baker Mining claim of Shadow Mountain Mining Corp.
13. During Brooke Roberts' testimony during my 1987 trial, I recall seeing the judge holding in his hand a copy of a check I had written in 1984 to Brooke for \$10,000. This occurred during the judges' questioning of Brooke. That copy had been part of the "return" on the 1-8-87 search warrant.
14. I learned of Dan Wilson, the investigator hired by Fidelity USA to develop a criminal case against Ron Levin in May of 1984, while reviewing materials given to me by Fidelity USA pursuant to a subpoena duces tecum I had served on them. (I also recall seeing that Mr. Brodey called Mr. Wilson as a witness in the late 1987 retrial of James Pittman.) The Fidelity USA file contained about a dozen letters and references to Mr. Wilson and his activities. I learned of the substance of his 1992 testimony through reading these documents. I called him as a witness in my San Mateo trial.
15. I first heard of Mr. Jonathan Hayes, Levin's tax attorney, in my 1987 trial. His name was mentioned in a letter that was a People's exhibit. I had informed Mr. Barens that Levin had spoken to me of having criminal liability for tax evasion. I gave Mr. Barens memos referring to Levin's IRS problems. When I went pro per in 1988 in San Mateo, I found some documents related to Levin's tax affairs in the

- conservator's file, which I had subpoenaed. These papers referred to a Mark Pastor. He is a tax attorney. He referred our inquiries to Mr. Jonathan Hayes, who said he took over Levin's file from him in early 1984. Mr. Hayes was interviewed. I called him as a witness in my 1992 trial.
16. I learned of John Martin, the insurance fraud investigator hired to build a case against Levin by the insurance companies, through three sources. Levin had filed a suit against Mr. Martin for defamation. My investigator obtained a copy of that suit for me. Levin's own file on that suit came to me as a result of a subpoenas duces tecum on the Beverly Hills Police Department and the conservator. Levin kept an extensive file on the more than one dozen insurance claims he had made over the years. I saw several references to Mr. Martin in Levin's file. It was obvious from the file that the insurance companies (and the police) disbelieved Levin's claims. Levin had told me that he fenced a lot of the property he would report as stolen. I figured that Mr. Martin, who the file made clear was an insurance company investigator, would be a good person to interview. I called him as a witness in my 1992 trial. I told my attorney Arthur Barends about what I knew of Levin's insurance scams.
17. The memos and letters attached to the supplemental writ which are represented as being prepared by me prior to my conviction and as reflecting matters I disclosed to Mr. Barends are accurately described in the supplemental writ and do in fact reflect information available to Mr. Barends. (See Exhibit 46).
18. There is a report dated 11-29-84 reflecting an interview of Dean Karny by Detective Les Zoeller. On page 64 of that interview Dean Karny is quoted as making the statement (attributed to him in this supplemental writ) that I left the Wilshire Manning on the night of 6-6-84 before he left to go to the movies.
19. I recall telling Barends that Tom May had received nearly all of his original investment (of about \$55,000) at Cantor Fitzgerald Brokerage house back and that Cantor would have the records to prove that. On the basis of these representations (which I made to Barends during Tom's testimony), Barends said he would attempt to lock Tom's testimony on the matter in order to set up the documentary impeachment.
20. Obtaining a copy of the so-called "Eisenberg tape" was relatively easy. I had given the tape back to Jim Pittman after I had played it for Jerry Eisenberg, Steve Taglianetti and several other members of the BBC in 1984. Jim told me in 1985 (and again while I was at San Mateo) that the tape



(and all his other property) had gone with his wife Dana back east. I knew Dana's address because I had shipped her children several dresses from the May Company for Christmas in 1986. I told these facts to Mr. Barens (i.e. the content of the tape; that Dana had the tape and that I had Dana's address) before my trial. I mentioned them again after Eisenberg perjured himself about the contents of the tape while testifying in my trial. Barens said he would get the tape but later confessed he had been too busy to bother. While I was representing myself in San Mateo I arranged for a private investigator based in Virginia to pick up the tape from Dana.

21. Steve Taglianetti appeared on Mr. John Vance's (Deputy attorney general state of California and the prosecutor in my San Mateo court case) witness list but was not called by him to testify.
22. I maintained a computer file on my Macintosh computer while I was on bail that I called the Master Control File. It related to Case A090435, Los Angeles Superior Court, People v. Hunt. I had selected some of the more important witnesses and endeavored to index their testimony at Pittman's 1985 trial because Mr. Barens had not done so and I was highly concerned about his state of preparation. As I recall, I started to do it during jury selection - when I realized that Barens would never find the time to make good his promise to do it himself. I had been involved in high school debate but it is not the same thing. It is preparation for public speaking - not training in effective trial preparation practices. Barens gave me no direction on how to prepare these summaries. I only worked from the Pittman trial transcript and Browning's March 1985 deposition. I reviewed the document recently and I see no references to my preliminary hearing on Jim Pittman's - or police reports re statements of the witnesses or the San Mateo preliminary hearing. The problem was that I started it too late. I never critically reviewed the prior transcripts so as to identify inconsistencies between the witness statements. Barens relied heavily on my analysis of witnesses' testimony and appeared (at least that I saw) to do no independent review of the witnesses' testimony, with the possible exception of Dean Karny.
23. I recently went through the transcript of my 1987 trial. I made an effort to note places in the record where Barens actually quoted prior transcripts of witnesses during cross examination (i.e. as an inconsistent statement, past recollection, or to refresh his recollection). I found six, and only six, such situations, in the whole trial. In five out of six of these situations the material quoted by Barens was referred to and quoted in my master control file:

1. Evan Dicker: RT 8285(19). See pg. 115 of my file.
2. Steve Taglianetti: RT 9775(6). See pg. 188 of my file.
3. Steve Taglianetti: RT 9795(20). See pg. 129 of my file.
4. Dean Karny: RT 11134(6). See pg. 89 of my file.
5. Dean Karny: RT 11205(13). See pg. 67 of my file.

A complete copy of my April 20, 1987 master control file was recently given to the District Attorney's office. The five pages attached to this supplemental writ are authentic copies of that file.

24. I did not find any place in my 1987 transcript where Barens quotes from my preliminary hearing in Beverly Hills. There are circumstances in the transcript where Barens' conduct suggests he did not even have the transcripts with him (See RT 6518; 6476-6477).
25. Other than the six instances of the use of a prior transcript by Barens given in paragraph 22, and the two reference in paragraph 24, I only found two other instances where Barens even referred to prior testimony. One of these (RT 7077 (10-12)) was no more than an intimation that maybe the witness had something different before. The other one (RT 8202) relates to material at page 168 of my master control file which Barens referred to in a bench conference.
26. There may be some other references to prior testimony of witnesses in the voluminous record. I cannot say for sure there is not but I did make a conscientious effort to find them all.
27. In Detective Zoeller's November 29, 1984 interview, Dean Karny estimated it was between 8:30 and 9:00 a.m. on the morning of June 6, 1984 when Joe Hunt when Joe woke him up and showed him Levin's contract. This material is at page 46 of the Beverly Hills Police Department's Report.
28. Judge Dale Hahn made the following rulings on the admissibility of evidence:
  - (a) He allowed Levin's April 10, 1979 letter to be admitted into evidence.
  - (b) He ruled that no prosecution witness would be allowed to offer an opinion that paradox philosophy justified murder.
29. I have reviewed Mr. Chier's bills to the Supreme Court. Chier spent 31.5 hours working on the disqualification of the judge:



12/9/86: 6 hours  
12/16/86: 4.5 hours (writ)  
1/28/87: 7.0 hours (clarification motion)  
1/29/87: 8.0 hours (writ of mandate)  
2/10/87: 6.0 hours (writ to Supreme Court)

He spent 110.2 hours "conferring with Barens concerning opening statement, closing argument and the examination of witnesses after the Court silenced him on January 15, 1987. Mr. Chier billed for a total of 324.8 hours of work outside of Court between January 15, 1987 and April 22, 1987.

30. Dr. Bernard Krause testified to the substance of his letter to me of May 19, 1992 (See Exhibit 15) during May 1992 trial in San Mateo. A transcript of that testimony is presently unavailable.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.  
Executed at Los Angeles County Jail.

Date: 3-28-96

*Denise Gahry for Joseph Hunt*  
Joseph Hunt  
*Joseph Hunt*

\*\* Executed by Denise Gahry at Santa Monica, California on March 28, 1996 on the instruction of Joseph Hunt, Petitioner.

DECLARATION OF LEWIS R. TITUS

1. I am an attorney licensed to practice law in all Courts of this State and this Federal District and was co-counsel to Arthur Barens in the Preliminary Hearing and investigation of People vs. Joseph Hunt A 090 435 in Beverly Hills Municipal Court at the beginning of 1985. I ceased my association with Mr. Barens after the conclusion of the Preliminary Hearing on the Hunt matter.
2. Sometime in early 1985, before the Preliminary, possibly, I accompanied Mr. Barens to visit Mr. Hunt but did not take part in the actual interview. After Mr. Barens returned to the car where I was waiting, he asked me what I thought of the possibility of obtaining persons who would testify that they encountered the alleged victim, Ronald Levin in Rio (de Janeiro). The person or persons would actually be sent to Rio and be actors who would tell a convincing story. As payment for their services, Bobby Roberts, who was the Father of the woman Mr. Hunt was dating, would arrange for them to obtain an important acting job. **(I STATE HERE CLEARLY FOR THE RECORD THAT I NEVER HAD ANY REASON WHATSOEVER TO BELIEVE THAT JOE HUNT OR BOBBY ROBERTS WAS IN ANYWAY INVOLVED IN THIS SCHEME.)** I told Mr. Barens that such a scheme was illegal (Penal Code 138[a]), unethical and simply would not work. Further, in my experienced opinion such machinations backfired and often got innocent defendants convicted. I told him I would have no part of it and shortly thereafter, we parted company.

- 1 -

Exh. 11)

292-347

- 1        3. In the several cases that we worked on together, I had considerable reason to question  
2        Mr. Barens competence in criminal proceedings. I so informed Mr. Hunt and Bobby  
3        Roberts and suggested that another attorney be retained as I felt Mr. Barens had  
4        insufficient talent to handle the case. I did not believe that the defense was so  
5        difficult, rather, I had to guide Mr. Barens through the very basics in the Preliminary  
6        Hearing in this case. Further, I had Mr. Barens abruptly withdraw from our co-  
7        counsel relationship on the day of the Preliminary Hearing in a capital murder case.  
8        At that point I became quite alarmed about Mr. Barens professional competence and  
9        ethics.  
10        4. As a result of serious injuries received in the line of duty with the Los Angeles  
11        County Sheriff's Department I developed a chemical dependence. I have been sober  
12        since February 8, 1986 and am quite proud of that. I understand that Mr. Barens  
13        denigrated me and stated that the information I relayed to Deputy District Attorney  
14        (now Judge) Fred Wapner so somehow suspect because of that. I had been sober  
15        some time, in residence at The Bishop Gooden Home in Pasadena and had no desire  
16        to become involved in the Hunt case or anything else having to do with Mr. Barens,  
17        but could not allow what I believed may be a felony and a fraud being perpetrated on  
18        the Court. I had and have no other motive.  
19        5. I never made any threats whatsoever against Mr. Barens. I have not owned a .22 cal.  
20        Pistol in over 30 years. I am a former Sheriff's Lieutenant. I was always armed with  
21        a Smith & Wesson .38 cal. or a 9mm. Glock.  
22        6. Mr. Hunt gave me a transcript of statements of Mr. Barens representations when he  
23        had no knowledge other than what could have been provided by his brother, who was  
24        25        26        27        28

- 2 -  
Exh. 111  
2E2-348

1 then a resident in early recovery at the Bishop Gooden Home. For almost one and  
2 one-half years after recovering my sobriety, I worked for Judge William Huss'  
3 Defense Firm in Downtown. I did, almost entirely, insurance defense work. Bill  
4 Huss knew about my recovery and was extremely supportive.

5  
6 - 7. I tired in one final conversation with Joe Hunt to make him aware of how dangerous it  
7 was to have someone so poorly versed in criminal law as Arthur Barens was represent  
8 him. In subsequent letters and conversations, I realize that Joe didn't know who to  
9 trust. He was incapable of effectively evaluating his Attorney.

10 8. I am putting this Declaration in my own words and disclosing what I believe that  
11 Court should know about how this event actually transpired.  
12

13  
14 I declare under penalty of perjury according to the Laws of the State of California that the  
15 foregoing is true and correct of my own personal knowledge, except those things alleged  
16 on information and belief, but I believe them to be true.

17 Executed this 1 day of December 1995 at Pasadena, California.

18  
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20 LEWIS R. TITUS

21 Attorney at Law  
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Exh. III  
292-349

DECLARATION OF H.K. LEE

I, H.K. LEE, DECLARE AS FOLLOWS:

1. In 1987 I was a licensed private investigator working out of an office in Tustin, California. I was approached by Mr. Chier to replace a husband-wife investigation team (John and Matie Jensen) on the case of People v. Joe Hunt LASC A090435. According to a report I wrote at the time, I picked up the file from the Jensens on February 11, 1987.
2. The conversations I had with Mr. Chier were to the effect that sightings of Ron Levin were to be given the highest investigatory priority. I recall flying with Mr. Chier to Arizona to interview Carmen and Jesus. We were both excited about the possibility of finding clues to Ron Levin's whereabouts. I do not recall Mr. Barends ever saying anything to me to indicate a belief that Ron Levin was dead or that it was pointless to investigate sightings witnesses. In fact, quite the opposite was the case. I recall that the Arizona sighting witnesses were called in the guilt phase of the trial and Louise Waller was called in the penalty phase.
3. I was never told of a sighting in Texas. I was never told that a Beverly Hills residential funeral home director named Ivan Werner had reported seeing Levin. I was never shown a letter from the prosecutor (Fred Wapner) which listed four sightings of Ron Levin. If I had known of the Texas sighting I would have attempted to interview the parties claiming to have seen Ron Levin on my way back from Kentucky. To the best of my recollection, I acted on my own initiative concerning the Kentucky/Florida Levin lookalike and not under the direction of either of the attorneys. I believe information concerning the existence of that sighting came to me from Mr. Hunt relayed through my ex-wife Lynette.
4. It is inconceivable to me that I would not have contacted and interviewed Mr. Werner in Beverly Hills if I had known about him. I firmly believe that I was wholly unaware of him.
5. The only sightings witnesses that I recall being aware of were Robbie Robinson, Carmen Canchola, Jesus Lopez, Louise Waller and the sighting involving the person in custody that I refer to in paragraph 6.
6. After Mr. Hunt was convicted on 4-22-87, I recall being in Kentucky on an unrelated case. While there, I was told that someone who looked like Ron Levin had been seen in Kentucky. I went to the office of the County Sheriff

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Exh. 110

2ER-345

and viewed photographs of an individual that had been in custody in Kentucky. That person had been extradited due to a warrant to Florida. However, the sheriff had pictures of the individual in question. I looked at the photo and it was clear that it was not Ron Levin.

7. I met with Mr. Hunt at Los Angeles County Jail on several occasions after his conviction. We discussed all the leads then available in the case. I do not recall that the subject of an unresolved Texas or Beverly Hills funeral sighting ever came up.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge, information and belief.

Executed on Nov 1995, 1995 at Imperial County.

H.K. LEE

## DECLARATION OF JOHN C. JENSEN AND OPAL "MARTIE" JENSEN

We, John C. Jensen and Opal "Martie" Jensen, declare as follows:

1. We became involved in the case, People vs. Hunt, on April 19, 1986. We were the "guilt phase" investigators for the defense until our decision to "conflict out" of the case in January of 1987.
2. Between 1966 and 1977, John C. Jensen was employed by the University of California Police Department and was retired with the rank of Lieutenant.
3. John C. Jensen (License PI 007864) has worked as defense investigator since approximately 1977. Opal "Martie" Jensen has worked as a defense investigator since 1979; she became licensed (PI 11393) in approximately 1984. Together, we have handled in excess of fifteen hundred (1500) "Class One Felony" cases and in excess of eighty (80) "Special Circumstance Murder Cases".
4. We have never before, or since, "conflicted out" of a case due to professional concerns arising from the belief that the attorney control, management of time, and supervision of the case was so unprofessional as to make it impossible, in our judgement, to do even minimally acceptable investigation. This was our belief in the matter of People vs. Hunt.
5. With respect to Arthur Barens, we reached the conclusion that he seemed to focus more on the "penalty phase" rather than the "guilt phase" investigation, hence the strategy for development of potentially exculpatory evidence and witnesses was seriously hampered. Despite efforts on our part to make the professional relationship work, we were unable to elicit the necessary logistical assistance and strategic direction we needed from Mr. Barens.
6. In our view, the case was by no means hopeless. The client always maintained that he was innocent in our presence. During one meeting one of the defense attorneys, Richard Cheir, made an inuendo that the client was possibly guilty; however, defense attorney Arthur Barens interrupted and stated that they did not need to know about that and no further conversations of this type occurred. Both the victim, a notorious con-man, and the absence of any compelling physical evidence that he was dead presented some potentially favorable evidentiary dynamics. Our initial efforts suggested that there was a wealth of viable leads.
7. We "conflicted out" of the case when it became difficult to even make contact with the defense attorneys on the case, let alone to obtain from them the strategic factual and documentary support that we needed. The day after we mailed notice of the above to the defense attorneys we received via United

States Mail notice that we were being replaced as the defense investigators in this matter.

We declare under the penalty of perjury under the laws of the state of California that the foregoing is true and correct to the best of my knowledge, recollection, information, and belief.

Executed this 1st day of December, 1995, in Liberty Hill, Texas.



John C. Jensen



Opal "Martie" Jensen

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Exh. 109

2 ER-344



DECLARATION OF CASEY COHEN

I, CASEY COHEN, DECLARE AS FOLLOWS:

1. Between 1978 and 1995 I have specialized in sentencing mitigation and penalty phase preparation. During this period I have also consulted on state and federal capital case Writs of Habeas Corpus. I have worked on or supervised my staff on approximately 110 special circumstance cases. In each case it has been our responsibility to conduct extensive research into the defendant's background. This required interviewing the defendant, family members, friends, neighbors, teachers, counselors, ministers and others to construct a social-psychological portrait of the defendant.
2. My first meeting with Mr. Arthur Barens and Mr. Richard Chier, the attorneys for Mr. Joe Hunt, was on 6-5-86. Richard Chier had invited me to a meeting of the defense team. John and Martie Jensen were at the meeting as well. I had worked with them on the "Bob's Big Boy" and other cases. I knew them to be highly competent investigators.
3. By the third meeting of the defense team I was becoming concerned. There seemed to be no attempt to actually begin penalty phase research. Barens expressed a lot of cynicism and joked constantly about Jewish liberal "true believers". His remarks were to the effect that he found the whole notion of working on a death penalty case some kind of a joke. At the time of this meeting I made a notation in my file about the above. I also noted that I didn't "know whether he is serious...or just expressing some of the humor known as humor of anxiety."
4. I spent 9.5 hours interviewing the defendant in late October 1986. I attended several meetings with Barens and others in September of 1985.
5. By the first or second week of January, I had formed the opinion that Mr. Barens did not know what he was doing. There was no direction coming from him or Mr. Chier. In the case of the lead attorney, Art Barens, I formed the impression that he didn't like his client. I wrote in my notes on the case during that period that Barens "instead of fighting for him and really devoting himself to saving Joe, he seemed more against Joe. Nothing was said about what our strategy would be at the penalty phase. [Barens] said that Joe was possibly a dangerous kid. All negatives." At no time do I recall either attorney stating that Joe had admitted guilt in the charged crimes. I do recall Barens offering an opinion that Joe Hunt was a cold blooded

- 1 -  
Exh. 8107  
242-335

murderer. He also said that he felt Hunt was a liar. I developed an impression that he did not believe Joe's claims of innocence. I do not recall Mr. Chier ever joining Barens in his denunciation of Hunt or Barens' suspicions of Hunt's guilt. Mr. Hunt always maintained his innocence to my recollection in defense team meetings and my other contacts with him. My interview of him focused on psychological and familial history. I do not recall asking him about the events of June 6, 1984. My object was to develop other information relevant to the penalty phase.

On 2-8-87, I finally pinned the attorneys down to a meeting on Sunset Boulevard, where we had brunch. This was a very public place; the tables were close together. It was not conducive to a private meeting about so delicate a subject as Joe Hunt's background. Even at this meeting there was the usual joking. An example of this "joking" was the following:

I asked Barens to project ahead a few months, to assume the jury just came in with a guilty verdict. The judge continued the matter for penalty phase. What was his strategy going to be. He said "I will have a breakdown...I will tell the judge I'm unprepared. I will say I've never had a client guilty under these conditions and I have no experience with what to do next."

6. On 3-2-87, I wrote a letter to Mr. Barens, in pertinent part it said "we haven't spent 20 minutes together really digging into the main question involved; what are you going to do if Joe's found guilty? That may sound farfetched to you but it is the basic question I have to have answered in order to work for you. I can offer suggestions and I can implement your decisions, but I'm not a lawyer; therefore I can't and won't take responsibility for trial strategy...either we deal with this problem now or I'm at the end of my potential effectiveness. Sitting here in the water with no compass, no rudder and no direction, I'm shouting a warning to you that we're drifting toward the rocks."
7. I received no answer to this letter. On 3-11-87 I returned to Mr. Chier \$2875.00 of the \$5000.00 retainer that had been given to me and ended my role as penalty phase investigator on People v. Hunt. This was the only time in my career that I have had to quit a case due to what I perceived to be a grossly inappropriate and irresponsible orientation of the lawyer on the case towards his duties to his client. It was a painful decision for me. I only made this decision after consulting with a lawyer who had a great deal of experience with capital cases.

8. My records on the case include a note in my handwriting which indicates that on one occasion I heard that the judge on the case had said to Barens [in chambers] "that he wants to send Joe Hunt to the gas chamber." Although I no longer recall making this note, it is true that I kept these notes in the ordinary course of my business for the purpose of recording events and conditions which bear on my responsibility to the client.
9. My notes reflect that on 5-28-87 I was contacted by Mr. Chier. He requested my assistance with the penalty phase closing argument. Mr. Chier was writing it. Arthur Barens was to deliver it. I made several suggestions.

I declare under penalty of perjury that the forgoing is true and correct to the best of my information and belief.

Executed on this 24<sup>th</sup> day of November, 1995 at

Los Angeles, CA.

Casey Cohen  
CASEY COHEN

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Exh. 7107  
282-337



DECLARATION OF DONALD R. WAGER

I, Donald R. Wager, declare as follows:

1. I am sixty years old. I have been a member of the State Bar of California continuously since my admission on January 10, 1963. I am a sole practitioner. Ninety-five percent of my practice is devoted to the representation of defendants in criminal cases.

2. I was continuously acquainted with Laurence Rittenband since I was seventeen years old until the time of his death.

3. It was Mr. Rittenband who convinced me to pursue a career in law. He was a mentor of mine. He always had my deepest respect and great admiration for his brilliant mind and strong spirit. However, he was a man quick to form opinions of people that he would not change. When he disliked a person his dislike was complete.

4. Long before proceedings commenced in the case of People v. Hunt, Judge Rittenband had expressed to me the fact that he detested Mr. Richard Chier, who was a friend of mine. He stated that his opinion was formed from what he had been told by friends of Judge Rittenband's who owned an apartment building where Mr. Chier had resided.

5. Judge Rittenband explained that Mr. Chier had been living with a woman, not his wife, with whom Mr. Chier had

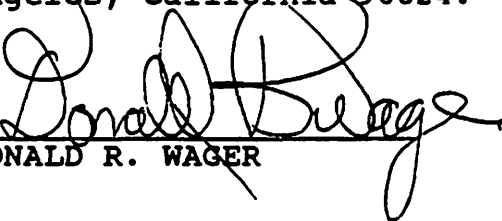
1 engaged in frequent and noisy sexual relations.

2 6. On one occasion during the trial of Joe Hunt I paid  
3 a social visit to Judge Rittenband in his chambers. On that  
4 occasion Judge Rittenband expressed to me that he was  
5 irritated by the presence of Mr. Chier as co-counsel for Mr.  
6 Hunt and that he (Judge Rittenband) had arranged things so  
7 that Mr. Chier would keep his mouth shut during the  
8 proceedings. I made no comment in response to these remarks.

9 7. Shortly thereafter I related Judge Rittenband's  
10 remarks to Mr. Chier.

11 I declare under penalty of perjury under the laws of the  
12 State of California that the foregoing is true and correct,  
13 except as to those matters stated under information and  
14 belief, and as to those matters I believe them to be true.

15 Executed on this 4th day of December, 1996, at Los  
16 Angeles, California 90024.

17   
18 DONALD R. WAGER  
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Exh. #106  
2en-334

**DECLARATION OF RICHARD C. CHIER**

I, Richard C. Chier, declare as follows:

1. I am a lawyer in good standing with the California State Bar. I am rated Av by Martindale Hubbell.

2. Role and Compensation of Co-counsel at Trial.

Until the So-called "clarification" hearing of 1-29-87 in this matter, I did not know why it was that, with rare exceptions, I was not allowed to speak on behalf of my client in Court during the jury selection and other proceedings of January 1987. I had some discussions of this with co-counsel who, as I recall, urged me to take a wait and see attitude and essentially said the Judge was unreasonable in not allowing me to speak in Court, but it wouldn't be a good time for me to push the issue. After some time passed and as the trial approached, I was no longer willing to take this approach. I therefore prepared a Motion for "Clarification" of my role. My co-counsel eventually concurred with the apparent necessity of doing this. He seemed uncomfortable with the idea but did not offer any specific reason why it should not be done when the situation did not change. He certainly did not mention anything about his privately arranged deal with the Judge. My request for clarification was then filed and it led to the hearing of January 29, 1987.

Although I was aware of the fact of Baren's own petition for appointment, I never knew what it said or what actually happened to it until the "clarification" hearing. His petition was essentially a copy of my own application to be appointed. To this day I am unfamiliar with any specific representations or allegations made by him in his application.

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Exh 105

282-328

It was at the January 29, 1987 "clarification" hearing that I first learned from Judge Rittenband, himself, that my co-counsel had previously met with the Judge and obtained a court appointment conditioned on my compensation being reduced to \$35.00 an hour and on my not being allowed to speak in Court. I had no inkling of any of these facts from any source prior to this time. I never gave Barens the authority to negotiate a reduction in my pay. In fact, through previous discussions I had with him, Mr. Barens was well aware that I would not find \$35.00 an hour to be an acceptable rate of compensation. I expected, and we had planned, that I would handle all the law and motion work and some of the principle witnesses. Mr. Barens acknowledged these arrangements on the record on January 29, 1987.

Despite the intervening years I recall vividly the events of that morning in the cramped and dusty chambers of Judge Rittenband. I recall exchanging looks of astonishment with the client, Joe Hunt. I recall being unable to make eye contact with Mr. Barens, who sat rigidly, with his attention fixed on the Judge. I recall watching the Judge pointing his arthritic index finger at Barens, force a series of admissions from Mr. Barens amounting to a full exegesis of his complicity in the "arrangement" concerning my further duties and compensation.

The hearing broke up just before lunch. Barens and I reached the hallway outside the Court at about the same time. There was a mob of reporters waiting for us. They already knew the outcome of the hearing, but not the reason. Barens turned aside their questions and headed down the hall, moving in the direction of the elevator that lifted people up to the third floor cafeteria. The press turned to me for an explanation of why I would no longer have a speaking role. I suggested, in my ire, that we go ask Arthur Barens and led a convoy of reporters off to the cafeteria in search of Arthur.

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Exh. 105

292-329



Once there, still leading the pack of reporters. I approached Arthur. I said, "They want to know why Arthur: why did you agree to it? Why?" Arthur paused momentarily, then affected his typical sangfroid and dismissed them without offering an explanation. Sometime later I asked him again, why? Arthur, hesitated then said in his matter of fact baritone voice. "I can't help myself when it comes to money."

My relationship with Barens deteriorated after the events of that day. Though I felt less inclined to spend time with him, acting in the interest of my client I nonetheless made every effort to coach and prepare Mr. Barens for his greatly expanded duties. I was frustrated in this effort by Barens' schedule. I often suggested we meet after hours to work on his case. Mr. Barens, however, had many evening commitments. He had regularly scheduled meetings with a group two or three times a week and a busy law practice. The only meetings I recall having with Mr. Barens after the January 29, 1987 "clarification" hearing were ones that were held in the client's presence and in response to the demands the client had on Mr. Barens.

3. I don't believe I was ever shown the letter dated May 4, 1987 (attached) to Arthur Barens from Fred Wapner, in which the DDA relates that he had been contacted by people in Kentucky, Florida and California who claim to have seen Ron Levin. The only sighting witness I recall hearing about at that stage was the "Kentucky" sighting, which involved someone in custody who had a resemblance to Ron Levin. As the record reflects I was not in Court on May 6, 1987 when the sightings in Florida, California and Kentucky were referred to by Barens on the record. As Mr. Barens noted at the time, I was in the hospital, my wife having delivered a child on May 4, 1987. I arranged to stay at St. John's Hospital between May 2 and May 8th, 1987. I hired a room for that purpose for five days. I was

- 3 -

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282-330

there continuously during this period. If I had been told of these Levin sightings I would have looked into them. I am quite certain I was never told of a sighting by a funeral home director named Ivan Werner who resided in Beverly Hills. It is inconceivable to me that I would not have investigated that sighting and interviewed Mr. Werner had I known. It was the defense position that Levin was still alive and that Mr. Hunt had a firm alibi for the critical period of time on June 6, 1984. Even during the penalty phase we did not concede that Mr. Hunt was guilty. Instead we presented lingering doubt evidence i.e., Louise Waller. (Ms. Waller claimed to have seen Ron Levin in early 1987 at the Deauville Building in Los Angeles.) An additional sighting witness would have fit with our strategy for the penalty phase. Furthermore, a strong sighting might have given us the required quantum of new evidence to justify a motion on that basis for a new trial.

4. If it had not been for the urgent entreaties of the client, I would have withdrawn from the case on January 29, 1987. I felt the covert behavior of my co-counsel and the Judge's outrageous and unjustified attacks on me were untenable. There were a number of occasions when Barens made a record only as a result of my badgering.

I remember wanting to ask the Court for a stay of the deliberations while the Robinson matter was investigated. I remember being concerned about the officious intermeddling of the Court which seemed to be an attempt to limit the time and circumstances in which we would have access to Mr. Robinson. After all, the jury was already deliberating. I felt my client's life was slipping through my fingers. It was with this sense of urgency that I asserted myself when the judge told me to leave the chambers. I said that he would have "to arrest me" and that I had a "right to be there in this matter concerning my client's life." The judge ordered the bailiff to escort me out of his chambers.

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Exh. 105

292-331

I was troubled when I learned later that Barens had waived the right to interview or call Mr. Robinson without ever personally interviewing Mr. Robinson. I had no part of that decision. Although it was clear that Mr. Wapner felt Mr. Robinson was lying, I don't recall hearing anything in his report which seemed inherently unbelievable to me. At a minimum, if I had not been barred from proceedings on the matter, I would have seen that the defense interviewed Mr. Robinson personally and that we did our own investigation of his client.

I recall being concerned that the Court would render the issue moot by insisting upon the use of procedures which were intended to run the clock out.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed in Los Angeles County, on November 15, 1995.



RICHARD C. CHIER

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E+L. 105

282-332

Declaration

Richard Chier, Esq.

I, Richard Chier, declare as follows:

1. I was Co-Counsel to Arthur H. Barends, Esq. in Case A090435, People V. Joe Hunt. I was appointed to the case effective March 1, 1986, by Judge Thomas of the West District of the Los Angeles Superior Court. The appointment was made pursuant to P.C. Section 987(D) and was for all purposes. Judge Thomas reviewed the billings I submitted to him between March of 1986 and October of 1986. Thereafter, Judge Lawrence Rittenband arrogated to himself those duties. I spoke to Judge Thomas about the fees I wasn't receiving and he apologized to me and said it was taken out of his hands. I understood that to mean that Judge Rittenband had bullied Judge Thomas into relinquishing the fee oversight.

2. Judge Rittenband presided over Joe Hunt's Trial.

3. Mr. Barends, Mr. Hunt, and I first appeared together in Judge Rittenband's Court (District West-C) on September 27, 1985. We had already used our peremptory challenge under C.C.P. 170.6 against Judge Light. The peremptory was challenged based upon the pace cases are tried in his court and for no other reason. Judge Rittenband and I disliked each other and I told Mr. Barends I thought it would be a mistake to remain in Judge Rittenband's Court. In addition the Judge had presided over the trial of Joe Hunt's Co-defendant, James Pittman, and the Judge's behavior in that case suggested to me that the Judge supported and believed very strongly the prosecution's theory as to the fate of Ron Levin. Mr. Barends made inquiries of the Court on this issue and received self-serving assurances that the court's rancor in the past trial was against counsel for Pittman, one Douglas Young, and not toward the defendants. Mr. Barends then told the court that, though Mr. Hunt and I felt otherwise, he would not challenge the court for cause.

4. My first experience with Judge Rittenband was in a divorce case that was assigned to me while I was working at a firm called Cantillon & Cantillon. It was shortly after I graduated law school. The name of the case escapes me, although it could be dredged up if it proves to be of importance. The Judge had called counsel for both parties into chambers for an "off the record" conference with a view to resolving the case. Of course

there was nothing improper with that; in fact, as we all know such meetings, together with guidance from the court, can be quite helpful. However, I felt Judge Rittenband was being very heavy handed in his treatment of my client and her claims. The settlement he was trying to broker did not, in my view, do justice to her claims and was considerably less than her due. I was also concerned when he began suggesting what he might rule to, at least seemingly, disposing of legal issues in the case.

At that point, I recall being disturbed at the Judge's abandonment of the appearance of impartiality. I spoke up and said that I believed that we needed to be on the record. The Judge reacted strongly to my unwillingness to let him resolve my client's claims as he had proposed. I recall him saying to me "I will tell you what to do. Would you be quiet and do as I say!", or words very close to that effect and phraseology. I responded in some heat "I will not and I want anything further on the record". The Judge proceeded to lambaste me. Later that day James P. Cantillon, one of the partners in the firm that employed me, received a call from the Judge. Mr. Cantillon told me that the Judge had asked, "who is that little punk?" and made other statements very critical of me. Mr. Cantillon took my side in the matter when I explained what had occurred.

Thereafter I did my best to avoid Rittenband's Courtroom, a practice in which I was hardly alone. Many defense attorneys I know have told me they did their best to do the same.

5. My second experience with the Judge was even more disturbing, as it involved my personal life and an intrusion by the Judge into my private affairs.

I was living at 1271 South Beverly Glen, in Los Angeles, CA 90024. The building was owned by Emmanuel and Florence Wander. Their daughter Carol and her husband Arnold ~~was~~ a very, very close friends of the Judge. I signed a lease on a two bedroom unit and invested thousands of dollars to improve it to suit my needs and taste. I met a girl whom I began to date. I was single, she also, and our relationship developed. Eventually she moved in with me. The landlord objected to her living in my unit. I pointed out that the lease contained no clauses prohibiting her living with me and that it was a two bedroom suite. They asked me to evict her or vacate the unit. I refused. Their position was singularly weak. Then one day, I received a call from Judge Rittenband, who said he was calling on behalf of the Wanders. He advised me to vacate, saying it was in my best interest. He upbraided me for the distress I was supposedly causing the

Wanders. I did not see how it was any of his business and did not see myself as the party making trouble. It seemed to me that I had been a quiet and responsible tenant. Also, the improvements I had made to the apartment would ultimately benefit the owners. I told the Judge that I felt he was meddling, first diplomatically, and then I put it more clearly. The conversation ended with him advising me again to vacate the unit.

