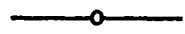


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STATE OF CALIFORNIA

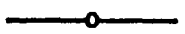


THE PEOPLE OF THE STATE OF CALIFORNIA  
Plaintiff  
and Respondent/~~Appellant~~

VS

T/N JOE HUNT  
AKA: JOSEPH HENRY GAMSKY  
Defendant  
and Appellant/~~Respondent~~

No. A090435.....



CLERK'S TRANSCRIPT  
VOLUME III

Appearances:

Counsel for Plaintiff and Respondent:  
THE ATTORNEY GENERAL

Counsel for Defendant and Appellant:

IN PROPRIA PERSONA

Appeal from the Superior Court,  
County of Los Angeles

Honorable L. J. RITTENBAND Judge

Date Mailed to:

Defendant (in pro per) \_\_\_\_\_

Defendant's Trial Attorney \_\_\_\_\_

Defendant's Appellate Attorney \_\_\_\_\_

District Attorney \_\_\_\_\_

Attorney General \_\_\_\_\_

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**NOTICE TO APPELLANT:**

In the event that a request for corrections is filed, counsel should deliver his copy of the transcripts to the court clerk at the time of the hearing so that it may be conformed.

CLERK'S TRANSCRIPT

1 Q BY MR. ZORNE: WHAT I'M TRYING TO DETERMINE,  
2 MR. KARNY, I'M TRYING TO DETERMINE -- THERE WAS A PERIOD OF  
3 TIME THAT YOU WERE -- FOR LACK OF A BETTER WORD -- MILLING  
4 AROUND SOCIALLY AND YOUR IDEAS CRYSTALLIZED TO FORM THIS  
5 ORGANIZATION THAT YOU CALLED BILLIONAIRE BOYS CLUB OR BOMBAY  
6 BICYCLE CLUB OR WORDS TO THAT EFFECT. NOW, WHEN DID THE  
7 IDEA CRYSTALLIZE THAT YOU WERE GOING TO FORM A GROUP TO DO  
8 THE THINGS THAT YOU INTENDED TO DO. IT'S A TIME FRAME.  
9 NOW, IT WAS OBVIOUSLY BEFORE YOU ACTUALLY INCORPORATED.

10 A WELL, JOE INFORMED ME THAT HE HAD THIS IDEA A  
11 LONG TIME AGO --

12 Q I SEE.

13 A -- HE HAD BEEN PLANNING TO GO TO LAW SCHOOL  
14 SOMEWHERE AND START THIS TYPE OF GROUP, BUT BECAUSE OF THE  
15 CIRCUMSTANCES OF HIS LIFE HE NEVER WOUND UP IN LAW SCHOOL  
16 AND HE GOT STUCK WITH ME AND BEN AND THE OTHER PEOPLE IN THE  
17 EARLY DAYS AND SO HE -- IT WAS HIS IDEA TO FORM THE GROUP  
18 THEN AROUND US AND OUR FRIENDS. AS FAR AS WHEN IT  
19 CRYSTALIZED FOR ME, I ALREADY -- I ALREADY ANSWERED THAT.  
20 SOMETIME IN 1981 --

21 Q ALL RIGHT. THANK YOU.

22 A -- IS WHEN THAT HAPPENED.

23 Q AND SOMETIME IN '81, YOU ALREADY ESTABLISHED  
24 CONCEPTS THAT YOU THOUGHT YOU WERE GOING TO USE TO CARRY OUT  
25 IN YOUR QUEST TO DO THE THINGS THAT BBC WAS ORGANIZED FOR IN  
26 '81; IS THAT CORRECT?

27 A YES.

28 Q ALL RIGHT. NOW, WHEN, IN FACT, DID MR. PITTMAN

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1 COME INTO THE SEEN? IN TERMS OF TIME.

2 A CONSIDERABLY LATER.

3 Q ALL RIGHT. FINE.

4 A I ALREADY ANSWERED WHEN HE WAS ORIGINALLY  
5 INTRODUCED TO US AT THE WILSHIRE-MANNING BUILDING.

6 Q YES. NOW, YOU 'VE INDICATED ON DIRECT  
7 EXAMINATION THAT MR. HUNT EXERTED AN INFLUENCE ON THE PEOPLE  
8 THAT WERE CLOSE AND AROUND HIM; IS THAT CORRECT?

9 A I FELT SO, YES.

10 Q WELL HE INFLUENCED YOU, DID HE NOT?

11 A YES, HE DID.

12 Q HE INFLUENCED YOU TO GET YOUR PARENTS TO INVEST  
13 QUITE A SUBSTANTIAL SUM OF MONEY WITH HIM, DID HE NOT?

14 A YES, HE DID.

15 Q AND THEN HE ALSO INFLUENCED YOU TO INFLUENCE  
16 YOUR PARENTS TO PUT AN ADDITIONAL AMOUNT OF MONEY IN WITH  
17 MR. HUNT; IS THAT CORRECT?

18 A HE INFLUENCED ME AND MY PARENTS. HE HAD A  
19 RELATIONSHIP WITH THEM AS WELL.

20 Q NOW, TELL ME, DO YOU THINK YOU'RE BEING  
21 INFLUENCED BY HIM OR HIS CONCEPTS AT THE PRESENT TIME AS YOU  
22 SIT THERE?

23 A NO, I DON'T.

24 Q ALL RIGHT. NOW, SOMEPLACE IN THE STATEMENTS  
25 THAT YOU MADE TO MS. LOPEZ AND DETECTIVE ZOELLER, YOU  
26 MENTIONED A PHRASE CALLED "NORMIES". DO YOU REMEMBER THAT?

27 A YES, I DO.

28 Q CAN YOU EXPLAIN TO THE COURT WHAT IS MEANT BY

603

1 "NORMIES"?

2 A THE TERM "NORMIES" IS A TERM THAT WAS COINED BY  
3 JOE TO REFER TO THOSE PEOPLE WHO DID NOT HAVE THE BENEFITS  
4 OF UNDERSTANDING PARADOX PHILOSOPHY --

5 Q I SEE. NOW, IS IT TRUE TO SAY THAT ALL OF US  
6 HERE ARE "NORMIES", BUT THE PEOPLE IN BBC ARE NOT "NORMIES"?  
7 BECAUSE WE DON'T UNDERSTAND THE PARADOX PHILOSOPHY ACCORDING  
8 TO JOE HUNT.

9 A -- FROM HIS POINT OF VIEW -- ACTUALLY, LET  
10 ME -- LET ME CLARIFY THE TERM "NORMIE" A LITTLE BIT MORE --

11 Q ALL RIGHT.

12 A -- YOU SEE, BECAUSE THERE WASN'T JUST A WAY OF  
13 SEPARATING EVERYONE FROM THE PEOPLE IN THE BBC, BUT THERE  
14 WAS A PHILOSOPHICAL ASPECT OF THE TERM "NORMIE". HE REFERRED  
15 TO A "NORMIE" AS SOMEONE WHO WOULD SACRIFICE HIMSELF FOR ANY  
16 GIVEN PRINCIPAL AND WHO WOULD THEREFORE LIKEWISE SACRIFICE  
17 ANOTHER TO THAT PRINCIPAL, AND THIS JOE FELT WAS BAD, AND SO  
18 "NORMIES" WERE THOSE PEOPLE. SO AS FAR AS THE QUESTION OF  
19 WHETHER EVERYONE IN THIS COURTROOM IS A "NORMIE" OR NOT, I  
20 CAN'T ANSWER THAT BECAUSE IT WOULD DEPEND UPON THAT ASPECT  
21 OF THEIR PHILOSOPHY.

22 Q SO WHAT YOU'RE ACTUALLY SAYING IS THAT THE  
23 PEOPLE THAT ARE "NORMIES" AS FAR AS YOUR CONCEPT IS  
24 CONCERNED, THE "NORMIES" ARE THE BAD GUYS BECAUSE THEY WOULD  
25 SACRIFICE THEMSELVES TO A PRINCIPAL?

26 A JOE SAW THAT AS BEING A NEGATIVE TRAIT.

27 Q SO YOU'RE SAYING THAT THE FELLOWS IN BBC, THESE  
28 WERE NOT "NORMIES"; THESE WERE FELLOWS THAT WOULD NOT

601

1 SACRIFICE THEMSELVES FOR A PRINCIPAL?

2 A OSTENSIBLY SO.

3 Q SO THAT WOULD GIVE YOU, THEN, THE CONCEPT THAT  
4 PEOPLE WHO WERE ABOVE "NORMIES" COULD TAKE ADVANTAGE OF THE  
5 PEOPLE THAT WERE "NORMIES" BECAUSE "NORMIES" WERE, YOU KNOW,  
6 IN QUOTES "BAD PEOPLE" AND THE PEOPLE IN BBC THAT WERE  
7 ENLIGHTENED WERE THE GOOD GUYS; IS THAT CORRECT?

8 A WELL, YOU SEE THE NOTIONS OF GOOD AND BAD  
9 DIDN'T REALLY FIT --

10 Q I SEE.

11 A -- INTO JOE'S TAUTOLOGY AT ALL BECAUSE ALL OF  
12 THAT, AS MAYBE YOU RECALL FROM MY PREVIOUS DESCRIPTIONS OF  
13 PARADOX PHILOSOPHY, WAS DEPENDENT UPON CIRCUMSTANCE AND  
14 PERSPECTIVE, MORALITY, GOOD AND EVIL, AND ALL THOSE CONCEPTS  
15 WERE SITUATIONAL AND DEPENDENT. THE WHOLE BASIS OF THE  
16 PARADOX PHILOSOPHY WAS THAT IT WAS A PHILOSOPHY OF  
17 TRANSPOSITION, BEING ABLE TO TRANSFORM BLACK INTO WHITE  
18 AND --

19 Q WHITE INTO BLACK,

20 A -- AND CONSEQUENTLY WHITE INTO BLACK. SO GOOD  
21 WAS ALL JOE EVER WANTED IT TO BE OR ANYONE ELSE EVER WANTED  
22 IT TO BE.

23 Q SO YOU DIDN'T USE THE TERM "THIS WAS GOOD",  
24 "THIS WAS BAD". YOU HAD THE THE CONCEPT THAT THIS WAS  
25 ADVANTAGEOUS OR DISADVANTAGEOUS TO ME, TO THE FELLOWS AT  
26 BBC?

27 A DEPENDING UPON THE PERSPECTIVE.

28 Q WELL, THE PERSPECTIVE WAS THAT THERE WAS NO

605

1 ABSOLUTE MORALITY, THAT MORALITY WAS SITUATIONAL --

2 A I WOULD SAY THAT. THAT WAS IT.

3 Q THEREFORE, WHATEVER WOULD FURTHER THE AIMS OF  
4 BBC WAS CONSIDERED IN QUOTES "MORAL" AND IF IT WOULD NOT  
5 FURTHER THE ENDS OF BBC IT WAS NOT MORAL?

6 A I CAN'T -- I CAN'T DISCUSS IT IN THAT  
7 TERMINOLOGY BECAUSE MORAL OR IMMORAL WASN'T A DECISION THAT  
8 WAS MADE.

9 Q WELL, HOW WOULD YOU DISTINGUISH WHAT WAS  
10 ADVANTAGEOUS TO THE CONCEPTS OF BBC AND WHAT WAS  
11 DISADVANTAGEOUS?

12 A I --

13 MS. LOPEZ: I'M GOING TO OBJECT AS BEING IRRELEVANT.  
14 WE ARE GOING OFF ON A TANGENT THAT HAS NOTHING DO DID WITH  
15 THIS PROCEEDING. MR. YOUNG HAS GONE THROUGH EXTENSIVE  
16 CROSS-EXAMINATION ON THIS, AND MR. ZORNE IS JUST REITERATING  
17 EVERYTHING.

18 THE COURT: WHAT IS THE RELEVANCY?

19 MR. ZORNE: WELL, THE RELEVANCY, YOUR HONOR -- CAN I  
20 APPROACH THE BENCH?

21 THE COURT: ALL RIGHT.

22 (WHEREUPON, A DISCUSSION WAS HELD AT THE BENCH OFF  
23 THE RECORD)

24 THE COURT: ALL RIGHT. THE DISCUSSION THAT WE HAD AT  
25 THE BENCH, FOR THE RECORD, BETWEEN DEFENSE COUNSEL AND THE  
26 PROSECUTOR CONCERNING THE OBJECTION OF THE RELEVANCY HERE,  
27 CAN YOU STATE NOW FOR THE RECORD, MR. ZORNE, HOW YOU BELIEVE  
28 THAT THIS IS --

1 MR. ZORNE: WELL, MY THEORY OF THIS PARTICULAR MATTER  
2 IS --

3 THE COURT: -- RELEVANT.

4 MR. ZORNE: -- IS THAT THE RELEVANCY HINGES ON THE  
5 FACT THAT HERE WE HAVE SOME INTELLECTUALLY BRILLIANT MEN  
6 HAVE PROPOUNDED A CONCEPT OVER AND ABOVE THE CONCEPT OF WHAT  
7 I WOULD CALL NORMAL PEOPLE, AND MR. PITTMAN, OUR CLIENT,  
8 DIDN'T SUBSCRIBE TO IT, HE WASN'T PART OF IT. HE DOESN'T  
9 KNOW ANYTHING ABOUT IT; HE DOESN'T UNDERSTAND IT.  
10 INTELLECTUALLY HE 'S NOT THEIR EQUAL.

11 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
12 OVERRULED.

13 MR. ZORNE: THANK YOU, YOUR HONOR.

14 Q LET 'S LEAVE THAT FOR A MOMENT. WAS MR.  
15 PITTMAN, TO YOUR BEST KNOWLEDGE, MR. KARNY, WAS HE EVER IN  
16 ON ANY PLANNING STAGE -- NOW, IF YOU CAN SEPARATE IN YOUR  
17 MIND THE MATTER THAT WE ARE HERE ABOUT. LET 'S EXCLUDE THAT,  
18 THE MATTER THAT WE ARE HERE ABOUT, THE MATTER OF THE ALLEGED  
19 MURDER. WAS MR. PITTMAN EVER IN ON ANY PLANNING STAGE THAT  
20 YOU 'VE PERSONALLY, YOU AND BEN AND JOE WERE INVOLVED IN,  
21 PLANNING FOR SAY THE FUTURE OR PLANNING AN ENTERPRISE OR  
22 PLANNING A MERGER OR INVESTMENTS?

23 A YES.

24 Q OKAY. CAN YOU TELL ME WITH SOME DEGREE OF  
25 DETAIL WHAT KIND OF MEETINGS OR MEETING MR. PITTMAN WAS IN?

26 A HE PLANNED WITH US THE MURDER OF HEDAYAT  
27 ESLAMINIA, HE PLANNED WITH US THE WAY WE WERE GOING TO CASH  
28 THE CHECK THAT RON LEVIN WAS FORCED TO SIGN, HE PLANNED THE



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1 WAY SOME OF THE BUSINESSES WERE GOING TO -- THE FUTURE OF  
2 SOME OF THE BUSINESSES WERE GOING TO PROCEED BECAUSE HE WAS  
3 INSTRUMENTAL IN THERE OPERATIONS AND A NUMBER OF OTHER  
4 THINGS.

5 Q OKAY. BUT DIDN'T YOU SAY ON DIRECT EXAMINATION  
6 THAT MR. HUNT WAS THE ONE THAT DIRECTED THE MAJOR PORTION OF  
7 PLANNING?

8 A I SAID THAT, AND I ALSO SAID THAT THE  
9 INITIATIVE OF OTHER PEOPLE WAS ALWAYS ENCOURAGED.

10 Q WELL, WHAT IS MEANT BY "SHADING"? WHAT'S  
11 "SHADING"?

12 A "SHADING" IS A TERM ALSO COINED BY JOE TO FIT  
13 IN WITH THE PARADOX PHILOSOPHY STRUCTURE OF THE BBC, AND TO  
14 THE EXTENT THAT IN PARADOX PHILOSOPHY BLACK IS WHITE AND  
15 WHITE IS BLACK AND ALL THE SHADINGS IN BETWEEN, THAT BEING A  
16 PARADOX. SOMEONE WHO IS WELL VERSED IN PARADOX PHILOSOPHY  
17 AND ABLE TO MANIPULATE ITS CONCEPTS WAS CALLED A "SHADING".

18 Q SO THE "SHADING" IS ACTUALLY A NOUN RATHER THAN  
19 A ADJECTIVE OR AN ADVERB?

20 A CORRECT.

21 Q DO YOU CONSIDER YOURSELF A "SHADING"?

22 A AT -- AT THE TIME NOW OR --

23 Q YES, RIGHT NOW.

24 A NO. I THINK THE WHOLE TERM IS NONSENSE.

25 Q BUT AT THE TIME THAT IT WAS PROPOUNDED, YOU  
26 DIDN'T THINK IT WAS NONSENSE. YOU JUST SUBSCRIBED TO IT,  
27 DID YOU NOT?

28 A YES, I DID.

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1 Q NOW, DID YOU HELP JOE DECEIVE PEOPLE AND ASSIST  
2 THEM IN MAKING INVESTMENTS, YOU YOURSELF?

3 A THERE 'S TWO QUESTIONS THERE. WHAT ARE YOU  
4 ASKING ME?

5 Q WELL, DID YOU HELP JOE DECEIVE PEOPLE?

6 A YES.

7 Q AND DID YOU TRY TO GET PEOPLE TO INVEST MONEY  
8 WHEN YOU KNEW THAT IT WAS REALLY A SCAM?

9 A I CAN'T ANSWER YES TO THAT. UM --

10 Q NOW, YOU -- YOU CAN'T ANSWER YES. TELL ME  
11 THIS, MR. KARNY: WHY DID BBC -- I THINK YOU INDICATED IN  
12 ONE OF YOUR STATEMENTS THAT BBC HATED RON LEVIN. WHY DID  
13 THEY HATE RON LEVIN?

14 A I DON'T KNOW IF I SAID THE BBC HATED RON LEVIN.

15 Q WELL, DID JOE HATE RON LEVIN?

16 A I CAN'T SAY FOR SURE THAT HE HATED HIM.

17 Q WELL, DID YOU HATE HIM?

18 A NO.

19 Q NOW YOU INDICATED THAT IT WAS IN A STATEMENT  
20 TO -- I THINK IT WAS THE 11-29 STATEMENT THAT YOU MADE, YOU  
21 INDICATED THAT IT WAS A BLOW TO JOE THAT HE HAD MADE SOME  
22 BIG MISTAKE OVER RON'S CHECKS. WHAT DID YOU MEAN BY THAT?

23 A OVER RON'S CHECKS?

24 Q YEAH, RON'S CHECK. THE ONE FOR ONE 1.5  
25 MILLION. YOU SAID IT WAS A BLOW TO JOE'S EGO THAT HE MADE A  
26 MISTAKE ABOUT RON'S CHECK, WHICH WAS THE ONE REFERRED TO AS  
27 1.5 MILLION.

28 MS. LOPEZ: I'M GOING TO OBJECT AS ASSUMING FACTS NOT

1 IN EVIDENCE THAT IT WAS, IN FACT, WHAT WAS REFERRED TO IN  
2 THE STATEMENT.

3 MR. ZORNE: IT'S IN THE STATEMENT OF 11-29.

4 MS. LOPEZ: THAT ALSO ASSUMES A FACT NOT IN EVIDENCE.

5 MR. ZORNE: DO YOU WANT ME TO GIVE IT TO HIM AND LET  
6 HIM LOOK THROUGH IT?

7 MS. LOPEZ: YES.

8 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
9 SUSTAINED

10 Q BY MR. ZORNE: NOW, OTHER THAN THE FACT --  
11 OTHER THAN THE FACT OF WHAT JOE TOLD YOU, DO YOU HAVE  
12 PERSONAL KNOWLEDGE OF ANY CRIMINAL ACT PERPETRATED ON OR TO  
13 RON LEVIN?

14 A BY ANYONE?

15 Q BY ANYONE. OF YOUR OWN PERSONAL KNOWLEDGE.

16 A ANY CRIMINAL ACT PERPETRATED ON OR TO RON LEVIN  
17 BY ANYONE.

18 Q BY ANYONE.

19 A OTHER THAN WHAT JOE TOLD ME.

20 Q OTHER THAN WHAT JOE TOLD YOU. SO AS YOU SIT  
21 THERE, YOU DON'T HAVE ANY KNOWLEDGE OF ANYTHING THAT WAS  
22 ACTUALLY DONE TO RON LEVIN PERSONALLY?

23 A I HAVEN'T ANSWERED THE QUESTION. I'M TRYING TO  
24 UNDERSTAND WHAT THE SCOPE OF IT --

25 Q THE SCOPE OF IT --

26 A -- AND I ALSO HAVE A PROBLEM AND I HAVE ALL DAY  
27 AND ALL DAY YESTERDAY WITH THE TERM OF MY OWN PERSONAL  
28 KNOWLEDGE, AND I'M NOT SURE IF THAT'S LIMITED TO --

1 Q WELL --

2 A -- THINGS THAT I KNOW ABOUT OR THINGS THAT I'VE  
3 BEEN TOLD BY SOMEONE. IT'S A --

4 Q NO. LET ME EXPLAIN PERSONAL KNOWLEDGE.

5 A -- A PROBLEM FOR ME.

6 Q BECAUSE YOU TOOK EVIDENCE IN LAW SCHOOL?

7 A I DID TAKE EVIDENCE IN LAW SCHOOL, BUT I HAVE  
8 NOT BEEN --

9 Q YOU DON'T REMEMBER THAT?

10 A -- IN A TRIAL BEFORE --

11 Q WHEN I SAY PERSONAL KNOWLEDGE, I'M TALKING  
12 ABOUT WHAT YOU ACTUALLY HAVE PERCEIVED WITH YOUR EYES OR  
13 HEARD WITH YOUR OWN EARS OR TOUCHED WITH YOUR OWN HANDS OR  
14 SMELLED WITH YOUR OWN NOSE OR TASTED WITH YOUR OWN TONGUE.  
15 DO YOU UNDERSTAND THAT?

16 A YES, I DO UNDERSTAND --

17 Q NOW --

18 A -- THOSE THINGS.

19 Q -- WHAT I'M ASKING YOU IS OF YOUR OWN PERSONAL  
20 KNOWLEDGE, DO YOU KNOW OF ANY CRIMINAL ACT PERPETRATED ON OR  
21 TO RON LEVIN?

22 A OTHER THAN WHAT JOE TOLD ME.

23 Q YOU HAVE TO EXCLUDE WHAT JOE TOLD YOU BECAUSE  
24 THAT'S HEARSAY. OF YOUR OWN PERSONAL KNOWLEDGE. IF I THROW  
25 SOMETHING AT YOU, YOU CAN SAY "HEY, I SAW HIM THROW  
26 SOMETHING AT ME."

27 A LET ME SEE NOW. NOW, IF I SEE A CHECK WITH MY  
28 OWN EYES --

1 Q IF YOU SEE A CHECK WITH YOUR OWN EYES, YOU SEE  
2 A CHECK WITH YOUR OWN EYES. YOU DON'T KNOW IF IT'S A  
3 CRIMINAL ACT NOT, DO YOU?

4 A I SEE, SO, I --

5 Q AS YOU'RE SITTING THERE, RON LEVIN MAY POSSIBLY  
6 BE WELL, ALIVE, HAVING A GOOD TIME SOMEPLACE IN ENGLAND OR  
7 SOMEPLACE ELSE BECAUSE YOU HAVE NEVER SEEN ANYTHING  
8 PERPETRATED TO HIM OR ON HIM?

9 A THAT'S NOT A CONCLUSION THAT I WOULD DRAW --

10 Q I'M NOT ASKING FOR YOUR CONCLUSION. I'M ASKING  
11 FOR --

12 MS. LOPEZ: MR. ZORNE IS ARGUING WITH THE WITNESS.

13 THE COURT: ALL RIGHT. THE WITNESS' ANSWER CAN BE  
14 STRICKEN BECAUSE IT'S NOT RESPONSIVE. YOU MAY ASK HIM THE  
15 QUESTION AGAIN.

16 Q BY MR. ZORNE: YOU NEVER SAW HIM. YOU NEVER  
17 SAW ANYBODY HURT RON LEVIN?

18 A NO.

19 Q YOU NEVER SAW ANYBODY KILL RON LEVIN?

20 A NO.

21 MR. ZORNE: THANK YOU. NO FURTHER QUESTIONS.

22 MS. LOPEZ: NOTHING FURTHER.

23 THE COURT: ANYTHING FURTHER?

24 MR. YOUNG: NO. I'LL LET IT GO.

25 THE COURT: MAY THIS WITNESS STEP DOWN?

26 MS. LOPEZ: THE WITNESS MAY STEP DOWN.

27 THE COURT: THANK YOU VERY MUCH. YOU MAY STEP DOWN.

28 THE WITNESS: THANKS.

1 MS. LOPEZ: THE PEOPLE CALL DENNIS DE CUIR.

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

6 THE WITNESS: I DO.

7 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
8 SPELL YOUR LAST NAME.

9 THE WITNESS: DENNIS DE CUIR, D-E, C-U-I-R.

10

11

DIRECT EXAMINATION

12

BY MS. LOPEZ:

13

Q WHAT'S YOUR OCCUPATION AND ASSIGNMENT?

14

A I'M A POLICE OFFICER FOR THE CITY OF BEVERLY  
15 HILLS ASSIGNED TO THE DETECTIVE DIVISION AS A MAJOR CRIMES  
16 INVESTIGATOR.

17

Q DID YOU GO TO NEW YORK IN CONNECTION WITH THIS  
18 CASE?

19

A YES, I DID.

20

Q AND WHILE IN NEW YORK DID YOU GO TO THE PLAZA  
21 HOTEL?

22

A YES, I DID.

23

Q AND WHILE AT THE PLAZA HOTEL DID YOU MAKE  
24 CONTACT WITH A PARTICULAR PERSON?

25

A YES, I DID.

26

Q AND WHO DID YOU MAKE CONTACT WITH?

27

A MR. TOM COLDEN, DIRECTOR OF SECURITY.

28

Q AT THAT TIME DID YOU REQUEST TO REVIEW CERTAIN

610

1 DOCUMENTS MAINTAINED BY THE HOTEL?

2 A YES, I DID.

3 Q AND WHAT DID YOU REQUEST?

4 A ANY DOCUMENTS THAT YOU HAD PERTAINING TO THE  
5 STAY OF MR. RON LEVIN AT THE PLAZA HOTEL.

6 MS. LOPEZ: MAY I APPROACH THE WITNESS?

7 THE COURT: YES.

8 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENTS  
9 THAT HAVE BEEN MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 27.

10 Q REFERRING TO THE DOCUMENTS ATTACHED TO  
11 PEOPLE'S -- THE TWO LETTERS FROM THE PLAZA HOTEL, PEOPLE'S  
12 27, DO YOU RECOGNIZE ANY OF THESE ITEMS?

13 A THESE ALL APPEAR TO BE COPIES OF DOCUMENTS THAT  
14 I INSPECTED IN NEW YORK CITY AT THE PLAZA HOTEL AND  
15 DOCUMENTS HAVE WHICH I OBTAINED COPIES.

16 Q DIRECTING YOUR ATTENTION TO PAGE THREE OF A  
17 FIVE PAGE STAPLED DOCUMENT THAT IS PART OF THE DOCUMENTS  
18 MARKED COLLECTIVELY AS PEOPLE'S 23, WHICH STATES "WESTIN  
19 HOTELS, THE PLAZA, THE PALM COURT", DATED 6-9-84, WITH THE  
20 PRINTED NAME OF "RONALD LEVIN", DOES THAT APPEAR TO BE A  
21 TRUE AND CORRECT COPY OF THE DOCUMENTS YOU SAW WHILE IN NEW  
22 YORK CITY AT THE PLAZA HOTEL?

23 A YES, IT DOES.

24 Q AND DIRECTING YOUR ATTENTION TO PAGE -- OR THE  
25 FIFTH PAGE OF THAT SAME DOCUMENT WHICH STATES "WESTIN  
26 HOTELS, THE PLAZA, RONALD LEVIN", I BELIEVE IT SAYS "107" --  
27 OR I CAN'T QUITE READ THE ROOM, BUT "ARRIVAL 6-7",  
28 "DEPARTURE 6-12", DOES THAT APPEAR TO BE A TRUE AND CORRECT

1 COPY OF ONE OF THE DOCUMENTS THAT YOU SAW WHILE AT THE PLAZA  
2 HOTEL?

3 A YES.

4 MS. LOPEZ: I HAVE NOTHING FURTHER --

5 Q AND JUST FOR THE RECORD COULD YOU PLACE YOUR  
6 INITIALS ON ON EACH OF THOSE PAGES THAT I'VE SPECIFICALLY  
7 ASKED YOU ABOUT?

8 A YES. (INDICATING).

9 MS. LOPEZ: THANK YOU. NOTHING FURTHER.

10  
11 CROSS EXAMINATION

12 BY MR. YOUNG:

13 Q DO YOU HAVE ANY PERSONAL KNOWLEDGE AS TO THE  
14 AUTHENTICITY OF THOSE DOCUMENTS?

15 A THE XEROX COPIES OR THE ORIGINAL DOCUMENTS  
16 MAINTAINED BY THE PLAZA HOTEL?

17 Q OF THE ORIGINAL DOCUMENTS?

18 A I SAW THE ORIGINAL DOCUMENTS.

19 Q OKAY. YOU'RE NOT THE CUSTODIAN OF RECORDS FOR  
20 THAT HOTEL, ARE YOU?

21 A NO, I'M NOT.

22 Q IT ISN'T PART OF YOUR JOB TO MAINTAIN THOSE  
23 RECORDS, IS IT?

24 A NO.

25 Q AND YOU HAVE NO PERSONAL KNOWLEDGE -- BY  
26 PERSONAL KNOWLEDGE, YOU DIDN'T SEE THOSE DOCUMENTS PREPARED,  
27 DID YOU?

28 A THE ORIGINAL DOCUMENTS?



1 Q RIGHT.

2 A NO, I DID NOT.

3 Q AND YOU CAN'T STATE FROM YOUR PERSONAL  
4 KNOWLEDGE THAT THOSE DOCUMENTS ARE ACCURATE, CAN YOU?

5 A NO, I CANNOT.

6 MR. YOUNG: NO FURTHER QUESTIONS.

7 MS. LOPEZ: NOTHING FURTHER. THE PEOPLE REST.

8 THE COURT: FIRST OF ALL, MAY OFFICER DE CUIR STEP  
9 DOWN?

10 MS. LOPEZ: I'M SORRY. YES.

11 I'M SORRY. PRIOR TO RESTING, THERE HAVE BEEN TWO  
12 PACKAGES RECEIVED BY THE COURT FROM BANKS IN NEW YORK.  
13 COULD THE COURT NOW OPEN THOSE DOCUMENTS ON THE RECORD OR  
14 THOSE ITEMS ON THE RECORD?

15 MR. YOUNG: ARE THESE NEW DOCUMENTS THAT WE HAVEN'T  
16 SEEN?

17 MS. LOPEZ: (INAUDIBLE YES).

18 THE COURT: WOULD COUNSEL APPROACH THE BENCH, PLEASE.  
19 (WHEREUPON, A DISCUSSION WAS HELD AT THE BENCH OFF  
20 THE RECORD)

21 THE COURT: FOR THE RECORD, AT THE REQUEST OF THE  
22 DISTRICT ATTORNEY THERE IS BEING OPENED NOW BY THE COURT A  
23 PACKAGE SENT BY EMERY EXPRESS FROM ONE MICHAEL D. O'LEARY,  
24 SHEARSON LAW DEPARTMENT, 414 WALL STREET, NEW YORK AND  
25 ADDRESSED TO DETECTIVE LES ZOELLER, BEVERLY HILLS POLICE  
26 DEPARTMENT, FRAUD-FORGERY DETAIL, 450 NORTH CRESCENT DRIVE,  
27 BEVERLY HILLS, CALIFORNIA. INCLUDED IN THERE IS AN INNER  
28 CONTAINER LABELED SHEARSON LEHMAN AMERICAN EXPRESS.

1 CONTAINED IN THE ENVELOPE IS A COVER LETTER ADDRESSED  
2 TO DETECTIVE ZOELLER STATING AS FOLLOWS "RE GENERAL  
3 PRODUCTION CORPORATION ACCOUNT NO. 55303246-1-4-404. CASE  
4 NO. 8405436".

5 ARE YOU REQUESTING THAT THIS ENTIRE MATTER BE --

6 MS. LOPEZ: COULD I --

7 THE COURT: WE HAVE HERE A CONSIDERABLE AMOUNT. OFF  
8 THE RECORD.

9 (WHEREUPON, A DISCUSSION WAS HELD OFF THE RECORD)

10 THE COURT: BACK ON THE RECORD. THE COURT IS NOW  
11 OPENING A LETTER ADDRESSED TO ANA MARIE LOPEZ, DISTRICT  
12 ATTORNEY, MUNICIPAL COURT OF CALIFORNIA, COUNTY OF LOS  
13 ANGELES, SENT BY ONE EVELINE, E-V-E-L-I-N-E, P. BOULAY,  
14 B-O-U-L-A-Y, OF THE UNITED STATES TRUST COMPANY IN NEW YORK,  
15 45 WALL STREET, NEW YORK, NEW YORK. INSIDE IS AN INNER  
16 ENVELOPE ALSO SENT BY THE UNITED STATES TRUST COMPANY OF NEW  
17 YORK, 45 WALL STREET NEW YORK, TITLE OF ACTION, RONALD  
18 GEORGE LEVIN, CASE NO. A090435. WITNESS, VINCE SMITH,  
19 VICE-PRESIDENT ACCOUNT OFFICER, SUBPOENA DATED 12-11-84.

20 IN THE SECOND ENVELOPE IS A COVER LETTER ADDRESSED TO  
21 MS. LOPEZ STATING THAT "PURSUANT TO A SUBPOENA DUCES TECUM  
22 RECEIVED BY THE TRUST COMPANY ON DECEMBER 14, 1984 BY  
23 EXPRESS MAIL AND SUBSEQUENT TELEPHONE CONVERSATION WITH RICK  
24 KING REGARDING THE ABOVE REFERENCE MATTER, PLEASE FIND  
25 ENCLOSED COPIES OF THE FOLLOWING DOCUMENTS: TITLE OF  
26 ACCOUNT, RONALD GEORGE LEVIN, CHECKING ACCOUNT NUMBER  
27 61-5345-3. SIGNATURE CARD, FRONT AND REVERSE, NEW CHECKING  
28 ACCOUNT NOTICE, STATEMENT OF ACCOUNT FOR THE PERIOD COVERING

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1 JANUARY 1984 THROUGH NOVEMBER 1984. PLEASE BE ADVISED THAT  
2 THE ENCLOSURES ARE TRUE AND ACCURATE COPIES OF OFFICIAL  
3 TRUST COMPANY RECORDS, WHICH RECORDS ARE KEPT IN THE  
4 ORDINARY COURSE OF THE TRUST COMPANY'S BUSINESS. WITH  
5 PRODUCTION OF THIS MATERIAL WE ARE IN COMPLETE COMPLIANCE  
6 WITH THE SUBPOENA". SIGNED "EVELINE P. BOULAY,  
7 ADMINISTRATIVE PARALEGAL".

8 WE HAVE HERE COPIES OF HIS ACCOUNT. DO YOU WISH TO  
9 MAINTAIN THESE NOW WITHOUT THE COURT GOING THROUGH ALL OF  
10 THESE?

11 MS. LOPEZ: YES. MAY THOSE DOCUMENTS BE MARKED  
12 COLLECTIVELY AS PEOPLE'S EXHIBIT 42?

13 THE COURT: THEY MAY BE MARKED COLLECTIVELY AS  
14 PEOPLE'S 42.

15 MR. YOUNG: COULD WE EXAMINE THESE, YOUR HONOR?

16 THE COURT: YES. MS. LOPEZ, DO YOU WANT TO SEE THEM  
17 FIRST?

18 MS. LOPEZ: I HAVE NOT SEEN THEM.

19 THE COURT: BEFORE I PASS THEM TO MR. ZORNE AND MR.  
20 YOUNG?

21 MS. LOPEZ, DO I TAKE IT THAT THESE ARE BEING  
22 INTRODUCED TO SHOW THAT THERE WAS NO ACTIVITY ON A CHECKING  
23 ACCOUNT FOR MR. LEVIN AT THIS TIME?

24 MS. LOPEZ: YES.

25 THE COURT: IS THAT THE PURPOSE?

26 MS. LOPEZ: IN ADDITION, IT WAS TO SHOW -- THEY ARE  
27 TO SHOW THAT THERE ARE BALANCES IN THESE ACCOUNTS WHICH THE  
28 PEOPLE CONTEND IS CIRCUMSTANTIAL EVIDENCE THAT HE HAS NOT

1 FLED LEAVING BALANCES IN HIS ACCOUNTS.

2 MR. YOUNG: HOW MUCH ARE HIS BALANCES?

3 THE COURT: MS. LOPEZ, IS THIS THE LAST ITEM THAT  
4 YOU'RE INTRODUCING NOW?

5 MS. LOPEZ: YES.

6 THE COURT: ARE THE PEOPLE GOING TO BE READY TO REST  
7 AT THE CONCLUSION OF THIS?

8 MS. LOPEZ: YES.

9 THE COURT: DO YOU WANT ME TO TAKE A FIVE OR TEN  
10 MINUTE RECESS WHILE YOU LOOK OVER THIS EXHIBIT TO SEE IF  
11 THERE'S ANY OBJECTION TO THIS?

12 MR. YOUNG: YES.

13 THE COURT: ALL RIGHT. WE'LL TAKE A BRIEF RECESS OF  
14 FIVE MINUTES. NOT MORE THAN 10 MINUTES.

15 (WHEREUPON, A RECESS WAS TAKEN)

16 THE COURT: BACK ON THE MATTER OF JAMES PITTMAN, LET  
17 THE RECORD SHOW THAT MR. PITTMAN IS PRESENT WITH HIS  
18 COUNSEL, MR. YOUNG AND MR. ZORNE, AND THAT THE DISTRICT  
19 ATTORNEY, MS. LOPEZ, IS PRESENT. HAVE YOU EXAMINED THE  
20 PEOPLE'S EXHIBIT OR -- WAS THAT PEOPLE'S 42 I BELIEVE?

21 MS. LOPEZ: YES, YOUR HONOR. PEOPLE REST.

22 THE COURT: ALL RIGHT. FIRST OF ALL, ARE YOU -- HAS  
23 PEOPLE'S EXHIBIT 42 BEEN EXAMINED BY BOTH SIDES? IS THERE  
24 ANY OPPOSITION TO THE INTRODUCTION OF THAT?