A few days later he called back. The second call proceeded much as the first until, near the end, the Judge said "You know I am the Senior Judge in the West-District, don't you?" By now I was thoroughly shocked by the highhanded abuse I had seen by this Judge of his position, first with the Cantillon incident and now here. I responded: "No I didn't know that but what has that to do with this call?" The Judge said; "in my line of work I meet Judges, Lawyers and potential clients every day who ask me about local practitioners. Your reputation in this business is very important. I think it would be in your best interest to leave." I answered abruptly that I would not and that I considered the matter none of his business. These phone calls were made to me in 1983. The last one felt to me like a threat, though it was phased in a sophisticated way.

6. Donald Wager, Esq., a prominent lawyer had offices in the same suite as I. Mr. Wager also told me that the Judge had vowed in his presence to see to three things before he retired: that Roman Polanski was behind bars, and that Joe Hunt and Jim Pittman were convicted. Mr. Wager related these comments to me saying that the Judge had made them after Joe Hunt's case was assigned to him but before Mr. Hunt's trial commenced. There remarks were made to me in confidence and I did not reveal them out of respect for Mr. Wager's mother who was close to Rittenband.

7. I have never had trouble with any other Judge in my 24 year career as a lawyer anywhere close to the nature or magnitude that I had with Judge Rittenband. I have never so dreaded any other Judge nor have I ever been personally vilified or abused on and off the record by any other Judge to the best of my knowledge or recollection. I have never been found in contempt, either by Judge Rettenband or any other Judge. Judge Rittenband ordered me to "sit down", "shut up" and ejected me from the court room on occasion. I have never had a similar experience. I was a criminal law specialist with an A rating with Martindale Hubbell which I have held for about 10 years. I have been commended in court and on the record on numerous occasions for my professionalism and style of advocacy. In contrast Judge Rittenband attacked me continually during the Hunt trial, often personally, and with an obvious intent to demean me publicly. I never once responded by making any personal remarks against him. I submit that the provocation to do so was enormous. At all times I tried to focus on the impact to my client's cause.

When the Judge began to abuse me, way out of proportion to any real or imagined pretext that my courtroom conduct would seem to allow, I became convinced that he was just playing out a personal vendetta against me. I could think of no other explanation. Though Judge Rittenband was known for "blasting" lawyers he disapproved of, no one I discussed the matter with could recall any instance where the Judge had become quite so volatile and relentless. Day after day I was astounded by the savage attacks:

"Mr. Barends is 10 times the kind of a lawyer you are" (RT 10606)  
"This is no reflection on anything I have done with Junior Miss" (RT 12498)  
"All right, go in the bathroom, that is appropriate for him(Chier)" (RT13169)  
The Judge called me "sleazy" and "unscrupulous" (RT14256,14308)  
He accused me of making late night "hang-up" calls to his home.  
(RT13275,13284)  
Once he told me to "Shove it" (RT15215)  
"I think he is a discredit to the profession" (RT13282)  
"This lawyer, so-called....." (RT13311)  
"I am talking about that alleged lawyer" (RT 13138) etc, etc,etc.

When I learned that my co-counsel had met privately with the Judge in January and that the Judge had used financial leverage on Barends to secure his acquiescence to the Court's desire to silence me, I was surprised and disappointed. I believed it to be Rittenband's revenge on me for standing up to him whenever before him and defying his "suggestions" in the landlord/tenant dispute I was in. That is my belief to this day. Although in retrospect I probably should have withdrawn as counsel, I remained even under those conditions out of concern for Mr. Hunt who asked me to stay on.

Executed in Los Angeles on 7/28/, 1995.

I declare that the forgoing is true and correct of my own knowledge and accept as to those matters stated on information and belief and as to them, that I believe them to be true.



Richard C. Chier, Esquire *rec*



SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WE D

HON. JAMES A. ALBRACHT, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA )

PLAINTIFF, )

VS )

A090435

JAMES PITTMAN, )

DEFENDANT. )

REPORTER'S DAILY TRANSCRIPT

WEDNESDAY, AUGUST 5, 1987

VOLUME 6, PAGES 788-955

APPEARANCES:

FOR THE PEOPLE:

IRA REINER, DISTRICT ATTORNEY  
BY: FRED WAPNER, DEPUTY  
1725 MAIN STREET  
SANTA MONICA, CA 90401

FOR THE DEFENDANT:

JEFFREY BRODEY  
9777 WILSHIRE BLVD, STE 900  
BEVERLY HILLS, CA 90212-1901

AND

BARRY GREENHALGH  
8484 WILSHIRE BLVD, STE 220  
BEVERLY HILLS, CA 90211

APRIL SUNDERLAND, CSR 2824  
LORI ANASTASIOU, CSR 4345  
OFFICIAL REPORTERS

COPY

-1-  
Exh 21-B

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DAVID OSTROVE

CALLED AS A WITNESS FOR THE PEOPLE, WAS SWORN AND  
TESTIFIED AS FOLLOWS:

THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE  
TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
NOTHING BUT THE TRUTH, SO HELP YOU GOD.

THE WITNESS: I DO.

THE CLERK: PLEASE BE SEATED.

WOULD YOU PLEASE STATE AND SPELL YOUR FULL  
NAME FOR THE RECORD?

THE WITNESS: DAVID OSTROVE.

DIRECT EXAMINATION

BY MR. WAPNER:

Q. MR. OSTROVE, WHAT IS YOUR OCCUPATION?

A. AN ATTORNEY AT LAW AND A CERTIFIED PUBLIC  
ACCOUNTANT.

Q. ARE YOU LICENSED TO PRACTICE LAW IN THE  
STATE OF CALIFORNIA?

A. YES.

Q. DO YOU PRACTICE LAW IN THE STATE OF  
CALIFORNIA?

A. YES, I DO.

Q. WHERE ARE YOUR OFFICES LOCATED?

A. 6380 WILSHIRE BOULEVARD, LOS ANGELES 90048.

Q. AND DO YOU ALSO TEACH LAW?

A. YES, SIR.

-2-  
Exh 21-B

## CROSS EXAMINATION

1  
2  
3 BY MR. BRODEY:

4 Q. MR. OSTROVE, FORGIVE MY IGNORANCE, BUT WHEN  
5 YOU DO A CONSERVATORSHIP, DO YOU GATHER THE ASSETS AND  
6 THE DEBTS OF THE PERSON WHO IS THE SUBJECT OF THE  
7 CONSERVATORSHIP?

8 A. YES.

9 Q. AND IN YOUR SEARCH YOU FIND THE CLAIMS THAT  
10 THE SUBJECT OF THE CONSERVATORSHIP MADE AGAINST OTHER  
11 PEOPLE, AND ALSO FIND OUT CLAIMS THAT HAVE BEEN MADE  
12 AGAINST THE SUBJECT; ISN'T THAT CORRECT?

13 A. YES.

14 BUT LET ME SAY THIS, COUNSEL. IT'S REALLY  
15 NOT MY DUTY. MY DUTY IS TO PRESERVE ASSETS, NOT MY DUTY  
16 TO PRESERVE THE CLAIM OF CREDITORS.

17 I ONLY GATHER DEBTS INsofar AS CREDITORS  
18 FILE CLAIMS.

19 Q. CAN YOU TELL US HOW MANY CLAIMS WERE FILED  
20 AGAINST THIS CONSERVATORSHIP?

21 A. YES.

22 Q. HOW MANY?

23 A. I CAN'T TELL YOU AN ACTUAL NUMBER, BUT THERE  
24 IS A CLAIM -- OKAY, YOU WANT TO KNOW THE NUMBER.

25 I CAN'T TELL YOU THE NUMBER, LIKE FIVE OR  
26 TEN. I CAN'T TELL YOU THAT.

27 Q. CAN YOU REMEMBER ANY OF THE MAJOR CLAIMS?

28 A. YES.

1 Q. CAN YOU LIST THOSE FOR US?

2 A. THE INTERNAL REVENUE SERVICE FILED A CLAIM  
3 FOR APPROXIMATELY, THE BASE CLAIM WAS MAYBE 35 OR  
4 \$40,000, BUT THE ACTUAL CLAIM IN TODAY'S DOLLARS WOULD BE  
5 TWICE THAT AMOUNT WITH ACCRUED INTEREST AND PENALTIES.

6 THE FRANCHISE TAX BOARD FILED A SIZEABLE  
7 CLAIM.

8 I BELIEVE THAT CLAIM WAS MORE IN THE NATURE  
9 OF AROUND \$25,000.

10 EXACTLY WHAT IT WOULD BE WITH ACCUMULATED  
11 INTEREST AND PENALTIES IN TERMS OF DOLLARS, I CANNOT TELL  
12 YOU THAT.

13 THEN THERE WAS A CLAIM BY PROGRESSIVE  
14 SAVINGS AND LOAN, BOTH A CLAIM AND A LAWSUIT FOR  
15 \$150,000.

16 THERE WAS A LAWSUIT BY A BROKERAGE HOUSE, I  
17 DON'T REMEMBER THE NAME OF IT OFFHAND, FOR AROUND \$8,000.

18 THOSE ARE THE PRIMARY LARGE ONES.

19 THEN I HAVE HAD OTHER CLAIMS CALLED TO MY  
20 KNOWLEDGE IN THE FORMS OF LETTERS AND TELEPHONE CALLS.

21 I BELIEVE THERE WAS ONLY ONE OTHER FORMAL  
22 CLAIM ACTUALLY FILED WITH THE COURT, AND THAT WAS BY A  
23 CREDITOR WHO HAD ALLEGEDLY SOLD SOMETHING TO MR. LEVIN  
24 FOR WHICH HE WAS NOT PAID.

25 Q. WAS THAT BOB GARDEN WHO OWNED A CAMERA  
26 STORE?

27 A. THAT'S POSSIBLE. I'M GUESSING. I'M NOT  
28 POSITIVE THAT HE IS THE ONE.

-4-  
Exh 21-B

955

1 A SIR, YOUR QUESTION, DO I RECALL GIVING THAT  
2 ANSWER?

3 Q YES.

4 A MY ANSWER IS NO, I DO NOT RECALL GIVING  
5 THAT ANSWER.

6 Q AND IF YOU GAVE THAT ANSWER BACK ON MAY  
7 20TH 1985, THAT WOULD HAVE BEEN A CORRECT ANSWER ON THAT  
8 DATE, WOULD IT NOT?

9 A IT WOULD HAVE BEEN A CORRECT ANSWER TO THE  
10 BEST OF MY KNOWLEDGE AND BELIEF ON THAT DATE, YES, SIR.

11 Q ALL RIGHT.

12 AND THEN CAN YOU EVALUATE THE TOTAL AMOUNT  
13 IN TERMS OF DOLLARS OF THE CLAIMS MADE AGAINST MR.  
14 LEVIN?

15 A I CAN APPROXIMATE IT.

16 Q AND WHAT IS THAT APPROXIMATION?

17 A WELL, PROGRESSIVE SAVINGS 150,000.

18 AND ADD TO THAT THE INTERNAL REVENUE  
19 SERVICE 80,000 WOULD MAKE 230,000.

20 AND FIGURE ANOTHER 50,000 FOR THE STATE  
21 FRANCHISE TAX BOARD WOULD MAKE 280,000.

22 AND THEN THE BROKERAGE ONES, FIGURE ANOTHER  
23 8,000. 288,000.

24 AND GARDEN PHOTO I THINK WAS FOR 40,000  
25 SO AROUND 338,000 FOR THOSE.

26 AND THOSE WERE THE MAJOR CLAIMS.

27 Q AND YOU DON'T HAVE AN IDEA WHAT THE AMOUNT  
28 OF THE MINOR CLAIMS WOULD BE THEN.

-5-  
Exh 21-B

1 THE WITNESS: I DO.

2  
3 [REDACTED]  
4 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
5 AS FOLLOWS:

6 THE CLERK: IF YOU WOULD PLEASE BE SEATED THERE AT THE  
7 WITNESS STAND AND STATE YOUR NAME AND SPELL YOUR LAST NAME  
8 FOR THE RECORD, PLEASE.

9 THE WITNESS: YES. DAVID OSTROVE, O-S-T-R-O-V-E.

10 THE CLERK: THANK YOU.

11  
12 DIRECT EXAMINATION

13 BY MR. WAPNER:

14 Q MR. OSTROVE, WHAT IS YOUR OCCUPATION?

15 A I AM AN ATTORNEY AT LAW AND A CERTIFIED PUBLIC  
16 ACCOUNTANT.

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-6-  
Exh 21-B

1 Q ARE YOU CONSERVATOR OF THE ESTATE OF RON LEVIN?

2 A YES, I AM.

3 Q AND HOW DID YOU -- WELL, FIRST OF ALL, TELL US  
4 WHAT A CONSERVATOR IS?

5 A A CONSERVATOR IS A PERSON APPOINTED BY THE COURT  
6 TO CONSERVE THE ESTATE OF A PERSON WHO IS EITHER UNABLE TO  
7 CARE FOR HIS ESTATE OR MISSING. IN THIS PARTICULAR CASE RONALD  
8 GEORGE LEVIN, A MISSING PERSON.

9 Q AND HOW DID YOU OBTAIN THAT POSITION IN THIS  
10 VIS A VIS MR. LEVIN?

11 A I WAS APPOINTED BY THE SUPERIOR COURT OF THE  
12 STATE OF CALIFORNIA.

13 Q AND WAS THAT ON THE RECOMMENDATION OF MEMBERS OF  
14 MR. LEVIN'S FAMILY?

15 A YES. I WAS NOMINATED BY RON LEVIN'S FATHER AND  
16 BROTHER.

17 Q AND IN YOUR POSITION AS CONSERVATOR FOR MR. LEVIN,  
18 PART OF YOUR DUTIES WAS TO MARSHAL ALL OF HIS ASSETS?

19 A YES, SIR.

20 Q AND IN THAT REGARD DID YOU TALK TO MR. LEVIN'S  
21 FATHER, MR. MARTIN LEVIN?

22 A I DID.

23 Q AND DID YOU GET CERTAIN DOCUMENTS FROM HIM?

24 A YES. I MET MR. LEVIN AT RON LEVIN'S APARTMENT AND  
25 GATHERED MANY DOCUMENTS.

26 Q AND AFTER TALKING WITH MR. LEVIN AND GATHERING  
27 THE DOCUMENTS, WHAT DID YOU DO IN ORDER TO ATTEMPT TO MARSHAL  
28 THE ASSETS OF MR. LEVIN'S ESTATE?

-7-  
Exh 21-B



C-8103

-1-

I, Keith Rohman, declare as follows:

I am a licensed private investigator working on behalf of Public Interest Investigations. My business address is 2115 Main St., Santa Monica, California 90405.

In approximately April, 1986, I was retained by attorney Jeff Brodey to perform defense investigation on behalf of his client, James Pittman. Pittman was then facing trial on charges of robbery and murder, the alleged victim being Ron Levin, in L.A.S.C. case No. A090435. At that time, Joe Hunt was also facing trial on the same charges. I carried out investigation of this case from April, 1986 to October, 1987. In the course of my investigation, I interviewed over 150 prospective witnesses and other individuals. I also reviewed 29 court files of lawsuits in which Levin was a party.

During the course of my investigation, I worked closely with Joe Hunt's defense cocounsel, Richard Chier.

On at least six occasions prior to or during Hunt's trial in this matter, I met with Jeff Brodey and Hunt's attorney, Richard Chier, to discuss the findings of my investigations, my plans for further investigation, strategy and other matters of importance to both defendants. These meetings would generally last two hours <sup>or ~~AP~~</sup> of more. Four of these meetings took place between October 26, 1986 and November 1, 1986. My notes do not show that Hunt's cocounsel Arthur Barens attended any of these meetings, nor do I recall that Mr. Barens attended any of these meetings. I never met with Mr. Barens about the case, except for a few informal discussions at the Santa Monica courthouse which took place while I was observing Hunt's trial.

-2-

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on this 18<sup>n</sup> day of April, 1990, at Santa Monica, California.

  
KEITH ROHMAN

- 1 -

I, John Duran, declare as follows:

I am a barber and hair stylist. Prior to Ron Levin's disappearance in June, 1984, I cut and styled his hair regularly at a hair salon which operated out of the lobby of the Beverly Wilshire Hotel. Levin would usually come in for a haircut around twice a month. Levin stopped coming in for haircuts in approximately May or June, 1984. I have known Ron Levin since he was a teenager. 12 Yr JD

For several years before his disappearance, Levin had grey hair and a grey beard. The last time Levin came in for a haircut, he asked me about having his hair and beard dyed brown. Levin asked me if I thought he would look better this way. Levin also mentioned that he had been thinking of shaving his beard off.

Throughout the time I cut Ron Levin's hair, I found him to be both meticulous and vain about his personal appearance. Levin was very proud of his distinguished-looking grey hair and grey beard. He was quite particular about how I would cut his hair. In the past, I had agreed with him several times that his grey hair and grey beard were his best physical features. For these reasons, I was quite surprised by Levin's statements that he was considering changing his hair color and shaving off his beard. At the time, I tried to talk him out of these notions. However, I did say that hair dyeing was usually best done in one's shower at home. I also said I would give him instructions on how to dye his hair at home if he wished to do this. I did not give him such instructions at the time I was cutting his hair.

To my surprise, Ron Levin telephoned me a week or so later

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and asked for detailed instructions on dyeing his hair brown. I recommended that he buy two types of Clairol hair dyes to get the proper mix of colors. I also told him what other materials he would need and explained the procedure for dyeing his hair at home. This was the last time that I spoke to or saw Levin.

During the first half of 1987, I was aware that Joe Hunt was being tried for the murder of Ron Levin. However, I did not voluntarily come forward with the above information for several reasons. I knew that the case was a high-publicity, controversial matter and I was reluctant to become involved in it. I was not sure just how significant the above information would be. Perhaps most important, I felt an obligation not to divulge statements that Levin had made in confidence as my long-time client. However, I am now willing to testify, if necessary, to see that justice is done.

At some time more than three months after Hunt's trial ended, I related the above incident concerning Levin's desire to dye his hair to a customer of mine, Michael Trope, whose girlfriend knew Hunt's girlfriend Brooke Roberts. After this, I was contacted by Hunt's appellate attorney, Daniel Dobrin.

I had frequent opportunities to observe Mr. Levin both when he was waiting to have his hair cut and during his haircuts. I observed him to be a shy, introverted person. Although Levin was somewhat communicative toward me, he was notably uncommunicative with others in the hair salon. Based on my observations and conversations with Ron Levin, he appeared to be a lonely man with very few friends.

Levin spoke to me frequently of traveling to South

-3-

America, South Africa and other exotic places. He sometimes talked of moving to South Africa.

I have not received, solicited, or been offered any financial consideration or other inducements for the above information.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on this 15 day of May, 1990, at North Hollywood, California.

  
JOHN DURAN

# **BEVERLY HILLS POLICE DEPARTMENT** **SUPPLEMENTAL REPORT**

1 CASE NUMBER <b>8405436</b>
2 DATE/TIME REPORTED <b>8-22-84/ 0600 HRS.</b>

NCIC/CII CA0191000

3. <input checked="" type="checkbox"/> FOLLOW-UP REPORT		<input type="checkbox"/> CASE CLEARANCE		<input type="checkbox"/> REPORT RECLASSIFICATION	
<input type="checkbox"/> CONTINUATION REPORT		<input type="checkbox"/> CASE CLOSURE		<input type="checkbox"/> REPORT UNFOUNDED	
4. RE: <input type="checkbox"/> CRIME REPORT		<input type="checkbox"/> INCIDENT REPORT		<input type="checkbox"/> WORTHLESS DOCUMENT	
<input type="checkbox"/> ARREST REPORT		<input type="checkbox"/> FOLLOW-UP REPORT		<input checked="" type="checkbox"/> OTHER <b>MISSING PERSON</b>	
5 CODE SECTION <b>MISSING PERSON</b>				6 CRIME	
7 CLASSIFICATION		8. CODE <b>V</b>	9 REFERENCE NAME (LAST, FIRST, MIDDLE) <b>LEVIN, RONALD GEORGE</b>		10 CHECK IF ADDITIONAL <input checked="" type="checkbox"/> NAMES LISTED

## 11 NARRATIVE

IN THE INVESTIGATION OF THE INDICATED MISSING PERSON, LEVIN, IT WAS DETERMINED THAT THE LAST PERSONS TO SPEAK WITH THE MISSING PERSON WERE WITNESS-1, FURSTMAN, AND WITNESS-2, HOLMES. THIS INFORMATION WAS OBTAINED FROM THE VICT'S FAMILY.

ON 8-17-84, AT 1600 HRS., I/O CONTACTED W-1, FURSTMAN, BY TELEPHONE. I/O EXPLAINED THE REASON FOR THE PHONE CALL AND ASKED THE WIT. WHAT TIME HE HAD SPOKEN TO THE VICT. WIT-1 STATED THAT THE VICT. HAD AN APPOINTMENT WITH HIM IN HIS OFFICE AT 1500 HRS., ON 6-6-84. THE VICT. FAILED TO SHOW UP AND CALLED THE WIT. AT 1630 HRS. ON 6-6-84. THE VICT. TOLD THE WIT. THAT SOMETHING CAME UP AND THAT HE WOULD MAKE ANOTHER APPOINTMENT IN THE FUTURE. THE WIT. FURTHER STATED THAT HE WAS AWARE THAT THE VICT. WAS GOING TO NEW YORK ON THE FOLLOWING DAY; 6-7-84. THE VICT. MADE NO OTHER STATEMENTS TO INDICATE ANYTHING WAS WRONG.

ON 8-20-84, 1315 HRS., I/O CONTACTED WITNESS-2, HOLMES, BY TELEPHONE. I/O EXPLAINED THE REASON FOR THE PHONE CALL AND ASKED THE WIT. WHAT TIME HE HAD SPOKEN TO THE VICT. WITNESS-2 STATED THAT ON 6-6-84 IN THE MORNING, HE HAD RECEIVED PHONE MESSAGES, FROM HIS SECRETARY, THAT THE VICT. HAD CALLED AND URGENTLY WANTED HIM TO CALL HIM BACK. AT APPROX. 1700 HRS. ON 6-6-84, THE WIT. WENT OVER TO THE VICT'S HOUSE. AT THE HOUSE, THE VICT. MADE NO INDICATION WHY HE URGENTLY WANTED TO SPEAK TO HIM. THE WIT. STATED THAT BECAUSE OF WORK THAT HE WAS DOING FOR THE VICT., HE HAD A HOUSE KEY TO THE VICT'S HOUSE.

NARRATIVE CONT'D.

ON 6-6-84, WHEN HE WAS VISITING THE VICT., THE VICT. STATED THAT HIS MAID

12 RECORDING OFFICER <b>L. ZOELLER</b>	13 ID # <b>395</b>	14 DIV <b>02</b>	15 REPORTING OFFICER'S (Name ID#) <b>L. ZOELLER #395</b>	ROUTED BY <b>LR</b>	CARD BY
TYPED BY <b>LHZ</b>	DATE <b>8-22-84</b>	TIME <b>0600</b>	SPECIAL INSTRUCTIONS TO RECORDS		

## COPIES TO:

☒ CHIEF  
☒ DETECTIVES  
☐ CRIME PREVENTION  
☐ CII  
☐ IDENTIFICATION  
☐ OUTSIDE AGENCY  
☐ OTHER

PAGE 1 OF 3

## RECEIVED INTO RECORDS

22 AUG 1984 10 23

16 SUPERVISOR APPROVING

SGT. M. CORRELL

17 DATE

22 1984 AUG

18 TIME

08 21

EXHIBIT 3-C



1 CASE NUMBER
8405436
2 DATE-TIME REPORTED
8-22-84/ 0600 HRS.

3. <input checked="" type="checkbox"/> FOLLOW-UP REPORT		<input type="checkbox"/> CASE CLEARANCE		<input type="checkbox"/> REPORT RECLASSIFICATION	
<input type="checkbox"/> CONTINUATION REPORT		<input type="checkbox"/> CASE CLOSURE		<input type="checkbox"/> REPORT UNFOUNDED <input type="checkbox"/> OTHER _____	
4. RE: <input type="checkbox"/> CRIME REPORT		<input type="checkbox"/> INCIDENT REPORT		<input type="checkbox"/> WORTHLESS DOCUMENT	
<input type="checkbox"/> ARREST REPORT		<input type="checkbox"/> FOLLOW-UP REPORT		<input checked="" type="checkbox"/> OTHER <u>MISSING PERSON</u>	
5 CODE SECTION			6 CRIME		
MISSING PERSON					
7 CLASSIFICATION		8. CODE	9 REFERENCE NAME (LAST, FIRST, MIDDLE)		10. CHECK IF ADDITIONAL <input checked="" type="checkbox"/> NAMES LISTED
		V	LEVIN, RONALD GEORGE		

11 NARRATIVE

HAD RETURNED A RENTAL CAR AND LEFT HIS (THE VICT'S) HOUSE KEYS AT THE CAR RENTAL AGENCY.

THE VICT. ASKED THE WIT. FOR HIS KEY TO THE VICT'S HOUSE. THE WIT. GAVE THE VICT. HIS HOUSE KEY. THE WIT. STATED THAT THE VICT. WAS 'LOOKING FORWARD' IN GOING TO NEW YORK. THE VICT. EVEN INDICATED THAT HE MAY EVEN TRY TO LEAVE LATER THAT NIGHT, 6-6-84, INSTEAD OF THE SCHEDULED EARLY MORNING 6-7-84 FLIGHT.

I/O ASKED THE WIT. IF THE VICT. SEEMED CONCERNED WITH THE BEVERLY HILLS COURT CASE THAT HE HAD COMING UP. THE WIT. STATED NO, BUT HE, THE VICT. WAS UPSET THAT HIS FRIEND, NEIL ANTON HAD TALKED TO THE INVESTIGATOR; DET .PAUL EDHOLM. THE WIT. LEARNED FROM SPEAKING WITH THE VICT'S MAID, THAT THE VICT. HAD LIED ABOUT LOOSING HIS HOUSE KEYS.

BOTH WITNESSES INDICATED THAT THEY BELIEVED THAT THE VICT. WAS NOT MISSING BY HIS OWN VOLITION. IT IS VERY UNCHARACTERISTIC FOR THE VICT. TO BE MISSING WITHOUT HIS PERSONAL BELONGINGS, AND IT WAS PARTICULARLY UNCHARACTERISTIC FOR THE VICT. NOT TO PICK UP HIS PHONE MESSAGES OR MAKE PHONE CONTACT WITH ANYONE AS THE VICT. LIVED BY THE PHONE.

12 RECORDING OFFICER L. ZOELLER		13 ID # 395	14 DIV 02	15 REPORTING OFFICER'S (Name ID#) L. ZOELLER #395		ROUTED BY	CARDER BY
TYPED BY LHZ	DATE 8-22-84	TIME 0600	SPECIAL INSTRUCTIONS TO RECORDS				

COPIES TO		RECEIVED INTO RECORDS	
<input type="checkbox"/> CHIEF <input type="checkbox"/> DETECTIVES <input type="checkbox"/> CRIME PREVENTION <input type="checkbox"/> CII	<input type="checkbox"/> IDENTIFICATION <input type="checkbox"/> OUTSIDE AGENCY <input type="checkbox"/> OTHER	PAGE <u>2</u> OF <u>3</u> 16 SUPERVISOR APPROVING <i>[Signature]</i>	965 16 DATE <b>22 1984 AUG</b> 16 TIME <b>08 21</b>

**EXHIBIT 3-C**

PD-10



-3-

# BEVERLY HILLS POLICE DEPARTMENT

## ADDITIONAL NAMES (GENERAL)

NCIC/CII CA0191000						1. CASE NUMBER 8405436						
SUBJ. CODES: V-VICTIM G-PARENT/GUARDIAN W-WITNESS R-REPORTING PARTY P-PARTY INVOLVED												
2. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME FURSTMAN, SCOTT SMITH				3. CODE W-1	4. DOB 11-22-49	5. AGE 34	6. SEX M	7. RACE W	8. HGT.	9. WGT.	10. HAIR	11. EYES
12. RESIDENCE ADDRESS Type Str. Code Str. #				13. CITY		14. ST		15. ZIP		16. RES. PHONE # ( )		
17. BUSINESS ADDRESS Type Str. Code Str. #				18. CITY		19. ST		20. ZIP		21. BUS. PHONE # ( )		
F 9911 W. PICO BL.				LOS ANGELES		CA		90035		277-8366		
22. OPERATOR LIC. #				<input type="checkbox"/> ID CARD ONLY	23. ST	24. OCCUPATION/TYPE BUS. LAWYER		25. DAYS OFF S/S		26. WORK HRS.		27. INTERPRETER REQUIRED <input type="checkbox"/> Yes LANG: <input type="checkbox"/> No
28. RELATIONSHIP TO VICT. # SUSP. #				29. COMMENTS: CRIMINAL ATTORNEY FOR THE VICT.								
30. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME HOLMES, OLIVER WENDELL JR.				31. CODE W-2	32. DOB 5-14-34	33. AGE 50	34. SEX M	35. RACE W	36. HGT.	37. WGT.	38. HAIR	39. EYES
40. RESIDENCE ADDRESS Type Str. Code Str. #				41. CITY		42. ST		43. ZIP		44. RES. PHONE # ( )		
45. BUSINESS ADDRESS Type Str. Code Str. #				46. CITY		47. ST		48. ZIP		49. BUS. PHONE # ( )		
F 1532 16TH ST.				SANTA MONICA		CA		90404		466-5454		
50. OPERATOR LIC. #				<input type="checkbox"/> ID CARD ONLY	51. ST	52. OCCUPATION/TYPE BUS. LAWYER		53. DAYS OFF S/S		54. WORK HRS.		55. INTERPRETER REQUIRED <input type="checkbox"/> Yes LANG: <input type="checkbox"/> No
56. RELATIONSHIP TO VICT. # SUSP. #				57. COMMENTS: ADVISING VICT. ON CRIMINAL AND A JOURNALISM PROJECT								
58. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME				59. CODE	60. DOB	61. AGE	62. SEX	63. RACE	64. HGT.	65. WGT.	66. HAIR	67. EYES
68. RESIDENCE ADDRESS Type Str. Code Str. #				69. CITY		70. ST		71. ZIP		72. RES. PHONE # ( )		
73. BUSINESS ADDRESS Type Str. Code Str. #				74. CITY		75. ST		76. ZIP		77. BUS. PHONE # ( )		
78. OPERATOR LIC. #				<input type="checkbox"/> ID CARD ONLY	79. ST	80. OCCUPATION/TYPE BUS.		81. DAYS OFF		82. WORK HRS.		83. INTERPRETER REQUIRED <input type="checkbox"/> Yes LANG: <input type="checkbox"/> No
84. RELATIONSHIP TO VICT. # SUSP. #				85. COMMENTS:								
86. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME				87. CODE	88. DOB	89. AGE	90. SEX	91. RACE	92. HGT.	93. WGT.	94. HAIR	95. EYES
96. RESIDENCE ADDRESS Type Str. Code Str. #				97. CITY		98. ST		99. ZIP		100. RES. PHONE # ( )		
101. BUSINESS ADDRESS Type Str. Code Str. #				102. CITY		103. ST		104. ZIP		105. BUS. PHONE # ( )		
106. OPERATOR LIC. #				<input type="checkbox"/> ID CARD ONLY	107. ST	108. OCCUPATION/TYPE BUS.		109. DAYS OFF		110. WORK HRS.		111. INTERPRETER REQUIRED <input type="checkbox"/> Yes LANG: <input type="checkbox"/> No
112. RELATIONSHIP TO VICT. # SUSP. #				113. COMMENTS:								
114. NAME (LAST, FIRST, MIDDLE, GEN)/FIRM NAME				115. CODE	116. DOB	117. AGE	118. SEX	119. RACE	120. HGT.	121. WGT.	122. HAIR	123. EYES
124. RESIDENCE ADDRESS Type Str. Code Str. #				125. CITY		126. ST		127. ZIP		128. RES. PHONE # ( )		
129. BUSINESS ADDRESS Type Str. Code Str. #				130. CITY		131. ST		132. ZIP		133. BUS. PHONE # ( )		
134. OPERATOR LIC. #				<input type="checkbox"/> ID CARD ONLY	135. ST	136. OCCUPATION/TYPE BUS.		137. DAYS OFF		138. WORK HRS.		139. INTERPRETER REQUIRED <input type="checkbox"/> Yes LANG: <input type="checkbox"/> No
140. RELATIONSHIP TO VICT. # SUSP. #				141. COMMENTS:								
142. <input type="checkbox"/> CHECK IF ADDITIONAL NAMES LISTED				SPECIAL INSTRUCTIONS TO RECORDS.								PAGE 3 OF 3
143. RECORDING OFFICER L. ZOELLER				144. ID # 395	145. DIV. 02	146. SUPERVISOR APPROVING MRE 19			147. DATE 22 1984 AUG	148. TIME 08 21		

-3-  
EXHIBIT 3-C

966 PD-13

-1-

I, Oliver Wendell Holmes, Jr., declare as follows:

I am a friend of Ronald George Levin's. I last spoke to Ronald Levin on June 6, 1984. On that date, I went to Levin's apartment in response to an "urgent" phone message that I received from Levin earlier that day. When I arrived at his apartment, Ronald Levin asked that I return the key to his apartment which he had given me around five months earlier. I returned the key to Levin at that time. At that time, Levin also said he might leave for New York that evening rather than the next morning.

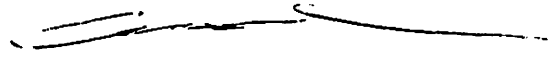
I was in fairly close contact with Ronald Levin during the first three months of 1984. During this period of time, Levin discussed on several occasions a case he was interested in involving a woman who had fled from Las Vegas to Brazil with a large amount of her employer's money. More than once during the early months of 1984, Levin openly speculated to me about whether it would be easy to avoid extradition for crimes if one fled to Brazil. More than once during this time, Levin said to me words to the effect of: I wonder how much money it would take to flee to Brazil and beat extradition or avoid extradition.

In December, 1983 or January, 1984, Levin gave me both his key and his alarm access code so that I could enter his apartment to review documents without having to work around Levin's schedule. I used this key and the alarm access code to gain entry to his apartment on at least one occasion. This was the key that I returned to Levin on June 6, 1984.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on this

-2-

16<sup>th</sup> day of April, 1990, at West Los Angeles,  
California.

  
\_\_\_\_\_  
OLIVER WENDELL HOLMES, JR.

People vs. Joe Hunt  
Investigation Progress Report

Page 23.

PETITION FOR APPROVAL OF COMPROMISE OF CLAIM  
AGAINST ESTATE - Filed July 15, 1985, Exhibit A  
Schedule of Advancements made by Martin J. Levin  
indicated July 15, 1984, Fairfax Lock and Key changed  
the locks at 144 South Peak Drive for \$150.00. On June  
23, 1984, Blue Cross of California, health insurance for  
period of July 1, 1984 - October 1, 1984; \$349.22.

On July 1, 1984; August 1, 1984; September 1, 1984;  
October 1, 1984; and November 1, 1984 there are  
payments in the amount of \$1,000.00 to the estate of  
Lillian Warner for the rent on the property at 144 South  
Peak Drive, Beverly Hills, California.

~~We went to 10690 Wilshire Blvd. and attempted to serve Dr.  
William Kroger. According to the doorman Dr. Kroger moved out  
of the building one (1) year ago.~~

We then went to 1532 - 16th Street, Santa Monica, California  
looking for Oliver Wendell Holmes. There was no answer and we  
were not able to determine if this is a good address.

We then went to the Santa Monica Court and pulled the following  
file:

1. WEC 87082

Ronald George Levin vs. Federal Insurance Company

This is a Complaint For Damages filed on April 27, 1984 for loss  
of property in the amount of \$15,000.00.

The last thing in the file substitution of attorney David Ostrove,  
Conseravator for William F. Davis.

We called Attorney Chier's office and left a message.

November 9, 1986

We received a call from Ann Clark, Court Reporter, and she

969 2-  
Exh 1-T

1 SANTA MONICA, CALIFORNIA; TUESDAY, NOVEMBER 25, 1986; 1:32 P.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4  
5 (THE PRIOR GAG ORDER HAVING BEEN RESCINDED  
6 THE FOLLOWING PROCEEDINGS ARE NOW INCLUDED  
7 IN THE RECORD:)

8 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
9 CHAMBERS:)

10 THE COURT: LET THE RECORD INDICATE THAT WE ARE IN  
11 CHAMBERS AT THE PRESENT TIME WITH THE DEFENDANT BEING PRESENT.

12 MR. WAPNER: YOUR HONOR, TWO THINGS HAVE COME UP SINCE  
13 LAST FRIDAY. FIRST OF ALL, ON FRIDAY I RECEIVED A CALL FROM  
14 THE TUCSON POLICE DEPARTMENT.

15 THE COURT: TUCSON?

16 MR. WAPNER: TUCSON, ARIZONA POLICE DEPARTMENT; THEY  
17 WERE CONTACTED BY A WITNESS WHO SAYS THAT SHE READ THE  
18 ESQUIRE MAGAZINE ARTICLE ABOUT THE CASE, AND CLAIMS TO HAVE  
19 SEEN A PERSON RESEMBLING RON LEVIN AT A GAS STATION IN  
20 TUCSON, ARIZONA SIX TO EIGHT WEEKS AGO.

21 SHE SAYS SHE WAS WITH HER BOYFRIEND, AND I WENT  
22 WITH AN INVESTIGATOR; I TALKED TO THIS WOMAN. I TALKED TO  
23 THE BOYFRIEND.

24 THE STATEMENTS THAT SHE MADE AND THAT HE MADE  
25 WERE TAPE RECORDED. THOSE STATEMENTS, COPIES OF THOSE TAPES,  
26 HAVE BEEN MADE, ARE AVAILABLE TO THE DEFENSE AT THE  
27 DISTRICT ATTORNEY'S SOUND LAB.

28 AS IN ANY OTHER CASE, THE PROCEDURE IS THAT WHEN  
970

1 THE DEFENSE PROVIDES US WITH COPIES OF CASSETTES, WHICH IN  
2 THIS CASE WE WILL KEEP BECAUSE THE COPIES HAVE ALREADY BEEN  
3 MADE, AND PAYS FOR THE TAPES, THEY ARE AVAILABLE. SO THEY  
4 ARE AVAILABLE AS SOON AS THIS AFTERNOON IF THAT PROCEDURE  
5 IS FOLLOWED.

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1            THAT THE SECOND THING THAT HAPPENED ON FRIDAY,  
2 WAS THAT I WAS CONTACTED, CALLED BY AN ATTORNEY NAMED LEWIS  
3 TITUS, WHO --

4            THE COURT:    WHO?

5            MR. WAPNER:    TITUS, T-I-T-U-S.    MR. TITUS WAS MR. BARENS'  
6 CO-COUNSEL AT THE PRELIMINARY HEARING IN THIS CASE.

7            MR. TITUS INFORMED ME THAT HE HAD A CONVERSATION  
8 WITH MR. BARENS ABOUT PROCURING A WITNESS TO TESTIFY THAT  
9 HE HAD SEEN RON LEVIN.

10           THE COURT:    THE WITNESS HAD SEEN RON LEVIN?

11           MR. WAPNER:    PROCURING A WITNESS WHO WOULD SAY THAT  
12 HE --

13           THE COURT:    WHAT DO YOU MEAN "PROCURING"?

14           MR. WAPNER:    IN OTHER WORDS, NOT A WITNESS WHO HAD  
15 ACTUALLY SEEN HIM BUT TO FIND SOMEONE TO SAY THAT.

16           SUBSEQUENT TO THAT CONVERSATION ON THE TELEPHONE,  
17 I HAD A CONVERSATION WITH MR. TITUS AND OUR DISTRICT ATTORNEY  
18 INVESTIGATOR, THAT WAS IN MORE DETAIL.    THE CONVERSATION ON  
19 THE TELEPHONE WAS VERY BRIEF.

20           AND THE CONVERSATION WHICH HE HAD IN PERSON WITH  
21 HIM, WAS IN MORE DETAIL.    IT WAS NOT TAPE RECORDED, AT HIS  
22 REQUEST.

23           AND A REPORT IS BEING TYPED AND COPIES, AS WE  
24 SPEAK, THAT WILL BE PRESENTED TO THE DEFENSE.

25           THE COURT:    LET ME SEE IF I CAN GET IT CLEAR.    YOU SAY  
26 THAT AN ASSOCIATE OF MR. BARENS HAD TOLD YOU AFTER THE  
27 PRELIMINARY HEARING IN THIS CASE, THAT THERE WAS A PERSON  
28 WHO PURPORTED TO BE -- WHO HAD PURPORTED TO HAVE SEEN



1     RON LEVIN, ALTHOUGH HE HAD NOT ACTUALLY SEEN HIM. BUT HE  
2     WOULD PRODUCE THIS PERSON SO HE WOULD TESTIFY TO THAT EFFECT.  
3     IS THAT WHAT YOU ARE TELLING US?

4             MR. WAPNER: THAT WAS THE ESSENCE OF THE CONVERSATION.  
5     THIS INFORMATION WAS GIVEN TO ME FRIDAY. THAT IS THE --

6             THE COURT: FRIDAY WHEN?

7             MR. WAPNER: LAST WEEK.

8             THE COURT: YOU ARE TALKING ABOUT AN ASSOCIATE, YOU  
9     MEAN?

10            MR. WAPNER: THE ASSOCIATE CALLED ME FRIDAY, NOVEMBER  
11     21ST.

12            THE COURT: THAT WAS TITUS?

13            MR. WAPNER: CORRECT, TO GIVE ME THIS INFORMATION.

14            THE COURT: WHAT IS THE IMPLICATION? I DON'T UNDERSTAND  
15     IT. I REALLY DON'T UNDERSTAND IT.

16                     IS IT THAT THEY WERE CONCOCTING SOME KIND OF AN  
17     ALIBI TO PRODUCE A WITNESS WHO NEVER ACTUALLY SAW HIM BUT  
18     SAID HE WOULD?

19            MR. WAPNER: THAT IS THE GIST OF WHAT HE IS SAYING.

20            THE COURT: MR. TITUS?

21            MR. WAPNER: CORRECT, THAT HE HAD A CONVERSATION WITH  
22     MR. BARENS IN WHICH MR. BARENS SUGGESTED THAT THAT WAS --

23            THE COURT: WHAT HE SHOULD DO?

24            MR. WAPNER: NOT WHAT TITUS SHOULD DO, BUT THAT IS WHAT  
25     COULD BE DONE OR SHOULD BE DONE.

26                     IT IS NOT MY INTENTION TO GO INTO THE DETAILS  
27     NOW.

28            THE COURT: BUT THEN HE HAD A SUBSEQUENT CONFERENCE

1 WITH HIM, YOU AND THE INVESTIGATOR?

2 MR. WAPNER: RIGHT. THE INVESTIGATOR MADE A REPORT  
3 OF THAT, WHICH I WILL HAVE COPIES OF TO THE DEFENSE BY THIS  
4 AFTERNOON.

5 THE COURT: WHAT WAS THE SUBSTANCE OF THAT CONVERSATION?

6 MR. WAPNER: THE SUBSTANCE OF THE CONFERENCE WITH THE --

7 THE COURT: TITUS AND YOU AND THE INVESTIGATOR?

8 MR. WAPNER: WELL, THE SUBSTANCE OF IT IS THAT MR. TITUS  
9 AND MR. BARENS HAD A CONVERSATION WHERE MR. BARENS LAID OUT  
10 THIS SCENARIO ABOUT THE POSSIBILITY -- ABOUT PROCURING A  
11 WITNESS TO TESTIFY THAT HE OR SHE HAD SEEN RON LEVIN IN RIO.  
12 THAT WAS THE SUBSTANCE OF IT.

13 MR. CHIER: WHEN WAS THIS CONVERSATION ALLEGED TO HAVE TAKEN  
14 PLACE?

15 MR. WAPNER: HE DID NOT GIVE ME THE PRECISE DATE OF  
16 IT.

17 MR. CHIER: WHAT YEAR?

18 MR. WAPNER: -- OF THE CONVERSATION, BUT HE SUGGESTED  
19 THAT IT WAS IMMEDIATELY -- THAT THE CONVERSATION TOOK PLACE  
20 IN MR. BARENS' VEHICLE OUTSIDE OF THE HALL OF JUSTICE AFTER  
21 A VISIT BY MR. BARENS TO MR. HUNT AT THE HALL OF JUSTICE JAIL.

22 MR. BARENS: COULD I RESPOND TO THIS, YOUR HONOR?

23 THE COURT: WELL, I WANT TO SEE WHAT THE PURPOSE OF  
24 ALL OF THIS IS.

25 MR. BARENS: BUT I WOULD LIKE TO BE HEARD.

26 THE COURT: OF COURSE, YOU WILL BE HEARD.

27 MR. WAPNER: THE PURPOSE OF IT IS TO GIVE THE DEFENSE  
28 THIS INFORMATION THAT I WAS GIVEN, BOTH OF THESE THINGS THAT

1 I WAS GIVEN OVER THE WEEKEND.

2 MR. CHIER: THESE CAME IN TANDEM?

3 THE COURT: WELL, LET MR. BARENS DO THE TALKING. HE  
4 IS THE ONE THAT IS INVOLVED.

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1 MR. BARENS: I WOULD LIKE TO ADDRESS THAT SPECIFIC ISSUE  
2 AND MAKE A STATEMENT.

3 THE COURT: SURE.

4 MR. BARENS: DURING THE PRELIMINARY HEARING LOU TITUS  
5 WAS EMPLOYED BY MY OFFICE TO ASSIST ME AT THE PRELIMINARY  
6 HEARING SOME TWO YEARS AGO, APPROXIMATELY ALMOST TWO YEARS  
7 AGO. SHORTLY THEREAFTER HE WAS FIRED BY MY OFFICE.

8 SUBSEQUENT TO THAT I BELIEVE MR. TITUS WAS  
9 DECLARED MENTALLY INCOMPETENT AND WAS INCARCERATED OR RETAINED  
10 IN A MENTAL HOSPITAL WHEREIN HE WAS PLACED BY HIS FAMILY.  
11 HE HAD BECOME -- WE TERMINATED MR. TITUS AS THE RESULT OF  
12 IRRATIONAL BEHAVIOR ON HIS PART WHEREIN HE HAD BEEN ARRESTED  
13 FOR HAVING BEATEN ONE OF THE SECRETARIES IN MY OFFICE.

14 HE HAD PROBLEMS WHICH I WAS LATER TO FIND OUT  
15 WERE LONG-STANDING MENTAL PROBLEMS. I UNDERSTOOD -- THE LAST  
16 TIME I HEARD ABOUT MR. TITUS, WHICH I WANT TO CONVEY TO THE  
17 COURT, MY OLDER BROTHER WHOSE NAME IS LEE IS PRESENTLY IN  
18 A RECOVERY HOME FOR DRUG ADDICTION.

19 MY BROTHER TOLD ME HE IS STAYING AT A PLACE CALLED  
20 BISHOP GOODIN, I BELIEVE, IN THE GLENDALE AREA. LAST WEEK  
21 MY BROTHER TOLD ME HE HAD SEEN LOU TITUS, IS ALSO A RESIDENT  
22 IN THE BISHOP GOODIN FACILITY.

23 MR. TITUS WAS TELLING MY BROTHER HE WAS AN EMPLOYEE  
24 AT O'MELVENY & MYERS, AND MY BROTHER THOUGHT THAT WAS SOMEWHAT  
25 INCREDULOUS BECAUSE HOW COULD HE BE IN A HALFWAY HOUSE AND  
26 SAYING HE WAS AN EMPLOYEE AT O'MELVENY & MYERS.

27 HE INDICATED TO ME THAT MR. TITUS BORE A LOT OF  
28 RESENTMENT TOWARD ME BECAUSE HE HAD BEEN TERMINATED, AND MADE

1 A LOT OF STATEMENTS TO PEOPLE THERE TO THE EFFECT THAT HE  
2 WAS "GOING TO GET ME" AND THAT I "HAD A BIG EGO" AND THAT  
3 "SOMEBODY SHOULD BRING ME DOWN A LITTLE."

4 MY BROTHER DID NOT MENTION TO ME ANYTHING ABOUT  
5 THIS TYPE OF ALLEGATION THAT MR. WAPNER HAS ARTICULATED.

6 DURING THE PERIOD OF TIME AFTER MR. TITUS WAS  
7 TERMINATED BY MY OFFICE, WE ATTEMPTED TO BE OF SOME ASSISTANCE  
8 TO HIM AND HIS FAMILY IN GETTING HIM THE MEDICAL CARE HE  
9 EVIDENTLY REQUIRED AT THAT TIME.

10 FOR A LONG TIME AFTER THAT WE HAD CONSTANT CALLS  
11 INCLUDING FROM THE STATE BAR, INQUIRING AS TO HIS WHEREABOUTS,  
12 BECAUSE OF CASES HE HAD BEEN INTERESTED IN IN OUR OFFICE THAT  
13 WERE NOT BEING SERVICED.

14 THE LAST WE WERE ADVISED BY, I BELIEVE, HIS OLDER  
15 SISTER IN -- IF I AM NOT MISTAKEN. I HAVE NEVER MET THE  
16 PERSON -- THAT HE HAD BEEN PLACED IN A FACILITY AT THAT POINT  
17 IN TIME. WE NEVER HEARD FROM HIM AGAIN ON A DIRECT LEVEL.

18 I WOULD ALSO LIKE TO STATE THAT ON TWO OR THREE  
19 OCCASIONS SUBSEQUENT TO HIS TERMINATION, MR. TITUS CALLED  
20 MY HOME AND THREATENED MY LIFE, SAID HE WAS GOING TO SHOOT  
21 ME, ET CETERA, ET CETERA; AND HE HAD SHOWN UP AT ONE OF MY  
22 SECRETARY'S HOMES, DRESSED AS A SHERIFF WITH A GUN, AND  
23 INTIMIDATED THIS YOUNG LADY IN A VERY BIZARRE FASHION.

24 AT THAT TIME I WARNED HIM THAT IF THIS CONTINUES,  
25 SOMETHING --

26 THE COURT: AT THAT TIME WHEN HE WAS DRESSED UP?

27 MR. BARENS: I SPOKE TO HIM BY TELEPHONE. HE WAS AT  
28 THIS GIRL'S HOUSE, AND I SPOKE TO HIM BY PHONE AND SAID THAT,

1 YOU KNOW, THIS WAS PRETTY BIZARRE STUFF TO BE GOING ON, AND  
2 THAT HE SHOULD DESIST FROM THAT KIND OF STUFF.

3 I BELIEVE THAT THERE WAS A POLICE REPORT MADE  
4 ABOUT THAT INCIDENT. I BELIEVE HE WAS ARRESTED AS A RESULT  
5 OF THAT INCIDENT. I DO RECALL AFTER THAT THAT HE HAD CALLED  
6 ME.

7 I DID NOT TAKE ACTION ON IT. HE THEN THREATENED  
8 MY LIFE ON CERTAIN OCCASIONS.

9 I SAY ALL OF THIS BECAUSE IT WOULD BE INCREDIBLE  
10 TO ME THAT THE DISTRICT ATTORNEY WOULD NOT BE AWARE OF ANY  
11 OF THIS INFORMATION. IT WOULD BE INCREDIBLE TO ME THAT THE  
12 DISTRICT ATTORNEY WOULD NOT BE AWARE THAT MR. TITUS IS IN  
13 A HALFWAY HOUSE OR A FACILITY.

14 THE COURT: WELL, HOW WOULD THEY BE CHARGED WITH KNOWLEDGE  
15 OF THAT?

16 MR. BARENS: I WOULD ASSUME THAT IN CONVERSATION, IF  
17 THEY HAD A MEETING WITH MR. TITUS, THAT THEY WOULD ASK HIM,  
18 "WHERE DO YOU LIVE?", OR "WHAT DO YOU DO FOR A LIVING?", OR  
19 THINGS OF THAT EFFECT, OR "WHAT HAVE YOU BEEN DOING FOR THE  
20 LAST FEW YEARS?"

3A FO

1 I AM SURE ALSO THAT THE DISTRICT ATTORNEY WOULD  
2 BE AWARE OF THE FACT THAT ANY CONVERSATION THAT TITUS COULD  
3 BE ALLUDING TO WOULD HAVE TAKEN PLACE, IF TRUE, WHICH IS  
4 SPECIFICALLY DENIED BY YOUR COUNSEL, TWO YEARS AGO --  
5 WELL, LET'S SAY, JUDGE, 18 TO 22 MONTHS AGO.

6 NUMBER TWO, AT NO TIME HAS THE DEFENSE EVER  
7 INDICATED TO ANYONE THAT THERE WAS ANY SORT OF AN ALIBI  
8 WITNESS, AND I MAKE DECLARATION NOW THAT AT NO TIME HAS THE  
9 DEFENSE EVER SPOKEN TO ANY PERSON THAT WOULD BE IN ANY WAY  
10 CONSIDERED AN ALIBI WITNESS, THAT WOULD IDENTIFY EVER HAVING  
11 SEEN MR. LEVIN.

12 THIS IS THE FIRST KNOWLEDGE THE DEFENSE HAS EVER  
13 HAD OF A WITNESS THAT WOULD BE AVAILABLE TO IDENTIFY  
14 MR. LEVIN'S WHEREABOUTS, WOULD BE THE WITNESS THAT MR. WAPNER  
15 MAKES REFERENCE TO, WHICH COMES AS A MATTER OF FIRST  
16 IMPRESSION TO THE DEFENSE AT THIS JUNCTURE.

17 MR. WAPNER: LET ME MAKE IT VERY CLEAR THAT THE PURPOSE  
18 IN DOING THIS IS NOT FOR ME TO MAKE AN ACCUSATION. THE  
19 DISTRICT ATTORNEY'S OFFICE IS UNDER AN OBLIGATION WHEN WE  
20 GET THIS INFORMATION TO TELL COUNSEL ABOUT IT. SO THE  
21 SUGGESTION WAS MADE BY MR. BARENS THAT I SHOULD HAVE CHECKED  
22 IT OUT, AND THEREFORE FOUND OUT ABOUT IT, AND THEREFORE NOT  
23 TOLD ANYBODY --

24 THE COURT: I THINK THAT YOU ACTED QUITE PROPERLY.

25 MR. BARENS: I DO, TOO.

26 THE COURT: I THINK THAT YOU ACTED QUITE PROPERLY IN  
27 BRINGING IT TO THE ATTENTION OF THE COURT, WHAT OCCURRED.  
28 NOT TO HAVE DONE IT WOULD HAVE BEEN A BREACH OF YOUR OBLIGATION



1 AS A DISTRICT ATTORNEY, AND IT IS ALSO PROPER FOR YOU TO BRING  
2 TO THE COURT'S ATTENTION THIS PERSON WHO MATERIALIZED, WHERE  
3 IS THIS AGAIN?

4 MR. WAPNER: IN TUCSON, ARIZONA.

5 THE COURT: TUCSON, ARIZONA.

6 CAN YOU EXPLAIN HOW SHE KNEW RONALD LEVIN?

7 MR. WAPNER: WELL, ALL OF THE TAPES, SHE DOESN'T KNOW  
8 RONALD LEVIN AT ALL -- ALL OF THE TAPES OF THIS CONVERSATION  
9 AND THE REPORTS ABOUT HER ARE GOING TO BE AVAILABLE. THE  
10 TAPES WILL BE AVAILABLE AS SOON AS THE DEFENSE CAN GO TO THE  
11 SOUND LAB, PROVIDE US WITH COPIES OF THE TAPES, AND PAY FOR  
12 THE COPYING THAT WE DID.

13 THE COURT: YOU ARE JUST TELLING HIM THAT BECAUSE YOU  
14 WANT -- IT IS YOUR DUTY TO POINT OUT TO THE DEFENSE THAT THERE  
15 IS A POSSIBLE ALIBI WITNESS; IS THAT CORRECT? LET THEM  
16 EXPLORE THAT POSSIBLE WITNESS.

17 MR. WAPNER: CORRECT.

4-1

1 MR. WAPNER: CORRECT.

2 MR. CHIER: I WOULDN'T CALL IT AN ALIBI WITNESS.

3 MR. BARENS: IT IS --

4 THE COURT: ALIBI WITNESS, ALL RIGHT?

5 MR. WAPNER: WELL --

6 THE COURT: HE WAS NEVER THERE. HE WAS NOT THE PERSON  
7 WHO KILLED HIM. I AM NOT SAYING THAT --

8 MR. BARENS: I UNDERSTAND.

9 THE COURT: PLEASE STOP STRAINING OVER GNATS.

10 LET'S GET TO THE BOTTOM OF THIS THING. LET'S GET  
11 TO THE MATERIAL PART OF IT, WHETHER I CHARACTERIZE IT AS ALIBI  
12 OR SOMEBODY WHO WOULD GIVE HIM AN ALIBI AND SAY THAT HE WAS  
13 NOT THERE AND NEVER DID IT.

14 THAT IS AN ALIBI.

15 MR. BARENS: IRRESPECTIVE OF THAT --

16 THE COURT: DO NOT QUIBBLE ABOUT WORDS. I WOULD SUGGEST  
17 THAT YOU CONDUCT THIS INQUIRY, SINCE YOU ARE THE LEAD ATTORNEY  
18 HERE. YOU BROUGHT MR. CHIER INTO THIS CASE, HE DIDN'T BRING  
19 YOU INTO IT.

20 MR. BARENS: MR. WAPNER, LET ME TRY TO UNDERSTAND WHERE  
21 WE ARE. BECAUSE -- AND WHERE WE ARE GOING, HERE AT THIS  
22 POINT SO I CAN INTEGRATE MY THINKING.

23 HAVING THIS MATERIAL AVAILABLE, IS IT YOUR  
24 PROPOSAL THAT WHAT WE DO NOW IN TERMS OF THE PROCEEDINGS BEFORE  
25 THE COURT IN TERMS OF THE JURY INTERVIEWS --

26 MR. WAPNER: WELL, FIRST OF ALL, THE PRESENT INTERVIEWS  
27 HAVE TO DO WITH THE DEATH PENALTY AND DON'T HAVE ANYTHING  
28 TO DO WITH THIS INFORMATION.

1 SO, THIS INFORMATION IS NOT RELEVANT TO THE  
2 INQUIRY THAT WE ARE MAKING OF THE JURORS NOW.

3 THE COURT: THAT IS TRUE.

4 MR. WAPNER: THE PURPOSE OF ME TELLING YOU THIS, IS SO  
5 THAT YOU WILL BE AWARE THAT IT EXISTS.

6 ALSO, I HAVE TO TELL YOU THAT WE GAVE BOTH OF THESE  
7 WITNESSES, THE GIRL AND HER BOYFRIEND, POLYGRAPH EXAMINATIONS  
8 AS TO WHETHER OR NOT THEY WERE LYING ABOUT SEEING THE PERSON  
9 AND WHETHER THEY WERE PUT UP TO THIS STORY. AND THEY BOTH  
10 PASSED.

11 THERE WERE TAPES MADE OF THE POLYGRAPH EXAMINATION  
12 AND THOSE TAPES ARE INCLUDED IN THE TAPE THAT I MADE REFERENCE  
13 TO, THAT IS AVAILABLE TO YOU.

14 THE ACTUAL GRAPH OF THE POLYGRAPH EXAMINATION IS  
15 NOT. I DON'T HAVE THAT IN MY POSSESSION AT THIS TIME. BUT  
16 I CAN GET IT.

17 OBVIOUSLY, IT IS NOT FROM OUR STANDPOINT, SOMETHING  
18 THAT IS SIGNIFICANT AT THE MOMENT.

19 THE COURT: DID ANYBODY INTERVIEW THIS WITNESS? WHERE  
20 AGAIN, WAS IT? WHAT STATE?

21 MR. WAPNER: IN TUCSON, ARIZONA. YES.

22 THE COURT: ANYBODY INTERVIEW THAT WITNESS?

23 MR. WAPNER: YES.

24 THE COURT: YOU GOT A STATEMENT FROM HIM?

25 MR. WAPNER: YES.

26 THE COURT: I THINK THE DISTRICT ATTORNEY WAS QUITE  
27 RIGHT IN MAKING ALL OF THIS AVAILABLE TO US.

28 WOULD YOU MIND, TERRIBLY? I AM TALKING TO HIM,

4-3

1 NOT TO YOU. YOU KEEP OUT OF THIS UNTIL I FINISH WHAT I AM  
2 SAYING ON THE RECORD.

3 MR. BARENS: BEG YOUR PARDON.

4 MR. CHIER: YOU CAN'T KEEP TALKING TO ME THIS WAY,  
5 JUDGE.

6 MR. BARENS: PARDON ME, YOUR HONOR. BEGGING YOUR  
7 PARDON.

8 THE COURT: THAT IS VERY RUDE. I AM SAYING THAT IT WAS  
9 PERFECTLY PROPER FOR THE DISTRICT ATTORNEY TO EXPLORE THAT  
10 BECAUSE IT IS THEIR DUTY TO TURN OVER TO YOU ANY INFORMATION  
11 THAT COMES TO THEIR POSSESSION.

12 THEN OF COURSE, YOU WILL GET THAT INFORMATION AND  
13 PURSUE IT AND EVALUATE IT ANY WAY YOU SEE FIT. IT HAS TO DO  
14 WITH THE TRIAL OF THE ACTION AND THE ISSUES THAT WILL BE  
15 DETERMINED ON TRIAL.

16 YOU WILL HAVE PLENTY OF TIME TO DO THAT. AND  
17 THIS WITNESS IS ALSO AVAILABLE, IS SHE? THIS WITNESS?

18 MR. WAPNER: YES.

19 THE COURT: SHE SAID SHE RECOGNIZED LEVIN IN THE GAS  
20 STATION, IS THAT RIGHT?

21 MR. WAPNER: SHE NEVER SAID SHE RECOGNIZED LEVIN.

22 THE COURT: WELL, HOW DID SHE KNOW IT WAS HE?

23 MR. WAPNER: SHE READ THE ESQUIRE ARTICLE AND SHE SAW  
24 A SKETCH OF MR. LEVIN INCLUDED IN THAT ARTICLE AND SHE READ  
25 A DESCRIPTION OF MR. LEVIN THAT IS INCLUDED IN THAT ARTICLE  
26 AND SHE LOOKED AT A PHOTOGRAPHIC LINEUP WE SHOWED HER.

27 SHE COULD ONLY SAY THAT OUT OF THE SIX PHOTOS THAT  
28 WE SHOWED HER, THAT MR. LEVIN'S PICTURE WAS THE CLOSEST OF

4-4

1       THESE SIX OF THE PERSON THAT SHE SAW.

2               NEITHER SHE NOR THE BOYFRIEND WHO WAS WITH HER,  
3       PICKED THE PICTURE OF MR. LEVIN AND SAID THAT IS THE PERSON  
4       THAT I SAW.

5               NEITHER ONE OF THEM SAID THAT.

6       THE COURT:   AT ANY RATE, YOU PURSUE IT AS WELL AS YOU  
7       CAN.

8       MR. CHIER:   MAY I JUST ASK ONE OTHER QUESTION OF THE  
9       COURT, YOUR HONOR?   THAT IS, THAT AS TO THESE TWO PARTICULAR  
10      ISSUES, THAT IS THE WITNESSES IN TUCSON WHO CLAIM TO HAVE SEEN  
11      SOMEONE RESEMBLING RON LEVIN AND AS TO MR. TITUS MAKING A  
12      STATEMENT REGARDING WHAT MR. BARENS MAY OR MAY NOT HAVE TOLD  
13      HIM, IS THE COURT IMPOSING A GAG ORDER?

14      THE COURT:   ABSOLUTELY.

15      MR. WAPNER:   AND ORDERING BOTH COUNSEL NOT TO DISCUSS  
16      IT WITH ANY MEMBER OF THE MEDIA, ANYTHING ABOUT WHAT TRANSPIRED  
17      IN CHAMBERS OR ANYTHING ABOUT --

18      THE COURT:   YES.   DO YOU QUITE AGREE?

19      MR. BARENS:   I QUITE AGREE.   I ALSO MOVE THAT THE RECORD  
20      OF THESE PROCEEDINGS BE SEALED AT THAT TIME.

21      THE COURT:   THAT WILL BE GRANTED.

22      MR. CHIER:   COULD I ASK A QUESTION?

23      MR. BARENS:   IF YOU WOULD, PLEASE.   I DON'T KNOW THE  
24      QUESTION.

25      THE COURT:   ALL RIGHT.

26      MR. CHIER:   WERE THE PROCEEDINGS IN THAT PHOTOGRAPHIC  
27      SHOW-UP, WERE THEY TAPE RECORDED?

28      MR. WAPNER:   YES.

1 MR. CHIER: THAT TAPE WILL BE AVAILABLE, TOGETHER WITH  
2 THE TAPE OF THE WITNESSES?

3 MR. WAPNER: IT WAS ALL DONE AT THE SAME TIME.

4 MR. CHIER: IT IS ALL ONE CONTINUOUS, SEGMENTED BUT  
5 CONTINUOUS TAPE?

6 MR. WAPNER: RIGHT.

7 THE COURT: THAT WILL BE OFFERED TO THEM?

8 MR. WAPNER: YES.

9 MR. BARENS: DID YOU SAY THAT THERE WAS A TAPE ON THIS  
10 TITUS AVAILABLE?

11 MR. WAPNER: NO. NO TAPE AS TO THE TITUS INTERVIEW.  
12 THERE IS A REPORT WHICH WE WILL HAVE TO YOU BY THIS AFTERNOON.

13 THE COURT: A REPORT MADE -- THE INVESTIGATOR MADE THE  
14 REPORT? DID YOU MAKE THE REPORT OR WHAT? THIS IS AFTER YOU  
15 AND THE INVESTIGATOR INTERVIEWED MR. TITUS, IS THAT IT?

16 MR. WAPNER: CORRECT. THE INVESTIGATOR PREPARED A  
17 REPORT.

18 THE COURT: BUT NO TAPE WAS MADE OF THE CONVERSATION?

19 MR. WAPNER: CORRECT.

20 THE COURT: BUT YOU HAVE GOT A TAPE OF THE TEST THAT WAS  
21 TAKEN OF MR. TITUS? YOU SAID YOU PUT HIM THROUGH A POLYGRAPH  
22 TEST?

23 MR. WAPNER: NO. MR. TITUS WAS NOT GIVE A POLYGRAPH  
24 TEST.

25 THE COURT: JUST THIS WITNESS?

26 MR. WAPNER: THE TWO WITNESSES IN ARIZONA.

27 MR. BARENS: ARE YOU REQUESTING A POLYGRAPH OF MR. TITUS?

28 MR. WAPNER: I AM NOT, PERIOD.

1 MR. CHIER: IS ONE GOING TO BE REQUESTED BY SOMEBODY  
2 ELSE?

3 MR. BARENS: WE REQUEST THAT YOU REQUEST HIM TO TAKE  
4 A POLYGRAPH.

5 MR. WAPNER: YOU CAN REQUEST IT. I WILL DISCUSS IT  
6 WITH THE PEOPLE IN MY OFFICE. YOU CAN REQUEST ANYTHING. I  
7 WILL --

8 MR. BARENS: WE REQUEST THAT HE BE ADMINISTERED A  
9 POLYGRAPH TEST SIMILAR TO THE ONE GIVEN TO THE WITNESSES IN  
10 ARIZONA.

11 MR. WAPNER: OKAY.

12 THE COURT: I THINK THAT WOULD BE FAIR.

13 MR. WAPNER: THE OTHER THING IS, SO THAT YOU UNDERSTAND,  
14 I SPOKE TO MR. TITUS WITH AN INVESTIGATOR SUNDAY AFTERNOON.  
15 SO, THERE WAS NO -- WELL, IN ANY EVENT, HE WAS NOT GIVEN A  
16 POLYGRAPH TEST. IT MAY BE AN HOUR'S CONVERSATION WITH HIM ON  
17 SUNDAY AFTERNOON.

18 THE COURT: I UNDERSTAND YOUR OFFICE, MR. REINER OR  
19 ANYBODY IN YOUR OFFICE IS NOT GOING TO MAKE THIS AVAILABLE,  
20 ANYTHING ABOUT WHAT WE DISCUSSED IN CHAMBERS AVAILABLE TO THE  
21 PRESS OR ANYBODY ELSE, TRUE?

22 MR. WAPNER: THAT'S CORRECT.

23 THE COURT: YOU TELL MR. REINER THAT I ISSUED A GAG  
24 ORDER AND ANYTHING ABOUT WHAT HAS TRANSPIRED HERE IS GOING TO  
25 BE -- IS NOT GOING TO BE REVEALED TO ANYBODY, ANY THIRD PERSON  
26 OTHER THAN THOSE PRESENT HERE.

27 MR. WAPNER: NOTHING ABOUT THOSE TWO ISSUES THAT WERE  
28 DISCUSSED IN CHAMBERS WILL NOT BE REVEALED.



1 THE COURT: THAT'S CORRECT.

2 MR. WAPNER: MAY I ASK THE COURT FOR A BRIEF RECESS SO  
3 THAT I CAN GO BACK TO MY OFFICE AND CONTACT THE PEOPLE IN MY  
4 OFFICE, SO THAT THEY KNOW IMMEDIATELY THAT THERE IS A GAG  
5 ORDER IN EFFECT?

6 THE COURT: BECAUSE THERE HAS BEEN SPECULATION. THE  
7 PRESS HAVE CALLED HERE AND MADE IN QUIRIES. I TOLD THEM THAT  
8 WE KNOW NOTHING AND WE ARE NOT MAKING ANY STATEMENTS OF ANY  
9 KIND.