25 MR. YOUNG: YES.

26 MS. LOPEZ: THE PEOPLE DON'T EVEN WANT TO ARGUE IT.  
27 WE HAVEN'T REQUESTED THAT IT BE ADMITTED. PEOPLE JUST  
28 SIMPLY REST.

1 THE COURT: ALL RIGHT.

2 THE COURT: PEOPLE REST?

3 MS. LOPEZ: PEOPLE REST.

4 MR. YOUNG: I THINK I HAVE ONE EXHIBIT, D, THAT  
5 HASN'T BEEN ADMITTED. I'D LIKE THAT ADMITTED.

6 THE COURT: DEFENDANT'S D, THERE BEING NO OPPOSITION,  
7 WILL BE ADMITTED AT THIS TIME: ANY AFFIRMATIVE DEFENSE?

8 MR. YOUNG: NOT AT THIS TIME.

9 THE COURT: ARE THERE ANY MOTIONS AT THIS TIME?

10 MR. YOUNG: YEAH, THERE ARE A COUPLE OF MOTIONS.

11 THE COURT: VERY WELL. YOU MAY PROCEED.

12 MR. YOUNG: OKAY. THE FIRST MOTION WOULD BE TO  
13 STRIKE ANY REFERENCE TO ESLAMINIA AS NOT BEING -- AS NOT  
14 HAVING ESTABLISHED ANY MODUS OPERANDI BETWEEN THE TWO  
15 CRIMES. ALL THEY 'VE SHOWN IS THAT THERE WAS A BODY THAT WAS  
16 DUMPED BY JOE HUNT AND DEAN KARNY UP IN THE MOUNTAINS  
17 SOMEWHERE. THAT HAS NO RELEVANCY WHATSOEVER TO THIS CASE,  
18 AND I MOVE THAT ANY REFERENCE TO THAT BE STRICKEN.

19 THE COURT: ALL RIGHT. DO YOU WANT TO -- HOW MANY  
20 MOTIONS ARE YOU MAKING? DO YOU WANT TO MAKE ALL THE MOTIONS  
21 AND THEN HAVE ANSWERS OR SHOULD WE --

22 MR. YOUNG: I'D RATHER DO THEM ONE AT A TIME.

23 THE COURT: ALL RIGHT. AS TO THIS FIRST MOTION MADE  
24 BY MR. YOUNG, IS THERE ANY RESPONSE BY THE PEOPLE?

25 MS. LOPEZ: YES. I ASSUME THAT MR. YOUNG IS  
26 REFERRING TO THE TESTIMONY OF DETECTIVE ZOELLER AND THE  
27 TESTIMONY OF DEAN KARNY REGARDING --

28 MR. YOUNG: FINE.

15 1 MS. LOPEZ: -- THE DISPOSAL OF THE BODY OF ESLAMINIA  
2 IN SOLEDAD CANYON. I BELIEVE IT WOULD BE ADMISSIBLE  
3 PURSUANT TO 1101(B) OF THE EVIDENCE CODE. IT GOES TO THE  
4 SIGNIFICANCE OF THE HANDWRITTEN MAP THAT HAS BEEN MARKED AND  
5 RECEIVED AS PART OF PEOPLE'S EXHIBIT 2 AND PEOPLE'S -- AND  
6 RECEIVED AS PART OF PEOPLE'S EXHIBIT 3 BY REFERENCE, AND IN  
7 THAT REGARD WE BELIEVE IT IS ADMISSIBLE.

8 MR. YOUNG: YOUR HONOR. OKAY. WELL, I OBJECT TO  
9 THAT. I THINK TO INTRODUCE THE DUMPING OF A BODY OF ANOTHER  
10 PERSON WITH NO TIE-IN AT ALL TO THIS CRIME OR ANOTHER TIE-IN  
11 WITH MY CLIENT AND WITHOUT ANY ESTABLISHMENT OF ANY MODUS  
12 OPERANDI IS HIGHLY PREJUDICIAL AND IT SHOULD BE EXCLUDED,  
13 AND UNDER SECTION 352 OF THE EVIDENCE CODE.

14 THE COURT: MAY I ASK THE DISTRICT ATTORNEY WHAT IS  
15 THE M.O. THAT IS BEING SHOWN? IT SEEMS TO ME THAT PRIMARILY  
16 HERE YOU HAVE SHOWN THE POSSIBLE COURSE OF ACTION THAT WAS  
17 TAKEN AGAINST THE DEFENDANT LEVIN. IS THAT NOT CORRECT?  
18 RATHER THAN ANYTHING PERTAINING TO -- WHAT IS THE OTHER  
19 PARTY'S NAME, ESLAMINIA?

20 MR. YOUNG: RIGHT.

21 MS. LOPEZ: YOUR HONOR, IT'S THE PEOPLE'S BELIEF THAT  
22 UNDER 1101(B) OF THE PENAL CODE, WHAT'S TO BE CONSIDERED BY  
23 THE COURT IN DETERMINING WHETHER OR NOT THAT PARTICULAR FACT  
24 IS ADMISSIBLE IS THE RELEVANCE TO THE PENDING CASE.

25 IN THIS CASE, WE DID HAVE A HANDWRITTEN MAP.  
26 DETECTIVE ZOELLER HAS TESTIFIED TO PARTICULAR AREAS AROUND  
27 SOLEDAD CANYON THAT HE HAS VISITED THAT CORRESPOND TO THE  
28 HANDWRITTEN MAP. IT HAS BEEN ESTABLISHED THAT THE

1 HANDWRITTEN MAP WAS MADE BY JOE HUNT, OR AT LEAST THE  
2 WRITING IS THAT OF JOE HUNT, AND IT DOES TEND TO SHOW THE  
3 SIGNIFICANCE OF THE HANDWRITTEN MAP AND THAT IT DOES  
4 CORRESPOND TO A BURIAL SITE, AND THAT IS THE FACT THAT JOE  
5 HUNT VERY SOON THEREAFTER DID DISPOSE OF A BODY IN THE SAME  
6 SOLEDAD CANYON AREA THAT WAS TESTIFIED TO BY DETECTIVE  
7 ZOELLER DOES TEND TO SHOW THE SIGNIFICANCE OF THAT  
8 HANDWRITTEN MAP --

9 THE COURT: BUT DOESN'T IT PERTAIN TO MR. LEVIN  
10 RATHER THAN TO ANYONE ELSE?

11 MS. LOPEZ: NO -- THAT'S CORRECT, YOUR HONOR. THE  
12 BODY DISPOSED OF IS THE BODY OF ESLAMINIA, BUT THE FACT THAT  
13 HUNT HAS DISPOSED OF A BODY IN THIS SOLEDAD CANYON AREA  
14 TENDS TO SHOW THE SIGNIFICANCE OR THE PURPOSE OF THE  
15 HANDWRITTEN MAP, THAT IT IS, IN FACT, A MAP DESIGNATING A  
16 PLACE WHERE THE BODY OF LEVIN IS GOING TO BE DISPOSED. AS  
17 THE COURT RECALLS OR MAY RECALL, THE HANDWRITTEN MAP WAS AN  
18 ITEM FOUND IN MR. LEVIN'S HOUSE ALONG WITH THE OTHER PAGES  
19 THAT WERE IN JOE HUNT'S HANDWRITING.

20 MR. YOUNG: YOUR HONOR, PURSUANT TO 1101, I DON'T  
21 THINK YOU CAN ADMIT IT TO SHOW THE RELEVANCY OF A MAP. IT  
22 ONLY PERMITS EVIDENCE OF OTHER ACTS TO BE INTRODUCED. IF  
23 YOU CAN SHOW THAT THERE'S SOME MODUS OPERANDI BETWEEN THE  
24 TWO CRIMES. THERE HAS TO BE SUBSTANTIAL SIMILARITY. JUST  
25 THE FACT THAT THERE ARE APPARENTLY -- WE DON'T EVEN KNOW  
26 THAT ESLAMINIA WAS MURDERED. HE COULD HAVE DIED OF NATURAL  
27 CAUSES.

28 THEY HAVEN'T EVEN SHOWED A KILLING. THEY JUST SAY

1 THAT A BODY WAS DUMPED IN THAT AREA. IT'S -- I THINK IT'S A  
2 LITTLE RIDICULOUS FOR THEM TO CONTEND AT THIS POINT THAT  
3 THEY'VE MADE ANY SHOWING WHATSOEVER THAT THERE'S A MODUS  
4 OPERANDI OR A COMMON PLAN AND SCHEME BETWEEN THESE TWO.

5 I WAS UNDER THE IMPRESSION BASED ON, YOU KNOW, THEIR  
6 FAILURE TO FURTHER INQUIRE INTO THE ESLAMINIA MATTER THAT  
7 THEY'D JUST DROPPED IT, BUT APPARENTLY THEY HAVEN'T, AND I  
8 THINK THAT THEY'RE STRETCHING IT TO TRY TO ARGUE THAT  
9 THEY'VE SHOWN ANY MODUS OPERANDI HERE.

10 MS. LOPEZ: I BELIEVE THAT MODUS OPERANDI --

11 THE COURT: WELL, WHAT DOES -- AS FAR AS PEOPLE'S 2  
12 IS CONCERNED, ARE YOU INTRODUCING THAT TO SHOW MODUS  
13 OPERANDI OR ARE YOU JUST --

14 MS. LOPEZ: NO. NO, YOUR HONOR. THAT'S  
15 CIRCUMSTANTIAL EVIDENCE OF THE DEATH ITSELF.

16 THE COURT: RIGHT.

17 MS. LOPEZ: ALONG WITH PEOPLE'S --

18 THE COURT: WHERE IS THE MODUS OPERANDI THAT YOU'RE  
19 TALKING ABOUT? THERE'S BEEN MUCH TALK ABOUT MODUS OPERANDI  
20 HERE, BUT --

21 MS. LOPEZ: NOT BY THE PEOPLE, BY THE WAY. PRIMARILY  
22 BY MR. YOUNG --

23 THE COURT: ALL RIGHT.

24 MS. LOPEZ: I BELIEVE THAT MR. YOUNG IS CORRECT. IF  
25 WE WERE TRYING TO PROVE THE KILLING BY WAY OF MODUS OPERANDI  
26 WE WOULD HAVE TO SHOW OTHER FACTS, BUT IN THIS CASE WE ARE  
27 NOT INTRODUCING THE DISPOSAL OF THE BODY OF ESLAMINIA FOR  
28 THE PURPOSE OF SHOWING THAT THERE WAS A KILLING, BUT ONLY



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1 FOR THE PURPOSE OF SHOWING WHAT THE SIGNIFICANCE OF THIS  
2 HANDWRITTEN MAP BY JOE HUNT WAS AND THE FACT THAT JOE HUNT  
3 ALSO DISPOSED OF ANOTHER BODY IN THE SOLEDAD CANYON AREA  
4 THAT MR. ZOELLER HAS TESTIFIED TO AS CORRESPONDING TO THE  
5 HANDWRITTEN MAP DOES TEND TO SHOW THE SIGNIFICANCE OF THE  
6 HANDWRITTEN MAP THAT WAS FOUND IN RON LEVIN'S HOME --

7 THE COURT: WELL --

8 MS. LOPEZ: -- AND FOR THAT REASON IT WAS OFFERED.

9 THE COURT: WELL, THERE'S NO QUESTION ABOUT PEOPLE'S  
10 2 BEING ADMITTED, BUT I'M ASKING WHAT THE M.O. HERE IS. IS  
11 IT THE CONTENTION THAT THE SKELETAL REMAINS -- I THINK WAS  
12 THE DEFINITION THAT MR. ZOELLER GAVE WHEN HE TESTIFIED --  
13 THAT WERE FOUND UP THERE -- IS IT THE CONTENTION OF THE  
14 PEOPLE THAT THE SKELETAL REMAINS THAT WERE FOUND IN SOLEDAD  
15 CANYON WERE THE REMAINS OF MR. LEVIN OR THE REMAINS OF  
16 SOMEBODY ELSE?

17 MS. LOPEZ: IT'S -- I BELIEVE DEAN KARNY HAS  
18 TESTIFIED THAT THOSE SKELETAL REMAINS ARE THE REMAINS OF  
19 ESLAMINIA OR THE SKELETAL REMAINS FOUND BY DETECTIVE ZOELLER  
20 WERE FOUND IN THE SAME LOCATION WHERE HE AND JOE HUNT  
21 DISPOSED OF ESLAMINIA. AND THE ONLY REASON WHY THAT WAS  
22 INTRODUCED WAS BECAUSE IT TENDED TO SHOW THE SIGNIFICANCE OF  
23 THE HANDWRITTEN MAP THAT WAS FOUND IN LEVIN'S HOUSE THAT IS  
24 ASSOCIATED WITH THE KILLING OF RON LEVIN.

25 THE COURT: WELL, IT'S YOUR CONTENTION THAT THE  
26 SKELETAL REMAINS WERE NOT THE REMAINS OF LEVIN; IS THAT  
27 CORRECT?

28 MS. LOPEZ: THAT'S CORRECT. THERE'S BEEN TESTIMONY

1 BY DETECTIVE ZOELLER THAT AT THE TIME THAT HE FOUND THE  
2 SKELETAL REMAINS HE WAS TAKEN TO THAT LOCATION BY DEAN KARNY  
3 AND TESTIMONY BY DEAN KARNY THAT HE TOOK MR. -- OR DETECTIVE  
4 ZOELLER TO THE PLACE WHERE HE AND JOE HUNT DISPOSED OF THE  
5 BODY OF ESLAMINIA, AND AT THE TIME THAT HE TOOK DETECTIVE  
6 ZOELLER THEY DID FIND SKELETAL REMAINS. I THINK THAT THE  
7 CONCLUSION IS THAT THESE ARE, IN FACT, THE SKELETAL REMAINS  
8 OF ESLAMINIA.

9 THE COURT: ALL RIGHT. NOW --

10 MS. LOPEZ: THAT WAS OFFERED TO ONLY SHOW -- IT GOES  
11 TOWARDS THE SIGNIFICANCE OF THE MAP FOUND IN RON LEVIN'S  
12 HOUSE. THERE'S BEEN FURTHER TESTIMONY BY DETECTIVE ZOELLER  
13 REGARDING THAT MAP AND WHAT PORTION THAT IT -- OF A REAL MAP  
14 THAT IT ACTUALLY CORRESPONDS TO AND THE REASONS WHY.

15 THE COURT: ALL RIGHT. NOW, GETTING BACK TO THE  
16 QUESTION OF M.O., ARE YOU --

17 MS. LOPEZ: YOUR HONOR --

18 THE COURT: YOU'RE NOT RAISING ANY QUESTION OF THAT?

19 MS. LOPEZ: NO. WE ARE NOT RAISING ANY QUESTION OF  
20 M.O..

21 MR. YOUNG: OKAY, THEN 1101 WOULD PRECLUDE THEM FROM  
22 ADMITTING IT.

23 MS. LOPEZ: I DON'T BELIEVE THAT'S TRUE  
24 UNDER 1101.

25 THE COURT: NO. IT'S NOT -- IF THERE IS SUFFICIENT  
26 REASON TO BELIEVE -- AS I RECALL, THIS ITEM -- THE PEOPLE'S  
27 2 WAS FOUND IN MR. LEVIN'S ROOM OR IN HIS OFFICE.

28 MR. YOUNG: RIGHT.

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1 MS. LOPEZ: YES.

2 THE COURT: WITH THE MAP AND THE OTHER ITEMS THAT  
3 WERE ALL LISTED AS THINGS TO DO.

4 MR. YOUNG: RIGHT.

5 THE COURT: THAT WERE THERE. ALL RIGHT. REGARDLESS  
6 OF WHETHER THIS QUESTION IS OF M.O. OR NOT, IT CERTAINLY  
7 WOULD HAVE RELEVANCY AS TO WHAT OCCURRED OR WHAT MIGHT HAVE  
8 HAPPENED TO MR. LEVIN BY REASON OF THE ITEMS THAT WERE FOUND  
9 IN HIS DEN. SO WHAT WOULD BE THE OBJECTION -- IS THERE --

10 MR. YOUNG: WELL, THEY HAVEN'T SHOWN THAT LEVIN WAS  
11 UP THERE, WAS BURIED UP THERE. THEY'VE NOT SHOWN ANYTHING  
12 TO SHOW A BODY OF LEVIN, AND NOW THEY'RE TRYING TO, YOU  
13 KNOW, SHOW THAT THEY DUMPED ESLAMINIA'S BODY UP THERE. IF  
14 WE WAY THE RELEVANCE -- THEY'RE TRYING TO SHOW -- THE  
15 RELEVANCE THAT SHE IS ARGUING IS THAT IT IS RELEVANT TO SHOW  
16 THAT THE MAP WAS A MAP WHERE THEY COULD HAVE TAKEN THE BODY  
17 OF LEVIN. OKAY? IF YOU WEIGH THAT RELEVANCE IN TERMS OF  
18 THE HIGHLY PREJUDICIAL EFFECT OF --

19 THE COURT: NOW YOU'RE TALKING ABOUT 352 OF THE  
20 EVIDENCE CODE.

21 MR. YOUNG: YEAH.

22 THE COURT: YES, BUT I THINK WE GOT INTO THAT A  
23 LITTLE BIT ONE OTHER OCCASION HERE. THE INFLAMMATORY NATURE  
24 OF THE PREJUDICE THAT MIGHT RESULT TO A DEFENDANT BY REASON  
25 OF WHAT HAS BEEN INTRODUCED HERE WOULD HAVE TO BE WEIGHED  
26 AGAINST THE ELEMENT OF THE PROOF THAT THE PEOPLE ARE USING  
27 THIS FOR. AND I THINK THAT IT WOULD BE VERY ESSENTIAL THAT  
28 THE POSSIBILITY -- THE POSSIBILITY OF A BODY BEING LOCATED

1 THERE WOULD OUTWEIGH ANY PREJUDICIAL EFFECT.

2 WE ALREADY HAVE EVIDENCE THAT'S BEEN INTRODUCED WHICH  
3 SHOWS A GENERAL PLAN OR SCHEME, SO THAT I DON'T FEEL THAT  
4 352 AT THIS TIME AT THE PRELIMINARY HEARING NOW -- IT MAY  
5 BE A DIFFERENT QUESTION IN A TRIAL DEPARTMENT, IN SUPERIOR  
6 COURT, WHEN AND IF THIS DOES GO TO SUPERIOR COURT, BUT I  
7 DON'T FEEL THAT THERE IS A SUFFICIENT GROUNDS HERE AT THIS  
8 TIME TO FEEL THAT 352 WOULD OUTWEIGH THE EVIDENCE THAT --  
9 THE PROBATIVE VALUE THAT THE PEOPLE'S 2 HAS AT THIS  
10 PARTICULAR TIME. IF IT'S NOT BEING INTRODUCED FOR M.O.,  
11 THERE'S NO QUESTION OF M.O. HERE.

12 MS. LOPEZ: NO, YOUR HONOR. IT IS NOT A QUESTION OF  
13 M.O..

14 MR. YOUNG: THAT'S ORIGINALLY THE REASON THEY GOT IT.

15 THE COURT: I THOUGHT THIS WAS SUPPOSED TO BE A M.O..

16 MS. LOPEZ: NO --

17 MR. YOUNG: THAT'S WHAT SHE SAID --

18 THE COURT: BUT THERE'S A REASON --

19 MS. LOPEZ: WHAT I WAS ATTEMPTING TO EXPLAIN EARLIER  
20 IS IT ONLY TENDED TO SHOW THE SIGNIFICANCE OF A MAP. IT'S  
21 CIRCUMSTANTIAL EVIDENCE. YOU'VE GOT THE SAME PARTY --

22 THE COURT: SO THE ISSUE OF M.O. IS NOT REALLY BEFORE  
23 THE COURT AT ALL AT THIS TIME.

24 MS. LOPEZ: NO.

25 THE COURT: ALL RIGHT. WHAT'S YOUR NEXT MOTION,  
26 THEN? THE MOTION TO EXCLUDE ON THE GROUNDS OF INSUFFICIENT  
27 SHOWING OF M.O., THEN, WOULD BE DENIED AT THIS TIME ON THAT  
28 BASIS FOR -- BECAUSE THE PEOPLE HAVE --

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1 MR. YOUNG: YOU MEAN --

2 THE COURT: -- BECAUSE THE PEOPLE HAVE CONTENDED THAT  
3 THEY ARE NOT AND DID NOT INTRODUCE ANY EVIDENCE TO SHOW  
4 METHOD OF OPERATION.

5 MR. YOUNG: YOU MEAN GRANTED ON M.O..

6 THE COURT: NO, NO.

7 MS. LOPEZ: NO.

8 THE COURT: DENIED ON M.O. BECAUSE THEY HAVEN'T  
9 INTRODUCED ANY EVIDENCE, SO ANY EVIDENCE THAT'S IN HERE NOW  
10 DOES NOT PERTAIN TO M.O. SO WE -- IT'S ACADEMIC. WE NEED  
11 NOT PASS ON IT. SO AT THIS TIME I'M HOLDING THAT THERE HAS  
12 BEEN NO INTRODUCTION OF TESTIMONY AS TO M.O.. YOU SAY IT  
13 SHOULD BE DISMISSED FOR THAT REASON. THAT WOULD OBVIOUSLY  
14 BE AN ACADEMIC QUESTION.

15 MR. YOUNG: I'M NOT -- OKAY. THE NEXT MOTION IS A  
16 MOTION FOR SANCTIONS, AND UNDER PEOPLE VERSUS HITCH FOR  
17 FAILURE OF THE PROSECUTION TO DISCLOSE THE NEW STATEMENTS OF  
18 KARNY THAT THEY LEARNED, ACCORDING TO HIM, TWO TO THREE  
19 WEEKS BEFORE THIS PROCEEDING. THEY WERE NEVER DISCLOSED TO  
20 THE PROSECUTION.

21 THOSE NEW STATEMENTS ARE THE STATEMENT THAT IT TOOK  
22 PLACE IN THE OFFICE THAT JOE TOLD KARNY THAT JIM AND HIM  
23 INTENDED TO KILL ESLAMINIA, THE STATEMENT THAT THERE WAS A  
24 MEETING ON THE PARK BENCH APARTMENT -- OUTSIDE OF TRADER  
25 VIC'S, THE STATEMENT REGARDING THE MEETING AT THE OFFICES OF  
26 THE BBC INVOLVING JOE HUNT, JAMES PITTMAN, DEAN KARNY, BEN  
27 DOSTI AND TOM MAY, AND I THINK THAT'S ALL THE NEW ONES. ALL  
28 OF THOSE NEW STATEMENTS I THINK SHOULD BE STRICKEN AS A

1 SANCTION FOR THEM NOT DISCLOSING THEM EARLIER.

2 AGAIN, WE HAVE BEEN THROUGH HITCH A NUMBER OF TIMES.  
3 THE GOOD FAITH OR BAD FAITH OF THE PROSECUTION IS  
4 IMMATERIAL. WHETHER THEY DID IT INTENTIONALLY OR  
5 UNINTENTIONALLY IS IMMATERIAL, AND THE PURPOSE OF HITCH AND  
6 A WHOLE LINE OF CASES AFTER HITCH IS TO PREVENT THE  
7 INTRODUCTION OF EVIDENCE WHERE EVIDENCE HAS BEEN CONCEALED  
8 FROM THE DEFENSE.

9 THE COURT: FOR THE RECORD, DO YOU WANT TO RESPOND TO  
10 THAT?

11 MS. LOPEZ: I DON'T THINK IT'S NECESSARY.

12 THE COURT: WELL, I THINK --

13 MS. LOPEZ: THERE'S BEEN NO ATTEMPT TO CONCEAL  
14 EVIDENCE. I DON'T THINK THAT THE RULES OF CRIMINAL LAW  
15 REQUIRE THAT ANY TIME THE PROSECUTION INTERVIEWS A WITNESS  
16 WE MUST RUN TO THE DEFENSE ATTORNEY WITH THINGS THAT HE  
17 MIGHT THINK IS DIFFERENT FROM A STATEMENT THAT'S BEEN  
18 PREVIOUSLY PROVIDED. IT WOULD NOT -- LOGISTICALLY, IT WOULD  
19 NOT -- LOGISTICALLY, IT'S JUST NOT POSSIBLE.

20 THE COURT: I THINK WE DID TOUCH UPON THIS ONCE  
21 BEFORE, MR. YOUNG --

22 MR. YOUNG: YES.

23 THE COURT: -- EARLIER IN THE PROCEEDINGS, AND THE  
24 COURT DID MAKE A RULING ON IT, BUT ONCE AGAIN, IT WOULD  
25 APPEAR TO THE COURT THAT THIS IS NOT A HITCH SITUATION.

26 FACTUALLY, IT'S NOT ANYWHERE IN LINE WITH THE HITCH  
27 AMPULE AND BREATH TESTING AND SO FORTH THAT WAS NOT  
28 PRESERVED.

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1 MOREOVER, I THINK THAT IT'S COMMON KNOWLEDGE THAT A  
2 WITNESS THAT'S TESTIFYING WILL NOT TESTIFY COMPLETELY TO  
3 EVERYTHING THAT THEY MAY HAVE HAD IN A PREVIOUS STATEMENT.  
4 THE ONLY FAULT HERE WOULD BE IF THE PEOPLE HAD SOME  
5 KNOWLEDGE OF SOMETHING THAT THEY WERE DELIBERATELY  
6 CONCEALING FROM YOU, WHICH I DON'T THINK IS SHOWN BY ANY OF  
7 THE EVIDENCE.

8 A WITNESS MAY GIVE STATEMENTS, MR. YOUNG -- I'M SURE  
9 WE ARE ALL AWARE OF THAT -- AND WHEN HE TESTIFIES HE MAY  
10 GIVE TESTIMONY THAT'S GREATER THAN WHAT HE STATED IN THE  
11 INITIAL STATEMENTS TO THE POLICE OR TO OTHER PERSONS.  
12 UNLESS IT'S CONTRADICTORY OR IS SOMETHING THAT HAD  
13 DELIBERATELY BEEN OMMITTED, THERE WOULD BE NO WAY OF THE  
14 PEOPLE KNOWING HOW TO CONTROL THE TESTIMONY OF THE  
15 WITNESSES. I DON'T THINK -- UNLESS YOU CAN SPECIFICALLY  
16 POINT OUT -- YOU DID MENTION THE MEETINGS THAT WERE HELD --

17 MR. YOUNG: RIGHT.

18 THE COURT: -- BUT THERE'S NOTHING IN THOSE MEETINGS  
19 THAT WOULD INDICATE THAT THE DEFENDANT -- AND I'M NOT SAYING  
20 THAT PREJUDICE HAS TO BE SHOWN TO HIM --

21 MR. YOUNG: RIGHT.

22 THE COURT: -- BUT THE DEFENDANT WOULD BE PREJUDICED  
23 BY THOSE STATEMENTS IN VIEW OF OTHER STATEMENTS MADE AT  
24 OTHER TIMES THAT IMPLICATED IN THE OVERALL SCHEME OF THE  
25 SITUATION AS TO WHAT THEY WERE GOING TO DO WITH MR. LEVIN.

26 MR. YOUNG: OKAY. AGAIN, IT DOESN'T HAVE TO BE AN  
27 INTENTIONAL SUPPRESSION BY THE PROSECUTION. IT CAN EITHER  
28 BE IN THE GOOD FAITH OR IT CAN EITHER BE -- AND THE GOOD

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1 FAITH OR THE BAD FAITH DOESN'T MATTER. THE PROSECUTION HAS  
2 A DUTY WITHOUT REQUEST -- AND IN THIS CASE I MADE A FORMAL  
3 REQUEST, I MADE A FORMAL MOTION WHICH WAS A CONTINUING  
4 DISCOVERY MOTION FOR EVIDENCE -- BUT IN ANY EVENT, THE  
5 PROSECUTION HAS A DUTY WITHOUT REQUEST TO REVEAL TO THE  
6 DEFENDANT ANY RELEVANT EVIDENCE THAT MAY ASSIST HIM IN HIS  
7 DEFENSE OR MAY PROVE HIS GUILT.

8 THIS INFORMATION THEY LEARNED TWO OR THREE WEEKS  
9 BEFORE THIS PRELIMINARY HEARING AND IT WAS NEVER DISCLOSED  
10 TO US DESPITE THE FACT THAT THROUGHOUT THIS WHOLE PROCEEDING  
11 I'VE BEEN SCREAMING ABOUT THE FACT THAT THEY HAVEN'T BEEN  
12 GIVING US ALL OF THE EVIDENCE. I THINK THAT, YOU KNOW, THAT  
13 A SANCTION IS APPROPRIATE. INTENTIONALNESS OR THEIR GOOD  
14 FAITH OR BAD FAITH IS IMMATERIAL. AND THE STANDARD IS THAT  
15 UNLESS THIS COURT CAN FIND BEYOND A REASONABLE DOUBT THAT  
16 THIS ERROR IS HARMLESS, THEN THERE SHOULD BE SOME SANCTION  
17 GRANTED.

18 THE COURT: WELL, AS WE PREVIOUSLY DISCUSSED, IN  
19 CASES LIKE HITCH AND MORE INDICATIVE WOULD BE BRADY AGAINST  
20 MARYLAND AND SOME OF THE UNITED STATES SUPREME COURT CASES  
21 THAT FOLLOW THAT LINE, ALL OF WHICH SHOWED THAT THE  
22 PROSECUTION DELIBERATELY WITHHELD EVIDENCE THAT WOULD HAVE  
23 BEEN BENEFICIAL TO THE DEFENDANT IF IT HAD BEEN TURNED OVER  
24 TO THE DEFENDANT OR HIS COUNSEL AND AS A RESULT OF THAT THE  
25 DEFENDANT WAS PUT AT AN UNFAIR ADVANTAGE IN HIS DEFENSE.

26 I DON'T THINK THERE'S ANY SUCH SHOWING HERE THAT  
27 THERE HAS BEEN ANYTHING THAT WAS WITHHELD, DELIBERATELY,  
28 NEGLIGENTLY OR ANY OTHER WAY, THAT WOULD HAVE CAUSED A



1 DIFFERENT RESULT TO COME ABOUT HAD THAT KNOWLEDGE BEEN  
2 CONVEYED IF IT WERE AT ALL POSSIBLE FOR IT TO BE CONVEYED.  
3 THE PROSECUTION CAN'T BE REQUIRED TO FURNISH SOMETHING TO  
4 YOU THAT THEY ARE NOT THEMSELVES AWARE OF, MR. YOUNG.

5 MR. YOUNG: WELL, THEY WERE AWARE OF IT THREE WEEKS  
6 AGO AND THEY -- I DON'T THINK THERE'S ANY DISPUTE THAT THEY  
7 HAVE A DUTY TO -- EVEN IF IT'S DISFAVORABLE TO US AND  
8 THIS -- LET'S CONSIDER IT DISFAVORABLE TO US. EVEN IF IT'S  
9 DISFAVORABLE TO US, THEY HAVE A DUTY IF IT'S MATERIAL -- AND  
10 IT'S OBVIOUSLY MATERIAL BECAUSE THEY -- THAT'S THEIR PRIME  
11 POINT HERE IN THE DIRECT EXAMINATION -- IF IT'S MATERIAL,  
12 WITHOUT ME EVEN REQUESTING IT, THEY HAVE A DUTY TO GIVE IT  
13 TO US.

14 IT DOESN'T HAVE TO BE JUST EVIDENCE THAT'S FAVORABLE  
15 TO US. IF IT'S MATERIAL TO THEIR GUILT THEY HAVE A DUTY AND  
16 I THINK IT'S ESPECIALLY TRUE IN THIS CASE SINCE ALL ALONG  
17 I'VE BEEN REQUESTING THESE TYPE OF THINGS. IT SEEMS LIKE  
18 THEY WOULD HAVE BEEN A LITTLE EXTRA CAUTIOUS AND NOT WAITED  
19 TWO OR THREE WEEKS AND THEN TRY TO ATTEMPT TO CATCH US BY  
20 SURPRISE WITH NEW STATEMENTS. WHEN WE ARE POSED WITH THESE  
21 NEW STATEMENTS.

22 I THINK THAT THERE ARE NEW EVIDENTIARY ISSUES, YOU  
23 KNOW, AS TO THEIR RELEVANCE AND DIFFERENT THINGS. I THINK  
24 THAT SOME SANCTION IS APPROPRIATE.

25 THE COURT: WELL, THESE ARE ALL MATTERS, MR. YOUNG  
26 WHICH YOU CERTAINLY CLEARED UP BY REASON OF YOUR  
27 CROSS-EXAMINATION AND WHICH CERTAINLY YOU WERE ABLE TO GO  
28 INTO AT LENGTH --

1 MR. YOUNG: I DID.

2 THE COURT: -- TO -- IF THERE WAS ANYTHING THAT YOU  
3 WERE NOT AWARE OF WHEN THE DIRECT TESTIMONY COMMENCED, YOU  
4 CERTAINLY HAD SUFFICIENT TIME UNDER CROSS-EXAMINATION TO  
5 COVER ALL OF THOSE PARTICULAR POINTS.

6 THE MOTION TO IMPOSE SANCTIONS, AS YOU ASK IT, BY  
7 REASON OF THE PROSECUTION'S WITHHOLDING EVIDENCE THAT SHOULD  
8 HAVE BEEN GIVEN TO YOU WILL BE DENIED AT THIS TIME.

9 MR. YOUNG: COULD I CITE ONE MORE CASE FOR THE  
10 RECORD?

11 THE COURT: YES, SURELY.

12 MR. YOUNG: I'D LIKE TO CITE PEOPLE VERSUS -- I'LL  
13 CITE IN RE FERGUSON. IT'S A CALIFORNIA SUPREME COURT CASE.  
14 5 CAL. 3D 525. AND IN THAT CASE IT STATES THAT "ALTHOUGH A  
15 REQUEST FOR PRODUCTION OF EVIDENCE MAY BE A FACTOR IN  
16 DETERMINING A CHARGE OF SUPPRESSION OF EVIDENCE, WE HAVE  
17 RECOGNIZED IN SOME CIRCUMSTANCES THE PROSECUTION MUST  
18 WITHOUT REQUEST DISCLOSE SUBSTANTIAL MATERIAL EVIDENCE  
19 FAVORABLE TO THE ACCUSED."

20 THE COURT: WELL, THAT'S IN LINE WITH WHAT WE HAVE  
21 BEEN DISCUSSING, BUT --

22 MR. YOUNG: YES,

23 THE COURT: -- BUT -- ALL RIGHT.

24 MR. YOUNG: AND ALSO THAT SAME CASE GOES ON TO SAY  
25 "FAVORABLE TO THE ACCUSED WHETHER SUCH EVIDENCE RELATES  
26 DIRECTLY TO THE QUESTION OF GUILT, TO MATTERS RELEVANT TO  
27 PUNISHMENT OR TO CREDIBILITY OF A MATERIAL WITNESS."

28 HERE THIS CLEARLY RELATES TO THE CREDIBILITY OF THE

1 WITNESS. HE DID NOT MAKE THOSE STATEMENTS BEFORE. HE HAD  
 2 TWO LENGTHY STATEMENTS, EACH OF THEM OVER A HUNDRED PAGES.  
 3 HE ADMITS TO -- IN COURT THAT THESE ARE SIGNIFICANT FACTORS  
 4 IN THE SCENARIO OF EVENTS LEADING UP TO THIS CASE, YET HE  
 5 FAILED TO MENTION THEM. THAT CERTAINLY BEARS ON HIS  
 6 CREDIBILITY. I THINK THAT THEY SHOULD HAVE BROUGHT IT  
 7 FORTH. I UNDERSTAND THE COURTS POSITION.

8 THE COURT: WELL, CREDIBILITY IS A QUESTION OF WEIGHT  
 9 FOR A JURY OR A COURT TO DETERMINE. IT'S NOT A QUESTION OF  
 10 ADMISSIBILITY. SO THAT THAT POINT WOULD BE RATHER MOOT AT  
 11 THIS PARTICULAR TIME. ARE THERE ANY FURTHER MOTIONS?

12 MR. YOUNG: WELL, I WOULD LIKE TO BREAK UNTIL MONDAY  
 13 TO DO THE FINAL ARGUMENT. WE HAVE ABOUT 40 EXHIBITS HERE,  
 14 AND I COULD GIVE YOU A KIND OF AN OUTLINE OF THE REASON IT'S  
 15 GOING TO BE A COMPLICATED ARGUMENT.

16 THE COURT: WHAT'S GOING TO HAPPEN WHEN YOU GO  
 17 DOWNTOWN TO SEE JUDGE TRAMMEL TOMORROW?

18 MR. YOUNG: WELL, WE'RE OKAY. I'VE ALREADY BEEN TO  
 19 SEE HIM. HE'S HAPPY. HE JUST WANTED TO SEE MY FACE.

20 THE COURT: WE DON'T WANT TO CONTINUE THIS --

21 MR. YOUNG: WELL, THIS WOULD BE OVER WITHIN A HOUR.

22 THE COURT: THIS IS A CONTINUING SAGA GOING ON  
 23 HERE --

24 MR. YOUNG: NO, THERE'S NO MORE WITNESSES. WE HAVE  
 25 RESTED, AND ALL I'M TALKING ABOUT IS THE ARGUMENT. THERE'S  
 26 A NUMBER --

27 THE COURT: WHAT ARE THE ARGUMENTS -- INSUFFICIENCY  
 28 OF THE EVIDENCE?

19

1 MR. YOUNG: INSUFFICIENCY OF THE EVIDENCE, BUT I HAVE  
2 TO ATTACK EACH PIECE OF EVIDENCE -- AND THERE'S QUITE A BIT  
3 OF IT HERE -- TO SHOW THAT ALL OF THE EVIDENCE IN THIS CASE  
4 WAS EITHER A STATEMENT BY CO-CONSPIRATORS THAT ARE  
5 INSUFFICIENT BECAUSE CERTAIN GROUNDS HAVE NOT BEEN MET.  
6 THEY EITHER WERE NOT IN THE FURTHERANCE OF THE CONSPIRACY OR  
7 THE EVIDENCE TO PROVE THE CORPUS DELICTI IS EXTRAJUDICIAL  
8 STATEMENTS THAT DON'T PROVE THAT THERE WAS A CRIME  
9 COMMITTED.