10 I SAID WE HAVE NOT GOT ANY IDEA WHY YOU ASKED WHY  
11 THIS MATTER BE CONTINUED FROM THIS MORNING UNTIL THIS  
12 AFTERNOON.

13 MR. WAPNER: OKAY. MAY I ALSO REQUEST THAT WE GO OUT  
14 TO THE COURTROOM AND ON THE RECORD, THAT YOU STATE THAT WITH  
15 RESPECT TO WHAT WAS DISCUSSED IN CHAMBERS, THE COURT HAS  
16 IMPOSED A GAG ORDER AND ORDERED BOTH COUNSEL NOT TO DISCUSS  
17 IT?

18 THE COURT: ALL COUNSEL.

19 MR. WAPNER: ALL COUNSEL.

20 MR. CHIER: THE ORDER IS NOT TO DISCUSS WITH THE MEDIA,  
21 RIGHT? NO, I AM SERIOUS BECAUSE WE ARE --

22 THE COURT: WELL, LISTEN NOW. IF YOU DISCUSS IT WITH  
23 SOMEBODY THEN SOMEBODY TELLS SOMEBODY ELSE AND THEY MIGHT  
24 DISCUSS IT WITH THE MEDIA.

25 MR. CHIER: MR. HUNT HAS AN ATTORNEY NAMED PARKER KELLY,  
26 WHO REPRESENTS HIM UP IN SAN MATEO COUNTY.

27 THE COURT: IT IS ALL RIGHT FOR HIM -- I DON'T SEE HOW  
28 THAT HAS ANY RELEVANCE TO THE OTHER PROCEEDINGS. SO, THERE

1 IS NO POINT IN HIM TALKING TO MR. KELLY ABOUT IT.

2 IT ONLY HAS REFERENCE TO THIS PARTICULAR EVENT  
3 INVOLVING RON LEVIN. I DON'T THINK ANYBODY OUGHT TO TALK TO  
4 ANYBODY ABOUT THIS PARTICULAR SUBJECT BECAUSE THERE IS AN  
5 OLD SAYING THAT IF TWO PEOPLE KNOW SOMETHING, IT IS NO LONGER  
6 A SECRET.

7 THAT IS WHAT I AM TRYING TO MINIMIZE AS MUCH AS  
8 POSSIBLE, ANYTHING THAT WE HAVE DISCUSSED HERE TODAY BECOMING  
9 PUBLIC.

10 SO, DON'T DISCUSS IT WITH ANY THIRD PARTY. DO YOU  
11 AGREE WITH THAT?

12 MR. BARENS: YES.

13 MR. CHIER: I THINK IT WOULD BE APPROPRIATE TO DISCUSS  
14 IT WITH MR. BRODEY, COUNSEL FOR MR. PITTMAN.

15 THE COURT: WHAT?

16 MR. CHIER: MR. JEFFREY BRODEY, COUNSEL FOR MR. PITTMAN.

17 MR. WAPNER: YES. I THINK WE HAVE TO, FRANKLY.

18 THE COURT: YES, SURE. BECAUSE THAT INVOLVES HIM. BUT  
19 I DON'T THINK WE HAVE TO DO THAT RIGHT AWAY.

20 MR. WAPNER: I THINK WE HAVE TO DO IT BY NO LATER THAN  
21 TOMORROW MORNING AND PERHAPS THIS AFTERNOON, IF I CAN GET MR.  
22 BRODEY IN HERE.

23 FRANKLY, SINCE --

24 MR. CHIER: HE MAY BE HERE.

25 MR. WAPNER: SINCE WE WERE INVOLVED IN THE PENDENCY OF  
26 THIS, I WAS MORE CONCERNED ABOUT GETTING BACK HERE ON TIME.  
27 I DID NOT CONTACT MR. BRODEY.

28 THE COURT: AS LONG AS NOBODY IS REVEALING ANYTHING,  
988

1 NOTHING HAS TO BE SAID. THERE IS NO IMMEDIACY IN HAVING MR.  
2 BRODEY KNOW ABOUT IT. HE WILL KNOW BY TOMORROW MORNING. THAT  
3 WILL BE SUFFICIENT TIME FOR HIM.

4 MR. WAPNER: SHOULD WE HAVE MR. BRODEY HERE TOMORROW  
5 MORNING?

6 THE COURT: YES. HAVE HIM HERE TOMORROW MORNING AT  
7 9:00 O'CLOCK.

8 MR. WAPNER: SO, AS TO OUR PROCEEDINGS NOW, WE ARE GOING  
9 TO GO INTO THE COURTROOM AND YOU ARE GOING TO ANNOUNCE THERE  
10 IS A GAG ORDER AND WE ARE GOING TO TAKE A BRIEF RECESS?

11 MR. BARENS: THE DEFENSE WOULD LIKE A 30-MINUTE RECESS.

12 THE COURT: ALL RIGHT.

13 MR. BARENS: THANK YOU.

14 THE COURT: OKAY. THAT WILL BE 2:30. OKAY.

15 (RECESS.)  
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1 SOUND LAB WITH COPIES OF BLANK CASSETTES AND PAY FOR THE  
2 COPYING.

3 THE COURT: HE IS NOT GOING TO PAY FOR IT. WE HAVE TO  
4 PAY FOR IT BECAUSE HE IS --

5 MR. WAPNER: WELL, HE APPARENTLY PAYS FOR IT AND THEN  
6 HE SUBMITS HIS BILL TO YOU AND YOU PAY HIM.

7 BUT, THEY WON'T GIVE HIM THE TAPES WITHOUT GETTING  
8 PAID FOR THEM INITIALLY.

9 I ALSO HAVE HAD A CONVERSATION ON FRIDAY. I WAS  
10 CALLED AND HAD A BRIEF CONVERSATION ON THE TELEPHONE WITH  
11 LOUIS TITUS, CO-COUNSEL --

12 THE COURT: WAIT. I DON'T KNOW THAT THAT HAS ANY  
13 MATERIALITY INSOFAR AS HIS CASE IS CONCERNED. IT WILL HAVE  
14 NO REFERENCE AT ALL TO HIM.

15 IT ONLY HAS REFERENCE TO OTHER COUNSEL IN THE  
16 CASE. I DON'T THINK THAT THERE OUGHT TO BE ANY DISCLOSURE  
17 OF THAT TO HIM.

18 MR. BARENS: I HAVE A COMMENT ON THAT THAT I WANT TO  
19 MAKE ON THE RECORD, AS WELL, YOUR HONOR. I DON'T MIND MAKING  
20 IT IN FRONT OF MR. BRODEY.

21 YOUR HONOR, DURING THE RECESS, THE PEOPLE PROVIDED  
22 ME WITH A THREE-PAGE INVESTIGATOR'S REPORT CONCERNING THIS  
23 CONTACT WITH MR. TITUS.

24 THE COURT: DO YOU WANT THIS? ALL RIGHT. GO AHEAD.  
25 I JUST THOUGHT THAT IT DIDN'T HAVE ANYTHING TO DO WITH  
26 PITTMAN.

27 MR. BARENS: I DON'T HAVE ANY EXCEPTION CONCERNING THE  
28 CONTACT BETWEEN THE PEOPLE AND MR. TITUS.

6 1 BEEN DELIVERED PURSUANT TO THE SUBPOENA DUCES TECUM.

2 THE COURT: I HAVE QUASHED THE SUBPOENA.

3 MR. CRAIN: I KNOW THAT, BUT FOR REVIEW BY OTHER  
4 COURTS THE MATTERS THAT WERE SUBPOENAED SHOULD BE IN  
5 CUSTODY AND REMAIN UNDER SEAL, BUT IN THE CUSTODY OF THE  
6 SUPERIOR COURT.

7 THE COURT: I DISAGREE. THE MATTER IS TOTALLY  
8 COLLATERAL.

9 MR. CRAIN: I WOULD LIKE TO BRING UP ONE OTHER  
10 MATTER.

11 THE COURT: YEAH.

12 MR. CRAIN: WITH THE COURT'S PERMISSION WE'D LIKE  
13 TO CALL AS WITNESSES MR. FLIER AND MR. ROSS TO TESTIFY  
14 THAT MR. BARENS -- AS CHARACTER WITNESSES TO TESTIFY THAT  
15 MR. BARENS, IN THEIR OPINION, AND AS TO REPUTATION IN THE  
16 LEGAL COMMUNITY IS KNOWN FOR DISHONESTY AND INCOMPETENCE.

17 THE COURT: MY -- PREVIOUS RULING AS TO DISALLOWING  
18 THAT STANDS.

19

20 (PAUSE.)

21

22 THE COURT: IS THIS YOUR WITNESS, MR. MC MULLEN?

23 MR. MC MULLEN: YES, YOUR HONOR.

24 IF YOU COULD STEP FORWARD AND WALK TOWARDS  
25 THE WITNESS STAND. FACE THE COURT CLERK TO BE SWORN IN,  
26 SIR.

27

28

1 SANTA MONICA, CALIFORNIA; MONDAY, DECEMBER 8, 1986; 1:35 P.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE  
4 EXCEPT MR. CHIER IS NOT PRESENT.)  
5

6 THE COURT: ALL RIGHT.

7 MR. BARENS: GOOD AFTERNOON.

8 MR. WAPNER: YOUR HONOR, AT THIS TIME I WANT THE RECORD  
9 TO REFLECT THAT I AM HANDING TO MR. BARENS, TWO REPORTS, ONE  
10 CONCERNING THE INITIAL PHONE CALL THAT I RECEIVED FROM MR.  
11 TITUS THAT WAS THE SUBJECT OF A DISCLOSURE THAT I MADE IN  
12 CHAMBERS LAST WEEK FROM THE BEVERLY HILLS POLICE DEPARTMENT  
13 AND A SECOND ONE FROM THE BEVERLY HILLS POLICE DEPARTMENT AND  
14 THE TUCSON POLICE DEPARTMENT REGARDING INFORMATION THAT HAS  
15 BEEN DEVELOPED DURING THE COURSE OF THE INVESTIGATION.

16 THE COURT: ALL RIGHT.

17 MR. BARENS: THANK YOU.

18 THE COURT: IT HAS BEEN LODGED WITH THE CLERK?

19 MR. WAPNER: SORRY?

20 THE COURT: I HAVE NOT SEEN ANY OF THEM AT ALL, NOR HAVE  
21 I SEEN THE REPORT THAT YOU GAVE TO COUNSEL.

22 MR. WAPNER: WELL, YOUR HONOR, AS IS THE CASE IN ALMOST  
23 EVERY INSTANCE, I DON'T THINK IT IS APPROPRIATE TO BE GIVING  
24 THE POLICE REPORTS TO THE COURT BECAUSE THEY MAY BE THE SUBJECT  
25 OF FUTURE LITIGATION, IN THE EVENT THAT THE WITNESSES MAY SAY  
26 ONE THING THAT IS IN THE REPORT OR NOT IN THE REPORT AND --

27 THE COURT: I AM JUST ASKING ABOUT COPIES OF REPORTS GIVEN  
28 TO COUNSEL.

1 MR. WAPNER: WELL, THEY ARE IN ESSENCE, POLICE REPORTS  
2 OF INCIDENTS THAT ARE CURRENTLY UNDER INVESTIGATION.

3 THE COURT: BUT HOW ABOUT THE REPORT THAT YOU GAVE HIM  
4 THAT FORMED THE BASIS OF THE GAG ORDER, THAT I HAVE NOT SEEN  
5 ANY OF EITHER?

6 MR. WAPNER: AGAIN, I DON'T THINK IT IS APPROPRIATE TO --

7 THE COURT: I THINK IT IS APPROPRIATE. WOULD YOU FILE  
8 IT, PLEASE?

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1 HERE?

2 THE COURT: YES.

3 MR. CHIER: I WOULD LIKE THE RECORD TO REFLECT THAT,  
4 YOUR HONOR, YOU MADE A SOUR FACE, YOUR HONOR.

5 THE COURT: I MADE A FACE BECAUSE OF THE FACT THAT YOU  
6 STOOD UP.

7 ALL RIGHT. IS THERE ANYTHING FURTHER YOU WANT TO  
8 HAVE A RECORD ON?

9 MR. CHIER: YES, YOUR HONOR.

10 THE COURT: GO AHEAD.

11 MR. WAPNER: COUNSEL, I AM NOT THROUGH. I HAVE ONE  
12 OTHER ISSUE --

13 MR. CHIER: I AM SORRY.

14 MR. WAPNER: -- THAT I WANTED TO DISCUSS.

15 THE COURT: GO AHEAD.

16 MR. WAPNER: THE OTHER THING IS WITH RESPECT TO ANYTHING  
17 HAVING TO DO WITH THE TESTIMONY OR POSSIBLE TESTIMONY OF MR.  
18 TITUS. LIKEWISE, WE DON'T KNOW THAT THAT IS GOING TO BECOME  
19 AN ISSUE IN THIS CASE AND I HAVE NO --

20 THE COURT: DO YOU PROPOSE TO CALL TITUS AS A WITNESS?

21 MR. WAPNER: WELL, AT THE MOMENT I DON'T.

22 THE COURT: ALL RIGHT.

23 MR. WAPNER: BUT NONE OF US ARE ABLE TO FORESEE THE  
24 FUTURE OR PREDICT EXACTLY WHAT IS GOING TO HAPPEN.

25 THE COURT: DO YOU WANT HIS NAMED MENTIONED AT ALL  
26 IN CONNECTION WITH THE VOIR DIRE OF THE JURY?

27 MR. WAPNER: WELL, I DON'T MIND IF WE MENTION HIS NAME  
28 IN THE LIST WITH THE OTHER WITNESSES WITHOUT IDENTIFYING WHO

1 HE IS.

2 THE COURT: HOW WILL HIS TESTIMONY BE RELEVANT AT ALL?

3 MR. WAPNER: WELL, AT THIS POINT WE DON'T KNOW, YOUR  
4 HONOR.

5 THE COURT: WELL, LET'S LEAVE HIS NAME OUT OF IT THEN.

6 MR. WAPNER: I DON'T HAVE ANY OBJECTION TO PUTTING HIS  
7 NAME ON THE LIST OF THE WITNESSES WITH THE OTHERS, WITHOUT  
8 IDENTIFYING WHO HE IS.

9 THE COURT: WELL, HE IS NOT A PROSPECTIVE WITNESS, IS  
10 HE, OR A POSSIBLE WITNESS?

11 MR. WAPNER: WELL, HE IS A POSSIBLE WITNESS.

12 THE COURT: ON WHAT WILL HE BE A POSSIBLE WITNESS?

13 MR. WAPNER: WELL --

14 THE COURT: NOT IN THIS PROCEEDING.

15 MR. WAPNER: I AM ONLY SPECULATING, YOUR HONOR.

16 I DON'T KNOW WHETHER OR NOT HE WILL BE A WITNESS  
17 OR NOT. BUT THE SUBSTANCE OF HIS STATEMENT --

18 THE COURT: WE WILL KEEP HIS NAME OUT OF IT UNLESS IT  
19 BECOMES MATERIAL LATER ON AND THEN IT CAN BE ADDED IF IT HAS  
20 TO BE ADDED.

21 MR. WAPNER: YOU DON'T WANT HIS NAME INCLUDED IN THE  
22 LIST OF POTENTIAL WITNESSES?

23 THE COURT: NO. I DON'T SEE WHAT THE POTENTIALITY OF  
24 HIS TESTIMONY IS GOING TO BE.

25 WHAT IS HE GOING TO TESTIFY TO, THAT HE MADE A DEAL  
26 WITH MR. BARENS AND MR. BARENS TRIED TO SUBORN PERJURY AND  
27 SO FORTH?

28 MR. BARENS ISN'T ON TRIAL.

1 SANTA MONICA, CALIFORNIA; THURSDAY, JANUARY 29, 1987; 10:40 A.M.

2 DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4  
5 (THE FOLLOWING PROCEEDINGS WERE HELD

6 IN CHAMBERS:)

7 THE COURT: ALL RIGHT, THE RECORD WILL INDICATE WE ARE  
8 PRESENTLY IN CHAMBERS.

9 WHO REQUESTED IT?

10 MR. WAPNER: YOU WERE.

11 MR. BARENS: YOU ASKED US.

12 MR. WAPNER: YOUR HONOR, I THOUGHT THE COURT SAID  
13 YESTERDAY --

14 THE COURT: YOU MEAN ON THE MATTER OF YOUR MOTION?

15 MR. BARENS: YES, YOUR HONOR.

16 THE COURT: WELL, MAYBE YOUR MEMORY IS FAILING YOU,  
17 BUT AT THE TIME WE WERE DISCUSSING THE FACT THAT THE  
18 DEFENDANT WAS NOT ABLE TO PAY YOU THE FEES THAT YOU ARE  
19 ENTITLED TO AND YOU REQUESTED COMPENSATION AT THE RATE OF  
20 \$75 AN HOUR, I TOLD YOU AT THAT TIME THAT YOUR --

21 MR. BARENS: ASSOCIATE.

22 THE COURT: -- ASSOCIATE HAD STATED IN PAPERS THAT YOU  
23 WERE PARTNERS.

24 MR. BARENS: YES, SIR, AND I CORRECTED YOU ON THAT.

25 THE COURT: SAYING YOU WERE PARTNERS IN THIS MATTER.

26 AND YOU WERE PARTNERS PRIOR TO THE TIME THAT YOU  
27 PRESENTED AN AFFIDAVIT -- PRIOR TO THE TIME THAT YOU  
28 A REQUEST FOR THE APPOINTMENT OF CO-COUNSEL TO JUDGE THOMAS

1 AND SUPPOSEDLY IT SHOULD HAVE BEEN DONE UNDER 987.D, BUT  
2 YOU DID IT UNDER 987.9 BECAUSE OF THE FACT YOU WANTED TO HAVE  
3 IT CONFIDENTIAL, SO TO SPEAK.

4 WELL, PROPERLY IT SHOULD HAVE BEEN UNDER 987.D.

5 BUT IN ANY EVENT, I TALKED TO JUDGE THOMAS AND  
6 HE SAID CATEGORICALLY THAT HE WOULD NEVER HAVE APPOINTED YOUR  
7 ASSOCIATE HERE, YOUR PARTNER AS CO-COUNSEL IN THE CASE AND  
8 HAVE THE COUNTY PAY FOR IT HAD HE KNOWN THAT YOU WERE  
9 PARTNERS.

10 MR. BARENS: YOUR HONOR, IF I MIGHT.

1 MR. BARENS: YOUR HONOR, IF I MIGHT, YOU RECALL I  
2 EXPLAINED CATEGORICALLY TO YOUR HONOR AND I WILL EXPLAIN  
3 AGAIN --

4 THE COURT: THEN I TOLD YOU TOO, AT THAT TIME -- LET  
5 ME FINISH. I TOLD YOU TOO AT THAT TIME, SINCE YOU NEEDED  
6 YOU TOLD ME -- YOU NEEDED A LAWYER TO HELP YOU IN CONNECTION  
7 WITH THE MOTIONS AND EVERYTHING ELSE IN THE PREPARATION, I  
8 TOLD YOU THAT I WOULD PERMIT -- THAT THE STATE WOULD PAY,  
9 THE COUNTY WOULD PAY FOR MR. CHIER ON THE CONDITION ONLY THAT  
10 HE ASSIST YOU IN THE WAY THAT YOU WANTED TO HAVE HIM ASSIST  
11 YOU, BUT NOT TO PARTICIPATE ACTIVELY IN THE TRIAL OF THE CASE.

12 YOU TOLD ME THAT THAT WOULD BE SO. NOW, DO YOU  
13 WANT TO CHARGE THAT?

14 MR. BARENS: YES, YOUR HONOR. IF I MIGHT ADDRESS YOUR  
15 HONOR'S FIRST REMARK, YOUR HONOR, I EXPLAINED TO YOU THEN  
16 AND I WILL EXPLAIN TO YOU NOW, AT NO TIME HAVE MR. CHIER AND  
17 I EVER BEEN PARTNERS.

18 AT NO TIME IN OUR CAREERS.

19 THE COURT: WELL, HE SAID SO IN HIS PAPERS. IN HIS  
20 PAPERS, HE SWORE TO IT, THAT YOU WERE PARTNERS.

21 MR. CHIER: I DID?

22 THE COURT: YES, YOU DID.

23 MR. CHIER: WHERE DID I DO THAT?

24 THE COURT: DIDN'T I POINT IT OUT TO YOU?

25 MR. BARENS: I BELIEVE HE DID. I BELIEVE YOUR HONOR  
26 HAD SOME DOCUMENT IN FRONT OF HIM AND --

27 THE COURT: THAT SAID HE WAS A PARTNER.

28 MR. BARENS: I CAN ONLY SAY TO YOUR HONOR THAT --

1 THE COURT: LET ME FINISH ONE OTHER THING. GO AHEAD.  
2 YOU FINISH UP.

3 MR. BARENS: THANK YOU, YOUR HONOR. YOUR HONOR, AT  
4 NO TIME HAVE MR. CHIER AND I EVER BEEN PARTNERS. AT NO TIME  
5 HAVE MR. CHIER AND I EVER OFFICED TOGETHER. AT ALL TIMES  
6 DURING OUR CAREERS --

7 THE COURT: BEFORE HE WAS APPOINTED, WEREN'T YOU  
8 TOGETHER IN THE CASE AS COUNSEL IN THE CASE?

9 MR. BARENS: ABSOLUTELY.

10 THE COURT: YOU WERE PAID BY THE DEFENDANT, BOTH OF  
11 YOU?

12 MR. BARENS: NO, YOUR HONOR.

13 THE COURT: YOU MEAN HE WAS WORKING FOR NOTHING?

14 MR. BARENS: NO, YOUR HONOR.

15 THE COURT: HOW WAS HE BEING COMPENSATED?

16 MR. BARENS: HE WAS COMPENSATED FROM THE COMPENSATION  
17 I RECEIVED. I DETERMINED A FEE ARRANGEMENT WITH MR. CHIER  
18 WHEREIN I PAID HIM CERTAIN SUMS OF MONEY.

19 THE COURT: WELL THEN, HE WAS PAID.

20 MR. BARENS: BY MY OFFICE.

21 THE COURT: HE WAS PAID BY YOU. HE CHARACTERIZED YOUR  
22 RELATIONSHIP AS BEING PARTNERS.

23 MR. BARENS: IT IS A MISCHARACTERIZATION AND --

24 THE COURT: WELL IN ANY EVENT, I TOOK YOU AT YOUR WORD.  
25 AT THE TIME, I TOLD YOU THEN CATEGORICALLY -- INCIDENTALLY,  
26 I TOLD YOU THAT JUDGE THOMAS NEVER -- HE TOLD ME THAT HE NEVER  
27 WOULD HAVE APPOINTED HIM, HAD HE KNOWN THAT HE WAS  
28 CASE AND HAD BEEN PARTICIPATING IN YOUR FEES.

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1 MR. BARENS: IF I MIGHT SAY --

2 THE COURT: I AM TELLING YOU THIS NOW. I THINK THAT  
3 YOU ARE FULLY CAPABLE OF HANDLING THE CASE YOURSELF. IF YOU  
4 WANT ANY ASSISTANCE FROM HIM, HE CAN GIVE YOU WHATEVER  
5 ASSISTANCE YOU WANT HIM TO GIVE YOU.

6 YOU WILL NOT HAVE HIM AS AN ATTORNEY IN THIS  
7 CASE, QUESTIONING ANY WITNESS.

8 MR. BARENS: MIGHT I BE HEARD ON THAT?

9 THE COURT: GO AHEAD.

10 MR. BARENS: I HAVE TO BE, YOUR HONOR. YOUR HONOR,  
11 IF I MIGHT EXPLAIN THAT SINCE THIS MATTER HAS BEEN IN THE  
12 SUPERIOR COURT AND BEFORE WE CAME TO THE SUPERIOR COURT, I  
13 MADE IT CLEAR TO THE CLIENT THAT IN NO WAY, WAS I WILLING  
14 TO UNDERTAKE THE REPRESENTING OF MR. HUNT UNLESS I HAD  
15 ASSOCIATE COUNSEL OF A CO-COUNSEL STATUS.

16 I EXPLAINED TO HIM THAT BASED ON THE COMPLEXITY  
17 OF THE CASE AND THE NUMBER OF ISSUES, THE NUMBER OF WITNESSES  
18 AND THE TREMENDOUS VOLUME OF DOCUMENTARY EVIDENCE, THAT I  
19 WAS NOT ABLE OR PREPARED TO PREPARE THE CASE FOR TRIAL AND  
20 EXECUTE THE TRIAL ON MY OWN.

21 AT THAT TIME, MR. CHIER WAS ACTIVELY INVOLVED  
22 WITH ME AND I REPRESENTED TO THE COURT THAT DURING THAT PERIOD  
23 OF TIME, MR. CHIER HAD HAD THE MAJORITY OF DIRECT CONTACT  
24 WITH MR. HUNT IN TERMS OF PREPARING MR. HUNT TO TESTIFY FOR  
25 PURPOSES OF THE TRIAL.

26 OBVIOUSLY, I WILL REPRESENT TO THE COURT THAT  
27 THE DEFENDANT IS GOING TO TESTIFY. I DON'T FEEL TH  
28 LETTING SOME CAT OUT OF THE BAG BY SAYING IT OR THAT IT IS



1 SOME SURPRISE.

2 MR. WAPNER: MAY I INTERRUPT YOU, MR. BARENS? I HAVE  
3 A PHONE CALL FROM AGENT TULLENERS. MR. CHIER HAD ASKED ME  
4 TO GET HIM HERE. MAY I JUST TAKE IT? I APOLOGIZE.

5 THE COURT: SURE.

6 (PAUSE.)  
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1 (PAUSE IN PROCEEDINGS.)

2 (MR. WAPNER ENTERS CHAMBERS.)

3 MR. WAPNER: THANK YOU. I APOLOGIZE.

4 MAY I HAVE JUST A MOMENT?

5 (UNREPORTED COLLOQUY BETWEEN ALL  
6 COUNSEL.)

7 MR. BARENS: ALL OF MY STUFF, IN MY OPINION, IS BRIEF  
8 TODAY.

9 THE COURT: ANYTHING FURTHER?

10 MR. BARENS: I WAS JUST STARTING MY REMARKS, YOUR HONOR.

11 YOUR HONOR, AS I WAS EXPLAINING, I BELIEVE, BEFORE  
12 THE BREAK, MR. CHIER HAS HAD THE MAJORITY OF THE CONTACT WITH  
13 THE CLIENT IN PREPARATION WITH THE CLIENT FOR TRIAL IN TERMS  
14 OF THE CLIENT'S TESTIMONY AND ORIENTATION AS TO OTHER  
15 WITNESSES.

16 AS YOUR HONOR IS PROBABLY AWARE --

17 THE COURT: WILL YOU ADDRESS THE POINT THAT I MADE,  
18 THAT YOU AND I HAD DISCUSSED THE QUESTION OF YOUR COMPENSATION  
19 AND THE COMPENSATION OF MR. CHIER.

20 MR. BARENS: YES, YOUR HONOR.

21 THE COURT: ALL RIGHT. IN WHICH I TOLD YOU CATEGORICALLY  
22 THEN THAT I WOULD APPROVE OF NOTHING. YOU WERE INSISTING  
23 UPON HAVING HIM WITH YOU AND I SAID FOR THE PURPOSE OF  
24 ASSISTING YOU IN THE MATTER, I WOULD PAY YOU \$75 AN HOUR AND  
25 PAY HIM \$35 AN HOUR, PROVIDED HE HAD NOTHING TO DO ACTIVELY  
26 IN THE TRIAL OF THE CASE.

27 MR. BARENS: YES, YOU DID TELL ME.

28 THE COURT: NOW WHY DO YOU WANT TO CHANGE IT?

1 MR. BARENS: YES, YOUR HONOR.

2 THE COURT: WHY?

3 MR. BARENS: I HAVE HAD MULTIPLE DISCUSSIONS WITH  
4 MR. CHIER.

5 THE COURT: THEN I WILL ANNUL THE ORDER, IF I MAY.

6 MR. BARENS: I UNDERSTAND THAT IS A RISK I AM TO TAKE.

7 THE COURT: ALL RIGHT.

8 MR. BARENS: AND YOUR HONOR HAS TO PROCEED AS YOUR HONOR  
9 DEEMS FIT AND I HAVE TO PROCEED AS I FEEL OBLIGATED UNDER  
10 THE CIRCUMSTANCES.

11 THE COURT: NOW I AM ORDERING YOU TO PROCEED WITH THE  
12 CASE AS IT IS GOING. HE CAN ASSIST YOU IN ANY WAY THAT HE  
13 WANTS BUT HE IS NOT TO PARTICIPATE IN THE EXAMINATION OF ANY  
14 WITNESSES, AND SO FORTH.

15 AND I WILL TELL YOU FOR THE SAKE OF THE DEFENDANT,  
16 BECAUSE HE HAD AN ABRASIVE ATTITUDE TOWARDS THE JURORS ON  
17 THE HOVEY HEARING, IT IS NOT FOR THE BEST INTERESTS OF YOUR  
18 CLIENT TO HAVE HIM UP HERE ACTIVELY IN THE CASE AND I AM  
19 DUTY-BOUND TO TELL YOU THAT.

20 I KNOW THAT HE HAS -- HE HAS AN UNFAVORABLE AND  
21 DISASTEROUS REACTION WITH THE PROSPECTIVE JURORS WHOM HE HAD  
22 QUESTIONED.

23 MR. CHIER: WHAT IS THE BASIS FOR THAT, YOUR HONOR?

24 THE COURT: I AM NOT TALKING TO YOU.

25 MR. CHIER: YOUR HONOR, I --

26 MR. BARENS: YOUR HONOR -- PLEASE, GENTLEMEN --

27 YOUR HONOR, IF I MIGHT CONTINUE.

28 MY CONCERNS ARE THE DEFENDANT'S RIGHT TO

1 COMPETENT COUNSEL AND THE WAY THE CASES HAVE VIEWED THE  
2 DEFINITION OF COMPETENT COUNSEL AND THE STATUTORY ENTITLEMENT  
3 THAT HE HAS UNDER THE CIRCUMSTANCES, AND I AM TRYING TO BE  
4 SENSITIVE TO THAT AND I WOULD LIKE TO DISCUSS THAT FOR A  
5 MOMENT WITH YOUR HONOR.

6 THE COURT: WE HAVE DISCUSSED IT IN THE PAST.

7 MR. BARENS: I KNOW BUT --

8 THE COURT: YOU TOLD ME AT THAT TIME, THE FACT YOU NEEDED  
9 HIM IN THE CASE AND I TOLD YOU IN WHAT RESPECTS IT WOULD BE  
10 AGREEABLE TO HAVE HIM PAID FOR IT BY THE COURT AND AS HE HAD  
11 BEEN ASSISTING YOU ALL THROUGHOUT.

12 I DON'T THINK YOU NEED TO BE BURDENED BY HIS  
13 ASSISTANCE THE WAY YOU WANT TO BE.

14 MR. BARENS: YOUR HONOR, I FEEL I WANT TO HAVE  
15 DISCUSSION WITH YOUR HONOR AND I FEEL I AM REQUIRED TO DISCUSS  
16 IT WITH YOUR HONOR ON THE RECORD AS TO MY POINT OF VIEW.

17 AS I AM AWARE, THE DEFINITION OF THE RIGHT TO  
18 COUNSEL ON ALL OF THE CASES I HAVE READ, I HAVE NEVER FOUND  
19 A PRECEDENT, YOUR HONOR, WHERE COUNSEL WAS PRECLUDED FROM  
20 PARTICIPATING WITH CO-COUNSEL.

21 I CITE TO YOUR HONOR AN EXAMPLE IN THIS THAT IS  
22 SIMILAR OF PEOPLE V. MARVIN PANCOAST, WHICH WAS TRIED IN THE  
23 VAN NUYS COURT.

24 THE COURT: LET'S CUT IT SHORT. YOU WANT HIM AS YOUR  
25 CO-COUNSEL IN THE CASE AND WE ARE NOT GOING TO PAY HIM, THAT  
26 IS PERFECTLY AGREEABLE TO ME.

27 MR. CHIER: I AM NOT GOING TO BE PAID?

28 THE COURT: YOU CAME INTO THE CASE AND YOU HAD RECEIVED --

1 YOU TOLD ME YOU HAD AGREED TO RECEIVE \$50,000 AND YOU TOLD  
2 ME THAT YOU GOT PAID \$35,000.

3 MR. BARENS: THAT IS CORRECT, YOUR HONOR.

4 THE COURT: THEN YOU TOLD ME THAT, OF COURSE, HE IS  
5 NOWINDIGENT, HE HASN'T GOT ANY MONEY.

6 MR. BARENS: QUITE SO.

7 THE COURT: AND THE DISTRICT ATTORNEY DOWNTOWN TALKED ABOUT  
8 IT IN JUDGE MUNOZ' COURT, AND WHICH COURT SAID "IT IS JUST TOO BAD, YOU ARE  
9 SUPPOSED TO CONTINUE WITH THE CASE EVEN IF YOU DON'T GET PAID, THAT  
10 IT IS YOUR OBLIGATION AS YOU HAVE BEEN IN THE CASE.

11 AND I SAID NO, I WOULD GIVE YOU --

12 MR. BARENS: YOU WERE QUITE GENEROUS.

13 THE COURT: -- \$75 AN HOUR AND IF YOU WANT HIM TO ASSIST  
14 YOU, I WOULD PAY HIM \$35 AN HOUR, BUT HE IS NOT TO ENGAGE  
15 ACTIVELY. AND BY THAT, I MEAN QUESTIONING OF WITNESSES,  
16 APPEARING IN THE CASE AS SUCH. HE CAN DO ALL OF YOUR LEG  
17 WORK, ALL OF YOUR ERRANDS. HE CAN DO ANYTHING THAT YOU WANT  
18 HIM TO DO AND WE WILL PAY FOR IT BUT I DON'T WANT HIM  
19 ACTIVELY IN THE CASE. I DON'T THINK HE IS NEEDED.

20 YOU ARE EXTREMELY COMPETENT AND YOU HAVE BEEN  
21 DOING IT.

22 MR. BARENS: YES, YOUR HONOR.

23 THE COURT: YOU DON'T NEED HIM.  
24  
25  
26  
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1 MR. CHIER: ARE YOU SAYING THAT I CAN'T SPEAK DURING  
2 THE TRIAL?

3 THE COURT: YOU CAN'T SPEAK. YOU CAN SPEAK TO HIM.  
4 BUT YOU CAN'T SPEAK TO THE COURT.

5 MR. CHIER: YOU WON'T LET ME SPEAK TO HIM. YOU TOLD  
6 ME TO SHUT UP.

7 THE COURT: NO, WHEN I AM TALKING TO HIM.

8 MR. BARENS: GENTLEMEN, PLEASE. I QUITE WELL UNDERSTAND  
9 THAT YOUR HONOR --

10 THE COURT: WHAT DO YOU WANT TO DO? DO YOU WANT TO  
11 CHANGE THE ARRANGEMENTS? I WILL CHANGE THE ORDER THAT I MADE  
12 ON YOU AT \$75 AN HOUR. ALL RIGHT?

13 MR. BARENS: YOUR HONOR --

14 MR. CHIER: YOU ARE ANNULING MY ORDER?

15 THE COURT: YES, YOUR ORDER, TOO.

16 MR. CHIER: YOU DIDN'T EVEN MAKE IT.

17 THE COURT: YOUR ORDER TOO, BECAUSE JUDGE THOMAS SAID  
18 THAT HE WAS IMPOSED UPON.

19 HE SAID HE WAS DECEIVED INTO THINKING THAT YOU  
20 WERE INDEPENDENT COUNSEL.

21 MR. CHIER: WOULD YOU MIND TELLING ME WHAT MISREPRESENT-  
22 ATIONS YOU CONTEND THAT I MADE?

23 THE COURT: NOT DISCLOSING TO JUDGE THOMAS THAT YOU  
24 WERE A PARTNER AND THAT YOU WERE RECEIVING FEES FROM THE  
25 DEFENDANT.

26 MR. CHIER: I AM NOT A PARTNER. I MADE A FULL  
27 DISCLOSURE OF THE --

28 THE COURT: NO YOU DIDN'T. I TOLD YOU THAT I AM NOW  
1004

6012

1 LOOKING FOR THE AFFIDAVIT AND --

2 MR. CHIER: MY AFFIDAVIT IS CONFIDENTIAL, YOUR HONOR.

3 THE COURT: NO. IT WAS A MATTER OF RECORD.

4 MR. CHIER: IT WAS FILED ON A CONFIDENTIAL --

5 THE COURT: IT WAS ANOTHER ONE OF YOUR MISSTATEMENTS.  
6 YOU MAKE MANY OF THEM.

7 LET ME SHOW YOU WHERE IT WAS. IT IS NOT  
8 CONFIDENTIAL.

9 I WILL READ IT TO YOU ON THE RECORD. DO YOU  
10 REMEMBER THAT I READ IT TO YOU?

11 MR. BARENS: I BELIEVE YOUR HONOR REFERENCED IT. I  
12 DON'T SPECIFICALLY RECALL YOUR HONOR READING IT.

13 I BELIEVE YOUR HONOR POINTED TO A DOCUMENT AND  
14 MADE REFERENCE TO IT, YOUR HONOR. I DO RECALL THE REFERENCE  
15 THAT YOUR HONOR IS SAYING TODAY THOUGH, IS WHAT YOUR HONOR  
16 SAID TO ME ON THAT OCCASION.

17 THE COURT: ALL RIGHT.

18 MR. BARENS: HOWEVER YOUR HONOR, I AM SAYING FOR THE  
19 RECORD, AT NO TIME HAS MR. CHIER BEEN A PARTNER OF MINE, AT  
20 NO TIME, IN ANY RESPECT.

21 THE COURT: I DON'T KNOW WHAT YOU CALL IT. YOU WERE  
22 ASSOCIATED TOGETHER ON THIS. YOU WERE SPLITTING FEES WITH  
23 HIM, WEREN'T YOU? WEREN'T YOU PAYING HIM FEES?

24 MR. BARENS: YES.

25 THE COURT: AND SO FORTH IN THIS PARTICULAR MATTER.  
26 THEN HE WAS A PARTNER OF YOURS IN THIS CASE. HE SAID TO --

27 MR. BARENS: IN THIS CASE?

28 THE COURT: YES. I AM TALKING ABOUT THIS CASE.

6013

1 MR. BARENS: WHEN YOU USED THE WORD "PARTNER" I ABSOLUTELY  
2 INTERPRETED THAT AS BEING MY LAW PARTNER IN MY FIRM.

3 THE COURT: NO. HE WAS A PARTNER OF YOURS IN THE CASE  
4 AND SHARING FEES THAT YOU WERE RECEIVING.

5 MR. BARENS: ABSOLUTELY. THERE IS NO QUESTION ABOUT  
6 THAT.

7 THE COURT: THAT WAS NEVER DISCLOSED TO JUDGE THOMAS.

8 MR. CHIER: IT WAS, TOO.

9 THE COURT: JUDGE THOMAS TOLD ME CATEGORICALLY THAT  
10 HE NEVER WOULD HAVE APPOINTED YOU, HAD HE KNOWN ANYTHING  
11 LIKE THAT AT ALL.

12 AS A MATTER OF FACT, HE DOESN'T LIKE YOU.

13 MR. BARENS: WELL YOUR HONOR, IRRESPECTIVE OF THAT,  
14 YOUR HONOR, WE ARE I SUBMIT RESPECTFULLY, MOST HUMBLY YOUR  
15 HONOR, THIS CASE TRASCENDS THE IMPORTANCE -- THE IMPORTANCE  
16 OF ADEQUATE REPRESENTATION OF COUNSEL FOR A DEFENDANT IN A  
17 CAPITAL CASE TRASCENDS ANY PERSONAL FEELINGS THAT WE MAY  
18 HAVE.

19 THIS IS NOT A CONTEST BETWEEN COUNSEL AND THE  
20 COURT BUT RATHER, AN EFFORT TO INSURE THAT MR. HUNT HAS A  
21 FAIR TRIAL AND --

22 THE COURT: HE IS GOING TO HAVE A FAIR TRIAL. THAT  
23 DOESN'T MEAN THAT HE CAN QUESTION WITNESSES. YOU ARE EXTREMELY  
24 COMPETENT AT DOING IT, MUCH BETTER THAN HE CAN AND DOES.

25 MR. BARENS: YOUR HONOR, THE DEFENDANT HAS APPROACHED  
26 ME ON AN URGENT BASIS, TELLING ME THAT HE FEELS HE HAD ALWAYS  
27 UNDERSTOOD DURING THE PREPARATION OF THIS TRIAL, THAT THERE  
28 HAD BEEN A DIVISION OF LABOR BETWEEN MR. CHIER AND MYSELF,



6014

1 VIS-A-VIS SPECIFIC WITNESSES WHICH IS IN FACT, TRUE.

2 BUT THERE WAS FROM THE VERY START, AREAS THAT  
3 MR. CHIER ARGUED TO THIS COURT DURING THE BAIL MOTION AND  
4 ALL PRETRIAL PROCEEDINGS. AND I REPRESENT TO YOUR HONOR,  
5 THAT IN THE SAN FRANCISCO CASE, MR. CHIER HANDLED SOME OF  
6 THE WITNESSES AND I HANDLED SOME OF THE WITNESSES AS WE PREPARED  
7 ON THAT BASIS.

8 WE PREPARED ON THE SAME BASIS FOR THIS COURT.  
9 THERE WERE CERTAIN WITNESSES THAT MR. CHIER HAD CONTACT WITH  
10 AND DOCUMENTS THAT HE WAS FAMILIAR WITH AND WOULD DO THE WORK-  
11 LOAD ON AND WE DIVIDED THE RESPONSIBILITIES.

6015

1 I DON'T SEE AT THIS PARTICULAR TIME HOW, ON THE  
2 EVE OF TRIAL, WE CAN BE PRECLUDED FROM PROCEEDING ON THE BASIS  
3 ON WHICH WE PREPARED.

4 YOUR HONOR, I WOULD ALSO LIKE TO SAY FOR THE  
5 RECORD THAT IF THERE HAD BEEN ANY INSTANCES IN WHICH MR. CHIER  
6 HAS OFFENDED THE COURT, HE IS FULLY PREPARED TO APOLOGIZE  
7 FOR SAME.

8 HE DOES NOT SEEK ANY CONFRONTATION WITH YOUR  
9 HONOR. WE WOULD LIKE YOUR HONOR TO JUST AT THE TRIAL --

10 THE COURT: DO YOU WANT TO PROCEED ON THIS CASE WITHOUT  
11 COMPENSATION FROM THE COUNTY?

12 MR. BARENS: I DON'T WANT TO PROCEED WITHOUT COMPENSATION.  
13 IF IT IS A PENALTY THAT --

14 THE COURT: WOULD YOU --

15 MR. BARENS: I AM SURE MR. CHIER DOESN'T WANT TO PROCEED  
16 WITHOUT COMPENSATION. YOUR HONOR, IF YOU ARE SAYING TO ME  
17 THAT IF I FEEL INSURING HUNT'S FAIR TRIAL REQUIRES CHIER'S  
18 PARTICIPATION IN THE TRIAL THAT --

19 THE COURT: I WANT TO KNOW WHY IN THE MIDDLE OF THINGS,  
20 YOU WANT TO CHANGE IT. DIDN'T WE AGREE CATEGORICALLY AND  
21 DIDN'T YOU AGREE CATEGORICALLY, THAT IF YOU WERE PAID \$75  
22 AN HOUR AND HE WAS PAID \$35 TO ASSIST YOU, THAT HE WOULD  
23 REFRAIN FROM ACTIVELY EXAMINING ANY WITNESSES OR HAVING ANY  
24 PARTICIPATION IN THE CASE?

25 MR. BARENS: I BELIEVE WE HAD THAT UNDERSTANDING.

26 THE COURT: ISN'T THAT THE UNDERSTANDING?

27 MR. BARENS: YOUR HONOR, SUBSEQUENT TO THAT --

28 THE COURT: AT THAT TIME, YOU KNEW ABOUT THE

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1 RESPONSIBILITY THAT YOU HAD AS A LAWYER AND HOW BEST TO PREPARE  
2 THIS CASE.

3 MR. BARENS: YOUR HONOR, IF I MIGHT RESPOND, DURING  
4 DISCUSSION WITH MR. HUNT SUBSEQUENT TO THAT UNDERSTANDING,  
5 MR. HUNT CANNOT RECONCILE WITH THAT UNDERSTANDING AND FEELS  
6 HE HAS BEEN ASSURED THE RIGHT TO ADEQUATE COUNSEL AND  
7 COMPREHENSIVE COUNSEL STATUTORIALLY PROVIDED FOR HIM. AND  
8 I WOULD CONCUR WITH HIS JUDGMENT THAT IF HE IS UNCOMFORTABLE  
9 OR HAS MISGIVINGS THAT HE IS NOT BEING REPRESENTED ON THE  
10 BASIS FOR WHICH THE MATTER WAS PREPARED FOR TRIAL, THAT I  
11 AM OBLIGED TO MAKE THAT KNOWN TO THE COURT, WHICH I AM DOING.

12 AND CONFIRMING THAT HIS UNDERSTANDING WAS AS WE PREPARED  
13 FOR TRIAL, THAT HE WOULD HAVE TWO LAWYERS PARTICIPATING IN  
14 HIS DEFENSE. HE WORKED VERY CLOSELY IN FACT, I REPRESENT  
15 TO THE COURT, ON AN AVERAGE OF SIX DAYS A WEEK. HE HAS WORKED  
16 PERSONALLY WITH MR. CHIER IN THE PREPARATION OF HIS DEFENSE.

17 THE COURT: I AM NOT PREVENTING HIM FROM WORKING,  
18 ASSISTING YOU PREPARING ANYTHING THAT HAS TO BE PREPARED.  
19 I AM NOT PRECLUDING YOU FROM DOING THAT. THAT WAS OUR UNDER-  
20 STANDING.

21 MR. BARENS: COULD I ASK YOUR HONOR, WHAT HARM WOULD  
22 COME TO THE PROCEEDINGS OR WHY MR. CHIER COULDN'T PARTICIPATE?

23 THE COURT: I DON'T WANT HIM TO PARTICIPATE. I THINK  
24 THAT IT WOULD BE A DISSERVICE IN THIS PARTICULAR CASE.

25 HE WOULD ANTAGONIZE AND ALIENATE THE JURORS,  
26 AS HE HAD DONE IN THE HOVEY HEARINGS.

27 I THINK FOR THE BEST INTEREST OF THE DEFENDANT,  
28 YOU ARE EXTREMELY COMPETENT TO HANDLE IT YOURSELF, WITH HIS

1 ASSISTANCE, WITHOUT HIS HAVING TO CROSS-EXAMINE ANY WITNESSES.

2 MR. BARENS: YOUR HONOR, LET ME ON ANOTHER ISSUE ASIDE  
3 FROM THE CROSS-EXAMINING OF WITNESSES, YOUR HONOR, I AM SURE  
4 YOU ARE AWARE THAT I HAVE ADVISED YOUR HONOR THAT MR. CHIER  
5 HAS DONE ALL OF THE LEGAL RESEARCH AND PREPARATION OF MOTIONS  
6 IN THIS MATTER.

7 I HAVE CATEGORICALLY REPRESENTED THAT TO YOU,  
8 YOUR HONOR.

9 THE COURT: JUST LIKE THE APPOINTMENT OF THIS SPECIAL  
10 MASTER? THAT IS TYPICAL OF THE WORK THAT HE HAS BEEN DOING  
11 FOR YOU, ISN'T IT?

12 MR. BARENS: NO, IT WAS NOT. IT WAS A SEAT-OF-THE-PANTS  
13 DECISION WE HAD MADE UNDER EXTREME CIRCUMSTANCES.

14 MR. CHIER HAD NO OPPORTUNITY TO RESEARCH THE  
15 SECTION. AND I BELIEVE HE TOLD YOUR HONOR THAT HE HAD NOT  
16 READ THE SECTION. YOUR HONOR, HE WAS CALLING ME FROM A  
17 CAR TELEPHONE --

18 THE COURT: BUT AFTER I POINTED IT OUT TO HIS ATTENTION --

19 MR. BARENS: HE WAS CALLING ME FROM A TELEPHONE IN  
20 A CAR ON AN EMERGENCY BASIS. I HAD NOT READ THE SECTION.

21 MR. WAPNER HAD NOT READ THE SECTION. I DON'T  
22 FEEL THAT WE SHOULD CHASTISE MR. CHIER OVER SOMETHING THAT  
23 WAS JUST SITUATIONAL.

24 THE COURT: WELL, I AM TELLING YOU NOW TO WHAT EXTENT  
25 I WILL PERMIT HIM TO PARTICIPATE.

26 MR. BARENS: COULD I FINISH?

27 THE COURT: IT WILL BE IN ACCORDANCE WITH THE AGREEMENT  
28 THAT WE HAD. ON THE BASIS OF THAT, I SIGNED THE ORDER. NOW

1 YOU WANT TO BACK OUT ON THAT.

2 NOW, YOU CAN GO AHEAD AND TRY THIS CASE WITHOUT  
3 ANY COMPENSATION FROM THE COUNTY OR FROM THE STATE OR FROM  
4 ANYBODY ELSE.

5 MR. BARENS: MIGHT I SAY --

6 MR. CHIER: COULD I ASK A QUESTION, YOUR HONOR?

7 THE COURT: NO.

8 MR. BARENS: COULD HE ASK ME THE QUESTION TO ASK YOU?

9 THE COURT: HE CAN WHISPER IT TO YOU, THE WAY HE HAS  
10 BEEN DOING THROUGHOUT.

11 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

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1 THE COURT: WHEN HE SOUGHT OUT THIS WRIT, HE SAID THAT  
2 HE COULDN'T PROPERLY, EFFECTIVELY REPRESENT HIS CLIENT AS  
3 LONG AS I AM THE JUDGE IN THIS CASE.

4 IF HE CAN'T DO THAT, HE DOESN'T HAVE TO PARTICIPATE  
5 AT ALL.

6 MR. BARENS: IF I COULD JUST FINISH THE REMARKS I WAS  
7 MAKING, BECAUSE I HAVE ANOTHER QUESTION FOR YOUR HONOR.

8 YOUR HONOR, I WAS COMMENTING THAT MR. CHIER HAD  
9 PREPARED THE MOTIONS AND DONE THE LEGAL RESEARCH. WOULD YOUR  
10 HONOR PERMIT MR. CHIER TO ARGUE LEGAL MATTERS ON THE RESEARCH  
11 AND THE MOTION WORK THAT HE HAS PREPARED?

12 LET ME GIVE YOU AN EXAMPLE. MANY TIMES DURING  
13 THE BAIL HEARING, MR. CHIER ARGUED TO YOUR HONOR, ELEMENTS  
14 OF THE BAIL LAW AND LEGAL MATERIALS OF THAT NATURE.

15 AND THERE COULD BE DURING THIS TRIAL --

16 THE COURT: HE CAN ARGUE MOTIONS TO ME. THAT IS, OUT-  
17 SIDE THE PRESENCE OF THE JURY. I WILL GO THAT FAR.

18 MR. BARENS: ALL RIGHT. NOW YOUR HONOR, LET ME MAKE  
19 SURE I UNDERSTAND WHERE WE ARE AT NOW.

20 THE COURT: YOU TOLD ME THAT HE HAD PREPARED VARIOUS  
21 KINDS OF MOTIONS AND SO FORTH, THAT HE IS MUCH BETTER  
22 PREPARED TO ARGUE THAN YOU ARE.

23 MR. BARENS: ALL RIGHT.

24 THE COURT: ALL RIGHT. I WILL GO THAT FAR. I WILL  
25 PERMIT HIM TO ARGUE THOSE MOTIONS.

26 MR. BARENS: I AM NOT TRYING TO BE CONFRONTATIONAL  
27 IN ANY WAY AND --

28 THE COURT: I WILL PERMIT HIM TO DO THAT.

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1 MR. BARENS: YOUR HONOR, SO, ON THE BASIS THAT HE NOT  
2 CROSS-EXAMINE WITNESSES, WE RETAIN OUR APPOINTMENTS?

3 THE COURT: WELL, IF YOU ASSURE ME THAT -- WELL, I  
4 WILL HEAR FROM THE DISTRICT ATTORNEY HERE.

5 MR. WAPNER: WELL, I AM GRAVELY CONCERNED WITH THE  
6 COURSE THAT THE COURT IS TAKING.

7 FIRST OF ALL, I DON'T THINK MONEY HAS ANYTHING  
8 TO DO WITH THIS, ONE WAY OR THE OTHER. WHETHER THEY ARE  
9 COMPENSATED OR NOT IS A COMPLETELY SEPARATE ISSUE AS FAR AS  
10 I AM CONCERNED. I MADE MY FEELINGS KNOWN TO THE COURT ABOUT  
11 THE COMPENSATION, EVEN THOUGH IT IS NOT REALLY MY PLACE.  
12 WHETHER THEY GET PAID OR NOT IS NOT FOR ME TO DETERMINE.

13 BUT WHETHER THERE IS COMPENSATION OR NOT, IS  
14 IRRELEVANT TO THE ISSUE OF WHETHER THE DEFENDANT IS DEPRIVED  
15 OF HIS RIGHT TO COUNSEL. I THINK IF THE COURT TAKES THIS  
16 STAND THAT IT IS TAKING, THAT WE COULD END UP DOING A FOUR  
17 OR FIVE OR SIX-MONTH TRIAL AS A NULLITY BECAUSE THE APPELLATE  
18 COURT AND THE SUPREME COURT WILL SAY THAT HE DID NOT GET HIS  
19 EFFECTIVE REPRESENTATION OF COUNSEL. AND FRANKLY, I DON'T  
20 WANT TO PROCEED IF --

21 THE COURT: I WILL PROCEED THE WAY I HAVE INDICATED  
22 ALREADY. I WILL TAKE MY CHANCES.

23 MR. WAPNER: WELL, THE OTHER THING I WANTED TO SAY  
24 IS THAT --

25 THE COURT: I KNOW THAT YOU HAVE AN OBSESSION ABOUT  
26 ANY KIND OF ERROR. AND YOU HAVE BEEN LEANING OVER BACKWARDS  
27 AND BACKWARDS. YOU HAVE NEVER TAKEN ANY POSITION WHICH WAS  
28 A FIRM ONE. I WILL TELL YOU THAT, QUITE FRANKLY.

1 MR. WAPNER: I AM TAKING A VERY FIRM POSITION RIGHT  
2 NOW.

3 THE COURT: THAT IS ONE POINT THAT I DON'T AGREE WITH  
4 YOU ON.

5 MR. WAPNER: AND I THINK THAT WHAT IS IN THE BEST  
6 INTEREST OF THE DEFENDANT, IS NOT FOR THE COURT TO DETERMINE  
7 BUT IS FOR --

8 THE COURT: I AM RUNNING THIS TRIAL, NOT YOU NOR THEY.  
9 I THINK I UNDERSTAND THE CIRCUMSTANCES.

10 HE IS EXTREMELY WELL REPRESENTED BY MR. BARENS.  
11 HE CAN HANDLE THE MATTER.

12 IF THERE ARE ANY PARTICULAR MATTERS, I HAVE JUST  
13 MADE A RULING. IF THERE ARE ANY PARTICULAR MATTERS OF LAW  
14 WHICH HE HAS DONE RESEARCH UPON AND BY "HE" I MEAN MR. CHIER  
15 DONE RESEARCH, I WILL LISTEN TO ARGUMENT OF HIM.

16 THAT IS THE EXTENT OF WHAT I AM GOING TO PERMIT  
17 HIM TO DO. THAT ONLY PRESUMES THAT HE NEEDS SECOND COUNSEL.

18 THAT PRESUMPTION IS OVERWHELMINGLY MET IN THIS  
19 PARTICULAR CASE BY THE EXPERIENCE AND CAPABILITY OF MR. BARENS  
20 TO HANDLE THIS CASE.

21 CERTAINLY, HE HAS THE ACTUAL TRIAL --

22 MR. WAPNER: WELL, YOU ARE TALKING PRESUMPTIONS. THERE  
23 IS ONE THING HAVING TO DO WITH --

24 THE COURT: WELL, THE PRESUMPTION OF NEED FOR A SECOND  
25 COUNSEL. THERE IS A PRESUMPTION. THE CASES HAVE SAID THAT  
26 THERE IS A PRESUMPTION THAT IN A SERIOUS, DEATH PENALTY CASE,  
27 THAT A SECOND COUNSEL MIGHT BE REQUIRED.

28 THAT PRESUMPTION COULD BE OVERCOME. IT HAS BEEN  
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1 OVERWHELMINGLY OVERCOME IN THIS PARTICULAR CASE.

2 I AM INDICATING THE EXTENT TO WHICH SECOND COUNSEL  
3 CAN PARTICIPATE IN THE CASE.

4 MR. WAPNER: WELL, WILL THE COURT SET OUT FOR THE RECORD  
5 THE REASONS WHY --

6 THE COURT: I DON'T HAVE TO SET OUT ANYTHING. I ALREADY  
7 MADE IT CLEAR ON THE RECORD HOW I FEEL ABOUT THIS THING.

8 MY REASON IS THAT SECOND COUNSEL IS NOT NEEDED  
9 AT ALL. MR. BARENS IS COMPLETELY CAPABLE AND EXPERIENCED  
10 IN HANDLING THE MATTER HIMSELF.

11 IF HE NEEDS ASSISTANCE OF HAVING RESEARCH WORK  
12 DONE, THAT COULD BE DONE BY MR. CHIER. BUT I AM GOING BEYOND  
13 THAT. I WILL PERMIT MR. CHIER TO ARGUE MOTIONS.

14 MR. CHIER: ARE YOU FINDING THAT I AM INCOMPETENT,  
15 YOUR HONOR?

16 THE COURT: I AM NOT MAKING ANY FINDING. I HAVE NO  
17 OPINION.

18 MR. CHIER: ARE YOU FINDING THAT I MISREPRESENTED --

19 THE COURT: YES.

20 MR. CHIER: WHAT DID I MISREPRESENT?

21 THE COURT: YOU MISREPRESENTED BEFORE JUDGE THOMAS.

22 MR. BARENS: YOUR HONOR --

23 THE COURT: YOU DIDN'T DISCLOSE TO HIM THAT YOU WERE  
24 A PARTNER IN THIS MATTER AND THAT YOU WERE RECEIVING FEES  
25 FROM THE DEFENDANT.

26

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28

1 MR. WAPNER: SPECIFICALLY, YOUR HONOR, THE PENAL CODE  
2 ENTITLES A DEFENDANT TO HAVE TWO LAWYERS ARGUE THE CASE. WE  
3 ARE NOT AT THAT POINT YET BUT WE MIGHT AS WELL GET THAT OUT  
4 IN THE OPEN NOW.

5 THE COURT: ARGUE WHAT CASE?

6 MR. WAPNER: A DEATH PENALTY CASE.

7 THE COURT: HOW DO YOU MEAN ARGUE IT?

8 MR. WAPNER: I FORGET THE SPECIFIC SECTION.

9 MR. BARENS: IT IS -- I WILL GIVE IT TO YOU. IT IS  
10 1095 OF THE PENAL CODE, 1095.

11 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

12 THE COURT: IT SAYS TWO TO EACH SIDE. THERE IS ONLY  
13 ONE ON THIS SIDE SO, THEREFORE, THERE ISN'T TWO ON EACH SIDE.

14 DO YOU WANT ME TO READ IT TO YOU? IT SAYS THAT  
15 ON AN OFFENSE PUNISHABLE WITH DEATH, THAT TWO COUNSEL  
16 ON EACH SIDE MAY ARGUE THE CAUSE.

17 MR. BARENS: YES, YOUR HONOR.

18 THE COURT: THERE IS NOT TWO COUNSEL ON THEIR SIDE, THE  
19 PEOPLE'S SIDE.

20 MR. BARENS: BUT THAT IS BY THEIR CHOICE, YOUR HONOR.

21 THE COURT: NO, NO.

22 MR. CHIER: THEY ARE ALLOWED TWO COUNSEL.

23 THE COURT: ONLY TWO BY TWO. IF HE HAS TWO, YOU HAVE  
24 TWO.

25 HE HASN'T GOT TWO.

26 MR. BARENS: YOUR HONOR --

27 THE COURT: AT ANY RATE, I WILL ISSUE THE ORDER WITH  
28 RESPECT TO THE ORDER IN WHICH THE CASE IS GOING TO BE TRIED

1 AND WHO SHOULD BE ARGUING IT.

2 MR. BARENS: ALL RIGHT, YOUR HONOR.

3 THE COURT: OKAY?

4 MR. BARENS: THANK YOU, YOUR HONOR.

5 THE COURT: OKAY, LET'S GET ON.

6 MR. CHIER: AM I NOT ALLOWED TO MAKE OBJECTIONS?

7 THE COURT: NO, NONE WHATEVER.

8 MR. BARENS: YOUR HONOR --

9 MR. CHIER: JUST SO I UNDERSTAND WHAT YOUR HONOR IS  
10 SAYING.

11 THE COURT: YOU CAN WHISPER TO HIM, YOU CAN WHISPER  
12 ANYTHING YOU WANT EXCEPT WHEN I AM TALKING TO HIM. DON'T  
13 INTERRUPT ME WHEN I AM TALKING TO HIM AND TALK TO HIM BECAUSE  
14 HE CAN'T HEAR ME AND HEAR YOU AT THE SAME TIME.

15 MR. CHIER: HE DOESN'T ALWAYS KNOW WHAT IT IS GOING  
16 ON LEGALLY, YOUR HONOR.

17 THE COURT: I THINK HE KNOWS MORE ABOUT IT THAN YOU  
18 DO, FRANKLY.

19 MR. CHIER: I KNOW YOU THINK THAT, YOUR HONOR.

20 THE COURT: I THINK THAT AND I KNOW THAT.

21 MR. BARENS: YOUR HONOR, COULD I GIVE A FOR INSTANCE?

22 OBVIOUSLY, THERE IS NO JURY IN THE ROOM TODAY  
23 AND WE ARE GOING TO COME TO A POINT TODAY WHERE WE WILL ARGUE  
24 THE MOTION BEFORE THE COURT TODAY.

25 THE COURT: WELL, YOU HAVE BEEN CONDUCTING THE ENTIRE  
26 EXAMINATION AND I WILL PERMIT YOU TO ARGUE IT.

27 MR. BARENS: I KNOW.

28 BUT I AM GIVING A FOR INSTANCE TO YOUR HONOR.

1 THE COURT: I THINK IT WOULD BE BETTER, IN THE INTERESTS  
2 OF YOUR CLIENT, IF YOU ARGUE THE MATTER RATHER THAN HE BECAUSE  
3 YOU CONDUCTED THE ENTIRE EXAMINATION.

4 MR. CHIER: DOES THE CLIENT HAVE ANYTHING TO SAY ABOUT  
5 THIS, YOUR HONOR?

6 THE COURT: NO.

7 MR. BARENS: ALL RIGHT, THAT IS SUBMITTED.

8 THE COURT: I TOLD YOU TO WHAT EXTENT HE WOULD  
9 PARTICIPATE IN THE CASE, ALL RIGHT.

10 MR. BARENS: I WAS JUST GIVING YOUR HONOR A FOR INSTANCE  
11 THAT WOULD BE A TYPE OF THING THAT I BELIEVE YOUR HONOR'S  
12 ORDER ENCOMPASSED THAT HE COULD ARGUE IF YOUR HONOR DEEMED  
13 IT.

14 THE COURT: WHAT?

15 MR. BARENS: THIS BEING A LEGAL MOTION BASED ON RESEARCH  
16 HE DID AND PERFORMED.

17 THE COURT: AREN'T YOU GOING TO ARGUE THE MOTION?

18 MR. BARENS: TODAY, WE WERE GOING TO MAKE THAT DECISION  
19 DURING THE LUNCH HOUR. WE HAD NOT MADE THAT DECISION, IN  
20 TRUTH AND IN FACT TO YOU, YOUR HONOR.

21 THERE IS A MOTION, TO BE CANDID WITH YOUR HONOR,  
22 AND I REPRESENT THAT BEFORE, MR. CHIER PREPARED THE MOTION  
23 TO DISMISS, HE DID THE RESEARCH ON IT. HE SPENT ALL OF THESE  
24 HOURS WITH MR. HUNT IN THE LIBRARY GOING OVER THESE CASES.

25 THE COURT: IF YOU WANT TO DEFER TO HIM ON THIS MOTION,  
26 I WILL PERMIT IT.

27 MR. BARENS: I APPRECIATE THAT.

28 THE COURT: I WILL PERMIT HIM TO ARGUE POINTS OF LAW

1 AND ARGUE THE MOTION.

2 MR. CHIER: MAY I SPEAK?

3 MR. BARENS: YOU ARE VALID ON THE APPOINTMENT.

4 MR. CHIER: AM I NOT IN THE CASE?

5 MR. BARENS: YOU DIDN'T SAY THAT AT ALL.

6 THE COURT: I DIDN'T SAY THAT.

7 MR. BARENS: I DON'T WANT YOUR HONOR TO ANNUL HIS ORDER.

8 THE COURT: YOU DON'T WANT ME TO?

9 MR. BARENS: I DON'T WANT YOU TO ANNUL HIS ORDER.

10 THE COURT: THEN I WILL RESPECT YOUR WISHES.

11 MR. BARENS: I AM SATISFIED AT THIS POINT.

12 ALL RIGHT, WE ARE JUST LEAVING.

13 (RECESS.)

-1

1 Q OKAY. HOW LONG WERE YOU THERE ON THE 6TH?

2 A I GOT THERE AT 9:30 AND I LEFT AROUND 12:15 AFTER  
3 THE MAN PICKED UP THE CAR.

4 Q DID MR. LEVIN HAVE ANY COSMETICS OR MAKEUP?

5 A LIKE WHAT KIND OF MAKEUP?

6 THE COURT: LIPSTICK.

7 THE WITNESS: LIPSTICK?

8 THE COURT: DID YOU EVER SEE HIM USE LIPSTICK?

9 THE WITNESS: NO, I DID NOT.

10 Q BY MR. BARENS: DID YOU EVER SEE ANY FACE CREAM?

11 A YES, HE HAD FACE CREAM.

12 Q DID HE HAVE ANY POWDERS?

13 MR. WAPNER: OBJECTION. VAGUE. WHAT KIND OF POWDERS  
14 ARE WE TALKING ABOUT?

15 MR. BARENS: POWDERS LIKE FACE POWDER, I MIGHT IMAGINE.

16 THE WITNESS: YES, WELL, YES, HE HAD FACE POWDER.

17 Q BY MR. BARENS: HE HAD FACE POWDER AND FACIAL  
18 CREAMS, DIDN'T HE?

19 A YES.

20 Q DID YOU EVER SEE ANY HAIR DYE?

21 A NO, I DID NOT.

22 HE HAD GRAY, SILVERY GRAY HAIR.

23 Q I KNOW.

24 DID YOU EVER SEE ANY HAIR DYE?

25 A NO, I DID NOT SEE ANY HAIR DYE.

26 Q NOW, WHOM DO YOU KNOW THAT HAD KEYS TO HIS HOUSE,  
27 DO YOU KNOW OF ANYONE THAT HAD KEYS?

28 A I HAD A KEY. MY HUSBAND HAD A KEY. ANTIN HAD

1 Q DO YOU KNOW WHEN THE TICKETS, THE AIRLINE TICKETS  
2 WERE OBTAINED?

3 A NO, NOT SPECIFICALLY.

4 AFTER JUNE 1ST.

5 Q DID YOU SEE THEM AT ANY TIME BEFORE THE MORNING  
6 OF JUNE 7?

7 A I DON'T THINK SO.

8 Q WHAT WAS YOUR PLAN TO -- AS FAR AS WHEN YOU WERE  
9 GOING TO LEAVE AND HOW THAT WAS GOING TO HAPPEN?

10 A OH, I WAS SUPPOSED TO MEET RONNIE AT HIS HOUSE  
11 AT AROUND AT 7:30 -- AT 7 O'CLOCK, WITH MY FRIEND, MICHAEL  
12 BRODER, AND WE WERE TO LEAVE HIS APARTMENT AT 7:30 FOR THE  
13 AIRPORT.

14 Q AND DID YOU KNOW AT THAT TIME HOW YOU WERE PLANNING  
15 TO GET TO THE AIRPORT?

16 A YES. BLANCHE STURKEY, HIS MAID, AND HER HUSBAND  
17 WERE GOING TO DRIVE US.

18 Q THE NIGHT BEFORE, DID YOU TALK TO MR. LEVIN?

19 A YES.

20 Q IN PERSON OR ON THE TELEPHONE?

21 A ON THE TELEPHONE.

22 Q WHAT TIME?

23 A 9 O'CLOCK.

24 Q WHO MADE THE TELEPHONE CALL?

25 A I CALLED HIM FROM A RESTAURANT.

26 Q WHY DID YOU CALL HIM?

27 A TO MAKE SURE EVERYTHING WAS SET FOR GOING TO  
28 NEW YORK.

1 IT WAS EASIER TO GET A DEGREE OR SOMETHING LIKE --

2 THE COURT: EASIER TO WHAT?

3 THE WITNESS: GET A MEDICAL DEGREE. IT TOOK LESS TIME.

4 Q BY MR. BARENS: AND DID HE MENTION THIS DESIRE  
5 OF HIS TO GO TO SOUTH AMERICA TO MEDICAL SCHOOL MORE THAN  
6 ONCE?

7 A I THINK SO, YEAH.

8 Q DID HE EVER MASQUERADE AS A DOCTOR?

9 A YES.

10 Q ON HOW MANY OCCASIONS DID HE MASQUERADE AS A  
11 DOCTOR THAT YOU WERE AWARE OF?

12 A IT WAS ONE TIME I REMEMBER PARTICULARLY.

13 Q AND WHY DON'T YOU TELL ME ABOUT THAT?

14 A OKAY. WELL, WE WERE GOING TO UCLA MEDICAL CENTER --

15 Q YEAH?

16 A AND RONNIE SOMEHOW TALKED HIS WAY INTO GETTING  
17 INTO THE CADAVER ROOM. THEN HE DISSECTED A BODY.

18 Q RON DISSECTED A BODY?

19 A YES. I DIDN'T REALLY WATCH.

20 Q HANDS ON, DIDN'T HE?

21 A YEAH. THERE WERE NO OTHER DOCTORS AROUND.

22 Q NOW, HE WAS DR. LEVIN ON THAT OCCASION?

23 A RIGHT.

24 Q NOW, DID HE EVER MASQUERADE AS ANYTHING ELSE?

25 A A LAWYER.

26 Q AS A LAWYER? ON HOW MANY OCCASIONS WAS HE A  
27 LAWYER?

28 A MOST OF THE TIME, HE WAS A LAWYER.



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1 Q MOST OF THE TIME?