10 THEY'VE KIND OF LIKE BOOTLEGGED -- BOOTSTRAPPED  
11 ADMISSIONS OF CO-CONSPIRATORS WHICH CANNOT BE ADMITTED.  
12 THERE'S A STANDARD FOR THAT, AND UNDER SECTION 1223 -- AND  
13 THEY'VE TRIED TO CIRCUMVENT THAT BY, YOU KNOW, MAKING IT  
14 APPEAR THAT IT'S CIRCUMSTANTIAL EVIDENCE OF THIS CRIME.

15 I NEED TO GO DOWN EACH OF THE VARIOUS ITEMS OF  
16 EVIDENCE AND SHOW TO THE COURT THAT THEY FALL WITHIN THESE  
17 CATEGORIES. THE EVIDENCE THAT WAS ADMITTED IN THIS CASE WAS  
18 ADMITTED SUBJECT TO IT BEING TIED IN, SUBJECT TO IT BEING  
19 PROOF OF THE CONSPIRACY. I KNOW THAT WE ARE NOT CHARGED  
20 WITH A CONSPIRACY HERE, BUT THERE'S CASES -- AND I THINK I  
21 CITED IT EARLIER -- THAT STATE THAT IF A CONSPIRACY, IN  
22 FACT, EXISTS THEN THEY'RE GOVERNED BY THE RULES OF EVIDENCE  
23 WITH A CONSPIRACY.

24 IN ORDER TO PROVE A CONSPIRACY, THEY CANNOT USE  
25 STATEMENTS OUTSIDE THE PRESENCE OF THE CO-CONSPIRATOR IN  
26 ORDER TO PROVE THAT CONSPIRACY. THEY CANNOT USE ANY EXTRA  
27 JUDICIAL STATEMENTS TO PROVE THAT CONSPIRACY UNTIL AFTER THE  
28 CONSPIRACY HAS BEEN PROVED BY INDEPENDENT EVIDENCE. OKAY?

1           HERE THEY -- ALL OF THE STATEMENTS OF KARNY THAT WERE MADE  
2           ABOUT WHAT JOE SAID -- AND THOSE STATEMENTS WERE PRETTY MUCH  
3           MADE OUTSIDE OF THE PRESENCE OF THE DEFENDANT. THE  
4           STATEMENT WHICH THEY'RE ATTEMPTING TO PAINT AS AN ADOPTIVE  
5           ADMISSION WHEN MY CLIENT DID NOT SAY ANYTHING, WHEN THEY  
6           MADE THE STATEMENT HE -- OR JIM OR I KNOCKED OFF, WIPED OUT,  
7           KILLED, WHATEVER MAY HAVE BEEN SAID, RON LEVIN; THIS WAS  
8           AFTER THE TERMINATION OF THE CONSPIRACY. ANY STATEMENTS BY  
9           CO-CONSPIRATOR AFTER THE CONSPIRACY HAS BEEN FRUSTRATED --  
10          AND IT WAS FRUSTRATED WHEN THE CHECK BOUNCED -- AND THE  
11          DOCUMENTS BEFORE THIS COURT SHOW THAT --

12                 THE COURT: WELL, LET'S ME ASK YOU THIS, MR. YOUNG.  
13                 ARE YOU GIVING US A PROLOGUE NOW OF WHAT YOU'RE GOING TO  
14                 ARGUE ON MONDAY IF WE PUT IT OVER OR ARE YOU ARGUING IT NOW  
15                 TO THE INSUFFICIENCY OF THE EVIDENCE?

16                 MR. YOUNG: THIS IS JUST A PREVIEW.

17                 THE COURT: PARDON?

18                 MR. YOUNG: THIS IS JUST A PREVIEW.

19                 THE COURT: ALL RIGHT.

20                 MR. YOUNG: BUT YOU CAN SEE THAT --

21                 THE COURT: I'M NOT GOING TO DEPRIVE YOU OF YOUR  
22                 RIGHT TO ARGUE TO THE INSUFFICIENCY OF THE EVIDENCE. I'M  
23                 SURE YOU WANT TO MAKE A RECORD ON THIS CASE.

24                 MR. YOUNG: RIGHT.

25                 THE COURT: BUT I DO WANT TO CAUTION YOU ON THIS.  
26                 MANY OF THESE POINTS HAVE ALREADY BEEN DISCUSSED AS WE WENT  
27                 ALONG DURING THE PRELIMINARY HEARING. AND I WOULD ASK YOU  
28                 NOT TO BE CUMULATIVE ON ANY OF THESE. IF YOU HAVE SOME REAL

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1 POSITIONS ON THE INSUFFICIENCY OF THE EVIDENCE --

2 MR. YOUNG: I DO.

3 THE COURT: -- OR MR. ZORNE -- AND SOMETHING THAT HAS  
4 NOT BEEN PRESENTED SO FAR TO THE COURT, I THINK WE --

5 MR. YOUNG: I HAVE A NUMBER OF --

6 THE COURT: WE'LL ALLOW -- WE'LL ALLOW YOU TO DO SO.  
7 CAN YOU GIVE US AN ESTIMATE OF THE TIME? I'M NOT GOING TO  
8 BIND YOU TO THE TIME --

9 MR. YOUNG: AT MOST, PROBABLY 30 TO 45 MINUTES.

10 THE COURT: IS THERE ANY OBJECTION?

11 MS. LOPEZ: THERE'S NO OBJECTION. IS IT POSSIBLE TO  
12 WIND THIS UP TOMORROW, THOUGH, BEFORE MR. YOUNG GETS ENGAGED  
13 IN A TRIAL?

14 MR. YOUNG: I'M NOT GETTING ENGAGED IN ANYTHING.

15 THE COURT: WELL, IF WE HAVE AN ASSURANCE THAT YOU'RE  
16 NOT GOING TO BE ENGAGED IN TRIAL, THIS COURT IS NORMALLY A  
17 CIVIL COURT ON FRIDAY --

18 MR. YOUNG: NO, BECAUSE I'M STILL ENGAGED HERE.

19 THE COURT: IF IT'S A QUESTION OF WINDING IT UP, WE  
20 CAN COME IN HERE TOMORROW AND DO IT. IF YOU PREFER TO HAVE  
21 THE WEEKEND TO WORK ON THIS.....

22 MR. YOUNG: I'D PREFER THE WEEKEND.

23 THE COURT: CAN WE ALSO HAVE THE ASSURANCE THAT YOU  
24 WON'T BE IN ANOTHER COURT ON MONDAY?

25 MR. YOUNG: I CAN ASSURE YOU THAT, AND I WOULD LIKE  
26 TO GET IT OVER AS QUICKLY AS POSSIBLE SO THAT I CAN GET TO  
27 THE NEXT ONE.

28 THE COURT: WOULD YOU LIKE TO SET THIS FOR THE

1 MORNING OR THE AFTERNOON?

2 MR. YOUNG: THE MORNING. 9:00 O'CLOCK IS FINE.

3 THE COURT: ALL RIGHT. YOU SAY THIS WILL PROBABLY  
4 TAKE ABOUT 45 MINUTES, 45 MINUTES OR A HOUR?

5 MR. YOUNG: PROBABLY LESS, MAYBE.

6 THE COURT: ALL RIGHT. AT THIS TIME, THEN, THE  
7 PROSECUTION HAVING RESTED, THE DEFENSE HAVING ASKED FOR  
8 ADDITIONAL TIME TO ARGUE ON THE INSUFFICIENCY OF THE  
9 EVIDENCE, WE'LL CONTINUE THIS TO 9:00 A.M., THE NEXT SESSION  
10 OF THIS COURT WOULD BE AT 9:00 A.M. ON MONDAY MORNING --  
11 MONDAY IS A HOLIDAY. THAT'S MARTIN LUTHER KING DAY. SO IT  
12 WOULD NOW HAVE TO BE TUESDAY MORNING AT 9:00 O'CLOCK.

13 MR. ZORNE: ARE THE COURTS CLOSED MONDAY?

14 THE COURT: YES. MONDAY IS A COUNTY CELEBRATION OF  
15 THE MARTIN LUTHER KING DAY AND THE COURTS ARE CLOSED ON  
16 MONDAY.

17 THE COURT: SO THAT WOULD BE AT 9:00 A.M. ON TUESDAY,  
18 WHICH WOULD BE THE NEXT SESSION OF THIS COURT, AT THE  
19 TUESDAY, THE 22ND DAY OF JANUARY.

20 IS THERE AN AGREEMENT, MR. YOUNG, THAT THE CONTINUITY  
21 OF THIS PRELIMINARY HEARING UNDER 861 MAY BE STIPULATED TO?

22 MR. YOUNG: YES, THERE IS.

23 THE COURT: VERY WELL.

24

25

--000--

26

27

28

1 BEVERLY HILLS, CALIFORNIA, TUESDAY, JANUARY 22, 1985

2 10:10 A.M.

3 --000--

4  
5 THE COURT: IN THE MATTER OF PEOPLE VERSUS JAMES  
6 PITTMAN.

7 MR. YOUNG: DOUGLAS YOUNG APPEARING FOR THE  
8 DEFENDANT, ALONG WITH LEE ZORNE. THE DEFENDANT IS PRESENT.

9 THE COURT: PEOPLE READY AT THIS TIME?

10 MS. LOPEZ: THE PEOPLE ARE READY.

11 THE COURT: ALL RIGHT.

12 THE COURT: THE PROSECUTION HAS ALREADY RESTED, AS I  
13 RECALL; IS THAT CORRECT.

14 MS. LOPEZ: YES.

15 THE COURT: THIS WAS THE TIME SET FOR ANY ARGUMENT  
16 CONCERNING THE SUFFICIENCY OR THE INSUFFICIENCY OF THE  
17 EVIDENCE. ARE YOU READY TO PROCEED, MR. YOUNG?

18 MR. YOUNG: YES. WE WOULD LIKE TO MAKE A MOTION TO  
19 DISMISS THE CASE BASED ON INSUFFICIENT EVIDENCE. EVEN  
20 THOUGH THERE'S A LOT OF WHAT APPEARS TO BE EVIDENCE AGAINST  
21 THE DEFENDANT IN THIS CASE, I THINK THE CLOSER VIEW OF THE  
22 EVIDENCE, YOU'LL SEE THAT IT'S ALL INADMISSIBLE EVIDENCE,  
23 EITHER HEARSAY OR ADMISSIONS WHICH ARE NOT ADMISSIBLE IN  
24 ORDER TO ESTABLISH THE CRIME.

25 THE LAW IS CLEAR THAT BEFORE ANY EXTRAJUDICIAL  
26 STATEMENTS, ADMISSIONS OR CONFESSIONS CAN BE INTRODUCED  
27 AGAINST THE DEFENDANT TO PROVE THAT HE PARTICIPATED IN THE  
28 CRIME, THEY MUST ESTABLISH BY INDEPENDENT EVIDENCE THAT A



1 CRIME HAS BEEN COMMITTED.

2 IN THIS CASE, THE DEFENDANT IS CHARGED WITH 187,  
3 MURDER OF RON LEVIN, AND 211, ROBBERY UPON RON LEVIN. THERE  
4 HAS BEEN NO EVIDENCE WHATSOEVER OF A BODY OF RON LEVIN. WE  
5 HAVE A DEFENDANT THAT WAS FACING JAIL ON 12 COUNTS, 12  
6 FELONY COUNTS, FOR RECEIVING OVER A MILLION DOLLARS IN  
7 STOLEN COMPUTER GOODS. HE'D JUST BEEN TO COURT THE DAY  
8 BEFORE HIS DISAPPEARANCE.

9 HIS MOTHER TESTIFIED THAT HE WASN'T CALM, THAT HE  
10 SOUNDED A LITTLE APPREHENSIVE. HIS FATHER STATED THAT HE  
11 DIDN'T SPEAK WITH HIM THAT OFTEN, AND THE MOTHER ALSO STATED  
12 THAT MR. LEVIN DIDN'T DISCUSS HIS PERSONAL BUSINESS WITH  
13 HER. THE MOTHER, THE FATHER AND THE MAID ALL TESTIFIED THAT  
14 MR. LEVIN NEVER TESTIFIED -- OR DISCUSSED HIS PERSONAL  
15 BUSINESS WITH THEM AND THAT HE APPEARED AGITATED AND WAS  
16 ARGUING ON THE PHONE, ET CETERA, BEFORE HIS DISAPPEARANCE.

17 HIS ATTORNEY TESTIFIED THAT HE HAD BEEN IN COURT THE  
18 DAY BEFORE, ON JUNE 5TH, APPEARING ON FELONY COUNTS AND THAT  
19 HE WAS LIKELY TO GO TO JAIL ON THOSE COUNTS. IT INVOLVED  
20 OVER A MILLION DOLLARS WORTH OF COMPUTER GOODS. HERE WE  
21 HAVE AN ALLEGED VICTIM WHO IS MISSING UNDER CIRCUMSTANCES  
22 WHERE HE WOULD NOT WISH TO STAY HERE. WE DON'T HAVE A CASE  
23 WHERE YOU HAVE A PERSON THAT WOULD DESIRE TO STAY AND THEN  
24 IS MISSING. WE HAVE A PERSON THAT IS MISSING, BUT NO BODY  
25 UNDER CIRCUMSTANCES WHERE THEY PROBABLY WOULD FLEE.

26 IT'S BEEN SHOWN THAT MR. LEVIN HAD SUBSTANTIAL  
27 AMOUNTS OF MONEY, NOT FROM THE ACCOUNTS THAT HE HAD HERE IN  
28 LOS ANGELES BECAUSE ALL OF THOSE, IF YOU LOOK AT THE

1 DOCUMENTS, HAD DWINDLED DOWN TO PRACTICALLY NOTHING, BUT  
2 POSSIBLY FROM THE FACT THAT HE HAD SWISS BANK ACCOUNTS AND  
3 HAD WRITTEN A CHECK -- ALTHOUGH IT WAS INSUFFICIENT -- FOR  
4 1.5 MILLION DOLLARS. I THINK FROM THAT IT CAN BE INFERRED  
5 THAT HE HAD THE MEANS TO GO ELSEWHERE AND HE HAD THE MOTIVE  
6 TO GO ELSEWHERE.

7 THERE WAS NO EVIDENCE OF ANY BLOOD OR ANY -- ANYTHING  
8 LIKE THAT THAT WOULD INDICATE THAT THERE WAS A KILLING. WE  
9 HAVE A PERSON WHO HAS DISAPPEARED, AND THAT'S ABOUT ALL WE  
10 HAVE.

11 THE -- LET'S LOOK AT THE EVIDENCE THAT WE HAVE  
12 AGAINST THE DEFENDANT. BASICALLY, EVERYTHING HERE, IF WE  
13 LOOK AT IT CAREFULLY, IS EITHER HEARSAY EVIDENCE, STATEMENTS  
14 BY A CO-CONSPIRATOR, OR ADMISSIONS WHICH ARE NOT ADMISSIBLE  
15 UNTIL AFTER THEY HAVE ESTABLISHED INDEPENDENT PROOF OF THE  
16 CRIME. WE HAVE HERE THE STATEMENT BY DEAN KARNY THAT JOE  
17 HUNT HAD TOLD HIM THAT HE AND JIM INTENDED TO KILL RON  
18 LEVIN.

19 THERE IS NO INDEPENDENT EVIDENCE OF AN AGREEMENT WITH  
20 MY CLIENT, JAMES PITTMAN, WHATSOEVER, THAT SHOWS THAT HE  
21 INTENDED TO PARTICIPATE IN THE CRIME. THE STATEMENT BY JOE  
22 HUNT IS A STATEMENT BY A CO-CONSPIRATOR, WHICH IS  
23 INADMISSIBLE UNTIL THERE IS INDEPENDENT PROOF THAT THERE WAS  
24 A CONSPIRACY. HERE THERE'S NO INDEPENDENT PROOF, AND THAT  
25 STATEMENT CANNOT BE ADMITTED WITHOUT INDEPENDENT PROOF THAT  
26 THERE WAS SOME TYPE OF CONSPIRACY.

27 DEAN KARNY, THE STAR WITNESS FOR THE PROSECUTION,  
28 TESTIFIED THAT HE WAS NEVER PRESENT WHEN THERE WAS ANY

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1 DISCUSSIONS OF THESE PLANS BY JOE HUNT AND THAT MY CLIENT  
2 WAS NEVER PRESENT IN HIS PRESENCE WHEN THERE WAS ANY  
3 DISCUSSION. DEAN KARNY TESTIFIES THAT MANY OF THE THINGS IN  
4 THIS ALLEGED PLAN WERE ONLY CONTINGENT POSSIBILITIES AND  
5 THAT THEY DIDN'T EVEN OCCUR, HE SHOWED THAT A NUMBER OF THEM  
6 DIDN'T OCCUR. INITIALLY, THEY PLANNED TO HAVE A NINE  
7 HUNDRED THOUSAND DOLLAR CHECK. IT ENDS UP BEING ONE AND A  
8 HALF MILLION DOLLAR CHECK. THERE WAS AN OPTION ACCOUNT ON  
9 THE PROPERTY, THAT CONTINGENCIES DIDN'T OCCUR. MANY OF THE  
10 CONTINGENCIES THAT WERE PART OF THIS ALLEGED PLAN BY JOE  
11 HUNT DIDN'T OCCUR.

12 THE NOTES, THE HANDWRITTEN NOTES WHICH ARE PURPORTED  
13 EVIDENCE OF A PLAN TO KILL RON LEVIN WHICH WERE FOUND IN HIS  
14 APARTMENT A COUPLE OF MONTHS AFTER HIS DEATH, AGAIN, ARE  
15 HEARSAY EVIDENCE, AND ANY REFERENCE TO MY CLIENT WOULD NOT  
16 BE ADMISSIBLE ABSENT INDEPENDENT PROOF THAT HE PARTICIPATED  
17 IN THE CRIME.

18 THE OTHER EVIDENCE WE HAVE, WE HAVE DISCUSSIONS AT A  
19 PARK BENCH ACROSS FROM THE TRADER VIC'S BETWEEN JOE HUNT, MY  
20 CLIENT AND DEAN KARNY, ALLEGEDLY. WE HAVE A MEETING BY THE  
21 -- AT THE BBC WITH VARIOUS PEOPLE INCLUDING DEAN KARNY,  
22 ALLEGEDLY MY CLIENT, BEN DOSTI AND JOE HUNT, AND I BELIEVE  
23 TOM MAY.

24 THEN WE HAVE ANOTHER MEETING AT THE WILSHIRE-MANNING  
25 WHICH THERE WERE APPROXIMATELY 10 PEOPLE PRESENT. THE  
26 EVIDENCE SHOWS THAT ALL OF THESE MEETINGS AND CONVERSATIONS  
27 TOOK PLACE AFTER THE CONSPIRACY HAD -- THE ALLEGED  
28 CONSPIRACY OR ALLEGED CRIME HAD ALREADY BEEN FRUSTRATED.

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1 BY THE 16TH, THE CHECK FROM THE SWISS BANK HAD  
2 ALREADY BEEN RETURNED. AT THAT POINT THE ALLEGED CRIME HAD  
3 BEEN FRUSTRATED, AND ANY STATEMENTS BY THE CO-CONSPIRATORS  
4 OR ALLEGED CO-CONSPIRATORS AFTER THAT TIME ARE NOT  
5 ADMISSIBLE, AND UNDER SECTION 1223 OF THE EVIDENCE CODE  
6 BECAUSE IT WAS NOT MADE DURING THE CONSPIRACY.

7 AFTER THE CONSPIRACY HAS BEEN FRUSTRATED OR THE  
8 ATTEMPT TO COMMIT THE CRIME HAS BEEN FRUSTRATED, THEN NO  
9 EVIDENCE OR NO STATEMENTS BY THE CO-CONSPIRATORS ARE  
10 ADMISSIBLE AFTER THAT. THEY MUST BE MADE DURING THE COURSE  
11 OF THE CONSPIRACY.

12 SO ALL OF THIS -- THESE STATEMENTS BY DEAN KARNY, WHO  
13 WE HAVE ESTABLISHED TO BE A CO-CONSPIRATOR -- HE BY HIS OWN  
14 STATEMENTS TESTIFIES THAT HE DISCUSSED EACH ELEMENT OF THIS  
15 PLAN OR THIS ALLEGED PLAN WITH JOE HUNT AND THAT HE TOOK  
16 OVERT ACTS IN FURTHERANCE OF IT. SO HE'S NOT JUST A NORMAL  
17 WITNESS THAT'S UP THERE.

18 HE IS A CONSPIRATOR THAT'S INVOLVED IN THIS THING AND  
19 HE IS GOVERNED BY THE SAME RULES OF EVIDENCE AS ANY OTHER  
20 CONSPIRATOR. THE FACT THAT HE'S BEEN GIVEN IMMUNITY AND  
21 HE'S TESTIFYING FOR THE PROSECUTION DOESN'T DO AWAY WITH THE  
22 RULES OF EVIDENCE. SO AS A CO-CONSPIRATOR, ANY STATEMENTS  
23 THAT HE MADE MUST BE MADE, AND UNDER 1223, WHILE  
24 PARTICIPATING IN THE CONSPIRACY AND AFTER THERE HAS BEEN  
25 INDEPENDENT PROOF OF A CRIME.

26 IF WE GET RID OF ALL OF THE INADMISSIBLE EVIDENCE,  
27 GET RID OF ALL OF THE HEARSAY, GET RID OF ALL THE  
28 ADMISSIONS, WE DON'T HAVE ANY EVIDENCE HERE. EVEN THE

1 PURPORTED ADOPTIVE ADMISSION BY MY CLIENT AT THE MEETING  
2 WHERE THERE WERE 10 PERSONS PRESENT, WHICH IS THE ONLY TIME  
3 THERE WAS ANY STATEMENT THAT HE WAS INVOLVED IN THE MURDER  
4 WHERE HE WAS PRESENT, IS INADMISSIBLE UNTIL AFTER THEY  
5 ESTABLISHED THAT A CRIME HAS OCCURRED BY INDEPENDENT  
6 EVIDENCE.

7 THERE ARE A NUMBER OF CASES THAT -- THAT STAND FOR  
8 THAT PROPOSITION. FOR THE RECORD, I WILL CITE THEM. PEOPLE  
9 VERSUS CANTRELL. IT'S A CALIFORNIA SUPREME COURT CASE,  
10 1973, 8 CAL. 3D, 672. PEOPLE VERSUS --

11 THE COURT: WHAT WAS THAT AGAIN?

12 MR. YOUNG: 8 CAL. 3D, 672. 105 CAL. RPTR. 792.

13 PEOPLE VERSUS FLANNEL, F-L-A-N-N-E-L. IT'S A 1979  
14 CALIFORNIA SUPREME COURT CASE, AND THAT'S CITED AT 25 CAL.  
15 3D, 668.

16 ALSO PEOPLE VERSUS WETMORE, W-E-T-M-O-R-E. IT'S A  
17 1978 SUPREME COURT CASE, 22 CAL. 3D, 318. AND THOSE CASES  
18 STAND FOR THE PROPOSITION THAT NO PERSON MAY BE CONVICTED OF  
19 ANY CRIME UNLESS THERE IS SOME EVIDENCE OF EACH ELEMENT OF  
20 THE CRIME INDEPENDENT OF THE DEFENDANT'S EXTRAJUDICIAL  
21 CONFESSION OR ADMISSION.

22 HERE WE DON'T HAVE THAT. WE DON'T HAVE ANY EVIDENCE  
23 INDEPENDENT OF ADMISSIONS BY EITHER A CO-CONSPIRATOR, JOE  
24 HUNT, OR A PURPORTED ADOPTIVE ADMISSION BY MY CLIENT, JAMES  
25 PITTMAN, TO ESTABLISH THAT HE PARTICIPATED IN ANY CRIME.  
26 THE ELEMENTS OF THE CORPUS DELICTI ARE TO ESTABLISH THAT  
27 THERE IS A KILLING OF ONE HUMAN BEING BY ANOTHER AND BY  
28 MEANS OF CRIMINAL AGENCY.

1           HERE THERE HAS BEEN NO EVIDENCE OF A KILLING OF ONE  
2 HUMAN BEING BY ANOTHER BY ANY MEANS, MUCH LESS BY CRIMINAL  
3 AGENCY, AND THE OTHER ELEMENT IS THEY MUST SHOW THAT THERE  
4 WAS PARTICIPATION BY MY CLIENT IN THAT. HERE THERE'S BEEN  
5 NO ADMISSIBLE EVIDENCE OF MY CLIENT'S PARTICIPATION. AND  
6 FOR THESE REASONS, I THINK THAT THIS CASE SHOULD NOT GO ANY  
7 FURTHER.

8           THE PROSECUTION HAS THROWN OUT A LOT OF FACTS THAT  
9 CIRCUMSTANTIALLY AN INFERENCE COULD BE DRAWN THAT THERE WAS  
10 SOME INVOLVEMENT BY MY CLIENT, BUT IF WE LOOK AT THE LEGAL  
11 ASPECTS OF THESE FACTS AND WE LOOK AT THE LAW AND APPLY THE  
12 LAW, I DON'T BELIEVE THERE'S ANY ADMISSIBLE EVIDENCE. NONE  
13 OF THE MEETINGS OR CONVERSATIONS AFTER THE CHECK HAD BOUNCED  
14 ARE ADMISSIBLE, AND THE STATEMENT BY JOE HUNT IS NOT  
15 ADMISSIBLE BECAUSE AN ALLEGED CO-CONSPIRATOR -- ALTHOUGH  
16 THEY HAVE NOT CHARGED CO-CONSPIRACY HERE.

17           THE LAW IS CLEAR THAT IF A CONSPIRACY, IN FACT,  
18 EXISTS -- WHICH IS WHAT THEY'RE ALLEGING TWO PEOPLE HAVE  
19 ALLEGEDLY COMMITTED THIS MURDER -- THEN THEY'RE GOVERNED BY  
20 THE SAME RULES OF EVIDENCE AS IF THERE WAS A CONSPIRACY.

21           THE PROSECUTION HAS ATTEMPTED TO INTRODUCE EVIDENCE  
22 TO CIRCUMVENT THESE RULES, AND UNDER SECTION 1223 THEY'VE  
23 ALLEGED STATE OF MIND OR MODUS OPERANDI, BUT THEY CANNOT  
24 CIRCUMVENT THE RULES OF SECTION 1223 DEALING WITH ADMISSIONS  
25 OF A CO-CONSPIRATOR AND THEY CAN NOT CIRCUMVENT THE RULES OF  
26 HEARSAY JUST BY THROWING A BUNCH OF EVIDENCE AT THE COURT.  
27 I THINK WE MUST LOOK AT THE LAW, AND LOOK AT THE LAW, AND  
28 THIS CASE SHOULD BE DISMISSED.

1 THE COURT: MR. ZORNE, DO YOU HAVE ANYTHING?

2 MR. ZORNE: YES, YOUR HONOR. I DO HAVE A FEW WORDS.  
3 WE ARE ALL AWARE OF THE FACT THAT THIS HAS BEEN A LONG AND  
4 RATHER ARDUOUS PRELIMINARY HEARING, AND THE PRELIMINARY  
5 HEARING HAS TAKEN SOME RATHER INTERESTING TWISTS AND TURNS;  
6 HOWEVER, WE ARE ALL BOUND BY THE LAW, ALL OF US HERE. YOU,  
7 SIR, ARE BOUND BY THE LAW.

8 PRELIMINARY HEARING HAS TWO ASPECTS. ONE, WE HAVE TO  
9 DETERMINE WHETHER THERE HAS BEEN A PUBLIC OFFENSE COMMITTED,  
10 AND SECONDLY, WHETHER A PERSON OF ORDINARY PRUDENCE COULD  
11 BELIEVE THAT MR. PITTMAN COMMITTED THAT OFFENSE.

12 NOW, THE PEOPLE ARE ALSO BOUND BY THE LAW AND THEY'RE  
13 BOUND BY THEIR COMPLAINT. THEY DIDN'T CHARGE ANYTHING BUT  
14 187 AND 211, AND THAT'S WHAT THEY'RE BOUND BY. THEY CAN'T  
15 BRING IN EXTRINSIC EVIDENCE OF OTHER FACTS AND OTHER CRIMES,  
16 BECAUSE THEY DON'T EXIST. THEY'RE BOUND BY THEIR COMPLAINT.  
17 IF THEY FELT THERE WAS A CONSPIRACY, THEY SHOULD CHARGE  
18 MR. PITTMAN WITH A CONSPIRACY.

19 AS WE SIT HERE LISTENING TO ALL OF THE FACTS THAT  
20 WERE BROUGHT IN, ALL OF THE TESTIMONY, CLEARLY THE PEOPLE  
21 HAVE NOT CARRIED THE BURDEN OF PROVING THAT A PUBLIC OFFENSE  
22 WAS COMMITTED IN REGARD TO A 187 AND A 211. THEY'VE MADE  
23 INNUENDOES, THEY'VE MADE INFERENCES, THEY'VE MADE  
24 SUGGESTIONS, BUT THERE'S NO ACTUAL, HARD EVIDENCE OF THE  
25 FACT THAT A MURDER OR A ROBBERY WAS COMMITTED.

26 THE ONLY THING THAT THEY HAVE OFFERED AS FAR AS HARD  
27 EVIDENCE IS CONCERNED IS THAT IN ONE OF THE WRITINGS BY MR.  
28 HUNT SAID "JIM DIGS PIT". WELL, THAT ISN'T SUFFICIENT

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1 ENOUGH TO CREATE A -- A CRIME. IT COULD BE MANY THINGS  
2 ABOUT DIGGING A PITS. IT'S NOT A CRIME TO DIG A PIT.

3 ANOTHER THING THAT THEY HAVE, THEY'VE OFFERED, IS  
4 THAT MR. PITTMAN WAS IN NEW YORK. WELL, THAT'S NOT A CRIME  
5 TO BE IN NEW YORK. IF IT WAS A CRIME TO BE IN NEW YORK,  
6 ABOUT 6 MILLION PEOPLE WOULD BE GUILTY OF A CRIME.

7 AND THE BIG THING THAT THE PEOPLE HAVE OFFERED IS  
8 THAT THERE WAS AN ADOPTIVE ADMISSION. WELL, THERE WAS NO  
9 ADOPTIVE ADMISSION. UNDERSTAND THE CIRCUMSTANCES, THAT  
10 PARTICULAR SET OF FACTS, IT WASN'T -- MR. PITTMAN WASN'T  
11 IMPELLED -- IT WASN'T NECESSARY FOR HIM TO ANSWER BACK. IT  
12 WASN'T THAT KIND OF A SITUATION WHERE SOMEBODY ASKS YOU A  
13 QUESTION AND THE PERSON IS IMPELLED TO MAKE AN ANSWER.

14 SO WHEN WE LOOK AT IT, WE FIND THAT THERE IS CRIMINAL  
15 ACT THAT'S CHARGED, AND A PERSON OF REASONABLE PRUDENCE AND  
16 INTELLIGENCE WOULD NOT SAY THAT IF THERE WAS NO CRIME  
17 MR. PITTMAN COULD BE GUILTY OF IT.

18 NOW, IT WOULD BE AN EASY MATTER FOR YOU IF IT WERE  
19 FOR ALL JUDGES TO SAY WELL, THIS IS A DIFFICULT CASE, I'M  
20 GOING TO DUMP IT ON THE SUPERIOR COURT, LET THEM WORRY ABOUT  
21 IT. AS I SAY, WE ARE ALL BOUND BY THE LAW. THE DECISION  
22 THAT HAS TO BE MADE BY YOU JUDGE IS A VERY DIFFICULT  
23 DECISION, AND I'M NOT INSENSITIVE TO THE FACT THAT IT'S  
24 GOING TO BE HARD TO MAKE IT, BUT IF WE ARE ALL BOUND BY THE  
25 LAW, WE MUST BE PERSUADED BY THE LAW. AND UNLESS THE PEOPLE  
26 CARRY THEIR BURDEN OF PROOF, WE MUST DISMISS. THANK YOU.

27 THE COURT: MS. LOPEZ?

28 MS. LOPEZ: I'M NOT GOING TO REITERATE ALL OF THE



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1 EVIDENCE THAT'S BEEN PRESENTED TO THE COURT. FIRST,  
2 HOWEVER, UNDER PEOPLE VERSUS SCOTT, WHICH IS THE LEADING  
3 CASE WHICH INVOLVED A NO BODY MURDER, THE COURT HELD AS A  
4 BASIS FOR INTRODUCTION OF A DEFENDANT'S CONFESSION OR  
5 ADMISSION, "THE PROSECUTION IS NOT REQUIRED TO ESTABLISH  
6 CORPUS DELICTI BY PROOF AS CLEAR AND CONVINCING AS IS  
7 NECESSARY TO ESTABLISH GUILT. A SLIGHT OR PRIMA FACIE  
8 SHOWING IS SUFFICIENT. THE CIRCUMSTANCES OF THE MURDER AND  
9 ITS DEGREE MAY BE SHOWN BY EXTRAJUDICIAL STATEMENTS OF THE  
10 ACCUSED."

11 IN THIS CASE, THE PEOPLE HAVE PRESENTED A LOT OF  
12 EVIDENCE REGARDING THE CIRCUMSTANCES SURROUNDING THE  
13 DISAPPEARANCE OF RON LEVIN. IT'S CLEAR FROM THE  
14 CIRCUMSTANCES THAT RON LEVIN HAS NOT SIMPLY ABSCONDED. HIS  
15 ATTORNEY TESTIFIED THAT HE WAS RELEASED ON \$10,000 BAIL  
16 WHICH WAS -- WHICH IS CLEAR BASED ON EVERYTHING THAT THIS  
17 COURT KNOWS ABOUT THE SETTING OF BAIL, THAT HE WAS NOT  
18 REGARDED AS A HIGH RISK.

19 HIS ATTORNEY NEVER TESTIFIED THAT HE WAS LIKELY TO GO  
20 TO JAIL. THERE WAS SOME QUESTIONING AS TO THE POSSIBLE JAIL  
21 SENTENCES. HOWEVER, IN THIS CASE, THE COURT IS WELL AWARE  
22 THAT IT IS UNLIKELY THAT THERE WOULD BE CONSECUTIVE  
23 SENTENCES IMPOSED IN ANY CASE OF THE TYPE THAT RON LEVIN WAS  
24 CHARGED.

25 IN ADDITION, HIS CASE WAS ONLY AT THE PRELIMINARY  
26 HEARING STAGE. IF HE WAS GOING TO ABSCOND, I THINK IT'S  
27 MORE REASONABLE TO ASSUME THAT HE WOULD HAVE ABSCOND AFTER  
28 THE CASE WAS SUBMITTED TO SUPERIOR COURT. BOTH HIS MAID AND

1 HIS MOTHER TESTIFIED THAT IT IS HIGHLY UNUSUAL FOR RON LEVIN  
2 TO LEAVE WITHOUT TELLING THEM OR WITHOUT MAKING ARRANGEMENTS  
3 FOR THE DOG, WITHOUT SETTING THE BURGLAR ALARM. THESE ARE  
4 ALL FACTS THAT WERE TESTIFIED TO THAT DID OCCUR AND DID  
5 SURROUND HIS DISAPPEARANCE.

6 IN ADDITION TO THAT, THERE IS ANOTHER UNUSUAL FACT.  
7 THE CHANGE IN THE BEDSPREAD. THE MAID TESTIFIED THAT THE  
8 COMFORTER THAT WAS THERE THE DAY BEFORE WHEN SHE'D MADE THE  
9 BED WAS NO LONGER THERE. RATHER, AN OLD COMFORTER TAKEN  
10 FROM THE LINEN CLOSET WAS THERE.

11 IN ADDITION TO THAT, WE HAVE THE LIST WHICH HAS A  
12 VARIETY OF ITEMS INCLUDING "KILL DOG", "TAPE MOUTH",  
13 "HANDCUFF", "THINGS TO DO" AT RON LEVIN'S HOUSE. "JIM DIGS  
14 PIT". ALL OF THESE ARE CIRCUMSTANTIAL EVIDENCE THAT RON  
15 LEVIN IS NOT MERELY A DISAPPEARED OR MISSING PERSON, BUT  
16 RATHER SOMEBODY WHO WAS KILLED.

17 THE LIST IS ADMISSIBLE FOR SEVERAL REASONS. ONE, IT  
18 IS CIRCUMSTANTIAL EVIDENCE OF A KILLING. IT COULD BE  
19 ANALOGIZED TO AN ORAL STATEMENT THAT WAS MADE AT THE TIME OF  
20 THE KILLING. JIM, GO DIG THE PIT, TAPE MOUTH. IF SOMEONE  
21 WAS TO OVERHEAR THESE STATEMENTS, NOBODY WOULD QUESTION THAT  
22 THEY WERE ADMISSIBLE AS PART OF THE RES GESTAE. IN THIS  
23 CASE, THE WRITTEN STATEMENTS THAT WERE FOUND IN RON LEVIN'S  
24 HOUSE AND WE HAVE EXPERT TESTIMONY THAT THE LIST WAS MADE BY  
25 JOE HUNT WHO HAS BEEN CHARGED AS A CO-DEFENDANT IN THE CASE.

26 IN ADDITION TO THAT, THE LIST IS ADMISSIBLE UNDER  
27 1250 OF THE EVIDENCE CODE TO SHOW THE DECLARANT'S STATE OF  
28 MIND IN THAT IT WOULD TEND TO SHOW THAT HE DID, IN FACT,

1 COMMIT THE ACTS. AND UNDER 1250, THEY ARE ADMISSIBLE FOR  
2 THE STATE OF MIND OF THE DECLARANT TO SHOW AS CIRCUMSTANTIAL  
3 EVIDENCE THAT HE DID, IN FACT, LATER COMMIT THE ACTS  
4 WHICH -- FOR WHICH HE MANIFESTED AN INTENT.

5 THE LIST IS ALSO CIRCUMSTANTIAL EVIDENCE OF AN  
6 AGREEMENT. IF THE COURT WERE TO READ THE LIST OR ANYBODY  
7 WERE TO READ THE LIST, IT WOULD BE CLEAR THAT BASED ON THE  
8 LIST THAT SOMEONE MIGHT REASONABLY INFER THAT THERE WAS AN  
9 AGREEMENT BETWEEN NOT ONLY THE WRITER OF THE LIST, BUT JIM,  
10 WHO WAS REFERRED TO IN THE LIST, THAT THERE WAS AN AGREEMENT  
11 TO COMMIT A CRIMINAL ACT. THIS WOULD SERVE AS A BASIS FOR  
12 THE SHOWING OF A CONSPIRACY BETWEEN TWO PEOPLE TO COMMIT A  
13 CRIMINAL ACT.

14 AFTER THAT, THE LIST WOULD BE FURTHER ADMISSIBLE  
15 UNDER 1223 AS A CO-CONSPIRATOR STATEMENT. IT'S CLEAR THAT  
16 THE LIST WAS MADE IN FURTHERANCE OF THE CONSPIRACY AND IT IS  
17 EVIDENCE OF A KILLING. THERE WAS ALSO TESTIMONY BY DEAN  
18 KARNY REGARDING STATEMENTS MADE BY JOE HUNT IMMEDIATELY  
19 PRIOR TO THE KILLING. THE PEOPLE FEEL THAT THEY HAVE SHOWN  
20 SUFFICIENT FOUNDATION FOR THOSE STATEMENTS TO BE ADMISSIBLE  
21 UNDER THE CO-CONSPIRATORS ADMISSIONS UNDER 1223 OF THE  
22 EVIDENCE CODE.

23 IN ADDITION TO THAT, WE HAVE OTHER CORROBORATIVE  
24 EVIDENCE. A SIGNED CHECK, AN OPTION AGREEMENT; BOTH ITEMS  
25 REFERRED TO IN THE LIST. AND FINALLY WE HAVE WHAT WE REGARD  
26 AS AN ADOPTIVE ADMISSION BY THE DEFENDANT WHO IN ADDITION TO  
27 PARTAKING IN OVERT ACTS TO CASH THE CHECK AND TO CONCEAL THE  
28 DISAPPEARANCE OF RON LEVIN BY NOT ONLY APPEARING IN NEW YORK

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1 BUT APPEARING IN NEW YORK UNDER RON LEVIN'S NAME AND  
2 REGISTERING UNDER -- IN A HOTEL ON THE DATE THAT RON LEVIN  
3 WAS EXPECTED TO BE IN NEW YORK UNDER RON LEVIN'S NAME.

4 THERE HAS BEEN SUFFICIENT EVIDENCE IN THAT REGARD,  
5 BUT FINALLY WE HAVE THE ADOPTIVE ADMISSION BY JAMES PITTMAN.  
6 JEFF RAYMOND HAS TESTIFIED THAT HE WAS PRESENT AT A MEETING  
7 WHERE JOE HUNT SAID "JIM AND I KILLED" OR "KNOCKED OFF RON  
8 LEVIN". AT THAT TIME, JAMES PITTMAN DID NOT DENY IT, HE DID  
9 NOT UTTER A WORD THAT WOULD INDICATE THAT IT WAS NOT TRUE.  
10 AND IMMEDIATELY PRIOR TO THAT MEETING THERE'S BEEN TESTIMONY  
11 THAT DEAN KARNY -- OF DEAN KARNY THAT JAMES PITTMAN  
12 AUTHORIZED JOE HUNT TO GO OUT AND MAKE THAT STATEMENT, WHICH  
13 WOULD MAKE IT CLEARLY ADMISSIBLE AS AN ADOPTIVE ADMISSION.  
14 THE PEOPLE SUBMIT IT.

15 MR. YOUNG: I'D LIKE TO MAKE A COUPLE MORE POINTS.

16 THE COURT: YES, YOU MAY.

17 MR. YOUNG: SHE CITED THE SCOTT CASE. THERE'S  
18 ANOTHER CASE THAT'S MORE RECENT. IT'S A UNITED STATES  
19 SUPREME COURT CASE. OPPER, O-P-P-E-R, VERSUS THE UNITED  
20 STATES OF AMERICA, AND THE CITATION IS 348 U.S. 84, AND IT  
21 STILL -- IT STANDS FOR THE PROPOSITION THAT THERE MUST BE  
22 SUBSTANTIAL INDEPENDENT EVIDENCE INTRODUCED OF THE CRIME.

23 HERE I THINK THE PROSECUTION HAS MADE OUT A GOOD CASE  
24 FOR A MURDER POSSIBLY BY JOE HUNT, BUT I DON'T THINK THAT  
25 THEY'VE SHOWN ANY INDEPENDENT EVIDENCE OF PARTICIPATION BY  
26 MY CLIENT. THEY SPEAK IN TERMS OF CIRCUMSTANTIAL EVIDENCE,  
27 OF THE NOTES BEING CIRCUMSTANTIAL EVIDENCE OF THE CRIME --

28 THE COURT: WILL YOU HOLD IT JUST A MOMENT.

1 IS THERE SOME CASE THAT I'M SUPPOSED TO TRANSFER OUT  
2 OF HERE?

3 THE CLERK: YES.

4 THE COURT: MAY I HAVE THE CASE.

5 /////

6 (OTHER COURT PROCEEDINGS)

7 /////

8 THE COURT: I'M SORRY FOR THE INTERRUPTION,  
9 MR. YOUNG. YOU MAY PROCEED.

10 MR. YOUNG: AS I WAS SAYING, THE PROSECUTION SPEAKS  
11 IN TERMS OF CIRCUMSTANTIAL EVIDENCE. WELL, THERE'S  
12 ADMISSIBLE CIRCUMSTANTIAL EVIDENCE AND THERE'S INADMISSIBLE  
13 CIRCUMSTANTIAL EVIDENCE. THEY ARE -- HERE I THINK WE MUST  
14 DRAW THE LINE BETWEEN WHAT'S ADMISSIBLE AND WHAT'S  
15 INADMISSIBLE.

16 FOR THE REASONS I STATED EARLIER, THE STATEMENTS BY  
17 JOE HUNT AND THE NOTES -- THE NOTES ARE CLEARLY HEARSAY. I  
18 DON'T SEE HOW YOU CAN GET AROUND THAT. YES, THEY MAY BE  
19 CIRCUMSTANTIAL EVIDENCE OF THE CRIME, BUT MY POINT IS THAT  
20 UNTIL THERE HAS BEEN INDEPENDENT EVIDENCE OTHER THAN THESE  
21 EXTRAJUDICIAL STATEMENTS -- THERE MAY BE A POSSIBLE WAY TO  
22 GET IT IN AFTER THAT -- UNTIL THERE IS INDEPENDENT EVIDENCE,  
23 YOU CANNOT USE THIS HEARSAY CIRCUMSTANTIAL EVIDENCE TO  
24 ESTABLISH THAT MY CLIENT PARTICIPATED IN THE CRIME.

25 AND WITH RESPECT TO THIS PURPORTED ADOPTIVE  
26 ADMISSION, DEAN KARNY HIMSELF TESTIFIED THAT THEY WERE USING  
27 A CODE NAME, "MAC", WHENEVER THEY DISCUSSED THIS INCIDENT,  
28 BUT THEY NEVER REALLY DISCUSSED WHAT ANYONE'S PARTICULAR

1 PARTICIPATION WAS. THERE WAS NEVER ANY STATEMENT BY JOE  
2 HUNT AND IN THE PRESENCE OF MY CLIENT WHERE THEY HAVE  
3 SPECIFICALLY STATED THAT MY CLIENT HAD PARTICIPATED IN THE  
4 KILLING OF RON LEVIN.

5 THERE WAS DISCUSSIONS ABOUT "MAC" OR LEVIN, WHICH MY  
6 CLIENT WAS IN NEW YORK POSED AS LEVIN, BUT THAT DOESN'T --  
7 THAT DOESN'T SHOW THAT HE PARTICIPATED IN THE ACTUAL MURDER  
8 OF RON LEVIN, AND THAT'S WHAT HE'S CHARGED WITH HERE. AND  
9 THEY SPOKE IN GENERAL TERMS ALL THE WAY UP UNTIL THE  
10 MEETING, AND THE FIRST TIME THAT JOE HUNT EVEN SAID IN FRONT  
11 OF MY CLIENT THAT HE HAD KILLED -- THAT MY CLIENT  
12 PARTICIPATED IN THE KILLING WAS OUT IN FRONT OF THIS GROUP  
13 OF 10 PEOPLE.

14 MY CLIENT IS AN EMPLOYEE. THERE'S BEEN TESTIMONY  
15 THAT HE'S BASICALLY A QUIET PERSON, THAT JOE HUNT IS A  
16 DOMINANT PERSONALITY, AND THAT THIS WAS A BRIEF STATEMENT IN  
17 THE MIDDLE OF A MEETING MADE BY JOE HUNT. WHEN THE FOUR  
18 PERSONS WENT IN THE OTHER ROOM, THEY ONLY SPOKE IN TERMS OF  
19 "MAC" OR LEVIN. THEY DIDN'T SPEAK IN TERMS OF SPECIFICALLY  
20 MY CLIENT PARTICIPATING IN ANY KILLING.

21 AN ADOPTIVE ADMISSION, IF THIS BE AN ADOPTIVE  
22 ADMISSION, IS ONLY EVIDENCE WHEN -- IF MY CLIENT MANIFESTED  
23 SOME TYPE OF BELIEF IN THE TRUTH OF IT OR IF THE STATEMENTS  
24 REQUIRED A REPLY. HERE WE HAVE THE CONTROLLER OF A GROUP OF  
25 PEOPLE THAT GO AND -- THAT GOES AND MAKES A BRIEF STATEMENT  
26 IN FRONT OF AN EMPLOYEE, AND I DON'T -- IT'S NOT A STATEMENT  
27 THAT CALLS FOR A REPLY AND IT'S NOT CIRCUMSTANCES UNDER  
28 WHICH MY CLIENT SHOULD BE EXPECTED TO GET UP AND JUMP UP AND

1 SAY SOMETHING.

2 THEY'VE SHOWN THAT JOE HUNT IS A MANIPULATOR, AND I  
3 BELIEVE THAT THIS IS JUST PART OF HIS MANIPULATION. EVEN IF  
4 THIS WAS AN ADOPTIVE ADMISSION, AS I'VE STATED EARLIER,  
5 UNTIL THEY ESTABLISH BY INDEPENDENT EVIDENCE -- AND I'D LIKE  
6 THEM TO POINT TO ANY INDEPENDENT EVIDENCE THAT MY CLIENT  
7 PARTICIPATED IN THE MURDER OF RON LEVIN THAT IS NOT HEARSAY  
8 OR AN ADMISSION BY A CO-CONSPIRATOR EITHER AFTER THE  
9 CONSPIRACY HAD BEEN FRUSTRATED OR THAT WAS MADE DURING THE  
10 COURSE OF THE CONSPIRACY.

11 THERE IS NO EVIDENCE, IF WE LOOK AT IT CLOSELY, OF MY  
12 CLIENT'S PARTICIPATION, AND THAT'S WHAT I'M CONCERNED WITH.  
13 THERE'S NO EVIDENCE THAT HE PARTICIPATED IN THE MURDER OF  
14 RON LEVIN OR THE ROBBERY OF RON LEVIN.

15 THE COURT: WELL, FIRST OF ALL, WITH RESPECT TO SOME  
16 OF THE STATEMENTS THAT HAVE BEEN MADE HERE, AS MR. ZORNE  
17 POINTED OUT, THE FUNCTION OF A COMMITTING MAGISTRATE, OF  
18 COURSE -- THE NORM, AS ALL OF THE COUNSEL ARE AWARE, IS NOT  
19 REASONABLE DOUBT, BUT IS PROBABLE CAUSE. THIS COURT WOULD  
20 HAVE NO HESITANCY TO DISMISS A CASE FOR LACK OF PROBABLE  
21 CAUSE, EVEN AT THE RISK OF HAVING IT REFILED AGAIN FOR A  
22 SECOND TIME.

23 BUT GOING INTO THE FACTS OF THE CASE HERE, TRUE, WE  
24 HAVE -- THE FACTS ARE CERTAINLY VERY UNUSUAL. WE HAVE A  
25 PARTY DEPARTING ON JUNE 7TH, SUDDENLY LEAVING, WHO HAS NOT  
26 BEEN HEARD OF SINCE. WE HAVE HERE -- NOW, AS YOU POINTED  
27 OUT, MR. YOUNG -- IT'S VERY, VERY TRUE. I DON'T THINK  
28 THERE'S ANY DISPUTE IN THE LAW THAT THE STATEMENTS OF A

1 PARTY COULD NOT ESTABLISH THE CORPUS DELICTI UNLESS THERE'S  
2 SOME EVIDENCE OF A CRIME HAVING BEEN COMMITTED. THIS  
3 PERHAPS, AS WE ALL ARE AWARE -- HISTORICALLY, THERE ARE THE  
4 CASES LIKE THE BLACK DAHLIA, WHICH I'M SURE ALL OF YOU KNOW  
5 ABOUT, IN WHICH THERE WERE OVER 200 CONFESSIONS TO THE LOS  
6 ANGELES POLICE DEPARTMENT OVER A NUMBER OF YEARS AS TO  
7 PEOPLE WHO CLAIMED THEY KILLED THIS PERSON. THE BODY WAS  
8 NEVER FOUND, BUT NONE -- IN NONE OF THOSE CASES WAS THERE  
9 ANY EVIDENCE OF CRIMINALITY THAT THE PARTIES WHO MADE THE  
10 STATEMENTS HAD ANY INVOLVEMENT WHATSOEVER TO DO WITH THE  
11 MISSING PARTY.

12 ALL RIGHT. NOW, THE SECOND POINT THAT WOULD COME UP  
13 THEN, IS RONALD LEVIN MERELY MISSING. HAS HE GONE AWAY OR  
14 HAS SOMETHING HAPPENED TO RONALD LEVIN THAT WOULD INDICATE  
15 SOME CRIMINAL NATURE. WE HAVE HERE BEFORE US SEVERAL  
16 WITNESSES WHO TESTIFIED AS TO CIRCUMSTANCES SURROUNDING THE  
17 LEAVING OF MR. LEVIN ON OR ABOUT THE 7TH DAY OF JUNE. THESE  
18 STATEMENTS, WHICH WOULD INDICATE THAT THERE WOULD BE SOME  
19 POSSIBLE CRIMINALITY INVOLVED HERE.

20 THE STATEMENTS OF THE WITNESSES INDICATED THAT THERE  
21 WAS A CONSPIRACY TO OBTAIN A CHECK FOR A MILLION AND A HALF  
22 DOLLARS FROM MR. LEVIN; THAT THERE WAS A PLOT -- OR A PLAN,  
23 RATHER, CONCEIVED BY A GROUP OF PEOPLE, THE BBC, TO HAVE A  
24 DISPOSAL OF THE BODY AND A CIRCUMSTANCE SET UP TO INDICATE  
25 THAT THEY WERE NOT THE PARTIES INVOLVED IN THE CRIMINALITY  
26 IF, IN FACT, ANY CRIMINALITY WAS INVOLVED IN THE CASE.

27 WE HAVE STATEMENTS MADE HERE, AS YOU'RE AWARE, MR.  
28 YOUNG, THAT ASIDE FROM THE FACT OF THE STATEMENT BY HUNT



1 THAT "JIM AND I KNOCKED OFF LEVIN". WE HAVE THE INCIDENT OF  
2 THE FACT THAT THE WITNESS KARNY AND DEPUTY ZOELLER OF THE  
3 BEVERLY HILLS POLICE DEPARTMENT MADE A SEARCH OUT AT AN AREA  
4 IN THE SOLEDAD CANYON WHERE THERE WAS FOUND QUOTE "SKELETAL  
5 REMAINS", SKELETAL REMAINS OF A BODY.

6 YOU HAVE THE INCIDENT OF PITTMAN CHECKING HIMSELF IN  
7 A HOTEL IN BEVERLY HILLS -- RATHER, IN NEW YORK, THE PLAZA  
8 HOTEL, WHICH WOULD MAKE IT APPEAR THAT MR. LEVIN HAD, IN  
9 FACT, MADE A TRIP TO NEW YORK, AND THAT SOME FOUL PLAY HAD  
10 OCCURRED TO HIM IN NEW YORK. YOU HAVE VERY -- A VARIETY OF  
11 OTHER STATEMENTS THAT WERE MADE.

12 A CONSPIRACY, AS YOU'RE WELL AWARE, IS NOT COMPLETED  
13 UNTIL ALL OF THE POSSIBLE ELEMENTS OF THE CONSPIRACY HAVE  
14 BEEN TERMINATED. WE HAVE IN HERE A REMARK MADE BY ONE OF  
15 THE WITNESSES THAT WHEN HUNT CAME IN AND SAID "WELL, WE HAVE  
16 KILLED" -- "WE HAVE KNOCKED OFF" OR "KILLED LEVIN FOR NO  
17 PURPOSE BECAUSE THE CHECK IS NO GOOD"; THAT THERE WAS A  
18 DISCUSSION THEN THAT MR. PITTMAN KNEW POSSIBLY PEOPLE IN  
19 WASHINGTON WHO COULD MAKE THE CHECK STILL GOOD AND THAT THE  
20 MILLION AND A HALF DOLLARS COULD STILL BE OBTAINED,  
21 POSSIBLY.

22 YOU HAVE A SERIES OF CIRCUMSTANCES HERE -- TRUE, IT'S  
23 CIRCUMSTANTIAL. YOU HAVE A SERIES OF CIRCUMSTANCES HERE  
24 THAT WOULD CERTAINLY MAKE IT APPEAR THAT THERE IS SOME CAUSE  
25 OR PROBABLE CAUSE TO BELIEVE THAT THERE WAS A CRIMINAL  
26 ACTIVITY THAT WAS CAUSING THE ABSENCE OF MR. LEVIN FROM  
27 BEVERLY HILLS. COUPLING ALL OF THIS TOGETHER -- AND NOW  
28 CONCEDEDLY, MR. YOUNG, I WOULD ADMIT TO YOU THAT THIS IS

1 RATHER CLOSE.

2 THERE MAY BE AFFIRMATIVE DEFENSES THAT YOU HAVE. I  
3 DON'T KNOW WHETHER YOU HAVE AN ALIBI OR WHETHER YOU HAVE  
4 SOME DEFENSES THAT THIS WAS NOT A WILLING ACT OR A  
5 PARTICIPATION ON THE PART OF MR. PITTMAN OR RATHER, HE WAS  
6 UNDER SOME INFLUENCE OF MR. HUNT ON ALL OF THESE OCCASIONS  
7 AND THAT HE DID NOT OF HIS OWN ACCORD PARTICIPATE. ANY OF  
8 THOSE MATTERS WOULD BE AN AFFIRMATIVE DEFENSE RATHER THAN GO  
9 TO THE PROBABLE CAUSE.

10 THE ONLY POINT THAT A COMMITTING MAGISTRATE HAS TO  
11 DETERMINE IS ONE, IS THERE A CORPUS DELICTI HERE. CERTAINLY  
12 A CORPUS IS ESTABLISHED BY THE CIRCUMSTANTIAL EVIDENCE THAT  
13 I'VE ENUMERATED AND I'VE ONLY ENUMERATED PART OF THE  
14 EVIDENCE. THERE IS OTHER EVIDENCE, AND I'M NOT INTENDING TO  
15 GO THROUGH THE ENTIRE CASE.

16 AND I'M FURTHER STATING TO YOU, MR. YOUNG, THAT I  
17 DON'T -- I'M NOT BASING IT UPON SOLELY THE STATEMENTS OF  
18 MR. -- THE COMMITTING STATEMENTS OF MR. HUNT THAT JIM  
19 PARTICIPATED IN THIS BECAUSE THERE ARE OTHER CIRCUMSTANCES  
20 THAT WOULD INDICATE THAT THERE WERE CIRCUMSTANTIAL  
21 SITUATIONS, LET'S SAY, THAT MR. PITTMAN WAS PLACED IN FROM  
22 THE VERY START OF THIS CONSPIRACY THAT WOULD CERTAINLY  
23 INDICATE THAT HE WAS A PARTICIPANT, ALBEIT MAYBE NOT A  
24 WILLING PARTICIPANT, BUT AT LEAST THAT HE WAS A PARTICIPANT  
25 IN THE ULTIMATE DEMISE OF RONALD LEVIN.

26 FOR THOSE REASONS, AND IT WOULD APPEAR TO THIS COURT  
27 THAT THERE IS PROBABLE CAUSE, AND THAT THEREFORE THE MOTION  
28 TO DISMISS FOR THE INSUFFICIENCY OF THE EVIDENCE WILL BE

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1 DENIED.

2 ALL RIGHT. IT IS THE ORDER OF THIS COURT THAT IT  
3 APPEARING TO THIS COURT THAT THE OFFENSE IN THE WITHIN NAMED  
4 COMPLAINT MENTIONED; NAMELY, A VIOLATION OF SECTION 187 OF  
5 THE PENAL CODE IN COUNT I HAS BEEN COMMITTED, AND ROBBERY AS  
6 CONTAINED IN COUNT II, AND THERE BEING PROBABLE CAUSE TO  
7 BELIEVE THE DEFENDANT, JAMES PITTMAN, GUILTY THEREOF, IT IS  
8 THE ORDER OF THIS COURT THAT HE BE HELD TO ANSWER TO THE  
9 SAME AND THAT HE BE ARRAIGNED IN THE SUPERIOR COURT OF THE  
10 STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES,  
11 ON THE 5TH DAY OF FEBRUARY, 1985 AT 9:00 A.M. IN DEPARTMENT  
12 B OF THE WEST BRANCH OF SAID COURT.

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IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA  
HON. DAVID A. KIDNEY, JUDGE PRO TEM DIVISION I

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff, )  
vs. ) No. A 090435  
JOE HUNT )  
aka: JOSEPH HENRY GAMSKY )  
and )  
JAMES PITTMAN )  
aka: JAMES GRAHAM, Defendants. )

I hereby certify that on the 15th day of January, 1985,  
and the 16th, 17th & 22nd days of January, 1985,  
ANN CLARK, Official Reporter of the above entitled court, was  
assigned as shorthand reporter to report the testimony and  
proceedings contained herein; and did act as such reporter, and  
was by me directed to reduce the said shorthand notes to  
typewriting.

*David A. Kidney*

Judge of the Municipal Court of Beverly Hills  
Judicial District, County of Los Angeles,  
State of California, Division I.

I hereby certify that I am an Official Shorthand Reporter  
of the above entitled court. Pursuant to the Judge's Certificate  
above, I was assigned to report and did so correctly report the  
testimony and proceedings contained herein; that the foregoing  
is a true and correct transcription of my said notes, and a full,  
true and correct statement of said testimony and proceedings.

*Ann Clark CR#5058*

Official Reporter

ORIGINAL

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IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT

COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

HON. DAVID A. KIDNEY, JUDGE PRO TEM

DIVISION I

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

JOE HUNT  
aka: JOSEPH HENRY GAMSKY,  
and  
JAMES PITTMAN  
aka: JAMES GRAHAM,

Defendants.

No. A 090435

Violation Section:

Ct. I - 187 PC

Ct. II - 211 PC

REPORTER'S TRANSCRIPT

PRELIMINARY HEARING

MONDAY, MARCH 18, 1985

AND

TUESDAY, MARCH 19, 1985

VOLUME I

**FILED**

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FRANK S. ZORN, County Clerk

*Rita Tucker*  
BY RITA TUCKER, DEPUTY

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DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT HUNT:

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I N D E X

	<u>PEOPLE'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE-CROSS</u>	<u>VOIR DIRE</u>
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1 BEVERLY HILLS, CALIFORNIA, MONDAY, MARCH 18, 1985, 10:30 AM

2 --000--

3  
4 THE COURT: FIRST OF ALL, IN THE MATTER OF PEOPLE  
5 VERSUS JOE HUNT, DEFENSE READY AT THIS TIME?

6 MR. BARENS: DEFENSE IS READY TO PROCEED, YOUR HONOR.

7 THE COURT: PEOPLE READY?

8 MR. WAPNER: READY.

9 THE COURT: THERE IS BEFORE THE COURT A MOTION IN  
10 LIMINE CONCERNING SOME OF THE EVIDENCE IN THIS CASE. LET  
11 THE RECORD SHOW THAT BOTH COUNSEL HAVE CONSULTED AT THE  
12 BENCH. WE'LL TAKE A BRIEF RECESS OF FIVE OR TEN MINUTES, AT  
13 WHICH TIME THE REPORTER IS REQUESTED TO COME INTO CHAMBERS  
14 AND WE'LL PLACE THE ARGUMENTS FOR AND AGAINST THE MOTION ON  
15 THE RECORD AT THAT TIME. ALL RIGHT. WE'LL TAKE A RECESS OF  
16 APPROXIMATELY 10 MINUTES.

17 MR. WAPNER: DOES THE COURT HAVE ANY OBJECTION IF THE  
18 INVESTIGATOR IS ALSO PRESENT IN CHAMBERS?

19 MR. TITUS: NO.

20 MR. BARENS: NO. I DON'T HAVE A PROBLEM WITH THAT,  
21 YOUR HONOR.

22 (A RECESS WAS TAKEN.)

23  
24 (THE FOLLOWING PROCEEDINGS WERE HELD IN CHAMBERS:)

25  
26 MR. BARENS: YOUR HONOR, WE BROUGHT IN BILL WELCH,  
27 WHO IS OUR INVESTIGATOR.

28 THE COURT: ALL RIGHT. IN THE MATTER OF PEOPLE

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1 VERSUS JOE HUNT, LET THE RECORD SHOW THAT THE FOLLOWING  
2 PERSONS ARE PRESENT. DO YOU WANT TO GIVE YOUR NAMES?

3 DETECTIVE ZOELLER: LES ZOELLER.

4 MR. WELCH: WILLIAM A. WELCH, W-E-L-C-H.

5 MR. WAPNER: FRED WAPNER, DEPUTY DISTRICT ATTORNEY.

6 MR. TITUS: LOU TITUS.

7 MR. BARENS: ARTHUR BARENS.

8 THE COURT: THIS MATTER IS BEING HELD IN CHAMBERS ON  
9 THIS DATE AND AT THIS TIME REGARDING A MOTION IN LIMINE TO  
10 EXCLUDE HEARSAY STATEMENTS IN THE CASE OF JOE HUNT AND JAMES  
11 PITTMAN. MOTIONS WERE MADE ON THIS DATE AND SUBMITTED WITH  
12 POINTS AND AUTHORITIES.

13 MR. WAPNER: MAY I BE HEARD BRIEFLY?

14 THE COURT: SURE.

15 MR. WAPNER: I THINK THAT WE CAN HOPEFULLY SHORTCUT  
16 THIS WHOLE PROCEDURE. THE STATEMENTS THAT ARE BEING  
17 OBJECTED TO IN THIS MOTION IN LIMINE ARE STATEMENTS MADE BY  
18 THIS DEFENDANT TO THE EFFECT THAT HE KILLED THE VICTIM IN  
19 THIS CASE. THAT'S A SHORTCUT VERSION, BUT BASICALLY THAT'S  
20 WHAT IT AMOUNTS TO.

21 THE STATEMENTS ARE NOT BEING OFFERED AS  
22 CO-CONSPIRATOR STATEMENTS, BUT THE EASIEST AND QUICKEST  
23 ANALOGY THAT I CAN DRAW IS IT'S BASICALLY LIKE A COPOUT TO  
24 THE POLICE DEPARTMENT EXCEPT THAT IT'S NOT TO THE POLICE,  
25 IT'S A PRIVATE CITIZEN HEARING THE STATEMENT, AND IT'S  
26 OFFERED NOT UNDER SECTION 1223 OF THE EVIDENCE CODE.

27 WHETHER THEY CAN COME IN UNDER THAT SECTION OR  
28 NOT IS BASICALLY IRRELEVANT TO THIS PROCEEDING. THEY'RE

1 OFFERED AS ADMISSIONS OF A PARTY UNDER SECTION 1220, AND  
2 THEY DON'T HAVE TO MEET ANY OF THE 1223 EXCEPTIONS, SO  
3 THAT'S WHAT THEY'RE OFFERED -- THEY'RE NOT OFFERED UNDER  
4 SECTION 1223, SO I THINK THIS MOTION IS BASICALLY  
5 IRRELEVANT. 1223 DOESN'T HAVE ANYTHING TO DO WITH THESE  
6 STATEMENTS.

7 THE COURT: FOR THE RECORD, HOW DO YOU FEEL ABOUT  
8 THAT?

9 MR. BARENS: YOUR HONOR, THE FACTS IN THE SALING  
10 CASE, WHICH IS THE LEAD CASE THAT WE CITE IN SUPPORT OF OUR  
11 MOTION, ARE ALMOST IDENTICAL TO THE FACTS BEFORE THE COURT  
12 THAT YOU'RE GOING TO HAVE TO DEAL WITH IN THIS PRELIMINARY  
13 HEARING. YOU HAVE AN ALLEGED MURDER THAT TAKES PLACE ON A  
14 DATE AND THEN TWO OR THREE WEEKS LATER, PRECISELY AS IN  
15 SALING, STATEMENTS ARE MADE TO THE EFFECT THAT "I KILLED SO  
16 AND SO" AND THAT "SO AND SO IS DEAD." THE COURT SUCCINCTLY  
17 SAID THAT STATEMENTS MUST BE EITHER IN FURTHERANCE OF OR  
18 DURING THE EXISTENCE OF THE CONSPIRACY ALLEGED TO BE  
19 ADMISSIBLE.

20 THE CASE FAILED -- THE EVIDENCE FAILS ON BOTH  
21 COUNTS IN THIS CASE. NUMBER ONE, SALING MAKES IT CLEAR THAT  
22 EVEN THOUGH THERE ARE ALLEGED MONIES TO BE COLLECTED, THAT  
23 WHEN THE HOMICIDE HAS OCCURRED, IN FACT, THAT THAT OBJECTIVE  
24 OF THE CONSPIRACY ENDS AND THE MERE COLLECTION OF MONEY,  
25 WHICH IS THE REFERENCE USED IN SALING, IT DOES NOT  
26 REHABILITATE THE TESTIMONY SUFFICIENTLY TO GET IT IN.

27 SECONDARILY, THERE IS NOTHING IN FURTHERANCE OF  
28 ANY CONSPIRACY GOING ON THREE WEEKS LATER IN THE MONTH OF

GGG

1 JUNE AS FAR AS ANY FACTS THAT THE PEOPLE CAN PUT TOGETHER.  
2 WHAT WE HAVE HERE AT BEST WOULD BE -- LET'S TRY TO FIGURE  
3 WHAT IT COULD BE PROBATIVE FOR. IT COULD BE PROBATIVE FOR  
4 SAYING THAT THERE'S SOME KIND OF A COVERUP GOING ON. WELL,  
5 IN THAT INSTANCE, EASLEY AND SMITH AND GREUNEWALD ALL  
6 POINTED OUT THAT STATEMENTS IN FURTHERANCE OF A COVERUP ARE  
7 NOT SUFFICIENT TO REHABILITATE HEARSAY TESTIMONY.

8 LET'S LOOK AT THE SAFEGUARDS WE ARE TRYING TO  
9 PROTECT HERE. HEARSAY IN ITSELF IS A VICIOUS AND  
10 TREACHEROUS TYPE OF TESTIMONY TO TRY TO RELATE TO. THE  
11 WHOLE REASON FOR ITS EXCEPTION FROM EVIDENCE AS TO PREVENT  
12 SOMEONE FROM BEING CONVICTED ON WHAT COULD BE PERJURIOUS AND  
13 AT THE VERY BEST STATEMENTS THAT CAN'T BE CROSS-EXAMINED.  
14 AFTER ALL, YOUR HONOR, WE ARE IN A POSITION IN  
15 CROSS-EXAMINING A WITNESS ON HEARSAY FOR THEM TO SIMPLY SIT  
16 THERE AND SAY "I DON'T KNOW. HE SAID IT." AND THE FACT  
17 THAT HE SAID IT A FORTIORI BRINGS US TO THE CONCLUSION THAT  
18 IT MUST BE TRUE OR ALLEGEDLY TRUE.

19 I DON'T WANT TO SEE THIS TRIAL PROCEED ON THE  
20 BASIS OF THESE HEARSAY STATEMENTS. AFTER ALL, YOUR HONOR.  
21 YOU HEARD THE PREVIOUS PRELIMINARY HEARING ON PITTMAN WHICH  
22 TO A -- ALTHOUGH THE FOCUS MAY BE DIFFERENT IN THIS CASE,  
23 THE EVIDENCE WILL OVERLAP. WHAT DO WE HAVE? WE HAVE A CASE  
24 WITH NO BODY, NO EVIDENCE OF A HOMICIDE TAKING PLACE IN  
25 TERMS OF -- LET'S SEE, WHAT DOES THE SCENE LOOK LIKE?  
26 THERE'S NO BLOOD, THERE'S NO WEAPON, THERE'S NO FORCE OR  
27 VIOLENCE DEMONSTRATED, ET CETERA, ET CETERA. ALL WE HAVE IS  
28 A MISSING PERSONS CASE WHICH IS PUT TOGETHER THROUGH THE USE

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1 OF HEARSAY EVIDENCE. THERE'S NO QUESTION IN MY MIND THAT  
2 MR. WAPNER WILL ESTABLISH THAT RON LEVIN IS MISSING. I'D  
3 STIPULATE THAT RON LEVIN IS MISSING.

4 THE ISSUE IS IS THERE PROBABLE CAUSE TO BELIEVE  
5 THAT MY CLIENT COMMITTED -- PARTICIPATED IN HIM BEING  
6 MISSING AND KILLED HIM, AND WE DON'T EVEN KNOW THAT RON  
7 LEVIN IS DEAD AT THIS POINT IN TIME. IT'S AN ALLEGATION.  
8 THE ONLY WAY THEY GET ANYWHERE IS TO BRING IN THE  
9 UNCORROBORATED HEARSAY TESTIMONY THAT THEY DROP ON US, SOME  
10 STATEMENTS THAT OCCUR MANY WEEKS AFTER THE ALLEGED HOMICIDE,  
11 AND THAT I RESPECTFULLY SUBMIT SALING SPECIFICALLY ADDRESSES  
12 THESE FACTS. NOW, WHETHER THEY'RE GOING UNDER 1223 OR  
13 1220 --

14 MR. TITUS: IT DOESN'T MATTER.

15 MR. BARENS: -- FACTS ARE FACTS. THE FACTS WE RELATE  
16 TO IN SALING ARE THE FACTS WE'VE GOT IN JOE HUNT.

17 THE COURT: WELL, OF COURSE, FIRST OF ALL, I THINK  
18 FOR THE RECORD -- YOU'RE REFERRING TO THE SALING CASE --  
19 MAYBE WE OUGHT TO PUT THE CITE IN. IT'S 7 CAL. 3D 853. I  
20 HAVE READ IT. I JUST READ IT BEFORE. LET ME SEE IF I  
21 UNDERSTAND THIS CORRECTLY. IT'S THE DISTRICT ATTORNEY'S  
22 CONTENTION, ONE, THAT THIS IS NOT BEING OFFERED AS A  
23 STATEMENT CONCERNING CONSPIRACY.

24 MR. WAPNER: NO. IT'S A STATEMENT BY A DEFENDANT  
25 THAT "I COMMITTED A MURDER." WHETHER IT'S MADE TO A PRIVATE  
26 CITIZEN OR WHETHER IT'S MADE TO A POLICEMAN. UNDER THE  
27 THEORY THAT THE DEFENSE IS PROPOUNDING, YOU COULD EXCLUDE  
28 ANY STATEMENT IF THERE WAS ANOTHER PERSON ALLEGED TO HAVE

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1 BEEN INVOLVED IN A MURDER AND THE MURDER IS OVER AND THE  
2 POLICE GO TO TALK TO SOMEONE AND HE MAKES A STATEMENT AND HE  
3 SAYS "I DID IT," HE TELLS THE POLICE "I DID IT," AND THAT  
4 CONSPIRACY IS OVER, THAT STATEMENT'S NO GOOD.

5 MR. BARENS: YOUR HONOR --

6 MR. WAPNER: THE PLAIN AND SIMPLE LANGUAGE OF SECTION  
7 1220 OF THE EVIDENCE CODE IS "EVIDENCE OF A STATEMENT IS NOT  
8 MADE INADMISSIBLE BY THE HEARSAY RULE WHEN OFFERED AGAINST A  
9 DECLARENT IN AN ACTION TO WHICH HE'S A PARTY IN HIS  
10 INDIVIDUAL OR REPRESENTATIVE CAPACITY REGARDLESS OF WHETHER  
11 THE STATEMENT WAS MADE IN ITS INDIVIDUAL OR REPRESENTATIVE  
12 CAPACITY."

13 IT'S A STATEMENT OF A PARTY TO THE ACTION  
14 OFFERED BY AN ADVERSE PARTY AND IT'S ADMISSIBLE, AND IT'S SO  
15 IRRELEVANT IT HAS -- IT DOESN'T EVEN COME INTO PLAY. THE  
16 FACT THAT IT'S -- IT'S NOT BEING OFFERED AGAINST PITTMAN.  
17 WE ARE NOT TALKING ABOUT OFFERING THE STATEMENT AGAINST THE  
18 CO-CONSPIRATOR. FORGET ABOUT WHETHER THERE'S A CONSPIRACY.  
19 IT'S NOT EVEN IMPORTANT IN THIS CASE. THE STATEMENT WAS  
20 MADE "I KILLED SOMEONE." IT COMES IN IN EVERY CRIMINAL  
21 ACTION.

22 MR. BARENS IS TALKING ABOUT HOW THIS HEARSAY IS  
23 SO AWFUL. WE DEAL WITH THIS EVERY DAY. IT'S NOTHING SO  
24 DIFFERENT THAN MAKING A STATEMENT TO THE POLICE, OR YOU KILL  
25 SOMEONE, YOU GO TO YOUR WIFE, YOU SAY "I KILLED SOMEONE AND  
26 JOE DID IT WITH ME." IT DOESN'T MATTER WHETHER YOU WERE  
27 MAKING IT IN THE FURTHERANCE OF CONSPIRACY. THAT'S  
28 IRRELEVANT. THE POINT IS YOU'RE CONFESSING TO A MURDER, AND

600

1 IT'S OFFERED AS AN ADMISSION OF A PARTY. IT DOESN'T MATTER  
2 WHETHER IT COMES IN UNDER A CO-CONSPIRATOR STATEMENT. IT  
3 DOESN'T MATTER WHETHER THERE'S SOMEONE INVOLVED IN THE  
4 MURDER OR NOT. IT'S COMING IN AGAINST HIM AND NOBODY ELSE.