2 MOST OFTEN A LAWYER RATHER THAN A DOCTOR?

3 A YES.

4 Q ALL RIGHT. MOST OF THE TIME.

5 DO YOU MEAN THAT IN A LITERAL SENSE, MOST OF  
6 THE TIME HE WAS A LAWYER?

7 A HE SAID HE WAS A LAWYER.

8 HE HAD HIS YOU KNOW, LIKE A BEEPER ON HIS SIDE  
9 FOR MEDICAL OR LAW PRACTICES.

10 Q ONE BEEPER FOR BOTH PRACTICES?

11 A NO, JUST ONE BEEPER.

12 HE WOULD CALL HIMSELF DR. LEVIN ON OCCASION OR  
13 "I AM A LAWYER."

14 I THINK HE HAD CARDS THAT SAID HE WAS A LAWYER.

15 Q HE HAD CARDS THAT SAID HE WAS A LAWYER?

16 A I THINK.

17 Q DID HE HAVE ANY EQUIPMENT OR TRAPPINGS THAT WOULD  
18 MAKE HIM LOOK LIKE A DOCTOR?

19 A YEAH. HE HAD A SKELETON IN HIS ROOM. THEN HE  
20 HAD A STETHOSCOPE AROUND HIS NECK.

21 HE HAD A LIBRARY IN HIS OFFICE. AND IN THE OTHER  
22 ROOM WHICH IS OFF THE BACK PORCH, IT WAS MOSTLY MEDICAL BOOKS.

23 Q HE HAD HIS LAW LIBRARY IN ONE PLACE AND HIS MEDICAL  
24 LIBRARY IN ANOTHER PLACE?

25 A YEAH.

26 Q HE HAD PROPS FOR EACH, DIDN'T HE?

27 MR. WAPNER: OBJECTION, CALLING FOR A CONCLUSION.

28 THE COURT: HOW LONG MUST WE GO ON WITH THIS, NOW?

4-4

1 I THOUGHT WE EXHAUSTED EVERY FACET OF THIS.

2 MR. BARENS: WELL, WE DIDN'T KNOW ABOUT THIS, DID WE?

3 THE COURT: NO.

4 MR. BARENS: WELL, WE HAVE TO --

5 THE COURT: BUT WE ARE NOT TRYING HIM, ARE WE?

6 MR. BARENS: WELL, LET'S SEE WHAT THE EVIDENCE SHOWS.

7 THE COURT: LET'S GO AHEAD. I AM GIVING YOU --

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1 MR. WAPNER: YOUR HONOR, THE OBJECTION IS THAT THE  
2 WORD "PROPS" IS A CONCLUSION.

3 YOU CAN ASK HIM WHAT WAS THERE. BUT, "PROPS"  
4 OR NOT IS A CONCLUSION.

5 MR. BARENS: I AM TRYING TO SAVE TIME.

6 THE COURT: WHY DON'T YOU ASK HIM --

7 Q BY MR. BARENS: DID YOU SEE THINGS THAT MADE  
8 IT LOOK LIKE HE WAS A DOCTOR?

9 A YES.

10 Q ALL RIGHT. DEFINITE THINGS THAT YOU WOULD  
11 TYPICALLY ASSOCIATE WITH THINGS THAT DOCTORS WOULD HAVE?

12 A WELL, I WAS THINKING THAT THE SKELETON WAS KIND  
13 OF A FUNNY THING. HE HAD A CIGAR IN HIS MOUTH AND A HAT  
14 ON HIS HEAD. IT WAS A JOKE, BASICALLY.

15 Q DID HE HAVE A STETHOSCOPE?

16 A YES. IT WAS AROUND THE NECK OF THE SKELETON.

17 Q DID HE HAVE A BLACK BAG?

18 A I DON'T REMEMBER IF HE HAD A BLACK DOCTOR BAG.  
19 I DON'T REMEMBER.

20 Q YOU DON'T REMEMBER?

21 A NO.

22 Q ALL RIGHT. AND HE HAD A HOUSE FULL OF LAW BOOKS.  
23 DID HE HAVE A BLACK DOCTOR BAG? HE HAD A REGULAR DOCTOR BAG?

24 A YES. IT WAS NEXT TO THE SKELETON AND THE BOOK-  
25 SHELF IN THE LAW LIBRARY.

26 Q OKAY. NOW, HE HAD SOME OF HIS DOCTOR'S STUFF  
27 IN THE LAW PLACE?

28 A RIGHT.

1 Q OKAY. HE HAD A FULL LAW LIBRARY, DIDN'T HE?

2 A WELL, I AM NOT SURE WHAT THE BOOKS WERE. BUT  
3 I ASSUMED THAT THAT IS WHAT THEY WERE.

4 Q WELL, DID YOU SEE BOOKS THAT YOU --

5 A I MEAN, LIKE LAW BOOKS.

6 Q LAW BOOKS?

7 A YEAH.

8 Q OKAY. AND WOULD HE WALK AROUND WITH A LEGAL  
9 PAD? DO YOU KNOW WHAT A LEGAL PAD LOOKS LIKE, DON'T YOU?

10 A YEAH.

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1 Q DID HE HAVE A LOT OF THOSE LEGAL PADS?

2 A YES.

3 Q AND DID YOU ACTUALLY SEE CARDS THAT SAID, YOU  
4 KNOW, "RON LEVIN," OR WHATEVER IT SAID, ATTORNEY AT LAW OR  
5 LAWYER?

6 MR. WAPNER: OBJECTION. CALLS FOR HEARSAY, YOUR HONOR.  
7 THE COURT: OVERRULED.

8 IF HE SAW IT, HE MAY ANSWER.

9 THE WITNESS: I DON'T REMEMBER. I THOUGHT THAT --  
10 IF HE USED HIS NAME WHEN HE WAS A LAWYER, I THINK HE USED  
11 SOMEONE ELSE'S NAME.

12 Q BY MR. BARENS: HE USED A PSEUDONYM WHEN HE SAID  
13 HE WAS A LAWYER?

14 A YES --

15 WHAT DO YOU MEAN A PSEUDONYM?

16 Q HE USED A FALSE NAME?

17 A YES, RIGHT.

18 Q WHEN HE WAS A LAWYER, HE WAS SOMEBODY ELSE  
19 ALTOGETHER?

20 A RIGHT.

21 Q WHO WAS HE?

22 A THAT R. MICHAEL WETHERBEE.

23 Q YOU KNEW RON LEVIN AS R. MICHAEL WETHERBEE?

24 A NO, I DIDN'T KNOW HIM AS THAT.

25 Q YOU KNEW HIM AS RON LEVIN?

26 A YES.

27 Q PEOPLE THAT WOULD MEET HIM, SAW HIM AS A LAWYER,  
28 WOULD MEET HIM AS THIS OTHER PERSON, R. MICHAEL WETHERBEE?

1 A I DON'T KNOW WHEN H E WOULD MEET WITH OTHER  
2 PEOPLE HOW THEY WOULD ADDRESS HIM BECAUSE I WASN'T THERE.

3 Q OKAY. BUT YOU DID SEE THAT IN ASSOCIATION WITH  
4 HIS MASQUERADE AS A LAWYER, HE HAD THIS OTHER NAME?

5 A RIGHT.

6 Q DID HE HAVE ANY IDENTIFICATION IN THIS OTHER  
7 NAME?

8 A HE HAD A STAMP NAME SO HE COULD SIGN IT WITH  
9 A STAMP "R. MICHAEL WETHERBEE."

10 Q DID HE HAVE A SIGNATURE STAMP IN THIS OTHER NAME?

11 A YES, THAT IS WHAT IT WAS.

12 Q DID YOU EVER SEE HIM PRODUCE DOCUMENTS AS LAWYER  
13 WETHERBEE AND HE WOULD STAMP THAT NAME ON THERE?

14 A I DON'T KNOW IF I EVER SAW HIM DO IT, BUT I KNOW  
15 THAT IS WHAT IT WAS USED FOR.

16 Q DID HE EVER DISCUSS THAT WITH YOU?

17 A YES -- WELL, I THINK I WAS THERE WHEN HE GOT  
18 THE STAMP PAD. HE WAS HAVING MICHAEL SIGN SOMETHING SO HE  
19 COULD BRING IT TO HAVE IT MADE.

20 Q I AM SORRY. I DIDN'T QUITE HEAR THAT.

21 A I WAS THERE WHEN HE ASKED MICHAEL WETHERBEE  
22 TO SIGN A PAPER HE COULD USE TO MAKE THE SIGNATURES FOR THE  
23 DOCUMENTS, SIGNED DOCUMENTS.

24 Q ACTUALLY, THERE REALLY WAS A WETHERBEE, THAT  
25 WAS A FRIEND OF LEVIN'S?

26 A RIGHT. THAT IS WHERE HE GOT THE SIGNATURE FROM.

27 Q AND THEN HE THEN BORROWED THIS FELLOW'S NAME  
28 AND IDENTIFICATION?

1 A YES.

2 I THINK HE PAID HIM FOR IT.

3 Q SO HE COULD BE THIS OTHER GUY?

4 A RIGHT.

5 Q AND WERE YOU PRESENT WHEN HE DISCUSSED THAT?

6 A I WAS PRESENT -- I REMEMBER HAVING GETTING THE  
7 SIGNATURE STAMP.

8 Q NOW, YOU SAY THAT HE PAID HIM FOR THE USE OF  
9 THE SIGNATURE?

10 A I THINK HE DID, I ASSUME.

11 Q WHAT MAKES YOU SAY THAT?

12 A NOTHING.

13 BUT I JUST THINK HE DID.

14 I THINK THE GUY WETHERBEE WAS SORT OF INDIGENT  
15 AND A BAD LAWYER AND THE WAY HE COULD MAKE MONEY WAS SELLING  
16 HIS NAME TO RONNIE, I THINK.

17 Q DID RONNIE DISCUSS THAT ARRANGEMENT WITH YOU?

18 A NO.

19 I THINK MICHAEL BRODER DISCUSSED IT WITH HIM  
20 AND MICHAEL TOLD ME.

21 Q DID YOU KNOW WHETHER OR NOT THE REAL WETHERBEE  
22 WAS AN ALCOHOLIC?

23 A YEAH, I KNEW HE WAS AN ALCOHOLIC.

24 Q HE WAS IN PRETTY BAD SHAPE, WASN'T HE?

25 A WELL, I THINK WHEN I FIRST MET HIM HE WASN'T  
26 IN REAL BAD SHAPE. THEN HE GOT WORSE.

27 Q HE APPEARED TO BE DETERIORATED?

28 A YES.

1 Q AND THEN IT ENDED UP WITH MR. LEVIN NOW USING  
2 HIS IDENTIFICATION?

3 A RIGHT.

4 Q AND WHAT ADDRESS DID LEVIN UTILIZE FOR THE  
5 WETHERBEE OFFICE?

6 A IT WAS SOMETHING LIKE 9700 WILSHIRE OR -- I DON'T  
7 REMEMBER THE ADDRESS BUT IT WAS AT THE FIRST INTERSTATE BANK  
8 ACROSS THE STREET.

9 Q WERE YOU EVER WITH LEVIN WHEN HE WOULD INTRODUCE  
10 HIMSELF TO PEOPLE AS A LAWYER?

11 A YES.

12 Q HE DID THAT A LOT?

13 A YES.

14 Q DID HE EVER MASQUERADE AS A MEMBER OF THE  
15 ROTHSCHILD FAMILY?

16 A YES.

17 Q AND HOW MANY OCCASIONS WOULD HE DO THAT?

18 A WELL, I WOULD SAY FOR MAYBE A FEW YEARS STRAIGHT,  
19 HE WAS RONNIE ROTHSCHILD.

20 Q THAT WAS ANOTHER PERSON HE WAS, TOO, WASN'T IT?

21 A RIGHT.

22 Q WHEN HE WOULD MEET PEOPLE, THAT IS HOW HE WOULD  
23 INTRODUCE HIMSELF "I AM RON ROTHSCHILD"?

24 A RIGHT.

25 Q AND WERE YOU FAMILIAR, AT LEAST IN A GENERAL  
26 SENSE, AS TO WHO THE ROTHSCHILD FAMILY IS?

27 A AT THAT TIME, NO. I JUST -- I THINK THEY WERE  
28 A WEALTHY FAMILY FROM FRANCE OR SOMETHING. THAT WAS WHAT



1 I THOUGHT.

2 Q AND DID HE EVER TELL YOU WHO THE ROTHSCHILDS  
3 WERE?

4 A NO.

5 Q WELL, YOU KNEW HE WASN'T REALLY RONNIE ROTHSCHILD?

6 A ACTUALLY, I WASN'T SURE.

7 Q YOU WERE FOOLED, TOO, IN THE BEGINNING, WEREN'T  
8 YOU?

9 A WELL, I WAS -- I WAS VERY YOUNG AND WHEN SOMEONE  
10 ELSE TELLS ME SOMETHING, I BELIEVE IT.

11 THE COURT: I THINK WE WILL TAKE THE RECESS AT THIS  
12 TIME.

13 MR. BARENS: THANK YOU, YOUR HONOR.

14 THE COURT: LADIES AND GENTLEMEN, WE WILL TAKE THE  
15 RECESS NOW UNTIL 1:30 THIS AFTERNOON. 1:30 THIS AFTERNOON.

16 THE SAME ADMONITION I GAVE YOU ABOUT TALKING  
17 AMONG YOURSELVES OR THIRD PARTIES WILL STILL APPLY.

18 (AT 12:00 NOON A RECESS WAS TAKEN UNTIL  
19 1:30 P.M. OF THE SAME DAY.)

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1 Q I AM TALKING ABOUT --

2 A I KNOW THE PICTURE IN THE PICTURE.

3 Q I AM NOT TALKING ABOUT THE PICTURE WITHIN THE  
4 PICTURE.

5 I AM TALKING ABOUT ACTUALLY WHAT YOU HAVE IN YOUR  
6 HAND.

7 A OH, OKAY, RIGHT.

8 Q THE PICTURE IN PEOPLE'S 120 IS BIGGER IN  
9 SIZE THAN 119, RIGHT?

10 A RIGHT.

11 Q IS IT EASIER FOR YOU TO SEE IN PEOPLE'S 120 THAT  
12 THE PHOTOGRAPH OF MOHAMMED ALI IS IN FACT AUTOGRAPHED OR  
13 INSCRIBED IN SOME WAY?

14 A YES.

15 MR. WAPNER: MAY I WALK THAT IN FRONT OF THE JURY  
16 BRIEFLY?

17 THE COURT: YES.

18 (MR. WAPNER SHOWS EXHIBIT TO JURY.)

19 MR. WAPNER: I HAVE NOTHING FURTHER.

20 MR. BARENS: IF I MIGHT, YOUR HONOR..

21 THE COURT: GO AHEAD.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23

24 FURTHER RECROSS-EXAMINATION

25 BY MR. BARENS:

26 Q WHEN YOU WENT TO UCLA WITH MR. LEVIN, DID PEOPLE  
27 SEEM TO BELIEVE HE WAS A DOCTOR?

28 A YES.

1 Q WHEN HE WOULD ACT TO BE A LAWYER, DID PEOPLE  
2 SEEM TO BELIEVE HE WAS A LAWYER?

3 A YES.

4 MR. BARENS: NOTHING FURTHER.

5 THE COURT: ALL RIGHT, THANK YOU.

6 MAY THIS WITNESS BE AT LONG LAST EXCUSED?

7 MR. WAPNER: I HAVE NO OBJECTION.

8 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
9 BE EXCUSED.

10 CALL YOUR NEXT WITNESS.

11 MR. WAPNER: JAMES O'SULLIVAN.

12  
13 JAMES O'SULLIVAN,  
14 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
15 AS FOLLOWS:

16 THE CLERK: IF YOU WOULD RAISE YOUR HAND TO BE SWORN.

17 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY  
18 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE  
19 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP  
20 YOU GOD.

21 THE WITNESS: I DO.

22 THE CLERK: PLEASE BE SEATED UP THERE AT THE WITNESS  
23 STAND.

24 WOULD YOU STATE AND SPELL YOUR NAME FOR THE RECORD.

25 THE WITNESS: JAMES O'SULLIVAN, J-A-M-E-S  
26 O-APOSTROPHE-S-U-L-L-I-V-A-N.  
27  
28

7-1 1 Q AND ON THE LIST THAT YOU HAVE THAT SAYS THE PEOPLE  
2 WHO WERE THERE AT 10:30 IN THE EVENING, IS THAT IN ORDER BY  
3 ROOM NUMBER?

4 A BY ROOM NUMBER.

5 Q WAS THERE ANYONE IN 1417?

6 A NO.

7 Q HAVE YOU PERSONALLY REVIEWED THAT LIST TO DETERMINE  
8 IF MR. LEVIN'S NAME IS ON IT?

9 A YES, I HAVE.

10 Q IS IT ON THAT LIST?

11 A NO.

12 Q BASED ON THAT, WAS HE IN THE HOTEL THAT NIGHT?

13 A NO.

14 Q DO YOU REMEMBER BEING AT THE MAYFAIR REGENT HOTEL  
15 AND SPEAKING WITH SOME DETECTIVES FROM THE BEVERLY HILLS  
16 POLICE DEPARTMENT?

17 A YES, I DO.

18 Q AND WERE THEY INQUIRING ABOUT WHETHER OR NOT  
19 MR. LEVIN HAD BEEN THERE?

20 A YES.

21 Q AT THAT TIME, DID YOU LOCATE THE ACTUAL RESERVATION  
22 CARD?

23 A YES, I DID.

24 Q AND WHAT IS YOUR RECOLLECTION --

25 DID YOU LOOK AT THE CARD AT THAT TIME?

26 A YES, I DID.

27 Q AND WAS THERE NOTATION ON THERE AS TO WHETHER  
28 MR. LEVIN ARRIVED?

29 A YES.

James O'Callahan, D.A. DX  
+ Bad lawyering

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Q WHAT WAS THAT NOTATION?

MR. BARENS: OBJECTION. BEST EVIDENCE RULE. THE BEST EVIDENCE IS THE CARD ITSELF, YOUR HONOR.

THE COURT: OVERRULED.

MR. BARENS: THANK YOU, YOUR HONOR.

Q BY MR. WAPNER: WHAT DID IT SAY ON THE CARD?

A DNA.

Q WHAT DOES THAT MEAN?

A DID NOT ARRIVE.

THE COURT: PARDON ME. DO YOU KNOW WHERE THAT CARD IS NOW?

MR. WAPNER: THANK YOU, YOUR HONOR. I WAS JUST GETTING TO THAT.

THE COURT: GO AHEAD.

Q BY MR. WAPNER: DO YOU KNOW WHAT HAPPENED TO THAT CARD?

A TO THE BEST OF MY KNOWLEDGE, THE BEVERLY HILLS DETECTIVES REMOVED IT.

Q DO YOU RECALL LEAVING IT FOR THEM?

A YES.

Q IF IT TURNS OUT THEY DON'T HAVE IT, DO YOU KNOW WHERE IT IS NOW?

A NO.

THE COURT: BUT YOU DEFINITELY DO RECALL THAT THAT DAY HE DID NOT ARRIVE, IS THAT IT?

THE WITNESS: ABSOLUTELY.

MR. BARENS: I WILL, FOR THE RECORD, MAKE A HEARSAY ?  
OBJECTION TO THAT, YOUR HONOR.

1 THE COURT: OVERRULED.

2 MR. BARENS: THANK YOU, YOUR HONOR.

3 Q BY MR. WAPNER: YOU HAD NEVER PERSONALLY MET  
4 MR. LEVIN, HAD YOU?

5 A NO.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7 THE COURT: ANY QUESTIONS?

8  
9 CROSS-EXAMINATION

10 BY MR. BARENS:

11 Q MR. O'SULLIVAN, HAD MR. LEVIN STAYED AT YOUR HOTEL  
12 BEFORE?

13 A NO.

14 Q NEVER TO YOUR KNOWLEDGE?

15 A NOT TO MY KNOWLEDGE.

16 Q DID YOU EVER CHECK THE RECORDS ON THAT?

17 A YES.

18 Q AND WHY DID YOU CHECK THE RECORDS ON THAT?

19 A FOR MY OWN CURIOSITY.

20 Q AND YOU LOOKED BACK?

21 AND DO YOU RETAIN YOUR RECORDS FOR A COUPLE OF  
22 YEARS OR SOMETHING?

23 A IN THE COMPUTER.

24 Q AND YOU FOUND NOTHING ON THAT?

25 A NOTHING.

26 Q AND WHEN YOU MAKE A RESERVATION AT YOUR HOTEL,  
27 IS IT TYPICALLY THAT YOU REQUIRE A DEPOSIT?

28 A NO.

1 A I WAS MODELING. I AM ALSO AN ACTOR.

2 Q AND WHAT SORT OF MODELING WERE YOU DOING?

3 A WELL, WHAT DO YOU MEAN, WHAT SORT OF MODELING  
4 WAS I DOING?

5 Q WERE YOU A FASHION MODEL, LIKE A CLOTHES MODEL?

6 A FASHION, CATALOGS, STUFF LIKE THAT.

7 Q DID YOU TELL THAT TO MR. LEVIN?

8 A YES. HE KNEW I DID THAT.

9 Q DID YOU TELL MR. LEVIN YOU WERE ALSO AN ACTOR?

10 A SURE.

11 Q AND DID HE EVER ASK YOU IF YOU WANTED TO BE IN  
12 MOVIES?

13 A NO.

14 Q HE JUST TALKED TO YOU ABOUT HIM BECOMING A PRODUCER,  
15 WAS IT?

16 A WELL, THE WAY I HAD IT, YES.

17 Q DID YOU THINK HE WAS IN ANY OTHER BUSINESS BESIDES  
18 THIS NETWORK NEWS BUSINESS?

19 A I WAS -- SEEMED TO BELIEVE THAT HE HAD A BUNCH  
20 OF DIFFERENT BUSINESSES GOING. THAT WAS THE WAY HE MADE IT  
21 SOUND TO ME.

22 Q WHAT DID HE TELL YOU ABOUT THAT?

23 A NOTHING SPECIFIC REALLY.

24 Q DID HE EVER TELL YOU HE WAS A LAWYER?

25 A YES.

26 Q WHAT DID HE TELL YOU ABOUT BEING A LAWYER, SIR?

27 A JUST WHAT YOU SAID, HE TOLD ME HE WAS A LAWYER.

28 Q DID YOU EVER SEE HIS LAWYER'S BUSINESS CARD?

1 A NO, I DID NOT.

2 Q DID HE EVER TELL YOU HE WAS A DOCTOR?

3 A YES.

4 Q AND WHAT SORT OF A DOCTOR DID HE TELL YOU HE  
5 WAS?

6 A HE DIDN'T SAY.

7 Q AND DID YOU EVER SEE ANYTHING THAT MADE YOU BELIEVE  
8 HE WAS A DOCTOR?

9 A YES.

10 Q WHAT DID YOU SEE THAT MADE YOU BELIEVE HE WAS  
11 A DOCTOR?

12 A I WOULD SAY THAT THE SKELETON HE HAD HANGING  
13 THERE IN HIS OFFICE.

14 Q IT LOOKED LIKE TO YOU SOMETHING A DOCTOR WOULD  
15 HAVE?

16 A SURE.

17 Q DID HE HAVE ANYTHING ELSE THAT LOOKED LIKE TO  
18 YOU HE MIGHT HAVE BEEN A DOCTOR?

19 A HE -- I WOULD SAY THERE WASN'T A BUNCH OF THINGS  
20 THAT MADE ME THINK, FROM LOOKING AT THEM, IT WOULD MAKE ME  
21 THINK HE WAS A DOCTOR.

22 JUST BY SOME OF THE THINGS HE SAID.

23 Q LIKE WHAT WOULD HE SAY?

24 A HE TALKED ABOUT -- HE SAID HOW HE WAS A DOCTOR  
25 AND HE GOT THROUGH SCHOOL THAT WAY AND THAT HIS MOTHER ALWAYS  
26 WANTED TO SUPPORT DOCTORS, IF I KNEW ANYBODY THAT WAS A STUDENT  
27 WANTING TO BE, YOU KNOW, LIKE IN MEDICAL SCHOOL, THAT SHE  
28 WOULD HELP SUPPORT THEM.



3-4

1 Q PAY FOR THEM TO GO TO MEDICAL SCHOOL?

2 A YES.

3 Q DID HE TELL YOU HIS MOTHER HAD PUT HIM THROUGH  
4 MEDICAL SCHOOL?

5 A NO, HE DID NOT.

6 Q WHERE DID HE TELL YOU HE WENT TO MEDICAL SCHOOL?

7 A I WANT TO SAY UCLA.

8 Q UCLA MEDICAL SCHOOL?

9 DID HE SAY WHAT SORT OF MEDICAL SPECIALTY HE  
10 PRACTICED?

11 MR. WAPNER: OBJECTION. RELEVANCE.

12

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1 THE COURT: SUSTAINED.

2 Q BY MR. BARENS: DID HE EVER TELL YOU HE WAS A  
3 SPECIALIST?

4 MR. WAPNER: SAME OBJECTION.

5 THE COURT: SUSTAINED.

6 Q BY MR. BARENS: DID HE EVER TELL YOU HE WAS A  
7 PSYCHIATRIST?

8 MR. WAPNER: SAME OBJECTION.

9 THE COURT: I AM GOING TO SUSTAIN ANY QUESTION ALONG  
10 THOSE LINES.

11 I AM DIRECTING YOU NOT TO ASK ANY MORE. WE HAVE  
12 GONE THROUGH ALL OF THAT. WE KNOW HE REPRESENTED HIMSELF  
13 AS BEING A DOCTOR AND A LAWYER. WE DON'T HAVE TO GO OVER  
14 IT TIME AND TIME AGAIN.

15 MR. BARENS: I BELIEVE, YOUR HONOR, WE MAY COME TO  
16 SOME VARIATION ON THIS.

17 THE COURT: WHETHER THERE ARE VARIATIONS OR NOT, IT  
18 IS NOT IMPORTANT.

19 I SUSTAINED THE OBJECTION. LET'S GET ON TO SOME-  
20 THING ELSE, IF YOU WILL, PLEASE.

21 Q BY MR. BARENS: WHAT ELSE DID HE TELL YOU ABOUT  
22 HIS MOTHER, BESIDES SHE WOULD PUT SOMEONE THROUGH MEDICAL  
23 SCHOOL IF THEY WERE INTERESTED?

24 A HE JUST -- HE WOULD TALK ABOUT, YOU KNOW, HOW  
25 MUCH HE LOVED HIS MOM, HOW MUCH HIS MOM MEANT TO HIM.

26 Q DID HE TELL YOU HE HAD A WEALTHY FAMILY?

27 A EXCUSE ME?

28 Q DID HE TELL YOU HE HAD A WEALTHY FAMILY?

1 A YES.

2 Q AND DID HE TELL YOU WHERE ALL OF THE MONEY CAME  
3 FROM?

4 A WELL, NOT SPECIFICALLY, NO.

5 Q DID HE TELL YOU WHAT SORT OF BUSINESS HIS FAMILY  
6 WAS IN?

7 A NO.

8 Q DID HE TELL YOU WHERE THEY LIVED?

9 A NOT SPECIFICALLY.

10 Q DID HE TELL YOU THEY LIVED IN BEVERLY HILLS?

11 A YES.

12 Q AND DID HE TELL YOU THEY LIVED IN A BIG HOUSE?

13 A HE DIDN'T MENTION THE HOUSE.

14 Q DID HE TELL YOU THAT HIS PARENTS HELPED HIM  
15 FINANCIALLY?

16 A EXCUSE ME? I DIDN'T HEAR THE QUESTION.

17 Q DID HE TELL YOU HIS PARENTS HELPED HIM  
18 FINANCIALLY?

19 A NO.

20 Q DID HE EVER MENTION HIS FATHER TO YOU?

21 A I THINK HE TOLD ME HE HAD A STEPFATHER, IF I  
22 AM NOT MISTAKEN.

23 Q HOW DID HE FEEL ABOUT HIS STEPFATHER?

24 A HE DIDN'T TALK MUCH ABOUT HIS STEPFATHER.

25

26

27

28

1 Q ONE WAY OR ANOTHER?

2 A HE DIDN'T TALK MUCH ABOUT HIS STEPFATHER.

3 Q WHEN HE DID, WHAT DID HE SAY?

4 A EXCUSE ME?

5 Q WHAT DID HE TALK ABOUT HIS STEPFATHER? WHAT DID

6 HE SAY?

7 A I CAN'T RECALL ANYTHING.

8 Q DID YOU EVER HEAR LEVIN USE ANY NAME OTHER THAN

9 LEVIN IN IDENTIFYING HIMSELF?

10 A YES.

11 Q AND WHAT WAS THE OTHER NAME?

12 A ROTHSCHILD.

13 Q AND THIS WAS DURING 1984, HE WAS STILL USING THE

14 NAME ROTHSCHILD, WAS HE?

15 A HE WASN'T USING THE NAME. HE JUST TOLD ME THAT

16 HE WAS A ROTHSCHILD. BUT HE GOES BY THE LEVIN.

17 Q IN OTHER WORDS, HE TOLD YOU THAT LEVIN WAS A PHONY

18 NAME, THAT HIS REAL NAME WAS ROTHSCHILD?

19 A NO. HE SAID -- THE WAY I UNDERSTOOD IT WAS THAT

20 HE WAS A ROTHSCHILD AND HIS STEPFATHER WAS LEVIN. AND HE

21 WENT BY HIS STEPFATHER'S NAME.

22 Q STEPFATHER'S NAME?

23 A YES.

24 Q AND THUSLY, HE TOLD YOU HIS MOTHER WAS A

25 ROTHSCHILD?

26 A I COULDN'T SAY THAT HE SAID THAT SPECIFICALLY.

27 Q WHAT WAS THE SENSE YOU HAD FROM WHAT HE TOLD YOU?

28 A THINKING ABOUT IT NOW, I WOULD SAY YES. I NEVER

*Aggravate to Derange*

4-2 - 1 GAVE IT MUCH THOUGHT.

2 Q WELL, AS YOU THINK ABOUT IT, IF HE WAS USING HIS  
3 STEPFATHER'S NAME --

4 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

5 THE COURT: SUSTAINED. LET'S GET ON TO SOMETHING ELSE,  
6 IF YOU WILL, PLEASE.

7 WE HAVE GONE THROUGH THIS ROTHSCHILD THING QUITE  
8 EXTENSIVELY.

9 MR. BARENS: I DON'T THINK THAT I --

10 THE COURT: IT IS JUST REPETITIOUS.

11 MR. BARENS: I DON'T THINK THAT I --

12 THE COURT: I DON'T CARE WHAT IT IS. STOP IT, NOW.  
13 LET'S GET ON TO SOMETHING IMPORTANT.

14 MR. BARENS: WHAT I AM SEEKING TO ESTABLISH, IS --

15 MR. WAPNER: CAN WE NOT HAVE A SPEAKING --

16 THE COURT: WILL YOU PLEASE GET ON TO SOMETHING ELSE?

17 MR. BARENS: THE TRUTH ABOUT HIS MOTHER IS --

18 THE COURT: THE TRUTH ABOUT HIS MOTHER IS THAT HE DIDN'T  
19 LOVE HER? IS THAT WHAT YOU ARE TRYING TO ESTABLISH?

20 MR. BARENS: I DON'T KNOW IF HE EVER TOLD THE TRUTH  
21 TO --

22 THE COURT: YOU HAVE ESTABLISHED A LOT OF THINGS SO  
23 FAR. BUT I DON'T THINK THEY HAVE VERY MUCH BEARING ON THE  
24 MURDER. LET'S GO ON.

25 MR. BARENS: ALL RIGHT, YOUR HONOR.

26 Q SIR, DID YOU EVER MEET HIS MOTHER?

27 A NO.

28 Q ALL OF THE TIME YOU ARE AT LEVIN'S HOUSE, YOU NEVER

1 SANTA MONICA, CALIFORNIA; WEDNESDAY, FEBRUARY 4, 1987; 10:45 A.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)  
4

5 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

6 CALL YOUR NEXT WITNESS, PLEASE.

7 MR. WAPNER: LEN MARMOR.

8 GO RIGHT UP THERE AND RAISE YOUR RIGHT HAND.  
9

10 LEN MARMOR,  
11 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
12 AS FOLLOWS:

13 THE CLERK: IF YOU WOULD RAISE YOUR RIGHT HAND TO BE  
14 SWORN, PLEASE.

15 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU  
16 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
17 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
18 SO HELP YOU GOD.

19 THE WITNESS: YES.

20 THE CLERK: IF YOU WOULD BE SEATED THERE AT THE WITNESS  
21 STAND.

22 IF YOU WOULD STATE AND SPELL YOUR NAME FOR THE  
23 RECORD, PLEASE?

24 THE WITNESS: LEN MARMOR, M-A-R-M-O-R.

25 THE COURT REPORTER: THE FIRST NAME?

26 THE WITNESS: L-E-N.  
27  
28

## DIRECT EXAMINATION

BY MR. WAPNER:

Q MR. MARMOR, DO YOU KNOW THE PERSON DEPICTED IN  
PEOPLE'S 6 FOR IDENTIFICATION?

A YES.

Q WHO IS THAT?

A RONNIE LEVIN.

Q WHEN DID YOU FIRST MEET MR. LEVIN?

A IN THE EARLY '70'S.

Q WHERE DID YOU MEET HIM?

A IN BEVERLY HILLS.

1 Q WERE YOU LIVING IN BEVERLY HILLS AT THAT TIME?

2 A YES.

3 Q DID YOU DEVELOP A FRIENDSHIP WITH MR. LEVIN?

4 A YES.

5 Q AND DID THAT FRIENDSHIP CONTINUE THROUGH 1984?

6 A YES.

7 Q FROM THE TIME THAT YOU FIRST MET HIM UNTIL 1984,

8 HOW OFTEN WOULD YOU SAY THAT YOU TALKED TO HIM?

9 A FOUR OR FIVE TIMES A WEEK.

10 Q WOULD YOU CONSIDER YOURSELF A CLOSE FRIEND OF

11 HIS?

12 A YES.

13 Q IN THE EARLY '70'S WHEN YOU FIRST MET HIM, WHERE

14 WERE YOU LIVING?

15 A I WAS LIVING IN BEVERLY HILLS.

16 Q HOW FAR AWAY FROM WHERE MR. LEVIN WAS?

17 A WHEN I FIRST MET HIM, I WAS PROBABLY A COUPLE

18 OF MILES AWAY.

19 Q AND AT SOME POINT, DID YOU MOVE NEXT DOOR TO

20 WHERE HE LIVED OR IN THE SAME BUILDING?

21 A YES.

22 Q WHERE WAS THAT?

23 A 148 SOUTH PECK.

24 Q IS THAT AN APARTMENT BUILDING?

25 A YES.

26 Q AND WHERE WAS MR. LEVIN LIVING AT THAT TIME?

27 A IN THAT BUILDING.

28 Q THAT IS IN THE 148 SOUTH PECK BUILDING?



1 A YES.

2 Q AND WHAT PERIOD OF TIME WAS THAT?

3 A ABOUT 1975, I BELIEVE, END OF 1975.

4 Q HOW LONG DID THE TWO OF YOU REMAIN IN THAT SAME  
5 BUILDING?

6 A NOT VERY LONG. HE MOVED NEXT DOOR.

7 Q THAT WAS TO 144 SOUTH PECK?

8 A RIGHT.

9 Q THAT'S WHERE HE WAS LIVING UNTIL JUNE 6, 1984?

10 A YES.

11 Q DURING THE TIME YOU WERE LIVING IN THE SAME  
12 BUILDING, HOW OFTEN WOULD YOU SEE OR TALK TO HIM?

13 A WHEN WE WERE LIVING IN THE SAME BUILDING, WELL,  
14 IT WAS PRETTY MUCH THE SAME. AS LONG AS WE WERE ON THAT SAME  
15 STREET, WE SAW EACH OTHER THREE OR FOUR OR FIVE TIMES A WEEK.