5 MR. TITUS: IF I MAY SAY SOMETHING BRIEFLY, YOUR  
6 HONOR. THE PEOPLE ARE LOOKING FOR A WAY, A VEHICLE, TO GET  
7 THIS TESTIMONY IN. THERE'S NO QUESTION IT'S HEARSAY. SO WE  
8 LOOK AT WHAT IT COULD BE, AND SALING --

9 THE COURT: NOW, LET'S SEE IF WE UNDERSTAND SOMETHING  
10 HERE. WE ARE REFERRING TO THE STATEMENTS OF HUNT CONCERNING  
11 WHAT HAD HAPPENED. WE ARE NOT REFERRING TO THE STATEMENTS  
12 OF THE --

13 MR. WAPNER: MAY I TAKE A LOOK AT THIS CASE?

14 THE COURT: THIS CASE, YEAH -- OF THE OTHER --

15 MR. TITUS: JIM PITTMAN, NO.

16 THE COURT: WE ARE REFERRING PRIMARILY NOW TO THE  
17 STATEMENT OF HUNT --

18 MR. TITUS: MADE AT THE MEETING.

19 THE COURT: -- MADE AT THE MEETING.

20 MR. TITUS: AND THE FACTS WERE DEALT WITH BY THE  
21 SUPREME COURT IN SALING. WHETHER IT'S 1220(A), (B) OR (C)  
22 DOESN'T MAKE ANY DIFFERENCE.

23 THE COURT: NOW, I READ THE CASE. PRECINDING FROM  
24 THE DISTRICT ATTORNEY'S CONTENTION THAT THERE'S CONSPIRACY  
25 INVOLVED AT ALL, ASSUMING FOR THE SAKE OF ARGUMENT AT ALL  
26 THAT IT WERE, IF IT WERE AGAINST PITTMAN I COULD SEE WHERE  
27 IT WOULD BE A STRONGER SITUATION OF CONSPIRACY, BUT HIS  
28 CONTENTION, OF COURSE, HUNT IS MAKING THE STATEMENT, IN

1 EFFECT, "I KILLED LEVIN." 670

2 NOW, IN THIS CASE HERE AS I RECALL, IT ISN'T  
3 THE DEFENDANT WHO'S MAKING THE STATEMENT. IT'S THE PAID  
4 KILLER; IS IT NOT?

5 MR. TITUS: BOTH.

6 MR. WAPNER: RIGHT, SOMEBODY OTHER THAN THE  
7 DEFENDANT.

8 THE COURT: IT'S NOT THE DEFENDANT WHO MADE THE  
9 STATEMENT --

10 MR. BARENS: -- THE KILLER IS THE DEFENDANT. THE  
11 STATEMENTS WERE INTRODUCED IN THE KILLER'S TRIAL.

12 MR. TITUS: YES.

13 THE COURT: AS I RECALL, THE PURPOSES WERE TO COLLECT  
14 LIFE INSURANCE --

15 MR. BARENS: THAT'S CORRECT.

16 MR. TITUS: -- THAT WAS MR. MURPHY'S --

17 THE COURT: -- OF THE DEFENDANT'S --

18 MR. WAPNER: -- BUT THEY WEREN'T THE KILLER'S  
19 STATEMENTS --

20 MR. BARENS: YES, THEY WERE THE KILLER'S STATEMENTS.

21 THE COURT: THE KILLER'S, BUT NOT THE DEFENDANT'S.

22 MR. TITUS: YES.

23 MR. BARENS: IT WAS THE DEFENDANT AS WELL, YOUR  
24 HONOR. THEY SOUGHT TO INTRODUCE THOSE IN THE DEFENDANT'S  
25 STATEMENT. THE KILLER IS THE TRIGGER MAN, AND THE  
26 CO-DEFENDANT IS THE HUSBAND NOW DIVORCED, MR. SALING. THE  
27 FACTS, YOUR HONOR, ARE ON ALL FOURS WITH OUR CASE HERE.

28 THE COURT: WELL, I DON'T WANT TO GET INTO THAT



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1 BECAUSE OF WHAT THE DISTRICT ATTORNEY'S CONTENTION IS HERE  
2 BECAUSE HE SAYS IT'S IRRELEVANT. BUT JUST PARENTHETICALLY  
3 FOR THIS, I THINK THAT THERE IS A DISTINCTION BETWEEN THAT  
4 CASE AND YOUR CASE HERE WITH HUNT. IT SEEMS TO ME THAT IF A  
5 KILLER IS HIRED TO KILL SOMEBODY, HE'S NOT INTERESTED IN THE  
6 PROCEEDINGS OF THE INSURANCE. THE INSURANCE PROCEEDS ARE  
7 GOING TO THE SURVIVOR THERE. ALL RIGHT. HE'S PAID OFF FOR  
8 WHAT HE DOES --

9 MR. BARENS: HE GOT HIS PART.

10 THE COURT: -- THAT PART OF THE JOB IS OVER THEN.  
11 BUT IN THIS CASE HERE, AS I RECALL, THE OBJECT WASN'T TO  
12 KILL LEVIN. THE OBJECT WASN'T TO KILL LEVIN. THE OBJECT IS  
13 TO COLLECT ONE MILLION FIVE HUNDRED THOUSAND DOLLARS; ISN'T  
14 THAT CORRECT?

15 MR. BARENS: YES, YOUR HONOR, BUT THE OBJECT IN  
16 SALING WAS TO COLLECT MR. MURPHY'S INSURANCE POLICIES.

17 MR. TITUS: THAT'S WHAT THE PEOPLE ARGUED, ANYHOW,  
18 AND THAT'S WHAT THEY'RE DOING HERE.

19 MR. BARENS: AND THE SAME THING HERE IS THE MEANS TO  
20 COLLECTING MONIES ARE THE DEATH OF AN INDIVIDUAL, WHICH IS  
21 THE SAME THING IN SALING, AND THE COURT MAKES IT VERY CLEAR  
22 IN SALING THAT ALTHOUGH THOSE MONIES WEREN'T COLLECTED, THAT  
23 THAT DOES NOT REHABILITATE THE STATEMENTS.

24 YOUR HONOR, I POINTED YOUR ATTENTION, IF YOU  
25 WOULD, TO THE CONCURRING AND DISSENTING OPINION GIVEN BY  
26 JUSTICE SULLIVAN WHERE HE TALKS ABOUT THE COURT SHOULD BE  
27 CAUTIONED NOT TO CONFUSE UNSATISFIED MOTIVES OF PARTICIPANTS  
28 IN A HOMICIDE VERSUS THAT OF SATISFIED OBJECTIVES. HERE WE

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1 HAVE A SITUATION WHERE THE OBJECTIVE OF HOMICIDE IS  
2 SATISFIED AND COMPLETED ALLEGEDLY IN THIS CASE, BUT THE  
3 UNCOLLECTED FUNDS REMAIN A MOTIVE UNSATISFIED. WELL,  
4 JUSTICE SULLIVAN SAYS THAT WILL STILL NOT GET THESE  
5 STATEMENTS INTO EVIDENCE HERE, NOR DID THE MAJORITY SAY IN  
6 THE CASE THAT THAT WOULD GET IT INTO EVIDENCE.

7 YOUR HONOR, I RESPECTFULLY SUBMIT THAT YOU  
8 CANNOT FACTUALLY DISCRIMINATE THE UNCOLLECTED INSURANCE  
9 FUNDS VERSUS AN UNCOLLECTED CHECK IN THE HUNT CASE. WE  
10 DO -- THE MOTIVES AND THE CONCILIATION OF MOTIVES PRESENT TO  
11 COMMIT A HOMICIDE WITH THE COLLECTION OF MONEY, YOUR HONOR,  
12 OVERWHELMINGLY ARE ON ALL FOURS.

13 THE COURT: WELL, GETTING BACK TO THE DISTRICT  
14 ATTORNEY'S THEORIES, WHETHER OR NOT THERE'S A DISTINCTION  
15 HERE OR NOT, I PERSONALLY FEEL THAT THERE IS A DISTINCTION  
16 BETWEEN YOUR SITUATION AND THIS ONE HERE, BUT ON THE D.A.'S  
17 THEORY THAT THERE'S NO CONSPIRACY INVOLVED IN HERE --  
18 SUPPOSING THERE WERE NOBODY ELSE INVOLVED IN THIS CASE AND  
19 IT WERE JUST HUNT, AND HUNT HAD SAID "I KILLED LEVIN."  
20 WHAT --

21 MR. TITUS: IT STILL --

22 THE COURT: WOULD THAT BE ADMISSIBLE AS AN ADMISSION?

23 MR. BARENS: IT'S STILL HEARSAY.

24 MR. WAPNER: OF COURSE, IT'S HEARSAY.

25 THE COURT: WOULDN'T IT STILL BE ADMISSIBLE AS AN  
26 ADMISSION, THOUGH?

27 MR. BARENS: IT WOULD DEPEND ON THE PARTIES  
28 ADDRESSED. THE DISTRICT ATTORNEY STARTS OUT SAYING WELL,

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1 WHAT IF THIS IS A CONFESSION TO THE POLICE. WE HAVE A WHOLE  
2 OTHER BODY OF LAW THERE DEALING WITH A CONFESSION TO THE  
3 POLICE. WHETHER MIRANDA WARNINGS WERE GIVEN, ET CETERA, ET  
4 CETERA.

5 MR. WAPNER: THAT HAS NOTHING TO DO WITH IT.

6 MR. BARENS: THERE'S A DIFFERENCE BETWEEN CONFESSION  
7 TO THE POLICE AND AN ALLEGED CASUAL STATEMENT MADE TO PEOPLE  
8 THAT HE'S SUPPOSEDLY IN BUSINESS WITH IN THE PRESENCE OF AN  
9 ALLEGED CO-CONSPIRATOR IN A HOMICIDE WITH HIM, AND YOU HAVE  
10 THIS WHOLE AREA OF MOTIVES OTHER THAN THE TRUTH BEING  
11 PRESENT. AFTER ALL, WHO ARE THE ACCUSING -- WHO ARE THE  
12 SUPPOSED RECIPIENTS OF THIS STATEMENT?

13 MR. WAPNER: YOUR HONOR --

14 THE COURT: WELL, THE POINT THAT MR. WAPNER HAS  
15 RAISED ABOUT THE SAME AS A STATEMENT TO THE POLICE, WHAT  
16 YOU'RE THINKING OF WOULDN'T BE MIRANDIZED AND SO ON AND SO  
17 FORTH, BUT STILL YOU CAN HAVE AN EXTEMPORANEOUS STATEMENT.  
18 SOMEBODY COULD COME IN AND SAY "I JUST KILLED LEVIN."  
19 WOULDN'T THAT BE ADMISSIBLE? YOU WOULDN'T HAVE TO HAVE IT  
20 MIRANDIZED.

21 MR. BARENS: I CAN JUST SAY THIS, YOUR HONOR, JUDGE  
22 HOROWITZ WOULD AGREE WITH YOU. I JUST GOT THROUGH TRYING A  
23 CASE ON A SPONTANEOUS CONFESSION AND I JUST ASSUMED HE  
24 DIDN'T BLURT THAT OUT, BUT NONETHELESS, WE DON'T HAVE THAT  
25 SITUATION HERE. HERE WE HAVE A SETTING IN WHICH CERTAIN  
26 PARTIES INVOLVED WITH HIM AT BUSINESS WHO HAVE JAUNDICED  
27 VIEWPOINTS AS FAR AS THEIR MOTIVATION IS CONCERNED WHICH  
28 ONLY ADDS TO THE UNRELIABILITY OF THE STATEMENTS AND THE

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1 TREACHEROUSNESS OF THE PROFFERED HEARSAY COMING IN AND  
2 SAYING HE MAKES THIS STATEMENT.

3 NOW, ALL OF THESE PEOPLE -- NOW, NOTICE WHO WE  
4 ARE TALKING TO. WE'RE TALKING TO PEOPLE THAT IF YOU READ ON  
5 IN THE TESTIMONY WERE SUPPOSED TO HAVE BENEFITED HAD MONIES  
6 BEEN COLLECTED FROM RON LEVIN. THESE ARE PEOPLE WHERE WE  
7 ARE GOING TO MAKE A CAPITAL DISTRIBUTION IN THE CORPORATION,  
8 ET CETERA, AND THEY HAVE ALL HAVE MOTIVATIONS TO RECEIVE  
9 THAT MONEY. I QUERY IF THE MONIES HAD BEEN RECOVERED, IN  
10 FACT, AND DISTRIBUTED TO THESE PEOPLE, THEY CERTAINLY WOULD  
11 APPEAR AS CO-CONSPIRATORS IN THIS SETTING. THEY CERTAINLY  
12 WOULD HAVE BENEFITED FROM THIS UNFORTUNATE INCIDENT IF IT IN  
13 FACT OCCURRED AT ALL. I SUBMIT TO YOU THAT THE MERE FACT  
14 THAT THE MONIES ARE UNCOLLECTED DOES NOT REHABILITATE THAT  
15 TESTIMONY. I THINK WE HAVE GOT SALING REVISITED IN THE HUNT  
16 SETTING.

17 MR. TITUS: AND THEY HAVE FACTUALLY CHARGED A  
18 CONSPIRACY. THEY 'VE CHARGED JIM PITTMAN AND JOE HUNT IN  
19 THIS CASE, AND IN THE PRIOR PRELIMINARY HEARING THAT YOU DID  
20 ON JIM PITTMAN, THEY BROUGHT UP 1223 AS THE EXCEPTION. NOW,  
21 THEY DON'T LIKE IT BECAUSE 1223 HAS COME AND TURNED AROUND  
22 AND BIT THEM. THEY HAVE --

23 MR. BARENS: AFTER ALL, THEY PUT THAT ON THE RECORD.

24 MR. WAPNER: IT'S INTERESTING -- IS IT MY TURN TO  
25 SPEAK NOW?

26 THE COURT: SURE.

27 MR. WAPNER: YOU KNOW, I DON'T WANT TO -- LIKE TO BE  
28 PERSONALLY ATTACKED, BUT --

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1 MR. BARENS: WE'RE NOT.

2 MR. WAPNER: -- FIRST OF ALL --

3 MR. BARENS: IF IT APPEARED THAT WAY, WE WITHDRAW IT.

4 MR. TITUS: YEAH, YEAH.

5 MR. WAPNER: FIRST OF ALL, COUNSEL ARE REALLY  
6 CONFUSING APPLES AND ORANGES, FOR ONE THING. WE'RE NOT  
7 TALKING ABOUT LIABILITY OR THE WEIGHT OR ANYTHING. WE'RE  
8 TALKING ABOUT THE ADMISSIBILITY OF THE STATEMENT. THE BASIS  
9 FOR ADMITTING THE STATEMENT IS 1220 OF THE EVIDENCE CODE.  
10 THAT'S EXACTLY THE SAME EVIDENCE CODE BASIS THAT ALLOWS  
11 STATEMENTS -- STATEMENTS OF DEFENDANTS TO COME IN WHETHER  
12 THEY'RE MADE TO POLICE, WHETHER THEY'RE MADE TO PRIVATE  
13 PARTIES. PUTTING ASIDE MR. BARENS' THEORIES OF HOW  
14 UNRELIABLE THEY ARE. THE ADMISSION DOESN'T CHANGE AND IT'S  
15 THE STATEMENT OF A PARTY. MR. TITUS WANTS TO SAY "CAME  
16 AROUND AND BIT US". IF YOU LOOK AT THE DIFFERENCE IN THIS  
17 CASE AND THE OTHER CASE, IN THE OTHER CASE UNFORTUNATELY WE  
18 WERE PUT IN THE POSITION OF HAVING TO USE MR. HUNT'S  
19 STATEMENTS AGAINST MR. PITTMAN --

20 MR. TITUS: ALSO, YOU --

21 MR. WAPNER: EXCUSE ME, MR. TITUS. I'M NOT THROUGH  
22 YET. WE DON'T HAVE THAT PROBLEM IN THIS CASE. HERE WE ARE  
23 USING MR. HUNT'S STATEMENTS AGAINST MR. HUNT SO WE DON'T  
24 HAVE TO GET INTO THE PROBLEMS OF WHETHER THERE'S A  
25 CONSPIRATOR OR WHETHER THERE'S NOT A CONSPIRACY. IT'S  
26 IRRELEVANT. THERE MAY VERY WELL BE ONE, BUT IT DOESN'T  
27 MATTER BECAUSE THESE ARE STATEMENTS OF A DEFENDANT OFFERED  
28 AGAINST HIM, AND THEREFORE THEY'RE ADMISSIONS, AND WE DON'T

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1 HAVE TO RELY ON IT. IT'S NOT LIKE WE ARE CHANGING HORSES IN  
2 THE MIDDLE OF THE STREAM. THIS IS A DIFFERENT DEFENDANT;  
3 THIS IS A DIFFERENT PRELIMINARY HEARING.

4 THE COURT: THAT'S TRUE. HUNT AND PITTMAN ARE IN  
5 DIFFERENT POSITIONS HERE.

6 MR. BARENS: YOUR HONOR, THE SUPREME COURT WAS  
7 UNMOVED BY THIS 1220 ARGUMENT IN THE SALING CASE. IN SALING  
8 CERTAINLY THEY COULD HAVE AND DID TRY TO KEEP THOSE  
9 STATEMENTS OUT BASED ON 1220, WHICH THE COURT SPECIFICALLY  
10 DISAGREED WITH, AND I SUBMIT THAT NO MATTER WHICH EVIDENCE  
11 CODE SECTION YOU'RE LOOKING AT, THIS CASE DEALS WITH A GIVEN  
12 SET OF FACTS. SALING DEALS WITH A GIVEN SET OF FACTS. THE  
13 OPERATIVE OBJECTIVES, MOTIVES, SEQUENCING OF FACTUAL  
14 DEVELOPMENT IS THE SAME IN THIS CASE AS IT IS IN THE SALING  
15 CASE. THE ONLY DIFFERENCE BEING A UNCASHED CHECK VERSUS  
16 UNCOLLECTED INSURANCE PROCEEDS. THE FACTS ARE THE SAME,  
17 YOUR HONOR.

18 THE COURT: WELL --

19 MR. TITUS: AND MIGHT I REMIND THE COURT THAT THERE  
20 WERE STATEMENTS. GENE BROWNING WAS CALLED AS A WITNESS TO  
21 TESTIFY TO AN ADMISSION MADE BY JIM PITTMAN IN THE DESERT,  
22 AS I RECALL, ON THE 4TH OF JULY. SO THERE WERE THE HEARSAY  
23 STATEMENTS OF JIM PITTMAN ADMITTED AGAINST HIM AT HIS  
24 PRELIMINARY HEARING. NO DIFFERENT THAN THIS.

25 THE COURT: WELL, WHEN WE GET DOWN TO THE BASIS OF  
26 THE WHOLE THING, FIRST OF ALL, WE'RE TALKING ABOUT  
27 EXCEPTIONS TO THE HEARSAY RULE, BASICALLY. EITHER ONE OF  
28 THEM WOULD BE AN EXCEPTION TO THE HEARSAY RULE. AND ALL OF

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1 US ARE FAMILIAR THAT THE RATIONAL OF HEARSAY IS THAT YOU'RE  
2 ADMITTING SOMETHING, THE RELIABILITY OF WHICH IS CREDIBLE AS  
3 EVIDENCE. I MEAN IF YOU WANT TO MAKE A BOTTOM LINE  
4 STATEMENT OF WHAT HEARSAY IS. ALL RIGHT, NOW, WHAT YOU'RE  
5 TALKING ABOUT HERE IS A STATEMENT TO THE EFFECT "I JUST  
6 KILLED RON LEVIN" OR SOMETHING OF THAT KIND. ALL RIGHT.  
7 IT'S HEARSAY. WE'LL ALL CONCEDE THAT. NOW, NEXT QUESTION  
8 IS -- MR. WAPNER'S CONTENTION IS THAT IT'S NOTHING TO DO  
9 WITH THE CONSPIRACY. THIS IS A STATEMENT THAT'S MADE  
10 EXTEMPORANEOUSLY BY A PERSON, THE RELIABILITY OF WHICH UNDER  
11 THE CIRCUMSTANCES SHOULD BE ADMITTED AS AN EXCEPTION TO THE  
12 HEARSAY RULE BECAUSE IT WOULD SEEM TO CARRY WITH IT A  
13 TRUTHFULNESS THAT MIGHT BE BELIEVABLE.

14 THE OTHER THEORY, OF COURSE, THAT YOU'RE  
15 RAISING IS THAT IT'S PART OF A CONSPIRACY, WHICH MR. WAPNER  
16 DENIES, AND WHICH I VERY SERIOUSLY QUESTION BECAUSE IT'S NOT  
17 AS IF THE STATEMENT WERE BEING MADE BY PITTMAN AGAINST HUNT,  
18 BUT IT'S A STATEMENT THAT HUNT HIMSELF HAS MADE, AS  
19 MR. WAPNER HAS POINTED OUT HERE. MOREOVER, THIS CASE HERE  
20 WHICH I -- I READ AS SOON AS YOU GAVE IT TO ME THIS MORNING.  
21 I THINK THAT WE ALL CONCEDE ON THE THEORY HERE IS THAT  
22 STATEMENTS MADE OUTSIDE OR AFTER A CONSPIRACY HAS ENDED ARE  
23 NOT SUPPOSED TO BE ADMITTED BECAUSE THE CONSPIRACY HAS BEEN  
24 TERMINATED AND THE RELIABILITY, THEN, OF THE STATEMENT WOULD  
25 BE VERY MUCH IN QUESTION. BUT TO MY MIND, I THINK THERE IS  
26 A DISTINCTION IN THIS CASE HERE -- ALTHOUGH I KNOW YOU  
27 DISAGREE WITH THAT -- IN THAT THE OBJECTIVE HERE WAS NOT  
28 SIMPLY TO KILL LEVIN. THE OBJECTIVE HERE WAS ONCE THE WIFE

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1 WAS KILLED, THE INSURANCE MONEY WAS GOING TO COME THROUGH --  
2 AT LEAST THAT'S THE WAY I SEE IT -- AND THEREFORE THE COURT  
3 DID HOLD THAT IT WAS ERROR TO ADMIT THAT IN. HERE, AS I  
4 RECALL, THERE WAS STILL DISCUSSION AFTER LEVIN WAS KILLED AS  
5 TO WHETHER OR NOT THAT ONE MILLION FIVE HUNDRED --

6 MR. TITUS: CREDIT SUISSE CHECK.

7 THE COURT: -- COULD BE COLLECTED, AND PITTMAN WAS  
8 SUPPOSED TO HAVE MADE A STATEMENT TO THE EFFECT THAT "I KNOW  
9 SOMEBODY WHO CAN GET THAT CHECK CASHED FOR US," WHICH WOULD  
10 INDICATE THAT A CONSPIRACY WAS STILL IN EXISTENCE. THE  
11 CONSPIRACY -- IF WE SAY OUR CONSPIRACY IS TO COLLECT A  
12 MILLION FIVE HUNDRED THOUSAND, NOT MERELY TO KILL LEVIN,  
13 THEN THERE IS A DISTINCTION THERE.

14 MR. TITUS: WELL, DON'T YOU THINK THAT THE COURT  
15 DISCUSSED THAT, YOU KNOW, PLAYED PING-PONG WITH THAT IDEA  
16 QUITE A BIT IN SALING?

17 THE COURT: YEAH, THEY DID. THEY DISCUSSED BACK AND  
18 FORTH, BUT --

19 MR. TITUS: MR. MURPHY WANTED HIS WIFE DEAD, NOT JUST  
20 FOR A DIVORCE, BUT HE WANTED HER DEAD TO COLLECT THE  
21 PROCEEDINGS.

22 THE COURT: BUT WHEN SHE WAS DEAD --

23 MR. TITUS: AND SALING WAS PAID.

24 THE COURT: -- THE CONSPIRACY WAS OVER.

25 MR. TITUS: RIGHT. SO THE STATEMENTS WERE MADE AFTER  
26 THAT, LIKE OUR JUNE 24TH MEETING, WOULD NOT --

27 THE COURT: BUT HERE THE CONSPIRACY -- IF THE  
28 CONSPIRACY IS TO COLLECT THE MONEY, IT'S NOT OVER YET,



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1 PARTICULARLY SINCE THE CHECK WAS SUPPOSEDLY NO GOOD AND  
2 THEY'RE GOING TO TRY TO GET THE CHECK THROUGH AS A GOOD  
3 CHECK.

4 MR. BARENS: YOUR HONOR, LOOK -- LET'S GET INTO -- WE  
5 ARE TALKING ABOUT EXECUTORY PROVISIONS, LET'S CALL IT, TO  
6 FULFILL A CONSPIRACY. IN SALING YOU HAVE EXECUTORY ELEMENTS  
7 THAT REMAIN UNTIL THE MONEY IS ACTUALLY RECEIVED. AFTER  
8 ALL, MURPHY HAS TO FILE THESE CLAIMS, HE HAS TO FALSIFY  
9 EVIDENCE TO THE INSURANCE COMPANY AS TO THE CIRCUMSTANCES  
10 SURROUNDING HIS WIFE'S DEATH AND PROVE THE FACT THAT SHE IS  
11 DEAD, ET CETERA. WHAT DIFFERENCE HAVE YOU IN LEVIN? IF  
12 THERE ARE MONIES TO BE COLLECTED THAT ARE BEING  
13 SURREPTITIOUSLY OBTAINED, THE CHECK HAS TO BE PROCESSED, ET  
14 CETERA. THE EXECUTORY ACTIVITIES REMAINING AFTER THE DEATH  
15 OF THE VICTIM IN BOTH CASES SEEM ANALOGOUS.

16 THE COURT: BUT IT'S ALWAYS GOING TO BE A QUESTION OF  
17 FACT AS TO WHEN A CONSPIRACY ENDS. YOU HAVE TO HEAR ALL THE  
18 EVIDENCE TO DETERMINE WHEN A CONSPIRACY ENDS, AND I THINK WE  
19 ALL AGREE THAT THERE'S NO QUESTION THAT THERE'S QUESTIONS  
20 OUTSIDE THE CONSPIRACY WOULD NOT BE ADMISSIBLE. IF THE  
21 CONSPIRACY IS STILL EXISTING, THEN THEY WOULD BE ADMISSIBLE,  
22 SO WE ARE GOING AROUND IN A CIRCLE ON THAT.

23 MR. BARENS: LET ME POINT OUT ANOTHER THING. IN  
24 SALING AT LEAST THE COURT HAD THE SECURITY OF KNOWING  
25 MRS. MURPHY WAS, IN FACT, DEAD AND DEAD THROUGH SOME MEANS  
26 OF VIOLENCE. THE COURT DOESN'T EVEN HAVE THAT BENEFIT IN  
27 THIS CASE. YOU KNOW, WE'RE ALL IN HERE DISCUSSING THIS  
28 MOTION AS THOUGH, IN FACT, WE BELIEVE -- WHICH I'M SURE YOUR

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1 HONOR DOES NOT AT THIS LEVEL -- THAT RON LEVIN IS EITHER  
2 DEAD OR DEAD THROUGH FELONY MEANS --

3 MR. WAPNER: COUNSEL -- EXCUSE ME.

4 MR. BARENS: -- THROUGH FELONY MEANS, THROUGH FELONY  
5 MEANS, WHICH GIVES EVEN LESS SECURITIES TO THE RELIABILITY  
6 OF THESE STATEMENTS. IF THE COURT WAS THIS CAUTIOUS IN  
7 SALING WHERE YOU HAVE A KNOWN DEAD PERSON, I SHOULD THINK  
8 THE COURT WOULD EVEN BE MORE CAUTIOUS IN THE CASE WHERE  
9 THERE IS NOT ONLY NOT A DEAD BODY, BUT THERE'S NOT ONE  
10 SCINTILLA OF EVIDENCE THAT RON LEVIN WAS EVER VIOLENTLY  
11 ACCOSTED BY ANYONE OTHER THAN, OF COURSE, THE HEARSAY WE ARE  
12 DISCUSSING.

13 MR. WAPNER: I WISH THAT COUNSEL COULD STICK TO THE  
14 ISSUE. WE ARE NOT TALKING ABOUT WHETHER THERE'S ENOUGH  
15 EVIDENCE OF CORPUS. I'M SURE HE'S GOING TO HAVE A WHOLE  
16 SEPARATE ARGUMENT ON THAT, SO IF WE COULD JUST STICK TO THE  
17 ISSUE. WHETHER HE'S DEAD OR IS NOT DEAD DOES NOT HAVE  
18 ANYTHING TO DO WITH THIS.

19 THE COURT: WELL, FOR THE RECORD NOW, DO BOTH OF YOU  
20 FEEL THAT YOU'VE PRESENTED YOUR POINTS OF VIEW?

21 MR. WAPNER: YES.

22 THE COURT: ANYTHING FURTHER AT THIS POINT IN TIME?

23 MR. BARENS: SUBMITTED, YOUR HONOR.

24 THE COURT: FIRST OF ALL, I BELIEVE THE CONTENTION OF  
25 THE DISTRICT ATTORNEY THAT THIS WAS AN EXCEPTION TO THE  
26 CONSPIRACY THEORY OF THE HEARSAY ADMISSIBILITY, THAT IT WAS  
27 A STATEMENT MADE THAT HAD NO PART OF THE CONSPIRACY BECAUSE  
28 IT WAS MADE BY HUNT HIMSELF, WHO IS THE DEFENDANT IN THIS

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1 PARTICULAR CASE.

2 SECONDLY, SINCE YOU RAISED THE ISSUE -- FOR THE  
3 RECORD, SO THAT YOU HAVE A RECORD ON THIS IF YOU'RE TAKING  
4 IT UP -- SINCE YOU RAISED THE ISSUE OF THE CONSPIRACY, IT  
5 WOULD BE THIS COURT'S THOUGHT THAT IN THIS PARTICULAR  
6 MATTER, BEING MINDFUL OF YOUR PEOPLE VERSUS SALING, THAT  
7 THERE IS A DISTINCTION BETWEEN PEOPLE VERSUS SALING AND THE  
8 CASE BEFORE US INASMUCH AS THAT THE CONSPIRACY HAD NOT BEEN  
9 COMPLETED AT THE TIME THAT THE ALLEGED STATEMENTS OF  
10 MR. HUNT WERE MADE IN THIS PARTICULAR CASE, SO THAT WOULD BE  
11 THE RULING AS TO BOTH OF THOSE POINTS.

12 MR. WAPNER: THANK YOU, YOUR HONOR.

13 MR. BARENS: THANK YOU, YOUR HONOR.

14 THE COURT: MOTION IS DENIED.

15  
16 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)

17  
18 THE COURT: IN THE MATTER OF PEOPLE VERSUS JOE HUNT,  
19 DEFENSE HAVING ANNOUNCED READY AND THE PEOPLE HAVING  
20 ANNOUNCED READY, ARE YOU READY WITH YOUR FIRST WITNESS?

21 MR. WAPNER: THE PEOPLE CALL BLANCHE STURKEY.

22 THE COURT: DO YOU WANT WITNESSES EXCLUDED?

23 MR. WAPNER: YES, YOUR HONOR.

24 MR. BARENS: THERE WILL BE A MOTION BY THE DEFENSE TO  
25 EXCLUDE ANY OTHER WITNESSES EXCEPT THE INVESTIGATING OFFICER  
26 AND THE INVESTIGATOR FOR MY OFFICE, WILLIAM WELCH.

27 THE COURT: ANY PARTIES THAT ARE GOING TO TESTIFY IN  
28 THE JOE HUNT PRELIMINARY HEARING ARE REQUESTED TO STEP

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1 OUTSIDE INTO THE HALL AND THEIR NAME WILL BE CALLED ON THE  
2 PUBLIC ADDRESS SYSTEM WHEN THEIR SERVICES ARE NEEDED.

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

7 THE WITNESS: I DO.

8  
9 BLANCHE L. STURKEY,  
10 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
11 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

12 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
13 SPELL YOUR LAST NAME FOR THE RECORD.

14 THE WITNESS: BLANCHE L. STURKEY, S-T-U-R-K-E-Y.

15 THE CLERK: THANK YOU.

16

17

DIRECT EXAMINATION

18 BY MR. WAPNER:

19 Q MS. STURKEY, PRIOR TO JUNE THE 7TH OF LAST  
20 YEAR, 1984, DID YOU KNOW A MAN NAMED RON LEVIN?

21 A YES, I DID.

22 Q HOW DID YOU KNOW HIM?

23 A I WORKED FOR HIM FOR SIX YEARS.

24 Q WHAT KIND OF WORK DID YOU DO FOR HIM?

25 A I WAS HIS HOUSEKEEPER AND GIRL FRIDAY.

26 Q HOW OFTEN DID YOU WORK FOR HIM?

27 A EVERY DAY.

28 Q SEVEN DAYS A WEEK?

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1 A FIVE DAYS A WEEK.

2 Q AND HOW MANY HOURS A DAY APPROXIMATELY DID YOU  
3 WORK?

4 A TWO OR THREE.

5 Q AND ABOUT HOW MANY HOURS EACH DAY DID YOU WORK?

6 A OH, ABOUT TWO OR THREE HOURS.

7 Q WHAT DOES BEING HIS GIRL FRIDAY MEAN? WHAT DID  
8 THAT MEAN?

9 A WELL, I PICKED UP HIS MAIL AND WENT TO THE BANK  
10 AND MADE DELIVERIES AND SHOPPED. ANYTHING, YOU KNOW,  
11 ANYTHING -- TAKE HIM TO THE AIRPORT, THAT TYPE OF THING.

12 Q AND YOU HAD DONE THIS FOR SIX YEARS?

13 A YES.

14 Q DURING THAT TIME, DID YOU DEVELOP ANY KIND OF  
15 PERSONAL RELATIONSHIP WITH HIM?

16 A YES.

17 MR. BARENS: I OBJECT AS VAGUE AND AMBIGUOUS, YOUR  
18 HONOR.

19 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
20 SUSTAINED, UNLESS YOU WANT TO LAY A FOUNDATION. PERSONAL  
21 RELATIONSHIP CAN BE CONSTRUED IN VARIOUS DIFFERENT WAYS.

22 MR. WAPNER: I'LL TRY TO BE MORE SPECIFIC, YOUR  
23 HONOR. THANK YOU.

24 THE COURT: VERY WELL.

25 Q BY MR. WAPNER: BESIDES JUST WORKING FOR HIM,  
26 CAN YOU DESCRIBE ANY OTHER RELATIONSHIP THAT YOU HAD WITH  
27 HIM?

28 A WELL, I WOULD SAY WE WERE FRIENDS.

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1 Q DID HE CONFIDE IN YOU?

2 A SOMETIMES, YES.

3 Q AND DID HE EVER GO OUT OF TOWN DURING THE  
4 PERIOD OF TIME THAT YOU WORKED FOR HIM?

5 A MANY TIMES.

6 Q AND DID HE HAVE ANY HABIT OR CUSTOM THAT HE  
7 FOLLOWED WHEN HE LEFT TOWN?

8 A YES, HE DID.

9 Q WHAT WAS THAT?

10 A WELL, HE ALWAYS PACKED HIS BAG BEFORE HE LEFT.

11 Q WITH REGARD TO YOU SPECIFICALLY, DID HE USUALLY  
12 CALL YOU WHEN HE WENT OUT OF TOWN?

13 A EVERY TIME, IN FACT. I'M SURE JUST ABOUT EVERY  
14 TIME.

15 Q WHEN HE -- STRIKE THAT. DID HE GO OUT OF TOWN  
16 SOMETIME BEFORE JUNE TO GO TO AUSTRALIA?

17 A YES. I DON'T KNOW THE DATES, BUT HE WAS IN  
18 AUSTRALIA FOR ABOUT 10 DAYS, I THINK.

19 Q AND DURING THAT TIME DID HE CALL YOU?

20 A YES.

21 Q HOW MANY TIMES?

22 A TWO OR THREE TIMES.

23 Q WOULD IT BE UNUSUAL FOR HIM TO LEAVE TOWN AND  
24 NOT CALL YOU?

25 A YES, IT WOULD.

26 Q AND WHEN DID YOU LAST SEE RON LEVIN?

27 A I SAW HIM ON THE 6TH OF JUNE.

28 Q AND WHERE DID YOU SEE HIM?

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1 A I SAW HIM IN HIS OFFICE ON THE TELEPHONE AT  
2 12:00 O'CLOCK. I HAD JUST COME FROM THE BANK.

3 Q THIS WAS AT HIS HOUSE?

4 A YES.

5 Q HIS OFFICE IS LOCATED IN HIS --

6 A IN HIS HOME.

7 Q AND WHERE WAS HIS HOME LOCATED?

8 A AT 144 SOUTH PECK DRIVE.

9 Q IS THAT IN THE CITY OF BEVERLY HILLS, COUNTY OF  
10 LOS ANGELES?

11 A BEVERLY HILLS, YES.

12 Q AND WAS THIS AN APARTMENT, A HOUSE, A DUPLEX,  
13 WHAT?

14 A A DUPLEX.

15 Q AND WHEN YOU SAW HIM ON JUNE 6TH, WHAT TIME OF  
16 THE DAY WAS IT?

17 A 12:00 O'CLOCK.

18 Q NOON?

19 A YES.

20 Q WHAT WAS THE WEARING?

21 A HE WAS WEARING A WHITE ROBE. TERRYCLOTH.

22 Q ANYTHING ELSE?

23 A HE WAS ON THE PHONE. I WROTE HIM A NOTE.

24 Q WAS HE WEARING ANYTHING ELSE? I'M SORRY.

25 A I DON'T KNOW. HE HAD ON HOUSE SLIPPERS AND  
26 THAT'S ALL.

27 Q AND HE WAS ON THE TELEPHONE AT THAT TIME?

28 A YES, HE WAS.

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1 Q AND WHAT DID YOU DO AFTER YOU SAW HIM AT 12:00  
2 O'CLOCK?

3 A I WROTE HIM A NOTE FROM THE BANK, I MEAN JUST A  
4 NOTE BECAUSE HE WAS TALKING AND I DIDN'T WANT TO INTERRUPT,  
5 AND THERE WAS A MAN TAKING -- A MAN THAT THIS CAR WAS -- A  
6 ROLLS ROYCE THAT HE HAD LEASED WAS THERE, AND THE MAN WAS  
7 TAKING THE CAR, AND I TOLD HIM THAT THE MAN WAS TAKING THE  
8 CAR AND I LEFT.

9 Q SO YOU LEFT ABOUT 12:00 NOON AFTER WRITING THE  
10 NOTE?

11 A UM-HMM.

12 Q IS THAT YES?

13 A YES.

14 Q AND DID HE HAVE SOME PLANS TO DO SOMETHING THE  
15 NEXT DAY?

16 A YES. HE WAS LEAVING --

17 Q WHAT WAS THAT?

18 A HE WAS LEAVING FOR NEW YORK.

19 Q AND DID HE ASK YOU TO DO SOMETHING IN  
20 CONNECTION WITH HIS LEAVING FOR NEW YORK?

21 A YES. I WAS TO PICK HIM UP AT 7:30 THAT MORNING  
22 TO TAKE HIM TO THE AIRPORT.

23 Q WOULD THAT BE THE MORNING OF JUNE THE 7TH?

24 A JUNE THE 7TH, YES.

25 Q DID YOU CALL HIM IN PREPARATION FOR PICKING HIM  
26 UP?

27 A YES, I DID. I CALLED HIM --

28 Q WHAT TIME DID YOU CALL?



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1 A 6:30.

2 Q ON JUNE THE 7TH?

3 A YES.

4 Q AND WHAT HAPPENED WHEN YOU CALLED?

5 A I CALLED, AND HE DIDN'T ANSWER THE PHONE, AND I  
6 CALLED AGAIN, AND THE ANSWERING SERVICE CALLED AND SAID HE  
7 WAS NOT RECEIVING ANY CALLS.

8 Q AND WHAT DID YOU DO THEN?

9 A I COULDN'T UNDERSTAND IT AND SO I JUST GOT  
10 DRESSED AND DROVE OVER TO HIS HOUSE.

11 Q WHAT TIME DID YOU ARRIVE AT THE HOUSE?

12 A I GUESS ABOUT 7:00 -- BETWEEN 7:00 AND 7:15.

13 Q DID YOU SEE ANYONE OUTSIDE OF THE HOUSE?

14 A YES, I DID.

15 Q WHO WAS THAT?

16 A TWO YOUNG MEN. DEAN FACTOR, AND I CAN'T  
17 REMEMBER THE OTHER YOUNG MAN'S --

18 Q WOULD THAT BE MICHAEL BRODER?

19 A YES, MICHAEL BRODER.

20 Q AND THAT WAS AT ABOUT 7:15?

21 A 7:15 TO 7:30. IN THERE, YES.

22 MR. BARENS: IS THAT A.M. WE'RE REFERRING TO?

23 THE WITNESS: A.M., YES.

24 Q BY MR. WAPNER: THIS IS THE DUPLEX AT 144 SOUTH  
25 PECK DRIVE?

26 A THAT'S RIGHT.

27 Q AFTER YOU SAW THESE TWO YOUNG MEN, WHAT DID YOU  
28 DO?

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1 A THEY TOLD ME THEY COULDN'T UNDERSTAND, THEY  
2 HADN'T HEARD FROM HIM, AND I WENT IN THE HOUSE, BUT I WAS  
3 SURPRISED BECAUSE THE ALARM WAS NOT ON AND HE NEVER LEFT THE  
4 ALARM OFF THAT I KNEW OF.

5 Q WHEN YOU SAY HE NEVER LEFT THE ALARM OFF, COULD  
6 YOU ELABORATE ON THAT, PLEASE.

7 A YES. HE WAS VERY STRICT ABOUT THAT BECAUSE HE  
8 HAD BEEN ROBBED AND HE WANTED THE ALARM ON AT ALL TIMES.

9 Q WHO HAD THE COMBINATION TO THE ALARM?

10 A HE DID, I DID AND ONE OF THE YOUNG MEN.

11 Q IS THAT NEIL ANTON?

12 A THAT'S RIGHT.

13 Q AND THE ALARM WAS NOT ON THAT MORNING; IS THAT  
14 RIGHT?

15 A NO, IT WAS NOT.

16 Q WHAT DID YOU DO AFTER YOU NOTICED THE ALARM  
17 WASN'T ON?

18 A WELL, I TOOK MY KEY AND WENT IN.

19 Q YOU HAD A KEY TO THE HOUSE?

20 A YES, I DID.

21 Q WHAT DID YOU DISCOVER WHEN YOU WENT INSIDE?

22 A WELL, HE WASN'T THERE, AND WE WENT TO THE BACK  
23 AND I NOTICED -- THE FIRST THING I NOTICED, HE HAD A DOG  
24 THAT WAS THERE, AND THE DOG NEVER HAD AN ACCIDENT IN THE  
25 HOUSE AND HE HAD HAD AN ACCIDENT.

26 Q WHAT DO YOU MEAN HAD AN ACCIDENT?

27 A HE HAD HAD AN ACCIDENT.

28 Q DID THE DOG URINATE IN THE HOUSE?

689

1 A ON THE FLOOR, YES.

2 Q AND THAT WAS UNUSUAL?

3 A THAT WAS UNUSUAL, YES.

4 Q IN THE SIX YEARS THAT YOU WORKED THERE, HAD  
5 THAT EVER HAPPENED BEFORE?

6 A WELL, HE DIDN'T HAVE THE DOG BUT FOR A YEAR AND  
7 A HALF, BUT THE DOG WAS TRAINED.

8 Q ALL RIGHT. AND AFTER YOU NOTICED THAT THAT HAD  
9 HAPPENED -- WELL, LET ME ASK YOU THIS: IN THE YEAR AND A  
10 HALF THAT HE HAD HAD THE DOG, HAD HE EVER -- ASIDE FROM  
11 PERHAPS WHEN HE WAS TRAINING THE DOG, DID HE EVER URINATE IN  
12 THE HOUSE?

13 A NO, HE DID NOT.

14 Q AND WHAT DID YOU DO AFTER YOU NOTICED THAT?

15 A WELL, WE WERE ALL -- THE THREE OF US, THE TWO  
16 YOUNG MEN AND MYSELF AND MY HUSBAND WAS WITH ME, WE WERE  
17 REALLY ALARMED BY THIS TIME THAT IT WAS VERY UNUSUAL FOR HIM  
18 AND SO WE STARTED LOOKING AROUND THE HOUSE.

19 Q WHY WAS IT UNUSUAL?

20 A BECAUSE HE WOULD NEVER ASK YOU TO PICK HIM UP  
21 OR HE WOULD NEVER NOT ANSWER HIS CALL IN THE MORNING AND HE  
22 WOULD HAVE PACKED HIS BAG, AND THERE WERE MANY THINGS THERE  
23 THAT JUST WEREN'T USUAL AT ALL.

24 Q SPEAKING OF PACKING HIS BAGS, WERE YOU FAMILIAR  
25 WITH HIS LUGGAGE?

26 A YES, I WAS.

27 Q DID YOU LOOK AROUND THE HOUSE TO SEE IF HIS  
28 LUGGAGE WAS THERE?

630

1 A YES, I DID.

2 Q WAS IT THERE?

3 A YES, IT WAS.

4 Q WAS IT PACKED?

5 A NO, IT WASN'T.

6 Q WAS THERE ANY SPECIFIC PIECE OF LUGGAGE THAT HE  
7 WOULD NORMALLY TAKE WITH HIM WHEN HE LEFT?

8 A YES.

9 Q WHAT WAS THAT?

10 A HE HAD A SMALL BLACK CASE THAT HE NEVER MOVED  
11 WITHOUT.

12 Q OKAY.

13 A IT WAS -- HE HAD HIS TOILETRIES AND LIKE HIS  
14 PEN AND PENCIL AND LITTLE PADS THAT HE WANTED TO WRITE ON,  
15 AND WHEN I SAW THAT, I SAID "WELL, HE HASN'T GONE ANYWHERE  
16 BECAUSE HE WOULDN'T GO WITHOUT THIS" TO THE YOUNG MEN.

17 Q DID HE ALWAYS TAKE THAT CASE WITH HIM WHEREVER  
18 HE WENT?

19 A HE ALWAYS TOOK IT.

20 Q AND WERE THERE SOME AIRLINE TICKETS IN THE  
21 HOUSE?

22 A YES.

23 Q HOW MANY?

24 A THREE.

25 Q WHERE WERE THEY?

26 A THEY WERE ON HIS OFFICE DESK.

27 Q AND THERE WERE THREE OF THEM THAT WERE SUPPOSED  
28 TO GO TO NEW YORK; IS THAT RIGHT?

1 A THAT'S RIGHT.

2 Q DID HE HAVE ANY PARTICULAR PLACE IN THE HOUSE  
3 WHERE HE KEPT THINGS OF VALUE?

4 A HE AND I HAD A HIDING PLACE FOR HIS VALUABLES,  
5 WHICH WAS BEHIND HIS SOCKS.

6 Q AND DID YOU LOOK AT THAT LOCATION?

7 A YES.

8 Q WHAT DID YOU FIND?

9 A I -- WELL, HIS MOTHER CAME. I CALLED HIS  
10 MOTHER AND SHE CAME OVER, AND SO WHILE TALKING, I TOLD HER  
11 THAT MAYBE -- I TOLD HER WHERE THEY WERE AND SO I SHOWED  
12 THEM TO HER AND I DIDN'T PAY ANY ATTENTION TO THEM ANYMORE.  
13 SHE TOOK THE THINGS, WHATEVER THEY WERE.

14 Q DID YOU LOOK AT THEM AFTER YOU POINTED THEM OUT  
15 TO HER OR AT THE TIME YOU POINTED THEM OUT TO HER?

16 A WELL, I JUST GLANCED AT THEM BECAUSE IT WAS NOT  
17 THAT MUCH.

18 Q WHAT WAS THERE?

19 A I THINK IT WAS ONE OR TWO -- TWO OR THREE -- IT  
20 WAS TWO OR THREE WATCHES AND I THINK IT WAS TWO LITTLE SMALL  
21 RINGS. I'M -- JUST A MINIMUM AMOUNT OF THINGS AND NO MONEY  
22 AND NO -- NOTHING ELSE. SOMETIMES HE KEPT MONEY THERE.

23 Q SO THERE WERE TWO OR THREE WATCHES?

24 A YES.

25 Q WHAT ELSE?

26 A AND HE HAD TWO LITTLE GOLD RINGS AND -- IT WAS  
27 TWO RINGS ON A LITTLE CHAIN OR SOMETHING.

28 Q WERE THEY STILL THERE?

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1 A I THINK THEY WERE THERE, YES.

2 Q AND AFTER YOU NOTICED THAT THOSE ITEMS WERE  
3 THERE, WHAT DID YOU DO?

4 A YOU SEE, WHEN I CALLED HIS MOTHER, I HADN'T  
5 EVEN THOUGHT ABOUT THAT, AND AFTER ABOUT A HOUR WE DECIDED  
6 TO CALL HER AND SEE IF SHE HAD HEARD ANYTHING, AND SHE CAME  
7 RIGHT OVER. AND SO IN TALKING TO HER, I JUST SAID "WELL,  
8 MAYBE WE'LL CHECK AND SEE IF HIS VALUABLES ARE THERE," AND I  
9 DIDN'T EVEN THINK AND I LEAD HER IN TO THERE AND I TOLD HER  
10 TO LOOK AND THAT'S ALL.

11 Q THE DAY BEFORE YOU WERE THERE, THE LAST DAY YOU  
12 HAD ACTUALLY COME TO WORK THERE, HAD YOU SEEN A JOGGING  
13 SUIT?

14 A YES, I DID.

15 Q WHERE WAS IT?

16 A IT WAS ON A CHAIR IN FRONT OF HIS BED. GRAY  
17 JOGGING SUIT.

18 Q AND DID YOU LOOK AT THAT CHAIR WHEN YOU WENT  
19 INTO THE HOUSE AT JUNE THE 7TH?

20 A YES, I DID.

21 Q AND WHAT DID YOU SEE?

22 A THE JOGGING SUIT WAS NOT THERE.

23 Q WERE PART OF YOUR DUTIES WITH MR. LEVIN AS  
24 HOUSEKEEPER TO MAKE UP THE BED AND WASH THE LINENS AND  
25 THINGS LIKE THAT?

26 A YES -- NO. HE SENT HIS LINENS TO THE LAUNDRY.  
27 I MADE UP HIS BED AND WASHED TOWELS.

28 Q AND YOU MADE UP THE BED EVERY DAY?

695

1 A YES.

2 Q ARE YOU FAMILIAR WITH THE BED COVERING THAT HE  
3 USED?

4 A YES, I WAS.

5 Q DID YOU NOTICE ANYTHING UNUSUAL ABOUT THAT WHEN  
6 YOU WENT IN THE HOUSE ON JUNE 7TH?

7 A YES, I DID.

8 Q WHAT DID YOU NOTICE?

9 A THE COMFORTER THAT WAS ON THE BED USUALLY WAS  
10 NOT THERE AND ONE OF HIS OLD ONES WAS IN IT'S PLACE.

11 Q WHERE -- THE OLD ONE THAT WAS IN ITS PLACE,  
12 WHERE HAD THAT BEEN WHEN YOU HAD LAST SEEN IT BEFORE?

13 A IN A LINEN CLOSET IN A HALLWAY DOWN FROM THE  
14 BEDROOM.

15 Q AND WAS IT HIS HABIT THAT IF HE WANTED TO  
16 CHANGE THE BED LINENS THAT HE WOULD ASK YOU TO DO IT AS  
17 OPPOSED TO DOING IT HIMSELF?

18 A HE WOULD, UNLESS, OF COURSE, THE DOG MIGHT HAVE  
19 HAD AN ACCIDENT HE MIGHT HAVE TAKEN ONE OFF AND PUT THE  
20 OTHER ONE, BUT I CHECKED THE LAUNDRY ROOM AND THERE WAS  
21 NO -- IT WAS NOT THERE, SO -- IT WASN'T THERE.

22 Q IN OTHER WORDS, THAT MORNING YOU THOUGHT THAT  
23 MAYBE THE DOG HAD HAD AN ACCIDENT --

24 A YES, AND THAT HE HAD CHANGED COMFORTERS, BUT  
25 WHEN I LOOKED AROUND THE HOUSE IT WASN'T THERE, SO I DIDN'T  
26 UNDERSTAND IT.

27 Q WHEN YOU SAY IT WASN'T THERE, THE COMFORTER  
28 THAT HAD BEEN ON THE DAY BEFORE --

1 A WAS GONE.

2 Q -- WAS GONE?

3 A AND THE TOP SHEET.

4 Q EXPLAIN WHAT YOU MEAN BY "THE TOP SHEET"?

5 A HE HAD THREE SHEETS ON HIS BED; THE BOTTOM  
6 SHEET, THE SHEET NEXT TO HIS SKIN AND THEN THE TOP OVER THE  
7 COMFORTER.

8 Q AND THAT SHEET THAT GOES OVER THE COMFORTER,  
9 THAT WAS MISSING?

10 A THAT WAS MISSING, AND ONE PILLOW.

11 Q DID YOU NOTICE ANYTHING ELSE MISSING FROM THE  
12 BED?

13 A THE PILLOW, THE OTHER -- HE HAD FOUR PILLOWS ON  
14 HIS BED, AND ONE OF THE PILLOWS WAS MISSING.

15 Q AND WAS THERE ANYTHING ELSE MISSING FROM THE  
16 BED?

17 A HE USUALLY KEPT HIS WALLET AND HIS -- ALL HIS  
18 LITTLE BOOKS AND PAPERS ON THE DRESSER WHERE HE KEPT HIS  
19 KEYS AND THINGS THAT ALL THAT WAS GONE.

20 Q AND DID HE HAVE A TELEVISION IN THE BEDROOM?

21 A YES, HE DID.

22 Q DID YOU NOTICE ANYTHING UNUSUAL ABOUT THE  
23 TELEVISION OR ANY PART OF IT?

24 A YES. THE LITTLE MACHINE -- THE LITTLE CLICKER  
25 WAS GONE.

26 Q ARE YOU TALKING ABOUT THE REMOTE CONTROL?

27 A REMOTE CONTROL, YES.

28 Q WHERE DID HE USUALLY KEEP THAT?



695

1 A MOSTLY IN THE BED.

2 Q ACTUALLY ON THE BED?

3 A YES.

4 Q THE TERRY CLOTH ROBE YOU HAD SEEN HIM WEARING  
5 THE DAY BEFORE, DID YOU FIND THAT?

6 A NO, I DID NOT.

7 Q THAT WAS MISSING ALSO?

8 A THAT WAS MISSING ALSO.

9 Q DID YOU LOOK FOR HIS CAR?

10 A YES, I DID.

11 Q WHAT DID YOU FIND?

12 A IT WAS THERE.

13 Q WHAT ABOUT THE CAR KEYS?

14 A I DIDN'T SEE THE CAR KEYS.

15 Q HAVE YOU HAD ANY CONTACT WHATSOEVER FROM RON  
16 LEVIN SINCE YOU LAST SAW HIM ON NOON OF JUNE THE 6TH?

17 A NONE AT ALL.

18 Q DID YOU CONTINUE TO PICK UP HIS MAIL FOR A TIME  
19 AFTER JUNE THE 6TH?

20 A YES, WE DID.

21 Q FOR ABOUT HOW LONG?

22 A FOR ABOUT 10 DAYS, A WEEK TO 10 DAYS.

23 Q AND WHAT HAPPENED AFTER THAT?

24 A HIS FATHER -- WE GAVE THE KEY TO HIS FATHER AND  
25 TOOK HIS FATHER TO INTRODUCE HIM TO THE PEOPLE WHERE WE  
26 PICKED UP THE MAIL SO HE COULD -- HE SAID HE WOULD PICK IT  
27 UP.

28 Q DID YOU GIVE HIS FATHER THE COMBINATION TO THE

696

1 ALARM?

2 A YES.

3 Q DO YOU THINK IT'S UNUSUAL FOR HIM TO BE GONE  
4 FOR THIS PERIOD OF TIME AND NOT HAVE ANY CONTACT WITH YOU?

5 A VERY.

6 MR. WAPNER: MAY I HAVE JUST A MOMENT?

7 THE COURT: YES.

8 MR. WAPNER: I HAVE NO FURTHER QUESTIONS.

9 THE COURT: MR. BARENS?

10 MR. BARENS: THANK YOU, YOUR HONOR.

11

12

CROSS-EXAMINATION

13

BY MR. BARENS:

14

Q MISS STURKEY, WHAT DAY OF THE WEEK WAS JUNE  
15 6TH, IF YOU RECALL?

16

A FRIDAY, I THINK. I'M PRETTY SURE IT WAS  
17 FRIDAY.

18

Q AND SO THE 7TH WOULD HAVE BEEN THE WEEKEND, EH?

19

A YES.

20

Q AND YOU WOULDN'T HAVE WORKED SATURDAY, WOULD  
21 YOU?

22

A NO, I WOULDN'T HAVE WORKED SATURDAY.

23

Q AND NORMALLY YOU WOULD WORK A MONDAY THROUGH  
24 FRIDAY WEEK?

25

A THAT'S RIGHT.

26

Q AND SO YOU WOULDN'T EXPECT TO SEE MR. LEVIN AT  
27 ALL SATURDAY AND SUNDAY, WOULD YOU?

28

A NO.

1 Q AND SO THIS WOULD SEEM SOMEWHAT UNUSUAL THAT  
2 YOU WERE SUPPOSED TO SEE HIM ON THE 7TH?

3 A I WASN'T SUPPOSED TO SEE HIM ON THE 7TH.

4 Q I THOUGHT YOU WERE SUPPOSED TO PICK HIM UP.

5 A THE 7TH -- I'M SORRY. THE 7TH WAS THE DAY I  
6 WAS TO PICK HIM UP. THE 6TH IS THE LAST TIME I SAW HIM, SO  
7 THE 7TH WOULD BE ON FRIDAY.

8 Q ON FRIDAY. YOU'RE NOT SURE, MA'AM?

9 MR. WAPNER: YOUR HONOR, COULD THE COURT TAKE  
10 JUDICIAL NOTICE THAT JUNE 6TH WAS A WEDNESDAY AND JUNE 7TH  
11 WAS A THURSDAY?

12 MR. BARENS: INDEED. WE'RE ALSO TRYING TO SEE HOW  
13 GOOD OUR MEMORIES ARE HERE, MR. WAPNER.

14 THE COURT: DO YOU HAVE A CALENDAR THERE?

15 MR. WAPNER: I DO, BUT I DON'T THINK COUNSEL HAS.

16 THE COURT: WHAT DATE DID YOU SAY?

17 MR. WAPNER: THE 6TH IS A WEDNESDAY AND --

18 THE COURT: AND THEN THE 7TH WOULD BE A THURSDAY.  
19 ALL RIGHT.

20 Q BY MR. BARENS: ALL RIGHT. SO YOU MENTIONED  
21 THAT ON THE 6TH YOU HAD COME BACK FROM A BANK TOWARD NOON  
22 AND SEEING HIM?

23 A THAT'S RIGHT. THAT'S RIGHT.

24 Q WHY WERE YOU AT THE BANK THAT DAY?

25 A I WENT TO THE BANK MANY DAYS.

26 Q WELL, THAT DAY.

27 A FOR THAT DAY, I WENT TO PUT A DEPOSIT IN.

28 Q WELL, WHAT BANK DID YOU GO TO?

1 A IT WAS ON THE CORNER OF -- I DON'T REMEMBER  
2 WHAT BANK IT WAS.

3 Q ALL RIGHT. DID YOU EVER MAKE WITHDRAWALS FOR  
4 MR. LEVIN?

5 A YES, WHEN I HAD -- WE HAD A HOUSEHOLD ACCOUNT I  
6 MADE WITHDRAWALS.

7 Q AND BEFORE WHEN MR. LEVIN HAD GONE AWAY ON  
8 TRIPS, ISN'T IT TRUE THAT YOU HAD MADE WITHDRAWALS FOR HIM?

9 A NO, I NEVER MADE WITHDRAWALS FOR HIM WHEN HE  
10 WAS ON A TRIP, NO.

11 Q YOU NEVER DID?

12 A NO.

13 Q HOW WOULD HE HAVE MONIES AVAILABLE TO HIM TO GO  
14 SOMEWHERE?

15 A I HAVE NO IDEA.

16 Q YOU WOULDN'T KNOW, WOULD YOU --

17 A NO, I WOULDN'T.

18 Q AND IN THIS INSTANCE, YOU HAD HEARD SOMETHING  
19 THAT HE WAS PLANNING TO GO TO NEW YORK?

20 A HE TOLD ME HE WAS GOING TO NEW YORK.

21 Q AND SO YOU WOULDN'T KNOW WHETHER HE HAD  
22 WITHDRAWN ANY FUNDS OR MADE ANY FINANCIAL ARRANGEMENTS FOR  
23 THAT TRIP OR NOT, WOULD YOU?

24 A NOT AT ALL.

25 Q NOW, YOU SAID THAT MR. LEVIN HAD A HABIT OR  
26 CUSTOM OF PACKING A BAG AND TELLING YOU IF HE WAS GOING  
27 AWAY, AND YOU USED THE EXPRESSION -- I BELIEVE I'M QUOTING  
28 YOU ACCURATELY -- "JUST ABOUT EVERY TIME".

1 A THAT'S RIGHT.

2 Q NOW, YOU DON'T MEAN EVERY TIME, DO YOU.

3 A I DON'T UNDERSTAND.

4 Q WELL, WHEN YOU SAY JUST ABOUT EVERY TIME, AM I  
5 CORRECT IN INFERRING FROM THAT THAT THERE COULD BE A  
6 POSSIBILITY THAT HE'D GO AWAY SOMEWHERE AND NOT TELL YOU?

7 A IF IT WERE ANY LENGTH OF TIME, I'D DOUBT IT,  
8 BECAUSE HE WAS VERY INTERESTED IN HAVING HIS MAIL PICKED UP  
9 AND THINGS THAT HAD TO BE DONE IN THE HOUSE WHILE HE WAS  
10 GONE.

11 Q OH, SURE. SURE. BUT HE MAY HAVE GONE OUT AND  
12 STAYED OUT OVERNIGHT, LET'S SAY, AND NOT TOLD YOU ABOUT IT?

13 A WELL, I WOULDN'T CONSIDER THAT A TRIP.

14 Q RIGHT. BUT HE MIGHT HAVE BEEN GONE FROM HIS  
15 HOUSE AND NOT BEEN THERE IN A MORNING, LET'S SAY, FOR SOME  
16 SOCIAL OR PERSONAL REASONS?

17 A I'M SURE.

18 Q DID THAT EVER OCCUR, TO YOUR KNOWLEDGE?

19 A OH, YES. HE'S GONE TO DIFFERENT PLACES FOR  
20 OVERNIGHT. I DON'T KNOW WHERE HE WENT. I WAS ONLY THERE  
21 TWO HOURS AND A HALF, SO.....

22 Q DURING THE DAY, SO YOU WOULDN'T HAVE ANY --

23 A OTHER THAN IN THE MORNINGS.

24 Q DID YOU EVER COME TO HIS HOUSE AND DO YOUR WORK  
25 AND NOT FIND MR. LEVIN THERE?

26 A YES.

27 Q AND THAT DIDN'T ALARM YOU, DID IT?

28 A MOST OF THE TIME HE WAS -- HE WAS JUST OUT

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1           SOMEWHERE MAYBE FOR BREAKFAST OR SOMETHING LIKE THAT. HE  
2           CAME HOME WITHIN A HOUR, BEFORE I LEFT, GENERALLY.

3           Q       EVERY TIME?

4           A       NO. I DON'T KNOW -- I WORKED FOR HIM SIX  
5           YEARS.

6           Q       WELL, DID IT EVER OCCUR THAT YOU'D COME OVER TO  
7           DO YOUR JOB AND MR. LEVIN WOULDN'T BE THERE FOR A FEW HOURS?

8           A       OH, YES, YES.

9           Q       AND SO THAT WOULDN'T BE PARTICULARLY UNUSUAL,  
10          WOULD IT?

11          A       NO.

12          Q       BUT IN THIS INSTANCE WHEN YOU ARRIVED, IT  
13          SEEMED UNUSUAL?

14          A       IT CERTAINLY DID INASMUCH AS HE ASKED ME TO GET  
15          UP AT 7:30 AND TAKE HIM TO AN AIRPORT.

16          Q       WELL, OBVIOUSLY YOU WERE AWARE THAT HE COULD  
17          HAVE CHANGED HIS MIND?

18          MR. WAPNER: OBJECTION. CALLS FOR SPECULATION.

19          THE WITNESS: HE WOULD HAVE CALLED ME.

20          MR. WAPNER: WITHDRAW IT, YOUR HONOR.

21          Q       BY MR. BARENS: HE WOULD HAVE CALLED YOU?

22          A       I 'M SURE.

23          Q       YOU ASSUME THAT, DON'T YOU?

24          A       WELL, I KNEW HIM, AND HE WOULD USUALLY CALL AND  
25          SAY HE WASN'T GOING.

26          Q       YOU SAID EARLIER THAT HE CONFIDED WITH YOU  
27          ABOUT MOST OF HIS AFFAIRS?

28          A       NO, HE DID NOT.

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1 Q YOU INDICATED TO MR. WAPNER THAT YOU HAD  
2 SOMEWHAT OF A RELATIONSHIP OF TRUST AND CONFIDENCE?

3 A I DID SAY THAT, AND HE DID NOT DISCUSS ALL HIS  
4 BUSINESS WITH ME, NO.

5 Q DID HE TELL YOU THAT HE WAS FACING A FELONY  
6 INDICTMENT AT THIS PERIOD OF HIS LIFE?

7 A YES, HE DID.

8 Q AND DID HE SEEM CONCERNED ABOUT THAT?

9 A NO, HE DIDN'T.

10 Q WASN'T CONCERNED AT ALL.

11 A I DIDN'T SAY THAT, EITHER. HE JUST -- HE -- IT  
12 WAS A STATEMENT, THAT HE KNEW IT WAS GOING TO HAPPEN, AND I  
13 KNEW IT WAS GOING TO HAPPEN. NO BIG DISCUSSION.

14 Q DID YOU KNOW WHETHER HE WAS SUPPOSED TO BE  
15 GOING TO COURT?

16 A AT SOME TIME, YES. I KNEW HE WAS INDICTED.

17 Q YOU DIDN'T KNOW WHEN HE WAS, DID YOU?

18 A NO, I DID NOT.

19 Q NOW, YOU SAID THERE WAS A MAN THERE TAKING A  
20 ROLLS ROYCE?

21 A YES.

22 Q THAT WAS BEING REPOSSESSED?

23 A NO. HE HAD LEASED THE ROLLS ROYCE AND HE WAS  
24 GOING TO BE AWAY, AND I GUESS THEY JUST PICKED IT UP.

25 Q HOW LONG WAS HE GOING TO BE AWAY FOR?

26 A I THINK HE SAID FOUR OR FIVE DAYS.

27 Q I SEE. DID HE TELL YOU WHO HE WAS SUPPOSED TO  
28 BE GOING WITH?

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1 A NO. I KNEW WHO HE WAS GOING WITH.

2 Q DID YOU SEE ANY AIRPLANE TICKETS?

3 A YES, I DID.

4 Q WHERE WERE THEY?

5 A THEY WERE ON THE DESK IN HIS OFFICE.

6 Q WHEN DID YOU LAST SEE THEM?

7 A I ONLY SAW THEM ONE TIME AND THAT WAS WHEN I  
8 WENT IN THE HOUSE AND WE WERE LOOKING FOR HIM AND WE WENT IN  
9 HIS OFFICE.

10 Q AFTER YOU DIDN'T SEE MR. LEVIN PRESENT?

11 A THAT'S RIGHT.

12 Q NOW, YOU HAD INVESTED SOME MONEY WITH  
13 MR. LEVIN, HADN'T YOU?

14 A I WOULDN'T SAY I INVESTED IT, BUT YES, HE DID  
15 OWE ME SOME MONEY, YES.

16 Q HOW MUCH DID HE OWE YOU?

17 A \$26,000.

18 Q AND HOW LONG AFTER YOU'D BEEN WORKING WITH HIM  
19 DID YOU GIVE HIM \$26,000?

20 A WELL, I GUESS TWO YEARS.

21 Q AND SO HE HAD OWED YOU THE MONEY FOR FOUR AND A  
22 HALF YEARS WHEN YOU LAST SAW HIM?

23 A YES -- NO. FOR THREE AND A HALF YEARS.

24 Q THREE AND A HALF YEARS HE OWED YOU THE --

25 A YES.

26 Q WHAT DID YOU GIVE HIM MONEY FOR, A LOAN?

27 MR. WAPNER: OBJECTION. RELEVANCE.

28 MR. BARENS: WELL --



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1 THE COURT: THE OBJECTION WILL BE OVERRULED. IT'S  
2 CROSS-EXAMINATION.

3 Q BY MR. BARENS: MS. STURKEY, IF YOU WOULD, WHY  
4 DID YOU GIVE HIM THAT MONEY?

5 A I DIDN'T GIVE IT TO HIM AND I WOULD KIND OF  
6 LIKE TO MAKE THAT CLEAR. I -- HE HAD A OPPORTUNITY TO BUY A  
7 ROLLS ROYCE, AND I LOANED HIM THE MONEY AND FOR RESALE.

8 Q YEAH.

9 A AND IT DIDN'T WORK.

10 Q I'M SORRY, MA'AM?

11 A AND HE DIDN'T SELL IT, RESELL IT.

12 Q WHAT HAPPENED TO IT?

13 A I NEVER FOUND OUT WHAT HAPPENED TO IT. HE KEPT  
14 IT FOR A YEAR AND A HALF AND THEN HE SAID HE WAS TRYING TO  
15 SELL IT.

16 Q AND EVENTUALLY HE NO LONGER HAD IT, DIDN'T HE?

17 A YES.

18 Q AND ALTHOUGH THE ROLLS ROYCE WAS GONE, YOUR  
19 MONEY DID NOT RETURN?

20 A NO, I DIDN'T GET ALL OF MY MONEY BACK. I GOT  
21 TWENTY THOUSAND OF IT BACK.

22 Q WHEN DID HE GIVE YOU \$20,000?

23 A I -- I DON'T HAVE THE DATES. I GUESS YOU  
24 COULD -- I HAVE IT AT HOME. I GUESS MY --

25 Q WELL, ROUGHLY HOW LONG BEFORE YOU LAST SAW  
26 MR. LEVIN DID YOU RECOVER THOSE FUNDS?

27 A OH, ABOUT TWO -- THREE YEARS. TWO AND A HALF  
28 YEARS.

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1 Q I SEE, AND THEN HE CONTINUED OWING YOU ONLY  
2 \$6,000?

3 A TWENTY-SIX THOUSAND. HE OWED ME FOURTY-SIX  
4 THOUSAND TO BEGIN WITH.

5 Q OH, I'M SORRY, MA'AM. I THOUGHT INITIALLY YOU  
6 GAVE HIM \$26,000. YOU GAVE HIM \$46,000?

7 A THAT'S WHAT I TOLD YOU.

8 Q DID HE GIVE YOU ANY COLLATERAL FOR THAT?

9 A NO.

10 Q DID HE GIVE YOU A PROMISSORY NOTE?

11 A YES, HE DID.

12 Q AND THEN LATER ON HE GAVE YOU \$20,000 BACK AND  
13 AT THE TIME OF HIS DISAPPEARANCE HE STILL OWED YOU \$26,000?

14 A THAT'S RIGHT.

15 Q WERE YOU FAMILIAR WITH THE FACT THAT HE OWED A  
16 LOT OF OTHER PEOPLE A CONSIDERABLE AMOUNT OF MONEY?

17 A NO.

18 Q YOU DIDN'T HEAR ANYTHING ABOUT THAT?

19 A WELL, I HEARD RUMORS, OF COURSE, BECAUSE I WAS  
20 CONCERNED ABOUT MY MONEY, BUT I DON'T KNOW WHAT HE -- WHO HE  
21 OWED OR.....

22 Q DID YOU EVER HAVE ANY INCIDENTS WHERE PEOPLE  
23 CAME OVER TO THE HOUSE DEMANDING MONEY?

24 A SO MANY PEOPLE CAME TO HIS HOUSE. I DON'T -- I  
25 REALLY COULDN'T SAY. I DIDN'T PAY ANY ATTENTION TO HIS  
26 BUSINESS. WHATEVER THEY WERE THERE FOR, IF I ANSWERED THE  
27 DOOR I TOOK THEM IN HIS OFFICE, AND HE WAS IN HIS OFFICE  
28 MOST OF THE TIME. WHATEVER THEY WERE TALKING ABOUT WAS NO

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1 CONCERN OF MINE.

2 Q NOW, YOU TESTIFIED THAT THE ANSWERING SERVICE  
3 WHEN YOU CALLED THEM SAID HE WAS NOT RECEIVING ANY CALLS.

4 A THAT'S -- HE SAID "MR. LEVIN IS NOT TAKING  
5 CALLS THIS MORNING."

6 Q WHAT DID THAT MEAN TO YOU?

7 A I COULDN'T UNDERSTAND IT. BUT THEN I FOUND OUT  
8 IN THE END WHAT IT DID MEAN, THAT MR. FACTOR HAD CALLED  
9 EARLIER IN THE MORNING.

10 Q AND?

11 A AND HE DIDN'T ANSWER THE PHONE, SO THE SERVICE  
12 WAS JUST SAYING THAT HE WASN'T THERE.

13 Q ALL RIGHT. WHEN YOU CAME INTO THE HOUSE, WERE  
14 YOU BY YOURSELF?

15 A MY HUSBAND WAS WITH ME AND DEAN FACTOR AND THE  
16 OTHER YOUNG MAN; THE FOUR OF US.

17 Q WHY DID YOUR HUSBAND HAPPEN TO BE WITH YOU?

18 A MY HUSBAND CAME WITH ME ALL THE TIME TO WORK.

19 Q WOULD HE NORMALLY JUST DROP YOU OFF?

20 A NO. MY HUSBAND WAS DRIVING THE CAR, AND WE  
21 HAVE A STATION WAGON, AND THERE WERE TWO YOUNG MEN WITH  
22 THEIR LUGGAGE GOING, SO MY HUSBAND DROVE WITH ME TO DRIVE  
23 THEM TO THE AIRPORT.

24 Q ALL RIGHT. I THANK YOU FOR THAT. AND SO HE  
25 WAS -- DID HE DRIVE MR. LEVIN ON PRIOR OCCASIONS TO SOME  
26 PLACES?

27 A YES, OFTEN.

28 Q NOW, ON THIS OCCASION WHEN YOU WENT INTO THE

1 HOUSE, DID YOU SEE ANYTHING AWRY IN THE LIVING ROOM? 706

2 A NO.

3 Q DID YOU SEE AT ANY TIME WHILE YOU WERE LOOKING  
4 AROUND THE HOUSE ANY SIGNS OF VIOLENCE?

5 A NO.

6 Q YOU DIDN'T SEE ANY BROKEN FURNITURE?

7 A NO.

8 Q YOU DIDN'T SEE ANY EVIDENCE OF A STRUGGLE, DID  
9 YOU?

10 A NO.

11 Q YOU DIDN'T SEE ANYTHING LOOKING LIKE IT HAD  
12 BEEN RANSACKED?

13 A NO.

14 Q YOU DIDN'T SEE ANY DRAWERS LEFT OPEN AND THEIR  
15 CONTENTS SPILLED OUT, DID YOU?

16 A NO.

17 Q YOU DIDN'T SEE ANY EVIDENCE THAT IT LOOKED LIKE  
18 THE HOUSE HAD BEEN SEARCHED?

19 A NO.

20 Q YOU DIDN'T SEE ANY BLOOD STAINS ANYWHERE, DID  
21 YOU?

22 A NO.

23 Q YOU DIDN'T SEE ANY OF HIS CLOTHES MESSED UP OR  
24 ANY OF THAT SORT OF THING, DID YOU?

25 A NO.

26 Q YOU DIDN'T SEE ANY DOORS OR WINDOWS THAT HAD  
27 EVIDENCE OF FORCED ENTRY, DID YOU?

28 A NO.

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1 Q ALL WE SAW, THEN, IS RON LEVIN ISN'T THERE --  
2 IF I RECALL YOUR TESTIMONY -- WE FIND HIS VALUABLES ARE  
3 THERE, WE FIND A JOGGING SUIT THAT WAS ON -- NEXT TO THE BED  
4 NOT THERE?

5 A THAT'S RIGHT.

6 MR. WAPNER: OBJECTION. IT'S COMPOUND, YOUR HONOR.  
7 ALSO, IT'S IN THE FORM OF "WE FIND". I DON'T KNOW WHO HE'S  
8 TALKING ABOUT.

9 MR. BARENS: EVIDENTLY, THE WITNESS, MR. WAPNER,  
10 ENTERS THE ROOM WITH SOME OTHER PEOPLE WHO I ASSUME ARE  
11 ACCOMPANYING HER ON HER SEARCH.

12 Q DID THEY?

13 A YES. I STATED THAT.

14 MR. BARENS: WELL --

15 THE COURT: WELL, PERHAPS WE BETTER ASK HER IF "SHE"  
16 FOUND. YOU ARE USING THE PONTIFICAL "WE".

17 Q BY MR. BARENS: YOU FOUND THIS JOGGING SUIT  
18 MISSING?

19 A YES.

20 Q AND HIS WALLET WAS MISSING.

21 A I DIDN'T SEE HIS WALLET.

22 Q WELL, IT WASN'T THERE, WAS IT?

23 A I HAVE NO IDEA. I DIDN'T SEARCH THE HOUSE. IT  
24 WASN'T IN ITS USUAL PLACE. I DON'T KNOW WHETHER IT WAS  
25 THERE OR NOT.