16 Q AND WOULD YOU TALK ON THE PHONE WHEN YOU DIDN'T  
17 SEE HIM?

18 A YES.

19 Q HOW CLOSE WOULD YOU SAY YOU WERE TO HIM IN TERMS  
20 OF PERSONAL RELATIONSHIPS?

21 A EXTREMELY CLOSE.

22 Q DID YOU CONSIDER YOURSELF HIS CLOSEST FRIEND?

23 A THAT IS WHAT HE TOLD ME.

24 Q DID HE TELL YOU THAT ON ONE OCCASION OR MORE  
25 THAN ONE OCCASION?

26 A HE WOULD REINFORCE THIS ALL OF THE TIME.  
27  
28

1 Q WHAT KIND OF THINGS WOULD HE SAY?

2 A "YOU ARE THE ONLY ONE THAT REALLY KNOWS -- REALLY  
3 KNOWS ME. YOU ARE THE ONLY ONE THAT I CAN BE TRUTHFUL WITH."  
4 THAT TYPE OF THING.

5 Q AND DID YOU EVER -- DID YOU SEE MR. LEVIN IN JUNE  
6 OF 1984?

7 A YES.

8 Q DID YOU SEE HIM ON JUNE THE 6TH?

9 A I BELIEVE THAT WAS THE DAY, THE LAST DAY THAT  
10 I SAW HIM.

11 Q AND HE WAS LIVING AT 144 SOUTH PECK AT THAT TIME?

12 A YES.

13 Q DID HE GIVE YOU SOME MONEY AT THAT TIME?

14 A HE PAID ME \$2,000 TOWARD A DEBT THAT HE OWED ME.

15 Q IN WHAT FORM DID HE PAY YOU THIS MONEY?

16 A TRAVELER'S CHECKS.

17 Q WHAT DID YOU DO WITH THAT \$2,000 IN TRAVELER'S  
18 CHECKS?

19 A CASHED THEM.

20 Q HOW DID YOU CASH THEM?

21 A I GAVE THEM TO A FRIEND OF MINE.

22 Q WHAT IS THE FRIEND'S NAME?

23 A WILLIAM MORRIS.

24 Q DID YOU SIGN --

25 YOU JUST GAVE THE TRAVELER'S CHECKS TO HIM?

26 A YES.

27 I THINK I OWED HIM SOMETHING AND I PAID HIM WITH  
28 THAT AND HE GAVE ME THE BALANCE IN CASH.

*Manner Dr*  
*Poor Legal Skills*

*V45*  
*2/4/87*

1 WAS THAT UNUSUAL?

2 A THAT HE HAS NOT SPOKE (SIC) TO ME?

3 Q YES.

4 A YES. IT WOULD BE. IT IS VERY UNUSUAL. YES,  
5 UNUSUAL SHOULD HE BE ALIVE.

6 Q IF HE WERE ALIVE ANYWHERE IN THE WORLD, DO YOU  
7 THINK THAT --

8 MR. BARENS: OBJECTION.

9 Q BY MR. WAPNER: WOULD YOU EXPECT TO HEAR FROM  
10 HIM?

11 ★ MR. BARENS: WE OBJECT. IT IS GOING TO THE ULTIMATE  
12 ISSUE, YOUR HONOR.

13 MR. WAPNER: WELL, THAT IS NOT A VALID LEGAL OBJECTION,  
14 WHETHER IT GOES TO THE ULTIMATE ISSUE.

15 THE COURT: I WILL SUSTAIN THE OBJECTION. WOULD YOU  
16 EXPECT TO HEAR FROM HIM IF HE WERE ALIVE BECAUSE OF YOUR  
17 FRIENDSHIP?

18 THE WITNESS: YES.

19 MR. BARENS: MOTION TO STRIKE THE WORDS "IF HE WERE  
20 ALIVE" AND INSTRUCT THE JURY TO DISREGARD THOSE WORDS. IT  
21 GOES TO THE ULTIMATE FACT.

22 THE COURT: OVERRULED.

23 ★ MR. BARENS: I PRESUME THE DEFENDANT WILL BE ABLE TO  
24 PUT ON EVIDENCE TO THE CONTRARY?

25 THE COURT: WOULD YOU STOP ARGUING TO THE JURY? IF  
26 YOU HAVE ANYTHING TO SAY, SAY IT OUTSIDE OF THE PRESENCE OF  
27 THE JURY.

28 MR. BARENS: MAY WE APPROACH?

*Poor*  
*Lawyer*

*Le. Manner, Jr.  
Bad Lawyering*

V45

1 Q HE WOULDN'T TALK LIKE THAT?

2 A NO -- HE MIGHT TALK LIKE THAT BUT HE DIDN'T --  
3 IT WAS RARE IF HE DID.

4 Q OKAY. WHEN YOU GOT THERE, ISN'T IT A FACT THAT  
5 THE SUBJECT OF REPAYMENT OF MONEY CAME UP BECAUSE, BY CHANCE,  
6 YOU SAW THE TRAVELER'S CHECKS THERE?

7 A THAT IS ABSOLUTELY WHY.

8 Q RIGHT?

9 A I DIDN'T SEE THEM.

10 HE SHOWED THEM TO ME.

11 Q OKAY.

12 A HE WAS BRAGGING ON THE FACT THAT HE HAD THIS STACK  
13 OF MONEY.

14 Q AND ALL OF A SUDDEN, YOU SAID TO HIM, "WELL, IF  
15 YOU HAVE GOT ALL OF THAT MONEY, HOW ABOUT ME?"

16 A YEAH, IT LOOKED LIKE A GOOD TIME TO COLLECT SOME  
17 MONEY.

18 Q QUITE SO.

19 WHEN HE WAS BRAGGING ABOUT "I'VE GOT A LOT OF  
20 TRAVELER'S CHECK MONEY HERE," DID HE SEEM TO HAVE OVERLOOKED  
21 THE FACT THAT YOU MIGHT ASK HIM FOR SOME OF THEM?

22 A I GUESS THAT IS WHAT IT WAS.

23 Q RIGHT.

24 HE WOULDN'T WANT YOU TO THINK HE HAD A LOT OF  
25 MONEY, WOULD HE, BECAUSE YOU WOULD START ASKING HIM FOR THE  
26 MONEY HE OWED YOU?

27 MR. WAPNER: OBJECTION. CALLS FOR A CONCLUSION.

28 THE WITNESS: WELL --

See Manner CX  
BAD LAWYERING

1 MR. BARENS: WELL, WE CALLED FOR ALL KINDS OF CONCLUSIONS.  
2 THE COURT: IS THAT A QUESTION?

3 MR. BARENS: WE CALLED FOR ALL KINDS OF CONCLUSIONS.

4 THE COURT: IS THAT A QUESTION?

5 MR. BARENS: YES, IT IS, YOUR HONOR.

6 THE COURT: RAISE YOUR VOICE AT THE END, WILL YOU?

7 MR. BARENS: THAT WAS THE QUESTION, ACTUALLY.

8 MR. WAPNER: THIS IS AN OBJECTION THAT IT CALLS FOR  
9 A CONCLUSION ON THE PART OF THE WITNESS BECAUSE HE IS ASKING  
10 THE WITNESS A, B, C, D --

11 THE COURT: REPHRASE YOUR QUESTION.

12 MR. BARENS: IT CALLS FOR HIS OPINION.

13 THE COURT: REPHRASE YOUR QUESTION.

14 Q BY MR. BARENS: IN YOUR OPINION, SIR, IF YOU  
15 THOUGHT MR. LEVIN HAD A LOT OF MONEY AND HE WAS AWARE OF THAT,  
16 ISN'T IT YOUR OPINION HE WOULDN'T WANT YOU TO THINK HE HAD  
17 A LOT OF MONEY?

18 MR. WAPNER: OBJECTION. IT IS ARGUMENTATIVE.

19 MR. BARENS: WAIT A MINUTE. I HAVEN'T EVEN FINISHED  
20 WITH THE QUESTION YET.

21 THE COURT: FINISH IT, WILL YOU, PLEASE?

22 Q BY MR. BARENS: ALL RIGHT, ISN'T IT YOUR OPINION  
23 THAT IF HE THOUGHT YOU KNEW HE HAD A LOT OF MONEY HE WOULD  
24 BE CONCERNED THAT YOU WOULD ASK HIM FOR THAT MONEY THAT HE  
25 OWED TO YOU?

26 MR. WAPNER: YOUR HONOR, SAME OBJECTION AS ARGUMENTATIVE.  
27 HE IS TAKING THE FACTS, MAKING AN ARGUMENT AND THEN ASKING  
28 THE WITNESS TO AGREE WITH IT. THE JURORS ARE THE ONES THAT

THE COURT: I WANT AN OFFER OF PROOF FROM YOU AS TO WHAT YOU EXPECT THIS WITNESS TO TESTIFY TO.

MR. BARENS: THE OFFER OF PROOF WILL BE THAT MR. HUNT TOLD HIM HE WAS GOING TO SUE THE CITY OF BEVERLY HILLS BECAUSE HIS FRIENDS WERE BEING CONTACTED, TOLD THAT HE WAS BEING -- THAT HE WAS GUILTY OF HAVING MURDERED SOMEONE, AND THAT HE KNEW THAT MR. -- THAT MR. MARMOR KNEW THAT WASN'T TRUE AND HE ASKED HIM IF HE WOULD DISCUSS WITH THE POLICE HIS VIEWS ON WHETHER OR NOT HUNT WAS GUILTY OF THAT MURDER.

MR. WAPNER: THAT IS TANTAMOUNT TO A STATEMENT BY THE DEFENDANT THAT "I DIDN'T DO IT." AND IT IS A HEARSAY STATEMENT.

THE COURT: I WILL SUSTAIN THE OBJECTION.

MR. BARENS: YOUR HONOR, IT GOES TO THE DEFENDANT'S STATE OF MIND.

THE COURT: YOU WANT AN OPINION FROM HIM, FROM HUNT THAT HE ISN'T GUILTY OF THIS MURDER?

MR. BARENS: NOT AT ALL.

I JUST WANT TO ASK WHAT WORDS WERE SAID TO HIM.

THE COURT: I WILL SUSTAIN THE OBJECTION.

MR. BARENS: YOUR HONOR, IF I MIGHT, FOR A POINT OF CLARIFICATION PROSPECTIVELY NOW, I WOULD UNDERSTAND THEN IF A WITNESS IS GOING TO TALK ABOUT WHAT SOMEBODY TOLD HIM, BEING THE DEFENDANT OR LEVIN, WE ARE NOT GOING TO PERMIT THAT?

THE COURT: I AM NOT GOING TO MAKE A BLANKET RULING. I WILL RULE ON EVERY QUESTION AS IT COMES.

MR. BARENS: MAY I HAVE A BETTER UNDERSTANDING OF WHY, YOUR REASONS?

THE COURT: NO. I AM GIVING YOU MY RULING. I DON'T

Q WHAT IS YOUR EXPERIENCE IN MATTERS OF THIS COMPLEXITY INVOLVING TEN COUNTS OF GRAND THEFT AND A COUNT OF RECEIVING STOLEN PROPERTY? WELL, MAYBE I AM GETTING AHEAD OF MYSELF.

WHAT WAS HE CHARGED WITH? CAN YOU TELL US WHAT HE WAS CHARGED WITH IN THE COMPLAINT?

A MY RECOLLECTION IS THAT HE WAS CHARGED WITH -- THERE WAS ONE COUNT STARTING FROM THE BACK -- THERE WAS ONE COUNT OF I BELIEVE, A VIOLATION OF PENAL CODE SECTION 476, WHICH IS N.S.F. CHECKS, NONSUFFICIENT FUNDS. I BELIEVE THE REMAINING COUNTS WERE GRAND THEFT COUNTS AND THERE WERE I BELIEVE, FOUR ENHANCEMENTS.

MR. WAPNER: MAY I HAVE A MOMENT?

THE COURT: YES.

(PAUSE.)

Q BY MR. WAPNER: NOW, LET'S JUST ASSUME FOR THE SAKE OF THIS DISCUSSION, THAT ALL OF THOSE CHARGES SURVIVED THE MUNICIPAL COURT. THAT IS, THAT MR. LEVIN WAS BOUND OVER TO THE SUPERIOR COURT ON ALL OF THOSE CHARGES AND THEREFORE, HE WOULD BE FACING TRIAL ON 11 COUNTS OF GRAND THEFT, ONE COUNT OF ISSUING A NONSUFFICIENT FUNDS CHECK AND ATTACHED TO FOUR OF THOSE COUNTS WERE ENHANCEMENTS OF THEFT OVER SO MUCH MONEY.

WHAT IS YOUR EXPERIENCE AS TO WHETHER THOSE TYPES OF CASES GENERALLY GO TO TRIAL WITHIN THE 60 DAYS?

A AGAIN, IT ALL DEPENDS. ONE OF THE THINGS THAT IS GOING TO BE DETERMINATIVE TO A CERTAIN DEGREE, IS WHETHER OR NOT THE PERSON IS OUT OF CUSTODY OR AT LIBERTY.

1 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

2  
3 CROSS-EXAMINATION

4 BY MR. BARENS:

5 Q GOOD AFTERNOON, MR. FURSTMAN.

6 A GOOD AFTERNOON.

7 Q MR. FURSTMAN, WHAT WAS THE NATURE OF THE BAIL  
8 THAT WAS REPRESENTING \$75,000 MR. LEVIN WAS RELEASED ON?

9 A IT WAS CORPORATE SURETY AND APPARENTLY, AGAIN  
10 REFERRING TO THE DOCKET SHEET, WHERE IT SAYS "NALT," I WOULD  
11 ASSUME IT IS PROBABLY NATIONAL SURETY OR NATIONAL GENERAL  
12 SURETY WAS THE CORPORATE SURETY BOND.

13 Q AND A CORPORATE SURETY BOND, COULD YOU EXPLAIN  
14 TO THE JURY, IF YOU WOULD, WHAT A CORPORATE SURETY BOND MEANS?

15 A WHAT IT MEANS IS WHEN THE BAIL IS SET -- IN THIS  
16 CASE, THE BAIL WAS SET AT \$75,000. THERE ARE DIFFERENT WAYS  
17 OF POSTING THAT BAIL: PROPERTY, CASH DEPOSIT OR CORPORATE  
18 SURETY, AS WAS USED IN THIS INSTANCE.

19 WHAT THAT MEANS IS THAT THE INDIVIDUAL OR MR.  
20 LEVIN'S APPEARANCE WAS GUARANTEED BASICALLY BY THIS BOND,  
21 WHICH IS LIKE AN INSURANCE POLICY AND IN THE EVENT HE FAILED  
22 TO APPEAR, THE CORPORATE SURETY WITHIN 180 DAYS, IF THE  
23 FORFEITURE ISN'T SET ASIDE, COULD EXECUTE ON WHATEVER THEY  
24 WERE HOLDING AS COLLATERAL. GENERALLY, IT IS A DEED TO  
25 PROPERTY.

26 THE MECHANICS ARE AN INDIVIDUAL CONTACTS A  
27 BONDSMAN, WHO IS LIKE AN UNDERWRITER FOR A BONDING COMPANY  
28 LIKE NATIONAL GENERAL. THEY CONTACT THE BAIL BONDSMAN. ON



1 A \$75,000 BOND, THE PERSON POSTING THE BOND WOULD DEPOSIT  
2 WITH THE BAIL BONDSMAN \$7500 AS A PREMIUM, 10 PERCENT IS THE  
3 STANDARD. THAT NEVER COMES BACK WHETHER THE BOND IS  
4 EXONERATED THE NEXT DAY OR A YEAR.

5 THEY ARE GENERALLY RENEWABLE EVERY YEAR ON AN  
6 ANNUAL BASIS.

7 SO IT WOULD REQUIRE A DEPOSIT, USUALLY A CASH  
8 DEPOSIT OR CASHIER'S CHECK OR CASH, \$7500.

9 AND THEN THE BONDING COMPANY WOULD REQUIRE THAT  
10 THE \$75,000 BOND BE SECURED. GENERALLY SPEAKING, THEY LOOK  
11 TO REAL PROPERTY AND EQUITY IN REAL PROPERTY IN EXCESS OF  
12 \$75,000, WELL IN EXCESS OF \$75,000.

13 Q NOW, MR. FURSTMAN, WERE YOU AWARE THAT LEVIN'S  
14 PARENTS' PROPERTY REPRESENTED COLLATERAL FOR THE BOND?

15 A THAT IS WHAT I -- THAT IS WHAT I UNDERSTOOD,  
16 YES.

17 Q DID YOU UNDERSTAND THAT IT WAS THEIR FAMILY  
18 RESIDENCE THAT BACKED THE BOND?

19 A YES.

20 Q AND IT WAS THE UNDERSTANDING THEN THAT IF MR.  
21 LEVIN DIDN'T APPEAR THAT THEY WOULD LOSE THE PROPERTY?

22 A YES.

23 Q ALL RIGHT. NOW WHEN WE GET TO ANOTHER FORM OF  
24 BOND -- LATER ON, THERE WAS ANOTHER FORM OF BOND, YOU SAY?

25 A YES.

26 Q ALL RIGHT, SO THAT WE CAN UNDERSTAND THROUGH  
27 MY QUESTIONING OF YOU WHAT IT IS. COULD YOU EXPLAIN TO ME  
28 WHAT THE OTHER TYPE OF BAIL IS? IN OTHER WORDS, EVENTUALLY

1 \$10,000 WAS PUT UP IN BOND MONEY INSTEAD OF THE CORPORATE  
2 SURETY.

3 A THAT'S CORRECT.

4 Q COULD YOU EXPLAIN TO THE JURY WHAT THE \$10,000  
5 TYPE OF BAIL IS?

6 A IT WAS -- IT WAS A CASH BAIL DEPOSIT.

7 BY CASH BAIL, THAT DOESN'T NECESSARILY MEAN THAT  
8 YOU ARE PUTTING DOWN \$10,000 IN CASH. IT CAN BE A CASHIER'S  
9 CHECK, DEPOSIT WITH THE COURT. SOMETIMES IT EVEN HAS BEEN  
10 ARRANGED WHERE A CD OR PASSBOOK IN THE NAME OF THE COUNTY  
11 CLERK OR THE LOCAL COURT IS EVEN DEPOSITED AND HELD.

12 IT WAS MY UNDERSTANDING IN THIS CASE THAT --  
13 I BELIEVE IT WAS -- I WAS LED TO BELIEVE A CASHIER'S CHECK  
14 OR A CHECK IN THE AMOUNT OF \$10,000 REPRESENTING THE CASH  
15 BAIL WAS DEPOSITED DIRECTLY WITH THE COURT.

16 IN OTHER WORDS, NO BONDSMAN WAS INVOLVED. MEANING  
17 THAT THERE WAS NO TEN PERCENT SURCHARGE. ALSO MEANING AT  
18 THE CONCLUSION OF THE PROCEEDINGS WHEN THE BAIL IS EXONERATED,  
19 THE \$10,000, WHATEVER AMOUNT THAT IS DEPOSITED IN CASH, COMES  
20 BACK IN ITS ENTIRETY TO THE DEPOSITOR.

21 Q BY THE WAY, DO YOU KNOW THE NAME THAT THE \$10,000  
22 WAS POSTED IN IN THIS INSTANCE?

23 A REFERRING TO THE DOCKET, THE DOCKET -- I DON'T  
24 HAVE IT --

25 MY RECOLLECTION WAS THAT IT WAS POSTED BY --  
26 I BELIEVE IT WAS IN MARTIN LEVIN'S NAME, BECAUSE I KNOW WE  
27 WERE -- THERE WAS A CONCERN ABOUT NOT FORFEITING THAT AND  
28 MAKING SURE THAT IT WENT BACK TO MR. LEVIN.

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THE COURT: HIS STEPFATHER?

THE WITNESS: YES, YES.

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1 THE COURT: SUSTAINED.

2 Q BY MR. BARENS: DID HE EVER GIVE YOU A REASON  
3 FOR THIS ONSET OF DISCUSSION ABOUT BAIL REDUCTION?

4 A NOT THAT I CAN RECALL, NO.

5 Q NOW, WHEN YOU WENT INTO COURT FOR THE BAIL  
6 REDUCTION, THAT WAS WITHIN A COUPLE OF WEEKS OF HIM INITIALLY  
7 STARTING THIS REQUEST WITH YOU?

8 A IT WOULD HAVE BEEN -- IF IT WAS EVEN TWO WEEKS,  
9 IT WAS FAIRLY --

10 Q LESS THAN TWO WEEKS?

11 A FAIRLY. I WOULD SAY SO. ALTERNATIVELY, I AM  
12 SURE IF IT WAS FAR OFF BETWEEN APPEARANCES, I WOULD HAVE BEEN  
13 REQUESTED TO ADVANCE THE MATTER OR MAKE A BAIL MOTION AT THAT  
14 TIME.

15 SO IT WAS AGAIN, MY RECOLLECTION THAT IT WAS  
16 SHORTLY BEFORE THE MAY 29 APPEARANCE.

17 Q RIGHT. NOW, WHEN YOU WENT INTO COURT -- STRIKE  
18 THAT.

19 WHEN THE MATTER OF THE BAIL REDUCTION CAME UP  
20 WITH LEVIN AND CONSIDERING HIS ATTITUDE OR DEMEANOR ABOUT  
21 THE BAIL REDUCTION, DID YOU THINK IT WAS PECULIAR?

22 A WELL, I DIDN'T SEE ANY LEGAL BASIS FOR THE BAIL  
23 REDUCTION AT THAT PARTICULAR POINT IN TIME, ONCE THE SURETY  
24 BOND WAS UP.

25 THEY HAD PREVIOUSLY -- BY "THEY" THE PROSECUTION  
26 I THINK HAD INITIALLY RECOMMENDED A BAIL THAT WAS, YOU KNOW,  
27 SUBSTANTIALLY HIGHER.

28 Q WAS THERE ANYTHING TO BE OBTAINED FROM IT, FROM

3-1  
1 THE BAIL REDUCTION?

2 A GAINED BY RON LEVIN?

3 Q GAINED BY ANYONE? WHAT COULD BE GAINED BY THIS  
4 BAIL REDUCTION MOTION?

5 A WELL, BASED UPON THE NEGOTIATIONS AND THE GIVE  
6 AND TAKE, BOB GARDEN AGAIN -- STRIKE THAT.

7 BOB GARDEN STOOD TO GAIN A SUBSTANTIAL AMOUNT  
8 OF PROPERTY BACK.

9 Q HOW ABOUT THE LEVINS WHO HAD POSTED THE COLLATERAL?

10 A OTHER THAN GETTING THE PROPERTY CONVEYED BACK  
11 TO THEM OR THAT LIEN RECONVEYED BACK TO THEM, THAT WOULD BE  
12 IT.

13 Q ALL RIGHT. THEY COULD GET THE TITLE TO THIS  
14 PROPERTY CLEARED. WAS THAT THE UNDERSTANDING?

15 A YES.

16 Q AND THE ENCUMBRANCE WOULD BE REMOVED FROM THE  
17 PROPERTY?

18 A YES.

19 Q AND THEREFORE, IF MR. LEVIN WERE NOT TO SHOW UP  
20 FOR HIS TRIAL IN THIS MATTER, THEY WOULDN'T LOSE THE  
21 PROPERTY IF THE LIEN WAS REMOVED FROM THE BAIL COMPANY? IS  
22 THAT TRUE?

23 A THAT'S CORRECT.

24 Q ALL RIGHT. NOW, YOU SUCCEEDED IN DOING THAT,  
25 DID YOU NOT, SIR?

26 A IN THE BAIL REDUCTION?

27 Q YES.

28 A YES.

1 REDUCTION WHERE IT WAS UNOPPOSED. THE AMOUNT WAS AGREED UPON.

2 THAT IS NOT TO SAY THAT IF THE PROPERTY HAD NOT  
3 BEEN RELEASED OR HE WOULDN'T AGREE, THAT THE BAIL MOTION COULD  
4 STILL NOT HAVE BEEN MADE. BUT IT WOULD HAVE BEEN MADE AT  
5 THAT TIME OVER OPPOSITION.

6 Q ALL RIGHT. NOW, YOU HAVE HANDLED OTHER THEFT  
7 OF PROPERTY CASES IN BEVERLY HILLS, HAVE YOU NOT?

8 A YES.

9 Q WHAT WE MIGHT GENERALLY REFER TO AS WHITE COLLAR  
10 TYPE CRIMES?

11 A YES.

12 Q NOW, BASED ON YOUR EXPERIENCE, HAVE YOU EVER HAD  
13 A CASE INVOLVING THIS MUCH PROPERTY TAKEN THAT THE D.A.'S  
14 OFFICE WOULD CONSENT TO BEING MADE A MISDEMEANOR?

15 A NOT WITH THIS MONETARY LOSS, ALLEGED MONETARY  
16 LOSS.

1 Q IN FACT, WITH ALLEGED MONETARY LOSSES SUBSTANTIALLY  
2 LESS THAN THE AMOUNT INVOLVED IN THIS CASE, THEY DON'T MAKE  
3 IT A MISDEMEANOR, DO THEY?

4 MR. WAPNER: OBJECTION. IT CALLS FOR A CONCLUSION.

5 MR. BARENS: I AM ASKING HIS OPINION AS A PRACTICING  
6 LAWYER IN THAT COURT, YOUR HONOR.

7 THE COURT: HAS IT EVER HAPPENED WHEN THERE HAS BEEN  
8 THAT LARGE OF A LOSS THAT ULTIMATELY A CASE HAS BEEN REDUCED  
9 TO A MISDEMEANOR?

10 THE WITNESS: CASES THAT I HAVE HANDLED?

11 THE COURT: THAT YOU KNOW ABOUT.

12 THE WITNESS: AGAIN, WITH A LARGE LOSS, AND IN THIS  
13 CASE IT WAS, I THINK APPROXIMATELY \$325,000, I AM NOT AWARE  
14 OF ANYTHING WITH THAT TYPE OF MONETARY LOSS WHERE THERE HAS  
15 BEEN A MISDEMEANOR REDUCTION.

16 THE COURT: THE REASON HE ASKED YOU THAT IS BECAUSE  
17 YOU MENTIONED SOMETHING ABOUT GETTING IT REDUCED TO A  
18 MISDEMEANOR.

19 THE WITNESS: AS FAR AS THE ULTIMATE SENTENCING RANGE  
20 AND WHAT WAS AVAILABLE FROM THE ABSOLUTE LOW END TO THE  
21 ABSOLUTE MAXIMUM.

22 THE COURT: ALL RIGHT. NOT THAT IT WAS LIKELY THAT  
23 IT WOULD BE REDUCED TO A MISDEMEANOR IN THIS CASE IF HE WAS  
24 CONVICTED; IS THAT IT?

25 THE WITNESS: THAT'S CORRECT.

26 AND THERE ARE EVEN CERTAIN RESTRICTIONS ON THE  
27 COURT'S ABILITY, I BELIEVE, TO REDUCE THE SENTENCE IN THIS  
28 CASE WHERE THERE ARE ENHANCEMENTS IN THIS TYPE OF A CASE.

1 MR. BARENS: AS A MATTER OF FACT, MR. FURSTMAN, HAD  
2 MR. LEVIN BEEN CONVICTED ON THESE CHARGES, ISN'T THAT  
3 SECTION 1203.045 THAT REQUIRES THAT HE NOT GET PROBATION BUT  
4 ACTUALLY SERVE THE TIME IN CUSTODY?

5 A THAT PROVISION WOULD -- IS A PROHIBITION AGAINST  
6 THE COURT IMPOSING PROBATION IN THAT TYPE OF A CASE.

7 AGAIN, THERE IS CERTAIN CIRCUMSTANCES UNDER WHICH  
8 A COURT COULD STRIKE THOSE ALLEGATIONS.

9 BUT ASSUMING THOSE ALLEGATIONS WERE NOT STRICKEN  
10 AND WERE FOUND TO BE TRUE, IT WOULD BE A PROHIBITION ON A  
11 GRANT OF PROBATION BY THE COURT.

12 Q PROBATION NOT BEING AVAILABLE, EXCEPT IN VERY  
13 UNUSUAL CIRCUMSTANCES; ISN'T THAT WHAT THE CODE SECTION I  
14 JUST REFERENCED, USES THE WORD "UNUSUAL"?

15 A UNUSUAL OR IN THE INTERESTS OF JUSTICE OR WHERE  
16 THE INTERESTS OF JUSTICE ARE SERVED, I THINK. YOU KNOW --

17 Q OTHERWISE, IF LEVIN IS CONVICTED, WE ARE NOT  
18 EVEN GOING TO TALK ABOUT PROBATION, THE JUDGE IS PROHIBITED  
19 FROM GIVING HIM PROBATION?

20 A WELL, I AM SURE, GIVEN VIGOROUS REPRESENTATION,  
21 IT WOULD CERTAINLY BE DISCUSSED BUT THERE WOULD BE -- AGAIN,  
22 THERE WOULD BE THE PROHIBITION, ASSUMING THAT IT WAS PROVED  
23 AND FOUND TO BE TRUE.

24 Q ALL RIGHT. NOW WE HAD BEFORE THE RECESS DISCUSSED  
25 THE MATTER OF COST FOR THE PRELIMINARY HEARING AND COST FOR  
26 THE TRIAL AND PREPARATION FOR TRIAL.

27 HAD ANYONE IN YOUR OFFICE EVER TOLD YOU THAT  
28 MR. LEVIN HAD PAID THE FEES AND COSTS ANTICIPATED FOR HIS



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1 THE COURT: SHE HASN'T TESTIFIED TO ANYTHING YET.  
2 LET'S WAIT.

3 MR. BARENS: BY THE TIME I ASK FOR VOIR DIRE AGAIN,  
4 SHE WILL HAVE TESTIFIED ACTUALLY.

5 THE COURT: ARE THESE CARDS KEPT IN THE ORDINARY COURSE  
6 OF BUSINESS AT THE BANK?

7 THE WITNESS: YES, THEY ARE.

8 THE COURT: AND THAT IS WHERE YOU GOT THEM FROM?

9 THE WITNESS: YES, IT IS.

10 THE COURT: THAT IS SUFFICIENT. GO AHEAD.

\* 11 MR. BARENS: JUST FOR THE RECORD'S SAKE, YOUR HONOR,  
12 WE WOULD OBJECT BECAUSE THE WITNESS PATENTLY HAS NO PERSONAL  
13 KNOWLEDGE CONCERNING THE PREPARATION, MAINTENANCE, DISTRIBUTION  
14 OF ANY OF THE DOCUMENTS SHE WILL BE TESTIFYING ABOUT, WHICH  
15 WE BELIEVE IS REQUIRED BY LAW.

16 THE COURT: BY LAW, SOMEBODY CAN TESTIFY IF THEY HAVE  
17 POSSESSION OF DOCUMENTS, THAT THEY ARE KEPT IN THE ORDINARY  
18 COURSE OF BUSINESS. YOU DON'T HAVE TO HAVE THE PERSON WHO  
19 ACTUALLY MADE THE ENTRIES TESTIFY TO IT. IF THEY ARE KEPT  
20 IN THE ORDINARY COURSE OF BUSINESS, ANYBODY WHO IS FAMILIAR  
21 WITH THE RECORDS CAN TESTIFY TO IT. THAT IS MY RULING.

22 LET'S NOT SAY ANYTHING FURTHER ABOUT IT.

23 MR. BARENS: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT, YOU HAVE GOT YOUR OBJECTION.

25 MR. BARENS: THANK YOU, YOUR HONOR.

26 THE COURT: GO AHEAD.

27 Q BY MR. WAPNER: SHOWING YOU THESE THREE CARDS,  
28 WHAT ARE THEY? AND THAT IS PEOPLE'S 41, 42 AND 43.

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1 A YES.

2 MR. WAPNER: (READING)

3 "Q YOU EARLIER MENTIONED A FIGURE,

4 25,000. WHERE DID YOU GET THAT FROM?

5 "A I RECALL EITHER THAT THAT'S WHAT

6 HE TOLD ME OR COUNTING THEM AND I RECALL 10,000 --

7 \$25,000 IS AN ENORMOUS AMOUNT OF MONEY. I JUST

8 REMEMBER LOOKING AT THIS BIG STACK OF TRAVELER'S

9 CHECKS AND IT SEEMED LIKE THAT'S WHAT IT WOULD BE."

10 Q DO YOU REMEMBER SAYING THAT?

11 A YES.

12 Q AND THAT TESTIMONY WAS GIVEN IN MAY OF 1985?

13 A YES.

14 Q AND THAT DEPOSIT THAT YOU MADE OF THE \$10,000,

15 WAS WHAT DAY?

16 A THE 5TH OF JUNE, 1984.

17 Q HAD YOU MADE SOME PLANS WITH MR. LEVIN TO GO

18 SOMEPLACE?

19 A YES. DEAN FACTOR AND RON LEVIN AND I WERE GOING

20 TO GO TO NEW YORK ON JUNE THE 7TH.

21 Q WHEN WERE THE PLANS MADE?

22 A THE END OF MAY, I WOULD SAY ABOUT A WEEK PRIOR

23 TO WHEN WE WERE GOING TO LEAVE.

24 Q WHAT DID MR. LEVIN TELL YOU ABOUT THE TRIP TO

25 NEW YORK?

26 A NOT MUCH, JUST THAT HE WAS GOING TO GO TO NEW

27 YORK AND HE ASKED ME IF I WANTED TO GO.

28 Q WHAT DID YOU SAY?

1 A I COULDN'T SAY EXACTLY THE LONGEST PERIOD OF  
2 TIME BUT IT SEEMED TO ME THAT WHEN WE CAME BACK, HE WOULD  
3 NORMALLY CALL IN IN 10 OR 15 MINUTES FOR THE MESSAGES, NO  
4 LONGER THAN THAT.

5 Q IF HE HAD BEEN OUT, FOR EXAMPLE, ON THE NIGHT OF  
6 JUNE THE 6TH AND GOT A MESSAGE AND SOMEONE CALLED HIM BETWEEN  
7 9:00 AND 9:10 IN THE EVENING AND HE HAD RETURNED SOME TIME  
8 AFTER THAT, YOU WOULD EXPECT THAT WITHIN 10 TO 15 MINUTES  
9 OF HIS RETURN, HE WOULD HAVE CALLED?