26 Q AND YOU DID NOT FIND HIS HOUSE KEYS?

27 A I DID NOT SEE HIS HOUSE KEYS, NO.

28 Q WELL, COULD IT HAVE BEEN UNDERSTANDABLE TO YOU

708

1 THAT IF HIS JOGGING SUIT WAS GONE AND HIS KEYS ARE GONE AND  
2 HIS WALLET IS GONE THAT HE MIGHT HAVE GONE SOMEPLACE WEARING  
3 THAT JOGGING SUIT AND TAKING HIS WALLET WITH HIM AS ONE  
4 MIGHT NORMALLY IF THEY LEAVE HOME DO ALONG WITH THEIR HOUSE  
5 KEYS? SUPPOSING -- I MEAN IT'S POSSIBLE HE MIGHT HAVE GONE  
6 OUT TO BREAKFAST AND TAKEN A WALK TO NATE AND AL'S IN  
7 BEVERLY HILLS?

8 A WITH HIS BATHROBE ON, TOO?

9 Q WELL, ALL WE KNOW IS THAT HIS BATHROBE ISN'T  
10 THERE, MA'AM. BUT WE DO KNOW THAT HE REGULARLY WORE THAT  
11 JOGGING SUIT --

12 MR. WAPNER: OBJECTION, YOUR HONOR. ARGUMENTATIVE.

13 THE WITNESS: I DON'T KNOW THAT HE HAD JOGGING SUIT  
14 ON.

15 THE COURT: THE OBJECTION WILL BE OVERRULED. SHE HAS  
16 ANSWERED.

17 Q BY MR. BARENS: BASED ON JUST THE PHYSICAL  
18 OBSERVATIONS THAT YOU SAW THERE, YOU COULDN'T SEE ANYTHING  
19 THAT MADE YOU BELIEVE SOMETHING -- JUST BASED ON THE  
20 EVIDENCE YOU SAW, THE PHYSICAL EVIDENCE THAT YOU SAW, YOU  
21 DIDN'T SEE ANYTHING THAT LOOKED LIKE MR. LEVIN HAD BEEN  
22 SUBJECTED TO ANY VIOLENCE.

23 A THERE WERE ODD THINGS, AS FAR AS I WAS  
24 CONCERNED. FIRST OF ALL, HIS NOT BEING THERE.

25 Q NO, MA'AM. I'M NOT ASKING YOU THAT QUESTION.  
26 I'M ASKING YOU DID YOU SEE ANYTHING THAT GAVE YOU THE  
27 IMPRESSION THAT MR. LEVIN HAD BEEN SUBJECTED TO ANY VIOLENCE  
28 IN THE HOME THERE.

709

1 A NO.

2 Q ALL RIGHT. NOW, DID YOU SEE ANY CHECKS OUT?

3 A NO.

4 Q NO CHECKS ON TOP OF ANY DESK?

5 A I DIDN'T PAY ANY ATTENTION TO THE DESK. I  
6 LOOKED ON THE DESK FOR THE TICKETS.

7 Q UM-HMM.

8 A AND THEN I DIDN'T GO THROUGH THE CHECKS. I  
9 WENT IN THE BACK INTO THE BEDROOM. I DIDN'T GO THROUGH HIS  
10 DESK.

11 Q NO. I'M NOT SAYING GO THROUGH, BUT ON THE  
12 SURFACE, ON THE TOP, LIKE YOU MIGHT HAVE ON THIS TABLE HERE.  
13 YOU DIDN'T NOTICE ANY CHECKS?

14 A I DARE SAY ON HIS DESK LOOKED ABOUT LIKE THIS  
15 (INDICATING). HE ALWAYS KEPT MANY THINGS ON HIS DESK. SO  
16 I -- THERE'S NO WAY YOU COULD --

17 Q YOU WOULDN'T KNOW.

18 MR. WAPNER: YOUR HONOR, I --

19 THE COURT: "ABOUT LIKE THIS", ARE YOU DESCRIBING THE  
20 POSITION IN FRONT HAVE THE DISTRICT ATTORNEY?

21 THE WITNESS: I'M SAYING THAT HE HAD THAT MANY PAPERS  
22 OR MORE THINGS ON HIS --

23 MR. WAPNER: FOR THE RECORD, THERE ARE EIGHT FILES  
24 KIND OF IN A LINE, TWO NOTEBOOKS LYING OPEN, SOME LEGAL  
25 PADS, ANOTHER NOTEBOOK AND A STACK OF SEVERAL FILES AND A  
26 CALENDAR BOOK AND ANOTHER STACK OF TRANSCRIPTS WITH A BOOK  
27 OPEN ON THE TOP OF IT AND ONE OTHER BOOK TO THE SIDE AND A  
28 BOX AND SOME PAPERS.

710

1 MR. BARENS: WELL, I 'LL STIPULATE TO TO ALL OF THAT,  
2 MR. WAPNER.

3 Q ALL RIGHT. MOVING AHEAD HERE, DID -- ARE YOU  
4 FAMILIAR WITH A SMALL ALCOVE OFF THE BEDROOM?

5 A YES, I AM.

6 Q DID YOU HAPPEN TO SEE SEVERAL PIECES OF YELLOW  
7 LEGAL SIZED PAPER SIMILAR TO THOSE IN THIS PAD HERE  
8 (INDICATING) LYING ON THE FLOOR IN THAT ROOM?

9 A I DIDN'T GO IN THAT ROOM.

10 Q YOU NEVER LOOKED IN THAT ROOM?

11 A NOT THAT DAY, NO, I DIDN'T.

12 Q ANY PARTICULAR REASON WHY YOU WOULDN'T LOOK IN  
13 THAT ROOM?

14 A WE WERE ALL UPSET AT THE TIME. HE DIDN'T SHOW  
15 UP. I CAME THERE TO PICK HIM UP TO GO ON A TRIP AND I WAS  
16 NOT LOOKING AROUND THE HOUSE. WE WERE LOOKING FOR HIM.

17 Q I SEE. ALL RIGHT. HIS CAR WAS PARKED IN ITS  
18 NORMAL LOCATION?

19 A YES. I WAS -- I KNEW HIS CAR WAS THERE BECAUSE  
20 I WAS GOING TO USE HIS CAR WHILE HE WAS GONE.

21 Q WHERE WOULD YOU HAVE GOTTEN THE KEYS FOR THAT  
22 CAR?

23 A HE HAD LEFT THE KEYS FOR ME.

24 Q AND THEY WERE WHERE THEY WERE SUPPOSED TO BE?

25 A I AM PRETTY -- I'M NOT SURE. NOW, I REALLY --  
26 I DON'T -- I DIDN'T -- I JUST DIDN'T LOOK AND CHECK EVERY  
27 SINGLE THING. I LOOKED UP ON -- TO SEE IF HIS WALLET WAS  
28 THERE. I DON'T KNOW. THIS HAS BEEN QUITE A LONG TIME AGO,



711

1 BUT I WAS GOING TO USE HIS CAR. I TOLD HIS MOTHER THAT.

2 MR. BARENS: PASS ON THE WITNESS, YOUR HONOR. THANK  
3 YOU.

4 THE COURT: ANY REDIRECT?

5 MR. WAPNER: NO YOUR HONOR.

6 THE COURT: MAY THIS WITNESS BE EXCUSED?

7 MR. WAPNER: NO OBJECTION.

8 MR. BARENS: NO OBJECTION, YOUR HONOR.

9 THE COURT: THANK YOU VERY MUCH.

10 MR. WAPNER: CAROL LEVIN.

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

15 THE WITNESS: I DO.

16

17

CAROL M. LEVIN,

18

19 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
20 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

19

20

21 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
22 SPELL YOUR LAST NAME FOR THE RECORD.

21

22

23 THE WITNESS: CAROL M. LEVIN, L-E-V-I-N.

23

24

25 THE CLERK: THANK YOU.

25

DIRECT EXAMINATION

26

BY MR. WAPNER:

27

Q MRS. LEVIN, WERE YOU RELATED TO RON LEVIN?

28

A I WAS.

712

1 Q AND WHAT WAS THAT RELATIONSHIP?

2 A HE WAS MY SON.

3 Q AND WHERE DO YOU LIVE?

4 A UM --

5 Q YOU DON'T HAVE TO GIVE US THE EXACT ADDRESS,  
6 BUT JUST THE PART OF TOWN.

7 MR. BARENS: YOUR HONOR, I'D OBJECT TO THE USE OF THE  
8 PAST TENSE HERE. IT ASSUMES A PREJUDICIAL EFFECT NOT IN  
9 EVIDENCE, AND I WOULD BE REMISS IF FOR THE RECORD WE DIDN'T  
10 COMMENT ON IT.

11 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
12 SUSTAINED. I BELIEVE WE SHOULD USE THE PRESENT TENSE.

13 MR. WAPNER: OKAY. WHATEVER THE COURT FEELS IS  
14 APPROPRIATE.

15 Q WHERE DO YOU LIVE, MA'AM?

16 A IN CHEVIOT HILLS.

17 Q AND PRIOR TO; THAT IS; BEFORE JUNE OF 198- --  
18 JUNE THE 7TH OF 1984, WHERE WAS YOUR SON LIVING?

19 A AT 144 SOUTH PECK.

20 Q IN BEVERLY HILLS?

21 A IN BEVERLY HILLS.

22 Q AND CAN YOU PLEASE DESCRIBE THE NATURE OF THE  
23 RELATIONSHIP BETWEEN YOU AND YOUR SON.

24 A WE WERE VERY CLOSE. I HAD A VERY LOVING,  
25 DEVOTED SON.

26 Q HOW OFTEN DID YOU SEE OR TALK TO HIM?

27 A TWO, THREE TIMES A WEEK.

28 Q AND WHEN HE LEFT LOS ANGELES TO GO ON A TRIP,

710

1 WHAT WAS HIS HABIT OR CUSTOM WITH RESPECT TO YOU?

2 A HE ALWAYS CALLED ME BEFORE HE LEFT, HE CALLED  
3 ME WHEN HE GOT WHEREVER HE WAS GOING AND HE CALLED ME WHEN  
4 HE GOT HOME.

5 Q SOMETIME IN SPRING OF 1984, HE WENT TO  
6 AUSTRALIA?

7 A HE DID.

8 Q AND DO YOU KNOW HOW LONG HE WAS GONE?

9 A MAYBE FOUR TO SIX DAYS.

10 Q AND DURING THAT TIME DID YOU TALK TO HIM?

11 A YES.

12 Q HOW OFTEN?

13 A WELL, HE CALLED ME BEFORE HE LEFT AND HE CALLED  
14 ME WHEN HE GOT THERE AND THEN HE CALLED ME BEFORE HE CAME  
15 HOME AND THEN HE CALLED ME WHEN HE GOT HOME.

16 Q SO WITHIN THAT FOUR TO SIX DAYS HE PROBABLY  
17 CALLED YOU --

18 A FOUR TIMES.

19 Q WOULD IT BE UNUSUAL FOR HIM TO LEAVE TOWN AND  
20 NOT CALL YOU?

21 A VERY.

22 Q WHEN WAS THE LAST TIME THAT YOU SAW HIM BEFORE  
23 JUNE THE 7TH OF 1984?

24 A I SAW HIM ON JUNE THE 6TH.

25 Q WHERE WAS THAT?

26 A ON PECK DRIVE. HE WAS WALKING HIS DOG.

27 Q AND WHAT WAS YOUR PURPOSE IN BEING AT THAT  
28 LOCATION?

711

1 A WELL, I WAS GOING UP TO WILSHIRE BOULEVARD AND  
2 I JUST SAW HIM -- I WOULD HAVE STOPPED IN TO SEE HIM ANYWAY,  
3 BUT HE HAPPENED TO BE OUTSIDE.

4 Q SO YOU STOPPED AND CHATTED WITH HIM?

5 A YES, JUST FOR A MOMENT.

6 Q AND WERE YOU AWARE THAT HE WAS PLANNING TO GO  
7 TO NEW YORK?

8 A YES, OF COURSE.

9 Q DID YOU RECEIVE A CALL FROM BLANCHE STURKEY ON  
10 THURSDAY MORNING, JUNE THE 7TH, 1984?

11 A I DID.

12 Q AND WHAT TIME WAS THAT APPROXIMATELY THAT YOU  
13 GOT THAT CALL?

14 A ABOUT 8:30 IN THE MORNING.

15 Q AND AFTER YOU GOT THAT CALL, WHAT DID YOU DO?

16 A I WENT OVER THERE.

17 Q WENT OVER WHERE?

18 A TO RONNIE'S APARTMENT.

19 Q BLANCHE HAD TOLD ME ON THE TELEPHONE THAT SHE  
20 CAME IN AND EVERYTHING WAS THERE EXCEPT RONNIE IS MISSING.

21 Q SO WHEN YOU WENT OVER THERE, WHAT'S THE FIRST  
22 THING THAT YOU SAW?

23 A OH, GOD, I WAS SO PANIC STRICKEN. JUST  
24 EVERYTHING WAS AS IT WAS. EVERYTHING WAS THERE, AND BLANCHE  
25 SHOWED ME HIS LITTLE BLACK CASE THAT HE -- SHE SAYS "HE  
26 NEVER MOVES ANYPLACE WITHOUT THAT." THAT HAD HIS TOILETRIES  
27 IN IT.

28 Q OKAY, AND DID YOU SEE THE AIRLINE TICKETS THAT

715

1 MORNING?

2 A I DON'T REMEMBER. I THINK THEY WERE ON THE  
3 DESK. I THINK THERE WERE TICKETS ON THE DESK.

4 Q DID BLANCHE SHOW YOU A PLACE WHERE YOUR SON  
5 KEPT HIS VALUABLES?

6 A YES.

7 Q WHERE WAS THAT?

8 A IN A CUBBYHOLE IN HIS CLOSET.

9 Q AND DID YOU LOOK IN THERE?

10 A YES.

11 Q WHAT DID YOU SEE?

12 A I FOUND HIS VALUABLES.

13 Q WHAT DID YOU FIND IN THERE?

14 A THREE OR FOUR WATCHES.

15 Q WHAT ELSE?

16 A AND THAT WAS ALL. OH, HIS CUFFLINKS AND HIS  
17 MONEY CLIP AND A COUPLE RINGS.

18 Q DID IT LOOK LIKE THEY HAD BEEN DISTURBED IN ANY  
19 WAY?

20 A NO.

21 Q SINCE THE TIME THAT YOU SAW YOUR SON ON JUNE  
22 THE 6TH ON PECK DRIVE, HAVE YOU SEEN HIM?

23 A NO.

24 Q HAVE YOU HEARD FROM HIM?

25 A NO.

26 Q WOULD YOU EXPECT THAT IF HE WERE GONE FROM JUNE  
27 THE 7TH UNTIL TODAY, WHICH IS MARCH THE 18TH OF 1985, THAT  
28 IF HE WERE GONE FOR THIS LONG THAT YOU WOULD HEAR FROM HIM?



1 THE COURT: ANYTHING FURTHER?

2 MR. WAPNER: JUST BRIEFLY.

3

4

REDIRECT EXAMINATION

5 BY MR. WAPNER:

6 Q YOU REFERRED TO A CONSERVATOR. WHAT IS THAT  
7 REFERENCE TO?

8 MR. BARENS: I'M GOING TO OBJECT TO THAT AS BEING  
9 IRRELEVANT TO THESE PROCEEDINGS.

10 THE COURT: THE OBJECTION WILL BE SUSTAINED.

11 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

12 THE COURT: ANYTHING FURTHER?

13 MR. BARENS: NOTHING FURTHER.

14 THE COURT: MAY THIS WITNESS BE EXCUSED?

15 MR. WAPNER: I HAVE NO OBJECTION.

16 MR. BARENS: NO OBJECTION.

17 THE COURT: THANK YOU VERY MUCH. DO YOU WANT TO GO  
18 FOR ONE MORE WITNESS OR --

19 MR. WAPNER: NO. I CAN'T FINISH IN FIVE MINUTES  
20 ANYWAY, SO I'D JUST AS SOON GO AFTER LUNCH.

21 THE COURT: ALL RIGHT. AT THIS TIME WE'LL TAKE OUR  
22 NOON RECESS. COUNSEL, DO YOU WANT TO MAKE IT 2:00 OR DO YOU  
23 WANT IT EARLIER THAN THAT? DO YOU HAVE ANY OTHER PLACE TO  
24 GO?

25 MR. BARENS: HOW LATE WAS YOUR HONOR GOING TO WORK  
26 TODAY?

27 THE COURT: WE USUALLY WORK THROUGH TO 4:30 OR A  
28 QUARTER TO 5:00.

718

1 MR. BARENS: I WOULD LIKE TO TERMINATE AT 4:30, IF  
2 POSSIBLE, TODAY.

3 MR. WAPNER, WHAT'S YOUR CONVENIENCE FOR THE  
4 RESUMPTION?

5 MR. TITUS: YOUR HONOR, I HAVE A 1:30 BRIEF  
6 APPEARANCE IN WEST L.A. AT 1:30, SO IF WE COULD MAKE IT  
7 2:00. I'M JUST GOING TO CONTINUE A PROBATION MATTER.

8 THE COURT: ALL RIGHT. WE'LL TAKE OUR NOON RECESS AT  
9 THIS TIME AND WE'LL RESUME AT 2:00 O'CLOCK THIS AFTERNOON.

10 (AT 12:00 NOON, A RECESS WAS TAKEN UNTIL 2:55 P.M. OF  
11 THE SAME DAY.)

12 THE COURT: ALL RIGHT. IN THE MATTER OF PEOPLE  
13 VERSUS JOE HUNT. LET THE RECORD SHOW THAT MR. HUNT IS  
14 PRESENT WITH HIS COUNSEL, MR. BARENS AND MR. TITUS; THE  
15 DISTRICT ATTORNEY, MR. WAPNER, IS PRESENT.

16 ARE YOU READY TO PROCEED AT THIS TIME?

17 MR. WAPNER: YES. JERRY STONE.

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

22 THE WITNESS: SO HELP ME GOD, I DO.

23  
24 GERALD IRA STONE,  
25 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
26 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

27 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
28 SPELL YOUR LAST NAME FOR THE RECORD.



1 THE WITNESS: GERALD IRA STONE, S-T-O-N-E. 719

2 THE COURT: DO YOU WANT WITNESSES EXCLUDED,  
3 MR. BARENS?

4 MR. BARENS: WITNESSES ARE STILL EXCLUDED?

5 THE COURT: ANY WITNESSES IN THE COURTROOM THAT ARE  
6 GOING TO TESTIFY IN THE HUNT CASE, THEY'RE ASKED TO STEP  
7 OUTSIDE AND THEIR NAME WILL BE CALLED ON THE PUBLIC ADDRESS  
8 SYSTEM.

9

10 DIRECT EXAMINATION

11 BY MR. WAPNER:

12 Q MR. STONE, DO YOU OWN A BUSINESS?

13 A YES, I DO. IT'S ANSWERITE TELEPHONE ANSWERING  
14 SERVICE.

15 Q AND DID YOU OWN THAT BUSINESS IN 1984?

16 A YES, I DID.

17 Q DID YOU HAVE A CLIENT BY THE NAME OF RON LEVIN?

18 A YES, I DID.

19 Q AND HOW DID HE COME TO BE A CLIENT OF YOURS?

20 A I DO WORK FOR ANOTHER COMPANY THAT RENTS OUT  
21 OFFICE SPACE AND ALSO HAS A LITTLE ANSWERING SERVICE AND  
22 THEY'RE NOT 24-HOUR SERVICE AND WE ARE, SO WHEN THEY GET  
23 CUSTOMERS THAT THEY CAN'T SERVE, THEY SEND A LOT OF THEM TO  
24 US.

25 Q AND DID YOU TALK TO MR. LEVIN ON THE TELEPHONE?

26 A YES, I DID.

27 Q AND DID YOU PERSONALLY MAKE THE ARRANGEMENTS  
28 WITH HIM AS FAR AS HIM HIRING YOUR FIRM TO TAKE HIS

720

1 MESSAGES?

2 A WELL, HE ACQUIRED THE SERVICE THROUGH EXECUTIVE  
3 SUITES, BUT HE GAVE ME THE INSTRUCTIONS OF HOW HE WANTED HIS  
4 PHONE ANSWERED AND THE DETAILS, AS FAR AS -- IN OTHER WORDS,  
5 HE DIDN'T PAY ME DIRECT, BUT EVERYTHING ELSE HE DID THROUGH  
6 ME.

7 Q OKAY, AND WHEN HE SET UP HIS ACCOUNT WITH YOU,  
8 DID YOU TAKE SOME OF THE INFORMATION FROM HIM IN ORDER TO  
9 ESTABLISH THAT ACCOUNT?

10 A YES, I TOOK ALL THE INFORMATION.

11 Q AND ONCE YOU TAKE THAT INFORMATION, WHAT DID  
12 YOU DO WITH IT?

13 A WELL, WE HAVE A LITTLE FORM THAT WE FILL OUT  
14 AND THAT'S HOW THEY WANT THE PHONE ANSWERED AND OTHER  
15 ALIASES OF PEOPLE AND OTHER PEOPLE WE TAKE MESSAGES FOR AND  
16 THE COMPANY NAMES AND ALL THE PERTINENT INFORMATION TO  
17 SERVING HIM, AND THEN USUALLY MYSELF OR MY WIFE WOULD MAKE  
18 UP A LITTLE CARD LIKE THAT ON THE COMPUTER.

19 Q AND DID YOU MAKE UP A LITTLE CARD IN THIS CASE?

20 A YES, WE DID.

21 MR. WAPNER: YOUR HONOR, I HAVE A BLUE THREE BY FIVE  
22 CARD THAT WAS MARKED FOR THE LAST PRELIMINARY HEARING AS TO  
23 MR. PITTMAN AS PEOPLE'S 7, BUT A COPY WAS INTRODUCED. I'D  
24 LIKE TO ULTIMATELY MOVE FOR THE INTRODUCTION OF THE ORIGINAL  
25 IN THIS CASE, AND I'D ASK FOR THE PURPOSES OF THIS HEARING  
26 THAT IT BE MARKED AS PEOPLE'S 42 FOR IDENTIFICATION.

27 THE COURT: PEOPLE'S 42?

28 MR. WAPNER: YES. I HAD A DISCUSSION WITH THE CLERK

721

1 ABOUT THE NUMBERING OF THE EXHIBITS, AND FOR THE PURPOSE OF  
2 CONTINUITY IN SUPERIOR COURT BECAUSE THERE'S ONLY ONE CASE  
3 NUMBER ON THIS CASE AND MR. PITTMAN'S CASE, WE'VE DECIDED TO  
4 START WITH 42.

5 THE COURT: ALL RIGHT. PEOPLE'S 42 FOR  
6 IDENTIFICATION.

7 MR. WAPNER: AND I ALSO HAVE A MANILA ENVELOPE THAT  
8 CONTAINS A STACK OF SEVERAL THREE BY FIVE WHITE NOTE TYPE  
9 CARDS WITH WRITING AND DATE STAMPS ON THEM, A STACK THAT'S  
10 APPROXIMATELY TWO INCHES HIGH. MAY THAT ENVELOPE AND THE  
11 STACK OF CARDS COLLECTIVELY BE PEOPLE'S 43 FOR  
12 IDENTIFICATION?

13 THE COURT: PEOPLE'S 43 WILL BE SO MARKED.

14 Q BY MR. WAPNER: MR. STONE, DO YOU RECOGNIZE  
15 PEOPLE'S 42 FOR IDENTIFICATION?

16 A YES, I DO.

17 Q WHAT IS IT?

18 A THAT'S ONE OF OUR CUSTOMER INFORMATION CARDS.

19 Q AND DO YOU KNOW BY WHOM THAT WAS PREPARED?

20 A PROBABLY MY WIFE.

21 Q AND DOES SHE PREPARE THAT IN THE ORDINARY  
22 COURSE OF BUSINESS?

23 A YES.

24 Q WHEN IS THAT PREPARED IN RELATION TO WHEN A  
25 CUSTOMER SIGNS UP FOR AN AN ACCOUNT?

26 A IT'S PREPARED IN BETWEEN THE TIME WE TAKE THE  
27 INFORMATION ON THE CUSTOMER AND BEFORE THE TELEPHONE COMPANY  
28 HAS IT HOOKED UP.

722

1 Q AND WAS THAT DONE IN THIS CASE?

2 A IT WAS, AND IT'S USUALLY A THREE-DAY SPAN.

3 Q AND IT'S PREPARED AT OR NEAR THE TIME THAT THE  
4 CUSTOMER PROVIDES YOU WITH THE INFORMATION?

5 A RIGHT.

6 Q AND THE PURPOSE FOR PREPARING THAT AGAIN IS  
7 WHAT?

8 A WELL, THIS WAY WHEN THE CUSTOMER'S LINE COMES  
9 ON SERVICE, THE OPERATORS KNOW HOW TO HANDLE THE ACCOUNT.

10 Q ALL RIGHT. AND BASICALLY THAT'S A RECORD OF  
11 THE INFORMATION THAT THE CUSTOMERS PROVIDED YOU IN TERMS OF  
12 HOW TO HANDLE THE ACCOUNT?

13 A IN THIS CASE, THIS IS THE INFORMATION THAT  
14 MR. LEVIN GAVE ME PERSONALLY.

15 Q OKAY, AND WHAT DO YOU DO WITH THAT CARD ONCE  
16 YOU FILL IT OUT?

17 A WELL, IT GOES IN THE LITTLE PLASTIC SLEEVE AND  
18 IT GOES ON THE SWITCHBOARD NEAR WHERE WE ANSWER HIS  
19 TELEPHONE LINE ON THE SWITCHBOARD.

20 Q ALL RIGHT. AND WHAT TYPE OF ANSWERING SERVICE  
21 DID YOU PROVIDE FOR MR. LEVIN?

22 A WE'D ANSWER HIS TELEPHONE WHEN HE DIDN'T ANSWER  
23 IT IN HIS OFFICE.

24 Q AND BASED ON THE TYPE OF SERVICE THAT HE  
25 REQUESTED, HOW DOES THE -- HOW DOES THE PHONE COMPANY  
26 ACTUALLY HOOK UP THE LINE? IN OTHER WORDS, DOES IT RING IN  
27 YOUR OFFICE AFTER IT RINGS IN HIS HOUSE --

28 A WELL, IN THIS CASE I BELIEVE IT RANG IN HIS

720

1 OFFICE AND IT RANG SIMULTANEOUSLY ON HIS PHONE AND ON OUR  
2 INSTRUMENT.

3 Q AND DID YOU HAVE SOME INSTRUCTIONS AS TO WHEN  
4 TO PICK UP THE PHONE?

5 A WE WERE SUPPOSED TO PICK IT UP RIGHT AWAY.

6 Q AND THE SERVICE WAS 24 HOURS; IS THAT RIGHT?

7 A RIGHT, SIR.

8 Q AND WHEN MR. LEVIN EMPLOYED YOUR SERVICE, DID  
9 YOU HAVE A CONVERSATION WITH HIM ABOUT HOW HE WAS GOING TO  
10 PICK UP THE MESSAGES?

11 A YES. HE TOLD ME THAT --

12 MR. BARENS: I'D OBJECT, YOUR HONOR, TO THE -- TO THE  
13 STATEMENT AS BEING HEARSAY.

14 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
15 SUSTAINED TO THE STATEMENT.

16 MR. WAPNER: THANK YOU, YOUR HONOR.

17 Q AND WERE YOU FAMILIAR IN -- WELL, WHEN WAS IT  
18 THAT MR. LEVIN FIRST SIGNED UP WITH YOUR SERVICE?

19 A WELL, HE CAME ON SERVICE ON 5-22-84, SO IT  
20 PROBABLY WOULD HAVE BEEN THREE OR FOUR BUSINESS DAYS  
21 PREVIOUS TO THAT.

22 Q DID YOU ACTUALLY WORK AT THE BUSINESS?

23 A YES, I DO. I DID THEN AND I DO NOW.

24 Q AND FROM THE PERIOD OF MAY 22, 1984 THROUGH  
25 JUNE THE 7TH OF 1984, WERE YOU WORKING AT THE BUSINESS?

26 A YES, I WAS.

27 Q AND DID YOU WORK AT THE BUSINESS DURING THE  
28 DAYS AND EVENINGS FROM JUNE THE 7TH THROUGH THE PRESENT

721

1 TIME?

2 A YES.

3 Q WERE YOU FAMILIAR WITH MR. LEVIN'S CUSTOM AND  
4 HABIT IN TERMS OF PICKING UP HIS MESSAGES FROM MAY THE 22ND  
5 THROUGH JUNE THE 6TH?

6 A OTHER THAN I KNOW THAT HE DID PICK THEM UP  
7 REGULARLY. THERE WAS NOTHING UNUSUAL ABOUT THE WAY HE  
8 PICKED THEM UP.

9 Q WHAT DOES "REGULARLY" MEAN?

10 A JUST ABOUT EVERY DAY THEY WERE CLEARED OUT.

11 Q AND HOW DID THE MESSAGES -- HOW ARE THEY KEPT  
12 BEFORE THEY'RE PICKED UP BY THE CLIENT?

13 A THEY ARE KEPT IN A LITTLE BOX OVER THE  
14 SWITCHBOARD. THERE'S A RACK WITH LITTLE POCKETS FOR EACH  
15 CUSTOMER.

16 Q AND WHEN YOU SAY THEY WERE CLEARED OUT ABOUT  
17 EVERY DAY, I ASSUME THAT REFERS TO THE POCKET OF --

18 A RIGHT.

19 Q OKAY, AND WHAT HAPPENED SUBSEQUENT TO JUNE THE  
20 6TH OF 1984?

21 A HE STOPPED CALLING IN FOR MESSAGES.

22 Q WERE THE -- HOW WERE THE MESSAGES ACTUALLY  
23 TAKEN?

24 A WELL, WE USED TO ANSWER HIS PHONE "NETWORK  
25 NEWS", AND THEY WOULD ASK FOR MR. LEVIN OR WHOEVER THEY  
26 WOULD ASK FOR, AND THE OPERATOR WOULD TAKE THE NAME OF THE  
27 PARTY THEY WANTED AND WHO WAS CALLING IF THEY WOULD GIVE IT  
28 AND THE PHONE NUMBER AND ANY MESSAGE.

125

1 Q HOW WOULD THEY ACTUALLY RECORD THE MESSAGES?

2 A THEY WOULD WRITE THE -- YOU KNOW, THE PERTINENT  
3 INFORMATION ON THE MESSAGE. ON THE TOP THEY WOULD WRITE THE  
4 NAME AND THE ACCOUNT NUMBER. THEN IT WOULD BE TIME STAMPED  
5 IN, WHO THE MESSAGE WAS FOR WOULD BE ON THE NEXT LINE, THEN  
6 THE PARTY CALLING, UNDERNEATH THAT WOULD BE THE PHONE NUMBER  
7 AND ON THE BOTTOM WOULD BE ANY MESSAGE THAT THE PEOPLE MIGHT  
8 LEAVE.

9 Q AND WHEN A CUSTOMER CALLED IN TO RECEIVE HIS  
10 MESSAGE, WHAT WAS DONE WITH THE PIECE OF PAPER?

11 A WE PUT A LINE THROUGH IT ON THE FACE OF THE  
12 MESSAGE AND TIME STAMPED IT ON THE BACK.

13 Q WERE THERE ANY SITUATIONS WHERE A LINE WOULD BE  
14 PUT THROUGH THE MESSAGE AND TIME STAMPED ON THE BACK EVEN  
15 THOUGH THE CUSTOMER DID NOT PICK IT UP?

16 A ON A RARE OCCASION THERE WOULD BE A MESSAGE  
17 WHICH HAD NO APPARENT VALUE. IF A WOMAN CALLED AND SAID  
18 "NEVER MIND, I 'LL CALL BACK", SOMETIMES THE OPERATOR MIGHT  
19 DO THAT.

20 Q AND WHY WOULD A MESSAGE EVEN BE TAKEN IN THAT  
21 INSTANCE?

22 A WELL, BASICALLY WE GET PAID BY THE AMOUNT OF  
23 MESSAGES WE TAKE. THAT 'S ONE REASON. THE OTHER REASON IS  
24 THAT IF, SAY, SOMEBODY IS IN THEIR OFFICE AND THEY HEARD  
25 THEIR PHONE RING AND THEY CALL UP A HOUR LATER AND SAY "I  
26 HEARD MY PHONE RING A HOUR AGO," AND "WE DON'T HAVE A  
27 MESSAGE FOR YOU", IT WOULD LOOK LIKE WE WEREN'T ANSWERING  
28 THE PHONE.

729

1 Q SHOWING YOU AN ENVELOPE AND ITS CONTENTS MARKED  
2 PEOPLE'S 43 FOR IDENTIFICATION, WOULD YOU LOOK INSIDE THERE  
3 AND TELL ME IF YOU RECOGNIZE THE CONTENTS?

4 A THOSE ARE OUR MESSAGES.

5 Q AND WHAT IS THE DATE ON THE OTHER -- ON THE --  
6 ARE THERE SOME IN THE BEGINNING THAT DON'T HAVE DATES ON  
7 THEM OR SOME AT THE END?

8 A MAYBE A FEW THAT HAVE DATES AT THE END.  
9 SOMETIMES THEY MISS WHEN THEY PUT IT IN THE TIME CLOCK. THE  
10 EARLIEST ONE IS DATED JUNE 6TH AT 9:00 A.M..

11 Q AND THE LATEST ONE -- WHAT'S THE DATE ON THE  
12 LATEST ONE, THE ONE AT THE BACK OR THE LATEST ONE WITH A  
13 DATE ON IT?

14 A AUGUST 10TH AT 8:08.

15 Q AND BY LOOKING AT THOSE MESSAGES, WERE ANY OF  
16 THEM ACTUALLY PICKED UP BY MR. LEVIN?

17 A IF THESE ARE THE SAME ONES I EXAMINED THE LAST  
18 TIME, NO. LET ME JUST TAKE A QUICK LOOK.

19 NO. NONE OF THESE WERE PICKED UP.

20 Q AND THAT COVERS THE TIME FROM JUNE THE 6TH TO  
21 AUGUST THE 20TH OF 1984?

22 A DID YOU PUT THESE IN DATE ORDER?

23 Q YES.

24 A I SEE AUGUST 10TH IS THE LAST ONE. THAT'S THE  
25 LAST DATE, UNLESS THEY'RE OUT OF ORDER.

26 Q ALL RIGHT. ASSUMING THEY'RE IN ORDER, THE LAST  
27 DATE THERE IS AUGUST THE 10TH?

28 A RIGHT.



727

1 Q OKAY, AND DID YOU DO SOMETHING WITH THAT STACK  
2 OF MESSAGES ON AUGUST THE 20TH?

3 A I GAVE THEM TO LIEUTENANT ZOELLER. I DON'T  
4 KNOW IF THAT WAS THE DATE.

5 Q BUT IN ANY EVENT, YOU TOOK THAT STACK OF  
6 MESSAGES AND GAVE THEM TO DETECTIVE ZOELLER?

7 A RIGHT.

8 Q AND DID YOU ALSO GIVE HIM THE BLUE CARD THAT'S  
9 MARKED PEOPLE'S 42 FOR IDENTIFICATION?

10 A NO, I DIDN'T.

11 Q DID YOU BRING THAT CARD WITH YOU TO COURT THE  
12 LAST TIME YOU CAME HERE?

13 A YES, I DID.

14 Q AND YOU LEFT IT IN COURT?

15 A YES.

16 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

17 THE COURT: MR. BARENS?

18 MR. BARENS: MAY I APPROACH THE WITNESS, YOUR HONOR?

19 THE COURT: YES.

20

21

CROSS-EXAMINATION

22 BY MR. BARENS:

23 Q REFERRING TO PEOPLE'S EXHIBIT 43, MR. STONE,  
24 NOW, I SEE ON HERE -- AND I PRESUME THIS IS TYPICAL -- IT  
25 IDENTIFIES THE PARTY. AND IS THIS SOME SORT OF A CODE, THIS  
26 668?

27 A RIGHT. THAT WAS HIS CODE NUMBER.

28 Q AND THEN IT'S DATED AND ALL THAT, STAMPED

789

1 AND --

2 A RIGHT.

3 Q -- PARTIES NAME AND NUMBER THERE, RIGHT?

4 A RIGHT.

5 Q LET'S JUST SEE WHAT WE HAVE HERE. COULD YOU  
6 DESCRIBE TO ME WHAT THIS MESSAGE SAYS ON IT? WHAT'S THE  
7 DATE ON IT, FIRST OF ALL?

8 A THE DATE WAS JUNE 8, 1984, TIME IT CAME IN WAS  
9 AT 9:37 A.M., THE MESSAGE WAS FOR MR. LEVIN, THE NAME OF HIS  
10 CUSTOMER WAS NETWORK NEWS, AS WE ANSWERED IT. "JOSEPH HUNT  
11 CALLED AT 655-6391" AND HE LEFT A RESIDENCE NUMBER OF  
12 470-8090 AND SAID IT WAS IMPORTANT.

13 Q ALL RIGHT. SO WE HAVE GOT A JUNE 8TH CALL FROM  
14 MR. HUNT. NOW --

15 MR. WAPNER: IS THAT A QUESTION OR AN EDITORIAL  
16 COMMENT?

17 MR. BARENS: NO. I SUPPOSE HE CAN ANSWER THAT YES OR  
18 NO.

19 THE WITNESS: WHAT'S THE QUESTION?

20 MR. BARENS: WELL, WITHDRAW THE QUESTION.

21 Q WOULD YOU PLEASE IDENTIFY THE CONTENTS OF THIS  
22 MESSAGE, SIR.

23 A OKAY. THIS CAME IN AT 6-12 AT 5:15 P.M.. IT  
24 WAS FOR RON AND SAID "YOUR MOTHER CALLED AGAIN."

25 Q MOTHER CALLED HIM ON THE 12TH OF JUNE. ALL  
26 RIGHT.

27 MR. BARENS: I DID NOT HAVE A CHANCE TO LABEL THESE,  
28 YOUR HONOR.

729

1 Q AND COULD YOU PLEASE IDENTIFY THIS MESSAGE,  
2 SIR.

3 A THIS CAME IN JUNE 19TH AT 5:43 FOR RON FROM JOE  
4 AT 655-6391.

5 Q WAS THAT, DO YOU RECALL, THE SAME NUMBER AS THE  
6 JOSEPH HUNT WE REFERRED TO EARLIER, A COUPLE OF MINUTES AGO?

7 A I DON'T REMEMBER. I WASN'T PAYING ATTENTION TO  
8 THE NUMBER.

9 Q WELL, PERHAPS THIS MESSAGE WILL HELP YOU IN  
10 THAT REGARD. WOULD YOU PLEASE READ THAT MESSAGE.

11 A THAT WAS ON JUNE 19TH AT 8:09 FROM JOE HUNT AT  
12 655-6391. SAME NUMBER.

13 Q SAME NUMBER. SO MR. HUNT HAD CALLED ON THOSE  
14 OCCASIONS ALONG WITH MR. LEVIN'S MOTHER; IS THAT CORRECT?

15 A RIGHT.

16 Q NOW, YOU TOLD US EARLIER, I BELIEVE, THAT IF A  
17 MESSAGE WERE PICKED UP THAT YOU WOULD INTERLINEATE THE  
18 MESSAGE BY STRIKING THROUGH IT WITH A LINE; IS THAT CORRECT?