10 A YES.

11 Q AND GOTTEN THE MESSAGE?

12 A CERTAINLY.

13 MR. WAPNER: MAY I HAVE JUST A MOMENT, PLEASE, YOUR HONOR?

14 THE COURT: UH-HUH, YES.

15 Q BY MR. WAPNER: WERE YOU AWARE OF THE FACT THAT  
16 MR. LEVIN HAD A PENDING CRIMINAL CASE?

17 A YES, I WAS.

18 Q DID HE EVER TALK TO YOU ABOUT IT?

19 A OCCASIONALLY.

20 Q AND WHEN HE TALKED TO YOU ABOUT IT, WHAT WOULD HE  
21 SAY?

22 A HE -- I REMEMBER A NUMBER OF TIMES, HE TALKED ABOUT  
23 THE PERSON WHO HE THOUGHT WAS RESPONSIBLE FOR THE FACT THAT  
24 HE WAS -- HIS CASE WASN'T GOING TO GO VERY WELL.

25 Q WHO WAS THAT PERSON?

26 A NEIL ANTIN.

27 Q WHAT WAS THE EXPRESSION THAT HE USED WHEN HE  
28 TALKED ABOUT THAT?

1 A HE SAID "NEIL DIMED ON ME."

2 Q DIMED ON ME?

3 A HE TOLD THE POLICE SOMETHING HE DIDN'T HAVE TO  
4 TELL THEM, THAT ALL IT DID WAS GET RON IN TROUBLE.

5 Q DIMED, MEANING TO DROP A DIME --

6 A TO DROP A DIME, MADE A PHONE CALL.

7 Q WHAT ELSE DID HE SAY ABOUT THE CASE BESIDES THE  
8 FACT THAT MR. ANTIN HAD DIMED ON HIM?

9 A HE SAID HE DIDN'T THINK IT WAS GOING TO GO VERY  
10 WELL.

11 Q WHEN HE SAID THAT, CAN YOU DESCRIBE THE TONE THAT  
12 HE USED WHEN HE SAID THAT?

13 A HE SAID IT IN A VERY OFFHAND MANNER. HE SAID,  
14 I MEAN ALMOST LAUGHING, "IT DOESN'T LOOK VERY GOOD."

15 WHAT HE SAID WAS, "I DON'T THINK IT IS GOING TO  
16 GO VERY WELL."

17 Q FROM THE WAY THAT HE SAID THAT TO YOU, DID IT  
18 APPEAR THAT HE WAS CONCERNED ABOUT THE CASE?

19 A NOT REALLY. I MEAN -- I WAS WITH HIM FOR ALMOST  
20 EVERY DAY FOR A NUMBER OF WEEKS WHILE I WAS WORKING FOR HIM  
21 AND HE ONLY MENTIONED IT A FEW TIMES SO HE DIDN'T SEEM OVERLY  
22 CONCERNED WITH IT.

23 Q WHEN HE CALLED AT 9:00 -- WHEN HE TALKED TO YOU  
24 THAT EVENING SOMETIME BETWEEN 9:00 AND 9:30 TO ASK YOU TO GO  
25 TO DINNER, DID THAT SEEM UNUSUAL?

26 A NO.

27 Q IN YOUR EXPERIENCE WITH HIM, DID HE USUALLY COME  
28 IN EARLY, COME IN LATE OR SOMEWHERE IN BETWEEN?

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1 THE COURT: I DON'T UNDERSTAND WHY YOU HAVE TO GO INTO ALL  
2 OF THIS DETAIL WITH RESPECT TO WHAT HE WAS OWING.

3 MR. BARENS: YOUR HONOR, THAT IS A PART OF MY DEFENSE,  
4 SIR.


5 THE COURT: THAT HE OWED A LOT OF MONEY?

6 MR. BARENS: NO, SIR.

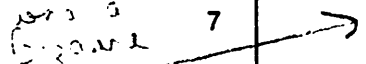
7 THE COURT: I DON'T WANT TO KNOW WHAT THE DEFENSE IS.  
8 JUST KEEP IT TO YOURSELF.

9 MR. BARENS: I CAN'T TELL YOU --

10 THE COURT: BUT APPARENTLY, APPARENTLY I AM ONLY  
11 GOING BY APPEARANCES AND I DON'T KNOW WHAT YOUR DEFENSE IS.  
12 BUT, IT WOULD APPEAR THAT ALL YOU ARE DOING IS ASKING HIM  
13 ABOUT THINGS WHICH RELATE TO THE CREDIT OF THE DECEDENT --  
14 NOT THE DECEDENT, I AM TERRIBLY SORRY. I MEAN, THE MISSING  
15 PERSON AND I DON'T KNOW WHAT POINT YOU ARE TRYING TO ACCOMPLISH.

9.   
1 MR. BARENS: SIR, I CAN ONLY ASSURE YOU IN GOOD FAITH  
2 THAT I AM GOING TO ACCOMPLISH SOMETHING IMPORTANT WITH THIS  
3 SEARCH FOR THE DEFENSE. I WON'T TAKE UP THE TIME UNNECESSARILY.  
4 I AM NOT HERE JUST TO TAKE UP THE TIME UNNECESSARILY.

5 THE COURT: DO YOU WANT TO MAKE AN OFFER ON THE RECORD,  
6 STATEMENT WITHOUT THE DISTRICT ATTORNEY PRESENT?

7  MR. BARENS: I CAN'T REALLY DO THAT WITHOUT DIVULGING  
8 MY DEFENSE.

9 THE COURT: I AM NOT THE PROSECUTOR. I AM JUST THE  
10 JUDGE WHO IS ON THE CASE.

11 MR. BARENS: I CAN ONLY SUBMIT AS AN OFFICER OF THIS  
12 COURT --

13 THE COURT: DO YOU WANT TO MAKE AN OFFER OF PROOF THEN?

14 MR. BARENS: NO, SIR. I JUST WANT TO PUT ON MY  
15 DEFENSE.

16 THE COURT: WELL, PUT ON YOUR DEFENSE WHEN THE TIME  
17 COMES. IN THE MEANTIME, ALL YOU ARE TRYING TO ESTABLISH  
18 IS THAT HE OWES A LOT OF MONEY TO PEOPLE.

19 MR. BARENS: NO, SIR, I RESPECTFULLY SUBMIT I WILL  
20 ACCOMPLISH MORE THAN THAT.

21 I AM SURE YOUR HONOR WILL BE SATISFIED IF I AM  
22 PERMITTED TO PROCEED AND TO PREPARE PROPERLY.

23 THE COURT: I DON'T WANT TO STAND IN THE WAY OF YOUR  
24 PREPARING PROPERLY BUT THE WAY IT SEEMS TO ME, ALL YOU ARE  
25 TRYING TO ESTABLISH IS THAT HE OWED A LOT OF MONEY TO A LOT  
26 OF PEOPLE.

27 MR. BARENS: I AM SURE, YOUR HONOR, THAT ONCE YOUR HONOR  
28 SEES WHAT I ESTABLISH, WHAT I SEEK TO DO, THAT YOU WOULD SEE I

unfortunately he's right → DID NOT WASTE YOUR HONOR'S TIME.

MR. WAPNER: TWO THINGS. FIRST OF ALL, WHAT COUNSEL WANTS TO DO IS TO GO OVER TWO EXHIBITS THAT HE HAS NOW DISCOVERED FOR THE FIRST TIME WERE INTRODUCED IN THE PITTMAN TRIAL OVER A YEAR AND A HALF AGO AND THESE EXHIBITS ARE THE AMERICAN EXPRESS BILLS, STATEMENTS THAT WERE SENT EVERY MONTH TO MR. LEVIN'S HOUSE AND COLLECTED FROM THE HOUSE BY MR. LEVIN AND I BELIEVE GIVEN TO THE POLICE OR GIVEN TO MR. OSTROVE AND THEN TAKEN BACK AND GIVEN TO THE POLICE. AND THEN THERE ARE SOME DOCUMENTS THAT CONSIST OF MICROFILM COPIES OF THE CREDIT CARD SLIPS THAT SHOW WHAT IT WAS THAT WAS ACTUALLY PURCHASED THAT BUILT UP THE BALANCE TO THE POINT WHERE IT WAS, TO THE POINT THAT MR. LEVIN DISAPPEARED.

THEN I ASSUME HE THEN WANTS TO QUESTION THIS WITNESS ABOUT WHAT WERE THE CHARGES ON THAT ACCOUNT THAT LED UP TO THIS BALANCE AND THIS WITNESS IS INCOMPETENT TO TESTIFY ABOUT THAT. THOSE AREN'T HIS RECORDS.

THE RECORDS OF THE CHARGES THAT WERE MADE ON THE ACCOUNT ARE KEPT BY THE AMERICAN EXPRESS COMPANY. THE RECORDS OF THE CHARGES WERE PRODUCED AT THE PITTMAN TRIAL BY A MR. JOHN REEVES, WHO IS A REPRESENTATIVE OF AMERICAN EXPRESS COMPANY AND IS COMPETENT TO LAY THE FOUNDATION FOR THOSE RECORDS AS BUSINESS RECORDS AND HE CAN TELL HOW THEY ARE PREPARED.

THIS WITNESS, MR. OSTROVE, DIDN'T WITNESS THE PURCHASE OF ANY OF THESE ITEMS. HE DOESN'T KNOW HOW THOSE ARE PREPARED AND AS FAR AS HE IS CONCERNED, THEY ARE HEARSAY BECAUSE EITHER HE CAN'T LAY A FOUNDATION FOR BUSINESS RECORDS



1 SO IT IS NOT --

2 THE COURT: YOU MEAN -- IS THE AMERICAN EXPRESS  
3 REPRESENTATIVE AVAILABLE?

4 MR. WAPNER: YES.

5 HE WAS ON THE WITNESS LIST THAT WAS PROVIDED TO  
6 COUNSEL AT THE BEGINNING OF THIS CASE.

7 HE TESTIFIED IN THE PITTMAN CASE AND LAID OUT  
8 THE FOUNDATION FOR THOSE MATERIALS AND BECAUSE HE WAS ON THE  
9 WITNESS LIST, OBVIOUSLY, I ANTICIPATE CALLING HIM AND I  
10 ASSUME COUNSEL ANTICIPATED THAT HE WOULD BE HERE.

11 THE COURT: WELL, YOU ARE GOING TO CALL HIM, ARE YOU?

12 MR. WAPNER: YES.

13 THE COURT: THAT WILL TAKE CARE OF THAT, WON'T IT?  
14 YOU KNOW ALL ABOUT IT.

15 MR. BARENS: I AM NOT SATISFIED.

16 THE COURT: WELL, I AM SATISFIED. I WILL SUSTAIN  
17 THE OBJECTION BY THE DISTRICT ATTORNEY.

18 MR. BARENS: WHAT IS THE OBJECTION --

19 THE COURT: ON THE AMERICAN EXPRESS MATTER, YOU WILL  
20 HAVE A WITNESS WHO CAN TESTIFY FULLY WITH RESPECT TO THAT.

21 WHAT IS THE OTHER MATTER?

22 MR. WAPNER: I AM NOT OBJECTING TO THE FACT THEY CAN  
23 USE THE STATEMENTS FROM THE AMERICAN EXPRESS CARD BECAUSE  
24 THOSE, I BELIEVE, MR. OSTROVE HAS SEEN OR THEY ARE SIMILAR  
25 TO WHAT HE SAW AND HE HAS PROBABLY SOME STATEMENTS IN HIS  
26 FILE AFTER THE DATE OF THE STATEMENTS THAT WE HAVE.

27 WHAT I AM SAYING IS I DON'T THINK IT IS PROPER  
28 FOR THIS WITNESS TO BE QUESTIONED ABOUT WHAT PARTICULAR CHARGES

1 WERE MADE ON THAT AMERICAN EXPRESS ACCOUNT BECAUSE HE IS  
2 NOT COMPETENT TO TESTIFY ABOUT THAT.

3 THE COURT: I WILL SUSTAIN THE OBJECTION.  
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1 THE COURT: ALL RIGHT. NOW IN WHOSE NAME WAS THAT  
2 ACCOUNT?

3 THE WITNESS: THAT WAS THE ACCOUNT THAT WE HAVE BEEN  
4 REFERRING TO, IT WAS IN THE NAME OF RONALD GEORGE LEVIN.

5 THE COURT: RONALD GEORGE LEVIN; IS THAT CORRECT?

6 THE WITNESS: YES, YOUR HONOR.

7 THE COURT: NOW THE CHECK WHICH IS MADE PAYABLE, IS  
8 PAYABLE TO WHOM?

9 THE WITNESS: TORONALD GEORGE LEVIN.

10 THE COURT: NOW HE MADE OUT THIS CHECK HIMSELF, DID  
11 HE NOT, APPARENTLY?

12 THE WITNESS: APPARENTLY, YES.

13 THE COURT: SO HE MADE OUT A CHECK IN THE SUM OF  
14 \$500,000 ON HIS OWN BANK ACCOUNT MADE PAYABLE TO HIMSELF;  
15 IS THAT CORRECT?

16 THE WITNESS: THAT'S CORRECT.

17 THE COURT: AND THAT, YOU FOUND IN THE DRAWER THAT  
18 WAS NEVER CASHED, WAS IT?

19 THE WITNESS: THAT'S CORRECT.

20 THE COURT: ALL RIGHT. AND IT WASN'T UNTIL YOU WENT  
21 IN THE DRAWER AND YOU FOUND THAT PARTICULAR CHECK AND YOU  
22 THOUGHT, "OH, WELL, HERE THERE IS A LOT OF MONEY I WILL  
23 DEPOSIT;" ISN'T THAT RIGHT?

24 THE WITNESS: WE THOUGHT THAT WAS A POSSIBILITY,  
25 RIGHT.

26 THE COURT: THEN YOU DEPOSITED IT?

27 THE WITNESS: YES, I TOOK IT --

28 THE COURT: WHAT HAPPENED TO IT?

1 THE WITNESS: THEY WERE RETURNED FROM THE SWISS BANK  
2 MARKED "N.S.F."

3 THE COURT: THAT MEANT THAT HE DIDN'T, RONALD GEORGE LEVIN  
4 DID NOT HAVE MORE THAN \$3.50 IN THAT ACCOUNT AT THAT TIME;  
5 IS THAT RIGHT?

6 THE WITNESS: ACCORDING TO THE STATEMENT OF THE BANK,  
7 THAT IS CORRECT.

8 THE COURT: AND THE SECOND CHECK SIMILARLY --

9 INCIDENTALLY, IS THERE ANY DATE ON WHICH THAT  
10 CHECK WAS DRAWN, THE DATE THAT IT WAS DRAWN?

11 THE WITNESS: THE CHECKS WERE UNDATED, YOUR HONOR.

12 THE COURT: UNDATED?

13 THE WITNESS: YES, SIR.

14 THE COURT: IS THAT RIGHT?

15 NOW, THE SECOND CHECK IS IN THE SUM OF \$980,877,  
16 UNDATED, DRAWN ON THE SAME ACCOUNT, PAYABLE TO  
17 RONALD GEORGE LEVIN, SIGNED BY RONALD GEORGE LEVIN; IS THAT  
18 CORRECT?

19 THE WITNESS: I DON'T KNOW WHO SIGNED IT.

20 THE COURT: YOU DON'T KNOW WHO SIGNED IT?

21 THE WITNESS: THERE WAS A SIGNATURE ON IT AND WHEN  
22 THE BANK RETURNED IT, ONE OF THE THINGS THEY SAID WAS  
23 "N.S.F. AND IRREGULAR SIGNATURE."

24 THE COURT: AND THOSE TWO CHECKS ARE ON THAT ONE  
25 BANK ACCOUNT WHERE YOU TOLD US THERE WAS A BALANCE FIRST  
26 OF \$3 AND THEN LATER THERE WERE CHARGES AGAINST IT WHERE HE  
27 OWED \$38; IS THAT RIGHT?

28 THE WITNESS: YES, SIR.

1 Q AND DID YOU DO THAT IN THIS CASE?

2 A YES. THEY WERE SUBMITTED TO US.

3 Q FROM WHOM?

4 A FROM THE BEVERLY HILLS POLICE DEPARTMENT,  
5 OFFICER KING.

6 Q AND THE AREA OF COMPARISON OF DENTAL RECORDS  
7 IS PART OF YOUR SPECIALTY?

8 A YES.

9 Q HOW LONG HAVE YOU BEEN WORKING IN THAT SECTION?

10 A SINCE 1979.

11 Q WHEN YOU GOT THE DENTAL RECORDS IN THIS CASE,  
12 DID YOU NOTICE ANYTHING PECULIAR ABOUT THAT?

13 A THE FIRST THING I DID NOTICE WAS THAT MR. LEVIN  
14 HAD QUITE A BIT OF DENTAL WORK, VERY UNIQUE DENTAL WORK.

15 IN FACT, HE HAD A MULTITUDE OF GOLD FILLINGS.  
16 THEY WERE GOLD FILLINGS AND EXPENSIVE WORK, VERY, VERY  
17 UNIQUE.

18 I COULD LOOK IN MY RECORDS BUT TO THE BEST OF  
19 MY KNOWLEDGE, WITHOUT LOOKING AT MY RECORDS, I THINK THAT  
20 HE HAD PROBABLY OUT OF 32 TEETH THAT ARE NORMALLY IN AN  
21 INDIVIDUAL'S MOUTH, PROBABLY 20 OF THEM HAD RESTORATIONS,  
22 GOLD FILLINGS. THAT IS VERY, VERY UNIQUE.

23 Q AND WHAT WAS THE SIGNIFICANCE OF THAT TO YOU?

24 A THAT SIGNIFICANCE TO ME WAS THAT IF WE HAD AN  
25 UNIDENTIFIED DECEASED INDIVIDUAL IN OUR FILES, THERE WOULD  
26 NEVER BE A DOUBT IN MY MIND THAT I COULD NOT MATCH THEM UP.

27

28

*John Langley*

VSO

1 ANY PROBLEMS THAT WERE GOING ON IN THE HOTEL?

2 A YES, SHE DID.

3 Q INCLUDED IN THAT, DID SHE TELL YOU SOMETHING ABOUT  
4 WHAT WAS GOING ON IN ROOM 1071?

5 A YES, SHE DID.

6 Q WHAT WAS THAT?

7 MR. BARENS: WE WOULD OBJECT AS OBVIOUSLY HEARSAY,  
8 YOUR HONOR.

9 THE COURT: OVERRULED.

10 MR. BARENS: THANK YOU.

11 MR. WAPNER: YOUR HONOR, IT IS NOT BEING OFFERED FOR  
12 THE TRUTH OF THE MATTER BUT TO EXPLAIN THE SUBSEQUENT  
13 CONDUCT OF THIS WITNESS.

14 THE COURT: THAT IS RIGHT.

15 Q BY MR. WAPNER: WHAT DID SHE TELL YOU?

16 A SHE SAID WE HAD A GUEST IN ROOM 1071 WHO WAS  
17 A WALK-IN ON THE 7TH, WHO HAD INCURRED APPROXIMATELY \$1,300  
18 IN CHARGES AT THE TIME, WHO THE HOTEL WAS UNABLE TO GET  
19 THE SUFFICIENT CREDIT APPROVAL FROM THE CREDIT CARD COMPANY.  
20 THAT WE HAD LEFT MESSAGES FOR THE GUEST TO CALL US CONCERNING  
21 THIS MATTER. THAT THE GUEST HAD NOT RESPONDED TO HER  
22 MESSAGES AND THAT SHE AND THE SECURITY SUPERVISOR EARLIER  
23 IN THE DAY HAD PLACED A DOUBLE LOCK ON ROOM 1071.

24 THE COURT: WHAT DOES A DOUBLE LOCK MEAN, SHUT THEM  
25 OUT OF THE ROOM, IS THAT IT?

26 THE WITNESS: IT IS A SECOND LOCK, YOUR HONOR, WHICH  
27 PROHIBITS ANYONE EXCEPT THE SECURITY SUPERVISOR FROM  
28 ENTERING THE ROOM.

*Don't ask anything - I'm going to ask you to find out why there was a pickup on the card?*

1 TO EARLIER, FIND OUT WHY THERE WAS A PICKUP ON THE CARD?

2 A NO, I DID NOT.

3 Q YOU DIDN'T ASK THAT KIND OF A QUESTION?

4 A NO, SIR. WE ARE TALKING ABOUT TALKING TO  
5 A MACHINE, SO TO SPEAK. WE JUST PUT IN THE NUMBERS AND  
6 IT GIVES US A CODE OR A DECLINE OR A PICKUP.

7 Q ALL RIGHT. DO YOU, BASED ON YOUR FAMILIARITY  
8 OF THESE MATTERS, HAVE AN IMPRESSION AS TO WHY CARDS ARE  
9 PICKED UP, BASED ON YOUR EXPERIENCE?

10 MR. WAPNER: HAVE AN IMPRESSION? THAT CALLS FOR  
11 SPECULATION ON THE PART OF THE WITNESS.

12 MR. BARENS: WELL, WE HAVE HAD ALL SORTS OF SPECULATION  
13 FROM THIS WITNESS.

14 THE COURT: IS THAT AN ARGUMENT? THEN, SINCE WE  
15 HAVE MADE MISTAKES BEFORE, YOU DON'T WANT ME TO MAKE ANOTHER  
16 ONE? IS THAT IT?

17 MR. BARENS: IF WE ALLOWED SPECULATION FOR THE PROSECUTION,  
18 WE SHOULD ALLOW IT FOR THE DEFENSE.

19 THE COURT: OBJECTION SUSTAINED. REPHRASE YOUR  
20 QUESTION.

21 MR. BARENS: JUST A MOMENT, YOUR HONOR.

22 (PAUSE.)

23 Q BY MR. BARENS: SIR, HAVE YOU EVER MADE INQUIRY  
24 IN THE PAST OR DO YOU HAVE SPECIFIC KNOWLEDGE FROM YOUR  
25 PAST DEALINGS AS TO WHY CARDS ARE GIVEN A PICKUP NOTIFICATION?

26 A COULD YOU REPHRASE YOUR QUESTION, PLEASE?

27 THE COURT: IN YOUR EXPERIENCE, DO YOU KNOW WHY  
28 CARDS ARE ASKED TO BE PICKED UP?

*Per. August 11, 2014*

1 A CORRECT.

2 Q YOU DIDN'T LIVE IN LOS ANGELES THEN AND YOU  
3 DON'T LIVE THERE NOW, DO YOU?

4 A THAT'S CORRECT.

5 Q YOU DON'T KNOW IF THERE IS A PECK DRIVE IN  
6 90048, DO YOU?

7 A NO. I DON'T KNOW.

8 Q ALL RIGHT. AND THERE IS A LINE THERE FOR  
9 SIGNATURE?

10 A YES, THERE IS.

11 Q AND WHEN IS THAT SIGNED BY THE GUEST IN RELATION  
12 TO WHEN HE CHECKS IN?

13 A IT SHOULD BE AT THE SAME TIME.

14 MR. WAPNER: YOUR HONOR, MAY 68 BE RECEIVED INTO  
15 EVIDENCE?

16 THE COURT: YES.

17 MR. WAPNER: MAY I WALK IT IN FRONT OF THE JURY?

18 THE COURT: YES.

19 (PAUSE.)

20 Q BY MR. WAPNER: IS THE SIGNATURE ON 68-A,  
21 ON THE LINE WHERE IT SAYS --

22 MR. BARENS: EXCUSE ME. FOR THE RECORD, IT IS INCUMBENT  
23 ON ME AND I WANT TO MAKE AN OBJECTION TO THE ADMISSION  
24 OF THAT EVIDENCE AS BEING HEARSAY.

25 THE COURT: VERY GOOD. YOU HAVE MADE THE OBJECTION,  
26 DIDN'T YOU?

27 MR. BARENS: I DIDN'T KNOW IF I MADE IT TIMELY AT  
28 THIS TIME.

THE COURT: IT IS TIMELY. AND I AM GOING TO OVERRULE



9-1

1 Q BY MR. WAPNER: MR. VEGA, DO YOU RECOGNIZE  
2 PEOPLE'S 72 FOR IDENTIFICATION?

3 A YES, SIR.

4 Q WHAT IS THAT PICTURE?

5 A IT IS MR. JAMES PITTMAN.

6 Q AND IS THAT THE PERSON THAT YOU WERE --  
7 WHEN WAS THAT PICTURE TAKEN?

8 A JUST AFTER WE HAD TAKEN HIM IN BY FORCE.

9 Q DID YOU FIND OUT AT ANY TIME THAT DAY THAT HIS  
10 NAME WAS ACTUALLY PITTMAN?

11 A NO, I DID NOT, NO.

12 Q DID HE EVER GIVE YOU ANY NAME OTHER THAN LEVIN?

13 A NO, NO OTHER NAME THAN LEVIN.

14 HE HAD IDENTIFICATION SHOWING HIM TO BE RON LEVIN.

15 Q WHAT IDENTIFICATION DID YOU SEE?

16 A HE HAD A WALLET.

17 THE COURT: HE HAD A WHAT?

18 THE WITNESS: HE HAD A WALLET.

19 Q BY MR. WAPNER: WHAT WAS IN THE WALLET?

20 A THERE WERE SEVERAL CARDS STATING HIS NAME AS  
21 BEING RON LEVIN.

22 Q DO YOU REMEMBER WHAT KIND OF CARDS THEY WERE?

23 A SOME WERE BUSINESS CARDS. I CAN'T REMEMBER OF  
24 ANY CREDIT CARDS. I DON'T REMEMBER ANY CREDIT CARDS, BUT  
25 HE DID SHOW SOME CARDS WITH THE NAME RON LEVIN ON IT.

26 MR. BARENS: YOUR HONOR, WE HAVE AN OBJECTION ON THE  
27 BEST EVIDENCE RULE AND MOVE TO STRIKE THAT, YOUR HONOR.

28 THE COURT: OVERRULED.

1                    THEN ALL OF THE CHARGES THAT THAT COMPANY PRODUCED  
2 DURING A CERTAIN CYCLE WOULD BE BILLED AT THE SAME TIME. IT  
3 COULD AFFECT VARIOUS CARDS. AND THAT WOULD COME OUT AND BE  
4 CONTRIBUTED TO INDIVIDUAL ACCOUNTS BY THEN.

5            Q        OKAY.

6            A        I AM NOT SURE I UNDERSTAND THAT, MYSELF.

7            Q        OKAY. FIRST, THE FIRST PART IS SIMPLER, RIGHT?  
8 IF YOU GO TO A STORE AND THEY TAKE YOUR CARD AND RUN IT THROUGH  
9 THE MACHINE, THEY THEN SEND ONE OF THOSE TISSUE OR HARD COPIES  
10 THAT IS GENERATED TO AMERICAN EXPRESS, CORRECT?

11          A        YES.

12          Q        ALL RIGHT. AND THEN AMERICAN EXPRESS MAKES A  
13 MICROFILM OF THAT AND INCLUDES IT IN THE RECORDS FOR THAT  
14 GIVEN CARD, CORRECT?

15          A        YES, SIR.

16          Q        BUT IF THE COMPANY DECIDES NOT TO SEND IN THE  
17 ACTUAL COPY OF THE INVOICE, HOW ELSE DO THEY SEND YOU A RECORD  
18 OF THE PURCHASES THAT HAVE BEEN MADE BY THAT PARTICULAR CARD?

19          A        BY COMPILING ALL OF THE CHARGES DURING A CERTAIN  
20 PERIOD OF TIME AT THAT MERCHANT LOCATION OR VARIOUS MERCHANT  
21 LOCATIONS BELONGING TO THE SAME COMPANY.

22                    THEN THEY TYPE IT INTO A MICRO ENCODING STRIP,  
23 ALL OF THOSE CHARGES. NOW, THAT STRIP WILL IDENTIFY THE CARD  
24 NUMBER, THE DATE, THE LOCATION, A REFERENCE NUMBER SO THEY  
25 CAN PULL OUT THE ACTUAL INVOICE THAT WAS IMPRINTED AND THE  
26 AMOUNT OF THE CHARGE. AND IN GENERAL CASES, THE SPECIFIC  
27 ITEMS PURCHASED BY THAT CARD.

28          Q        OKAY. SO, THERE IS KIND OF AN INTERMEDIATE STEP.

1 THE PERSON WHO MAKES THE PURCHASE GENERATES A CERTAIN RECORD.  
2 THAT RECORD IS SENT TO SOMEBODY WHO THEN SENDS IT TO AMERICAN  
3 EXPRESS?

4 A THAT'S CORRECT.

5 Q AND THE RECORD THAT YOU HAVE IN FRONT OF YOU,  
6 PEOPLE'S 77, IS THAT CONTAINING BOTH TYPES OF RECORDS?

7 A YES IT DOES.

8 Q AND ARE THERE ANY CHARGES THERE THAT ARE MADE  
9 AFTER JUNE THE 6TH?

10 A THERE IS A CHARGE THAT IS DATED JUNE 7.

11 Q WHERE WAS THAT MADE?

12 A AT BROOKS BROTHERS, LOS ANGELES.

13 Q IS THAT ONE OF THE ONES THAT ACTUALLY IS A SLIP  
14 MADE AT BROOKS BROTHERS AND SENT IN OR IS THIS ONE OF THOSE  
15 MAGNETIC ENCODED THINGS YOU ARE TALKING ABOUT?

16 A THIS IS AN ENCODED MAGNETIC STRIP THAT GENERATED  
17 THIS DOCUMENT.

18 Q WHAT WAS IT THAT WAS PURCHASED AT BROOKS BROTHERS  
19 ON JUNE 7, ACCORDING TO THAT?

20 A IT IS UNDERWEAR FOR A TOTAL OF \$83.07.

21 Q AND ARE THERE SOME OTHER CHARGES FROM BROOKS  
22 BROTHERS?

23 A YES.

24 Q AND WHAT ARE THE DATES ON THOSE?

25 A ON MAY THE 7TH, I OBSERVED SOME OF THOSE CHARGES  
26 WERE DATED MAY THE 7TH.

27 Q AND THE ONES THAT WERE MADE ON MAY THE 7TH, ARE  
28 THOSE AGAIN MAGNETICALLY ENCODED OR ARE THOSE ACTUAL CARDS?

33-1  
1 Q OKAY. AND THERE WAS ONE FOR DR. REED, CORRECT?

2 A MR. PRESLEY REED.

3 Q WERE THOSE ALL ISSUED UNDER ONE ACCOUNT?

4 A ONE UMBRELLA ACCOUNT, YES, SIR.

5 Q AND IF MR. LEVIN WANTED DUPLICATE CARDS, LET'S  
6 SAY, FOR SOMEONE ELSE IN HIS FAMILY SO THEY COULD USE THEM,  
7 WOULD THEY BE ISSUED UNDER -- WOULD THEY BE GIVEN THE SAME  
8 NUMBER?

9 A NO.

10 AMERICAN EXPRESS ISSUES CARDS TO INDIVIDUALS AND  
11 EACH INDIVIDUAL WOULD CARRY A DIFFERENT NUMBER TO IDENTIFY  
12 THAT INDIVIDUAL.

13 Q WELL, THE CARD THAT WAS ISSUED ON MAY THE 4TH,  
14 WHICH WAS 37135120018208, HOW MANY OF THOSE CARDS, PHYSICAL  
15 CARDS, WERE THERE FLOATING AROUND WITH THAT PARTICULAR NUMBER  
16 ON THEM?

17 A ONE.

18 Q ONLY ONE?

19 A YES, SIR.

20 Q AND THAT IS THE POLICY OF AMERICAN EXPRESS, THAT  
21 FOR ANY GIVEN NUMBER THERE IS ONLY ONE PHYSICAL CARD, CORRECT?

22 A THAT IS CORRECT.

23 Q AND ARE THE CHARGES THAT CAME UP WITH BROOKS  
24 BROTHERS ON JUNE THE 7TH, THAT WAS UNDER --

25 A YES.

26 Q -- THAT 8208 NUMBER, I BELIEVE?

27 A YES, IT WAS.

28 Q AND IF THAT CREDIT CARD THAT BORE THE NUMBER

1 371351200182028 WAS FOUND IN MR. LEVIN'S APARTMENT AT SOME  
2 POINT AFTER JUNE THE 7TH AND HAD BEEN THERE EVER SINCE THE  
3 MORNING OF JUNE 7 AND HAD NOT LEFT THE APARTMENT, WOULD YOU  
4 HAVE AN OPINION AS TO WHETHER THAT MAGNETICALLY GENERATED  
5 STATEMENT THAT SAYS JUNE 7 WAS IN ERROR?

6 MR. BARENS: YOUR HONOR, FOR THE RECORD, WE WOULD LIKE  
7 TO OBJECT TO THE HYPOTHETICAL AS ASSUMING FACTS NOT IN  
8 EVIDENCE OR EITHER JUST UNKNOWN.

9 THE COURT: OVERRULED.

10 MR. WAPNER: SUBJECT TO BEING CONNECTED UP AT SOME LATER  
11 POINT, YOUR HONOR.

12 THE COURT: YES.

13 THE WITNESS: MY OPINION IS THAT THE CARD WOULD NOT  
14 HAVE BEEN PRESENTED FOR THIS CHARGE.

15 Q BY MR. WAPNER: AND IT IS MORE LIKELY THAT IT  
16 WAS THAT THE 6-7 SOMEHOW IN THE MAGNETIC ENCODING PROCEDURE  
17 WAS ACTUALLY 5-7, WHEN THE OTHER TWO CHARGES AT BROOKS  
18 BROTHERS WERE MADE?

19 A YES.

20 IN ORDER TO PRODUCE THIS DATE ON THIS DOCUMENT,  
21 IT HAS TO GO THROUGH A MINIMUM OF TWO HANDS IN ORDER TO GET  
22 TO OUR BILLING CYCLE, OUR BILLING CENTER, SO THE MISTAKE COULD  
23 VERY EASILY HAVE BEEN MADE.

24 Q AND THE MAGNETIC ENCODING PROCESS, DOES THAT  
25 REQUIRE SOMEONE ACTUALLY READING ONE DOCUMENT AND THEN PUNCHING  
26 IN OR PUTTING IN NUMBERS ONTO ANOTHER ONE?

27 A YES.

28 Q SO THAT IF SOMEONE WAS TYPING IT IN AND THEY HIT

1 THE 6 INSTEAD OF THE 5, IT COULD ACCOUNT FOR THAT?

2 A YES, IT COULD.

3 Q AND IS THERE ANY WAY NOW THAT WE ARE IN 1987 TO  
4 BACKTRACK TO BROOKS BROTHERS AND SEE IF THAT ORIGINAL, THE  
5 ORIGINAL INVOICE THAT WAS MADE ON THAT CHARGE STILL EXISTS?

6 A IT IS POSSIBLE. I COULD CERTAINLY MAKE INQUIRIES  
7 TO THAT EFFECT.

8 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

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CERTIFICATE OF SERVICE  
When All Case Participants are Registered for the  
Appellate CM/ECF System

I hereby certify that on December 19, 2014 I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature: /s/ Jocilene Yue  
Jocilene Yue