19 A THAT'S TWO THINGS I DID. I PUT A LINE THROUGH  
20 IT, AND THEY TIME STAMP IT ON THE BACK.

21 Q HOW WOULD YOU EXPLAIN -- COULD YOU PLEASE FIRST  
22 DESCRIBE THAT MESSAGE TO THE COURT.

23 A OKAY. IT'S A MESSAGE FOR RON FROM NETWORK FROM  
24 DAVID REISS, 659-5600. IT DOES HAVE A MARK ON IT, BUT IT'S  
25 NOT TIME STAMPED ON THE BACK.

26 Q WHAT DOES THAT MEAN?

27 A IT'S PROBABLY SOMEBODY JUST PUT IT ON BY  
28 MISTAKE.

730

1 Q OR COULD IT MEAN THE MESSAGE WAS PICKED UP --

2 A NO.

3 Q -- AND THE MISTAKE IS THAT IT WASN'T TIME  
4 STAMPED ON THE BACK?

5 A IT WOULD BE VERY UNLIKELY BECAUSE WHY WOULD HE  
6 JUST PICK UP ONE MESSAGE OUT OF A PILE OF 150 MESSAGES  
7 SITTING THERE.

8 Q WELL, THAT'S SPECULATION ON YOUR PART. WHAT  
9 I'M ASKING YOU, THOUGH, IS ISN'T IT TRUE THAT THE FACE OF  
10 THAT MESSAGE BEARS THE SAME INTERLINEATION THAT YOU USE WHEN  
11 A MESSAGE HAS BEEN PICKED UP AND CANCELLED?

12 A RIGHT.

13 Q THANK YOU.

14 Q NOW, COULD YOU PLEASE DESCRIBE THIS MESSAGE TO  
15 THE COURT.

16 A OKAY. THIS IS A MESSAGE OF A LADY WILL CALL  
17 BACK. IT'S STAMPED -- IT'S STAMPED ON JULY 24TH AT 10:00  
18 O'CLOCK. HE WAS -- WE WERE RUNNING OUT OF ROOM IN HIS BOX,  
19 SO MESSAGES THAT HAD NO APPARENT VALUE WE WERE STAMPING OUT  
20 AND JUST FILING IT AWAY. HOW I KNOW THAT IS BECAUSE IT HAD  
21 THE SAME TIME, 10:00 O'CLOCK, AS ON FRONT AS ON BACK. WE  
22 WERE RUNNING OUT OF PLACES TO KEEP THEM SINCE THERE WERE SO  
23 MANY.

24 Q WERE THERE INCOMING CALLS FOR MR. LEVIN ON YOUR  
25 SERVICE SUBSEQUENT TO 8-10-85?

26 A THESE MESSAGES.

27 Q I BELIEVE YOU SAID THAT THE LAST DATE YOU HAVE  
28 THERE IS 8-10-85?

1 A RIGHT. THAT IS PROBABLY THE LAST MESSAGE THAT  
2 WE HAD. THAT MIGHT HAVE BEEN WHY. HIS LINE HAS BEEN TURNED  
3 OFF AT ONE POINT.

4 Q I'M SORRY. I SAID '85. I MISSPOKE MYSELF.  
5 '84. THEREFORE, YOU KNOW LONGER SERVICED THE LINE AFTER  
6 8-10-84?

7 A BEFORE WE HAD TURNED -- WE DIDN'T TURN HIS  
8 SERVICE OFF. I GUESS IT WAS TURNED OFF BY THE PHONE COMPANY  
9 OR SOMEBODY ON HIS SIDE BECAUSE THE LINE JUST STOPPED  
10 WORKING ONE DAY.

11 Q ALL RIGHT. THANK YOU.

12 MR. BARENS: THANK YOU. YOUR HONOR, THE CALL -- OH,  
13 FIRST OF ALL, I HAVE NOTHING FURTHER OF THIS WITNESS.

14 ANY REDIRECT?

15 MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

16 THE COURT: YES.

17 MR. BARENS: WHAT I WAS GOING TO SUGGEST, YOUR HONOR,  
18 THE CALLS FROM MY CLIENT I WANTED TO MARK SEPARATLY FOR  
19 IDENTIFICATION FOR EASIER REFERENCE SUBSEQUENTLY. I BELIEVE  
20 THERE WERE --

21 THE COURT: THERE WERE TWO AT LEAST, WEREN'T THERE?

22 MR. BARENS: TWO OR THREE OF THOSE. IF WE COULD MARK  
23 THOSE 43A, B AND C, IF THERE WAS A C. I THINK THERE WAS  
24 THREE, IN FACT. I THINK ONE WAS THE 12TH OF JUNE AND ONE  
25 WAS THE 18TH AND ONE WAS THE 19TH.

26 THE COURT: ARE THEY BY DATES?

27 MR. BARENS: YEAH, EXCEPT I'M TRYING NOT TO GET THEIR  
28 STUFF OUT OF -- OKAY.

1 I'M REPRESENTING TO THE COURT THAT I'M  
2 IDENTIFYING THESE AS I LOOK AT THEM. THERE'S A MESSAGE JUNE  
3 18, '84 FROM JOSEPH HUNT THAT SAYS "IMPORTANT" ON IT. AND  
4 WE'LL MARK THAT 43A.

5 THE COURT: ALL RIGHT. THAT'S 8-8?

6 MR. BARENS: NO. THAT'S 6-8-84, SIR.

7 THE COURT: I'M SORRY. 6-8.

8 MR. BARENS: WE HAVE A MESSAGE THAT SAYS "YOUR MOTHER  
9 AGAIN", 6-12, WHICH WE'LL CALL 43B.

10 THE COURT: ALL RIGHT. 6-12, MOTHER CALLED.

11 MR. BARENS: WE HAVE "JOE", SAME PHONE NUMBER AS  
12 SUBSEQUENTLY IDENTIFIED AS JOE HUNT, ON 6-19.

13 THE COURT: 6-19. WE'LL MARK THAT 43C.

14 MR. BARENS: THANK YOU, YOUR HONOR. WE HAVE 6-19,  
15 LATER IN THE DAY, "JOE HUNT", SAME PHONE NUMBER, WHICH I  
16 GUESS WOULD BE D.

17 THE COURT: 43D.

18 MR. WAPNER: COUNSEL, ARE YOU MARKING THESE SOMEHOW?

19 MR. BARENS: NO.

20 NOW, WE'RE GOING TO GO BACK AND FIND THESE AND  
21 MARK THEM AGAIN, YOUR HONOR.

22 MR. WAPNER: I WROTE THE DATES DOWN, COUNSEL, IF YOU  
23 WANT THEM.

24 MR. BARENS: I DON'T KNOW WHY I HAVE LOU HERE IF I'M  
25 DOING THIS.

26 OKAY. 6-8 WE START WITH ON -- WE'RE GOING TO  
27 CALL THIS -- THIS IS 43A, WAS IT?

28 THE COURT: 43A.

1 MR. BARENS: OKAY. NOW, WE HAVE HIS MOTHER ON 6-12,  
2 WHICH IS 43B.

3 MR. TITUS: 6-19.

4 MR. BARENS: WE 'VE GOT "JOE" ON 6-19, WHICH IS 43C.

5 THE COURT: C.

6 MR. BARENS: WE HAVE "JOE HUNT" ON 6-19, WHICH IS  
7 43D.

8 THE COURT: I THINK THAT 'S IT.

9 MR. BARENS: THAT WILL BE IT FOR THE MOMENT, YOUR  
10 HONOR.

11 MR. WAPNER: I HAVE NO REDIRECT, YOUR HONOR.

12 MR. BARENS: NO OBJECTION TO THIS WITNESS BEING  
13 EXCUSED, YOUR HONOR.

14 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, SIR.

15 MR. WAPNER: MAY PEOPLE 'S 42 AND 43 BE RECEIVED?

16 ANY OBJECTION, COUNSEL?

17 MR. BARENS: NO OBJECTION.

18 THE COURT: ALL RIGHT. PEOPLE 'S 42 AND 43 WILL BE  
19 RECEIVED INTO EVIDENCE AT THIS TIME.

20 MR. WAPNER: THAT 'S 43 IN IT 'S ENTIRETY, YOUR HONOR?

21 THE COURT: 43 IN IT 'S ENTIRETY. COLLECTIVELY AND  
22 ALSO WITH THE 43A THROUGH D SERIES. SO RECEIVED.

23 MR. WAPNER: YOUR HONOR, AT THIS TIME I 'D LIKE TO  
24 CALL MARTIN LEVIN. I 'D ALSO LIKE TO ADVISE THE COURT AND  
25 COUNSEL I HAVE A WITNESS, SCOTT FURSTMAN, WHO IS A  
26 PRACTICING ATTORNEY AND I 'VE MADE ARRANGEMENTS WITH HIM TO  
27 BE HERE AT -- BETWEEN 3:30 AND 4:00 O 'CLOCK THIS AFTERNOON,  
28 AND I 'M HOPING WITH THE COURT AND COUNSEL 'S INDULGENCE THAT

1 WE CAN GET HIM ON THIS AFTERNOON BECAUSE HE 'S APPARENTLY  
2 ENGAGED OR ABOUT TO BECOME ENGAGED TOMORROW IN A MURDER  
3 TRIAL SO HE 'S GOING TO HAVE DIFFICULTY BEING HERE TOMORROW.

4 MR. BARENS: WELL, DO YOU WANT TO -- OFF THE RECORD  
5 FOR A MOMENT.

6 (A DISCUSSION WAS HELD OFF THE RECORD)

7 MR. BARENS: THAT 'S FINE TO PROCEED ON THAT BASIS,  
8 YOUR HONOR.

9 THE COURT: ALL RIGHT. LET 'S PROCEED, THEN.

10 MR. WAPNER: MARTIN LEVIN.

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

15 THE WITNESS: I DO.

16  
17 MARTIN LEVIN,  
18 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
19 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

20 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
21 SPELL YOUR LAST NAME FOR THE RECORD.

22 THE WITNESS: MARTIN LEVIN, L-E-V-I-N.

23 THE CLERK: THANK YOU.

24  
25 DIRECT EXAMINATION

26 BY MR. WAPNER:

27 Q MR. LEVIN, ARE YOU RELATED TO RON LEVIN?

28 A YES.



735

1 Q HOW?

2 A HE IS MY SON.

3 Q AND DID YOU -- STRIKE THAT.

4 MR. WAPNER: MAY I HAVE JUST A MOMENT?

5 Q AND CAROL LEVIN IS YOUR WIFE; IS THAT CORRECT?

6 A YES.

7 Q DID YOU RECEIVE A CALL FROM YOUR WIFE IN THE  
8 EARLY MORNING HOURS OF JUNE 7TH, 1984?

9 A YES, I DID.

10 Q AND AFTER YOU GOT THAT CALL, WHAT DID YOU DO?

11 A I IMMEDIATELY CAME OVER TO MY SON'S APARTMENT.

12 Q WHICH IS LOCATED WHERE?

13 A ON 144 SOUTH PECK.

14 Q IN BEVERLY HILLS?

15 A BEVERLY HILLS.

16 Q AND WAS YOUR WIFE THERE WHEN YOU GOT THERE?

17 A MY WIFE WAS THERE, YES.

18 Q WAS BLANCHE STURKEY THERE, ALSO?

19 A YES.

20 Q AND HER HUSBAND, CHRIS STURKEY?

21 A YES.

22 Q WHEN YOU GOT THERE DID YOU TALK TO YOUR WIFE  
23 AND TO BLANCHE STURKEY?

24 A YES, I DID.

25 Q AND AFTER YOU DID THAT, WHAT DID YOU DO?

26 A JUST DIDN'T DO MUCH OF ANYTHING.

27 Q DID YOU LOOK FOR YOUR SON'S CAR?

28 A YES.

730

1 Q WHAT TYPE OF A CAR DID HE HAVE?

2 A A BMW.

3 Q AND WAS IT AT HIS RESIDENCE?

4 A IT WAS AT THE GARAGE, YES, IN A CARPORT.

5 Q DID YOU FIND THE KEYS TO THE CAR?

6 A YES.

7 Q WHERE WERE THEY?

8 A THEY WERE ON THE SHELF.

9 Q WHAT SHELF?

10 A I BELIEVE THEY WERE IN THE BEDROOM.

11 Q OKAY, AND DID YOU SEE ANY OF YOUR SON'S  
12 PERSONAL PROPERTY, VALUABLES, ANYTHING LIKE THAT?

13 A YES.

14 Q WHERE WAS THAT?

15 A I SAW HIS JEWELRY, THE -- IN A SHELF WHERE THE  
16 HOUSEKEEPER SAID HE USUALLY KEEPS IT, AND WE WENT AND LOOKED  
17 AND IT WAS THERE.

18 Q AND DID YOU AT SOME POINT AFTER JUNE THE 7TH  
19 HAVE THE LOCKS ON HIS HOUSE CHANGED?

20 A YES, I DID.

21 Q WHEN WAS THAT?

22 A IT WAS ABOUT A WEEK OR SO LATER.

23 Q AND AFTER YOU DID THAT DID YOU OBTAIN THE  
24 COMBINATION FOR HIS ALARM SYSTEM FROM MISS STURKEY?

25 A YES, I DID.

26 Q WHAT ABOUT THE KEY TO THE MAIL?

27 A MR. STURKEY GAVE IT TO ME.

28 Q WHEN WAS THAT?

737

1 A WHEN I CHANGED THE KEYS -- WHEN I CHANGED THE  
2 KEYS TO THE APARTMENT AT -- IT WASN'T NECESSARY FOR HIM TO  
3 GET THERE ANYMORE, SO HE GAVE ME THE KEYS BECAUSE HE WAS  
4 GOING TO PICK UP THE MAIL. I SAID I WOULD DO IT FROM THAT  
5 TIME ON.

6 Q THAT WAS ABOUT HOW LONG AFTER JUNE THE 7TH?

7 A ABOUT A WEEK OR 10 DAYS.

8 Q WHICH IS ABOUT THE SAME TIME THAT YOU HAD THE  
9 LOCKS CHANGED?

10 A YES. THE SAME TIME. IT WAS THE SAME TIME.

11 Q AND HAD YOU BEEN GOING TO YOUR SON'S PLACE  
12 DURING THAT WEEK TO 10-DAY PERIOD?

13 A YES, I DID.

14 Q AT SOME POINT DID YOU HAVE OCCASION TO LOOK ON  
15 HIS DESK?

16 A YES.

17 Q DID YOU FIND ANYTHING OF SIGNIFICANCE AT THAT  
18 TIME WHEN YOU LOOKED ON HIS DESK?

19 A WELL, YES, I SAW MAIL AND AMONG THE MAIL I  
20 FOUND A CHECK THERE.

21 MR. BARENS: WHAT DATE ARE WE AT, YOUR HONOR?

22 MR. WAPNER: WE 'LL GET THERE.

23 MR. BARENS: WELL, WHY DON'T WE IDENTIFY WHAT  
24 WE 'RE -- WHAT TIME FRAME WE 'RE TALKING ABOUT.

25 THE COURT: ALL RIGHT. DO YOU WANT TO ASK -- DO YOU  
26 WANT TO PLACE THE TIME?

27 MR. WAPNER: I ASSUME THAT WAS A FOUNDATIONAL  
28 OBJECTION, OF COURSE?

735

1 MR. BARENS: YES.

2 Q BY MR. WAPNER: MR. LEVIN, DO YOU KNOW ABOUT  
3 WHEN IT WAS THAT YOU WENT AND FOUND SOMETHING ON HIS DESK?

4 A I GUESS WITHIN A COUPLE DAYS OF THE 7TH, SAY  
5 ABOUT THE 8TH OR 9TH. AROUND THERE.

6 Q WHAT WAS IT THAT YOU FOUND?

7 A I FOUND THE CHECK THERE ON THE --

8 Q WHO WAS IT MADE OUT TO?

9 A MADE OUT? EITHER TO RON OR ELSE TO ONE OF HIS  
10 COMPANIES. I DON'T REMEMBER EXACTLY.

11 Q IN WHAT AMOUNT?

12 A IT WAS \$10,000.

13 MR. BARENS: WELL, I'M GOING TO OBJECT TO THE  
14 TESTIMONY ABOUT THE CHECK AS HEARSAY. THE BEST EVIDENCE OF  
15 THE CHECK AND ITS CONTENTS IS THE DOCUMENT ITSELF, WHICH I  
16 BELIEVE IS UNDER THE -- OR AVAILABLE TO EITHER THE WITNESS  
17 OR THE POLICE.

18 THE COURT: MR. WAPNER?

19 MR. WAPNER: MAY I JUST ASK ONE OR TWO QUESTIONS IN  
20 THAT -- ALONG THAT LINE, YOUR HONOR?

21 THE COURT: VERY WELL.

22 Q BY MR. WAPNER: WHAT HAPPENED TO THE CHECK, DO  
23 YOU KNOW?

24 A I GAVE THE CHECK TO THE CONSERVATOR OF THE  
25 ESTATE.

26 Q AND --

27 MR. BARENS: I'M GOING TO OBJECT TO LACK OF THE  
28 RELEVANCY IN THIS HEARING.

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1 MR. WAPNER: WELL, THIS IS FOR -- THESE ARE  
2 FOUNDATIONAL QUESTIONS AS FAR AS THE BEST EVIDENCE  
3 OBJECTION --

4 THE COURT: YES, BUT --

5 MR. BARENS: CAN WE HAVE SOME OFFER OF PROOF ON THE  
6 RELEVANCY?

7 THE COURT: THE OBJECTION NOW IS WHAT THE RELEVANCY  
8 IS.

9 MR. WAPNER: WELL, THE RELEVANCY IS --

10 THE COURT: OF A CHECK MADE OUT TO MR. LEVIN.

11 MR. WAPNER: WELL, THE RELEVANCY IS THAT IF MR. LEVIN  
12 DISAPPEARED AS OPPOSED TO BEING KILLED OR IF HE LEFT ON HIS  
13 OWN AS OPPOSED TO DISAPPEARING UNDER FELONIOUS  
14 CIRCUMSTANCES, IT WOULD NOT BE REASONABLE FOR HIM TO LEAVE A  
15 CHECK OF \$10,000 MADE OUT TO HIMSELF BEHIND. ONE WOULD  
16 ASSUME THAT IF HE WAS GOING TO FLEE HE WOULD TAKE THE MONEY  
17 WITH HIM. NOW, THE --

18 MR. BARENS: THAT'S PRETTY SPECULATIVE, YOUR HONOR.

19 MR. WAPNER: EXCUSE ME, COUNSEL. I'M NOT QUITE  
20 FINISHED.

21 THE COURT: ALL RIGHT.

22 MR. WAPNER: THE EXTENT TO WHICH -- OR THE WEIGHT TO  
23 WHICH THE COURT WANTS TO ACCORD THAT IS ONE THING, BUT IN  
24 TERMS OF WHETHER OR NOT IT TENDS TO PROVE OR DISPROVE THE  
25 DISPUTED ISSUE IN THIS CASE; TO WIT, THE CORPUS OF THE  
26 CRIME, IT'S CERTAINLY RELEVANT ON THAT. I DON'T KNOW HOW  
27 MUCH WEIGHT THE COURT WANTS TO ENTITLE IT, BUT I THINK IT'S  
28 CLEARLY RELEVANT.

710

1 MR. BARENS: WELL, I STRENUOUSLY OBJECT TO THAT, YOUR  
2 HONOR. THE FACT THAT THERE WAS A CHECK THERE -- I DON'T  
3 EVEN KNOW IF THE CHECK WAS ANY GOOD. IT COULD HAVE BEEN A  
4 CHECK THAT HE PUT A STOP PAYMENT ON. IT COULD HAVE BEEN A  
5 CHECK THAT HE WAS CONTEMPLATING WHETHER HE WAS GOING TO  
6 ISSUE IT OR NOT, OR HE WAS GOING TO DEPOSIT IT IN THE MAIL.  
7 THERE ARE A MYRIAD OF EVENTS AVAILABLE ON THIS ONE.

8 MR. WAPNER: SO THE RECORD IS CLEAR, WE ARE ALLEGING  
9 THAT IT'S NOT A CHECK THAT HE WROTE. IT'S A CHECK THAT WAS  
10 TO HIM.

11 THE COURT: I UNDERSTAND THAT IT WAS A CHECK THAT WAS  
12 TO HIM, BUT IT WAS DISCOVERED A COUPLE DAYS APPARENTLY AFTER  
13 THE 6TH. WAS THAT THE TESTIMONY OF MR. LEVIN? TWO OR THREE  
14 DAYS LATER?

15 MR. BARENS: YES.

16 MR. WAPNER: RIGHT, BUT I THINK THE TESTIMONY IS --

17 THE COURT: SO YOUR ARGUMENT THAT WHY HE SHOULD HAVE  
18 TAKEN THE CHECK WITH HIM, IS THAT WHAT YOU'RE ASSUMING?

19 MR. WAPNER: WELL, THE ARGUMENT IS THAT IF HE LEFT ON  
20 THE NIGHT OF THE 6TH OR THE MORNING OF THE 7TH ON HIS OWN  
21 ACCORD AND HE FLED THE JURISDICTION TO AVOID PROSECUTION OR  
22 HE JUST DECIDED TO PICK UP ROOTS, THAT CERTAINLY HE WOULD  
23 TAKE ALL THE MONEY THAT WAS READILY AVAILABLE TO HIM.

24 THE WITNESS: MAY I --

25 MR. WAPNER: EXCUSE ME.

26 THE COURT: HOLD IT ONE SECOND. THE OBJECTION WILL  
27 BE SUSTAINED.

28 MR. BARENS: THANK YOU, YOUR HONOR.

711

1 THE WITNESS: MAY I SAY SOMETHING, SIR?

2 MR. WAPNER: NO. YOU HAVE TO WAIT FOR ANOTHER  
3 QUESTION.

4 THE COURT: HE 'LL GIVE YOU THE QUESTIONS.

5 MR. WAPNER: THAT 'S THE RULES OF THE GAME.

6 Q DID YOU AT SOME POINT AFTER JUNE THE 7TH FIND  
7 SOME GROUP OF YELLOW PIECES OF PAPER IN RON LEVIN 'S  
8 APARTMENT?

9 A YES, I DID.

10 Q WHEN? APPROXIMATELY.

11 A A COUPLE WEEKS AFTER HE LEFT.

12 Q A COUPLE WEEKS AFTER JUNE THE 7TH?

13 A YEAH.

14 Q AND WHEN YOU FIRST DISCOVERED THEM, WHAT DID  
15 YOU DO WITH THEM, IF ANYTHING?

16 A I JUST LOOKED AT THEM AND IT DIDN 'T MEAN  
17 ANYTHING TO ME, AND I JUST DID NOTHING WITH THEM. I JUST  
18 LET THEM SIT WHERE THEY WERE.

19 Q ON AUGUST THE 16TH, 1984, DID DETECTIVE ZOELLER  
20 FROM THE BEVERLY HILLS POLICE DEPARTMENT CALL YOU WANTING TO  
21 ENTER MR. LEVIN 'S APARTMENT?

22 A YES.

23 Q AND DID YOU GO TO 144 SOUTH PECK DRIVE WITH  
24 DETECTIVE ZOELLER?

25 A YES, I DID.

26 Q DID YOU LET HIM IN THE RESIDENCE?

27 A YES.

28 Q AND DID YOU POINT THIS GROUP OF PAPERS OUT TO

712

1 HIM?

2 A YES, I DID.

3 Q AND WHERE IN THE APARTMENT WERE THEY FOUND?

4 A I HAD FOUND THEM IN THE OFFICE OF THE APARTMENT  
5 AND THEY WERE LAYING ON THE FLOOR.

6 Q DO YOU REMEMBER APPROXIMATELY WHERE?

7 A YES. IT WAS RIGHT ALONGSIDE THE WALL AND THE  
8 DESK. BETWEEN THE WALL AND THE DESK.

9 MR. WAPNER: YOUR HONOR, I HAVE A PHOTOGRAPH THAT'S  
10 PREVIOUSLY BEEN MARKED AS PEOPLE'S 6 FOR IDENTIFICATION.  
11 I'D ASK THAT IT AGAIN BE SO MARKED AS PEOPLE'S 6.

12 THE COURT: ALL RIGHT. PEOPLE'S 6 FOR IDENTIFICATION.  
13 HOW DID YOU DESCRIBE THAT, MR. WAPNER?

14 MR. WAPNER: OH, THANK YOU, YOUR HONOR. IT'S  
15 APPROXIMATELY A FOUR BY SIX INCH COLOR PHOTOGRAPH. IT  
16 DEPICTS WHAT APPEARS TO BE THE FLOOR AND SOME SHELVES OF A  
17 ROOM THAT HAS ALSO SOME PAPERS IN IT, A WASTE BASKET, AND AS  
18 IT NOW STANDS THIS PHOTOGRAPH HAS A CIRCLE IN BLUE INK IN  
19 APPROXIMATELY THE CENTER OF THE PHOTOGRAPH.

20 THE COURT: VERY WELL.

21 Q BY MR. WAPNER: MR. LEVIN, DO YOU RECOGNIZE  
22 PEOPLE'S 6 FOR IDENTIFICATION.

23 A YES.

24 Q WHAT IS IT?

25 A IT'S A PICTURE OF THE OFFICE WHERE I FOUND THE  
26 YELLOW SLIPS OF PAPER.

27 Q AND DOES IT SHOW IN THAT PHOTOGRAPH WHERE  
28 EXACTLY YOU FOUND THE YELLOW SLIPS OF PAPER?



710

1 A BETWEEN THE WASTE PAPER BASKET AND THE DRAWERS  
2 ON THE LEFT HAND SIDE OF THE ROOM AGAINST THE WALL.

3 Q AND IS THERE SOMETHING IN THAT PHOTOGRAPH THAT  
4 CORRESPONDS TO THE LOCATION WHERE YOU FOUND THE PAPER?

5 A YES, THERE IS.

6 Q AND WHAT IS THAT?

7 A THE EXACT LOCATION.

8 Q AND WHAT IS THERE IN THE -- DEPICTED IN THE  
9 PHOTOGRAPH AT THAT LOCATION, ARE THERE SOME YELLOW PIECES OF  
10 PAPER IN THE PHOTOGRAPH AT THE PRECISE LOCATION WHERE YOU  
11 FOUND THE ITEMS THAT WE ARE REFERRING TO?

12 A WELL, IT'S APPROXIMATELY -- I DO SEE SOME  
13 PAPERS WHERE I FOUND IT, YES. BUT I CAN'T TELL IF IT'S  
14 YELLOW HERE NOW.

15 Q OKAY. IN THIS PHOTOGRAPH NEXT TO THE WASTE  
16 BASKET THERE ARE SOME WHAT APPEAR TO BE PAPERS; IS THAT  
17 RIGHT? LYING ON THE FLOOR?

18 A YES.

19 Q IS THAT THE LOCATION WHERE YOU FOUND THESE  
20 YELLOW --

21 A THAT'S THE LOCATION WHERE I FOUND IT, YES.

22 Q WERE YOU PRESENT WHEN THIS PICTURE, PEOPLE'S 6,  
23 WAS TAKEN?

24 A YES.

25 Q AND DOES THAT ACCURATELY DEPICT THE LOCATION  
26 WHERE YOU FOUND THE PAPERS?

27 A YES, IT DOES.

28 Q AND WAS THAT TAKEN ON THE DAY THAT YOU LET

711

1 DETECTIVE ZOELLER INTO THE APARTMENT?

2 A YES.

3 Q THANK YOU.

4 MR. WAPNER: YOUR HONOR, I HAVE BEFORE ME A BROWNISH  
5 ENVELOPE. IT BEARS ON THE OUTSIDE THE NUMBERS 8405436 AND  
6 THEN THE NUMBER 20504 AND THEN IT BEARS THE SAME TWO NUMBERS  
7 REPEATED IN DARKER INK. THE ENVELOPE CONTAINS SEVEN PIECES  
8 OF YELLOW LEGAL SIZE PAPER, EACH PIECE INDIVIDUALLY WRAPPED  
9 IN A PIECE OF PLASTIC AND THE PAPERS ALL TOGETHER FOLDED IN  
10 HALF. MAY THIS ENVELOPE AND CONTENTS COLLECTIVELY BE  
11 PEOPLE'S 44 FOR IDENTIFICATION?

12 THE COURT: ALL RIGHT. PEOPLE'S 44 FOR  
13 IDENTIFICATION.

14 Q BY MR. WAPNER: MR. LEVIN, SHOWING YOU PEOPLE'S  
15 44 FOR IDENTIFICATION, WOULD YOU OPEN THAT ENVELOPE, PLEASE,  
16 AND REMOVE THE CONTENTS AND TELL ME IF YOU RECOGNIZE THEM.

17 A YES, I RECOGNIZE THEM.

18 Q AND HOW DO YOU RECOGNIZE THEM?

19 A I RECOGNIZE THEM AS THE PAPERS THAT I  
20 DISCOVERED WHEN I WAS GOING THROUGH THE PAPERS IN THE OFFICE  
21 THERE.

22 Q AND WHAT DID YOU DO WITH THOSE PAPERS ON THE  
23 DAY THAT DETECTIVE ZOELLER WAS IN THE APARTMENT?

24 A I HAD GIVEN IT TO HIM AT THE -- WHEN HE CAME,  
25 AND I ASKED HIM IF "I HAVE SOMETHING THAT I'M NOT SURE IF IT  
26 MEANS ANYTHING OR NOT. I JUST CAN'T IMAGINE ANYBODY WRITING  
27 THINGS DOWN LIKE THAT," AND I GAVE IT TO HIM.

28 Q AND AT THE TIME THAT YOU FOUND THE PAPERS, I

715

1 TAKE IT THEY WERE NOT ENCLOSED IN THE PLASTIC THAT THEY NOW  
2 ARE?

3 A NO.

4 Q AND WHAT CONDITION -- HOW WERE THOSE PAPERS  
5 WHEN YOU FOUND THEM?

6 A THEY WERE LAYING ON THE FLOOR.

7 Q WERE THEY ALL SEVEN OF THEM TOGETHER?

8 A THEY WERE TOGETHER.

9 Q WERE THEY FOLDED IN ANY MANNER?

10 A NO. THEY WERE FLAT. LIKE THEY HAD FALLEN OFF  
11 THE DESK.

12 Q AND THEY WERE SITTING BY THE WASTE BASKET?

13 A THEY WERE LAYING ON THE WASTE PAPER AT AN  
14 ANGLE.

15 Q DID YOU CONTINUE TO PICK UP RON LEVIN'S MAIL  
16 AFTER -- FROM JUNE THE -- APPROXIMATELY A WEEK TO 10 DAYS  
17 AFTER JUNE THE 7TH?

18 A YES, I DID.

19 Q WHERE DID YOU PICK THAT MAIL UP?

20 A I PICKED IT UP AT THE -- AT THIS -- HE HAS A  
21 SERVICE ON WILSHIRE BOULEVARD. I THINK IT WAS 9600 OR 9500.  
22 I FORGET EXACTLY THE ADDRESS.

23 Q AND WHERE ELSE?

24 A AND AT THE POST OFFICE, BOX 10505.

25 Q THAT WAS HIS POST OFFICE BOX NUMBER?

26 A THAT WAS HIS POST OFFICE BOX NUMBER.

27 Q AND WHERE WAS THAT POST OFFICE BOX LOCATED?

28 A AT THE BEVERLY HILLS SUBSTATION ON SANTA

716

1 MONICA, LITTLE SANTA MONICA BOULEVARD AND CANON.

2 Q THAT 'S THE MAIN BEVERLY HILLS POST OFFICE?

3 A I GUESS IT IS, YES.

4 Q KIND OF A LARGE BUILDING NEAR THE CITY HALL?

5 A YES.

6 MR. WAPNER: YOUR HONOR, I HAVE HERE A BLACK AND  
7 WHITE PHOTOGRAPH APPROXIMATELY FOUR BY SIX INCHES. IT  
8 APPEARS TO DEPICT A WHITE MALE INDIVIDUAL. MAY THAT BE  
9 PEOPLE 'S 45 FOR IDENTIFICATION?

10 THE COURT: 45 FOR IDENTIFICATION, SO MARKED.

11 Q BY MR. WAPNER: MR. LEVIN, DO YOU RECOGNIZE  
12 PEOPLE 'S 45 FOR IDENTIFICATION?

13 A YES, I DO.

14 Q WHO IS IN THAT PICTURE?

15 A THAT 'S MY SON.

16 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

17 MR. BARENS: THANK YOU, YOUR HONOR.

18 THE COURT: MR. BARENS?

19

20

CROSS-EXAMINATION

21 BY MR. BARENS:

22 Q MR. LEVIN, WHEN YOU FIRST ARRIVED AT THE -- AT  
23 YOUR SON 'S APARTMENT ON THE -- WAS IT THE 7TH OF JUNE?

24 A THAT 'S CORRECT.

25 Q YOU DIDN 'T NOTICE ANYTHING AMISS OR AWRY, DID  
26 YOU?

27 A WELL, YES. I NOTICED THAT THE -- RONNIE WASN 'T  
28 THERE, AND THE BED WAS MESSED UP AND THE MAID HAD TOLD ME

717

1 THAT A COUPLE OF YOUNG MEN WAITING OUTSIDE TO -- WAITING FOR  
2 HIM THAT THEY WERE SUPPOSED --

3 Q I'M SORRY, SIR. I CAN'T REALLY GET INTO WHAT  
4 SOMEONE TOLD YOU BECAUSE THAT'S CALLED HEARSAY. I'M JUST  
5 ASKING YOU FROM WHAT YOU OBSERVED IN THE PHYSICAL APPEARANCE  
6 OF THE PLACE. OBVIOUSLY YOU NOTICED SOMEONE WASN'T THERE,  
7 AND YOU SAY THE BED WAS MESSED UP?

8 A YES.

9 Q WAS THERE ANY BLOOD ON THE BED?

10 A NO. I DIDN'T SEE ANY.

11 Q I SEE. DID YOU MAKE ANY SEARCH OF THE PREMISES  
12 AT THAT TIME?

13 A YES. I WENT THROUGH LOOKING TO SEE JUST WHAT I  
14 COULD FIND.

15 Q AND YOU DIDN'T SEE THOSE YELLOW PAGES YOU JUST  
16 IDENTIFIED AT THAT TIME, DID YOU?

17 A AT THAT TIME, NO.

18 Q I SEE.

19 A IN FACT, I DIDN'T EVEN GO IN THE OFFICE AT THAT  
20 TIME.

21 Q I SEE. DID YOU EVER SUBSEQUENTLY SEARCH THE  
22 PREMISES?

23 A YES, I DID.

24 Q WHAT WOULD BE THE VERY NEXT DATE THAT YOU  
25 SEARCHED THE PREMISES?

26 A I GUESS IN THE NEXT FEW DAYS. I DON'T KNOW  
27 EXACTLY THE NEXT DATE, BUT I WAS GOING THERE ALMOST EVERY  
28 DAY TO PICK UP THE MAIL AND TO SEE WHAT -- IF THERE HAD BEEN

715

1 ANY WORD AS TO WHETHER -- WHAT MIGHT HAVE HAPPENED.

2 Q BETWEEN, SAY, JUNE THE 7TH AND JUNE THE 14TH,  
3 WHICH WOULD BE THE FIRST WEEK AFTER DATE, HOW MANY TIMES DID  
4 YOU SEARCH THE PREMISES?

5 MR. WAPNER: OBJECTION AS VAGUE, YOUR HONOR, AS TO  
6 WHAT "SEARCH THE PREMISES" MEANS.

7 MR. BARENS: WELL, INVENTORY THE PREMISES.

8 MR. WAPNER: WELL, SAME OBJECTION.

9 THE COURT: DO YOU UNDERSTAND THE QUESTION?

10 THE WITNESS: WELL --

11 THE COURT: HE SAID BETWEEN THE 7TH AND THE 14TH HOW  
12 MANY TIMES DID YOU SEARCH THE PREMISES.

13 THE WITNESS: I REALLY DIDN'T SEARCH THE PREMISES. I  
14 JUST MORE OR LESS WENT IN AND PICKED UP THE MAIL AND LOOKED  
15 AROUND AND REALLY DID NOT DO ANY SEARCHING.

16 Q BY MR. BARENS: WELL, DID YOU WALK AROUND WITH  
17 AN EYE TO OBSERVING WHAT WAS THERE AND WHAT WASN'T THERE?

18 A NOT REALLY. I .....

19 Q DID YOU EVER WALK INTO THE OFFICE PORTION  
20 BETWEEN THE 7TH AND THE 14TH?

21 A YES. I OPENED THE DOOR. I DIDN'T GO IN THERE,  
22 BUT I OPENED THE DOOR.

23 Q WHEN WAS THE FIRST TIME YOU WENT IN THERE?

24 A I REALLY DON'T REMEMBER.

25 Q WELL, DO YOU THINK YOU WENT IN THERE AT ALL  
26 BETWEEN, SAY, THE 7TH AND THE 15TH?

27 A I WOULD SAY SO.

28 Q AND EARLIER YOU TESTIFIED YOU FOUND THESE FIRST

719

1 YELLOW PAGES, THESE SEVEN YELLOW PAGES, TWO WEEKS AFTER THE  
2 7TH, WHICH WOULD MAKE IT TOWARD THE 21ST?

3 A I DON'T KNOW THE EXACT TIME WHEN I FOUND THEM.

4 Q WELL, WHAT'S YOUR BEST RECOLLECTION, MR. LEVIN?

5 A IT COULD BE ANYWHERE FROM ONE WEEK TO TWO  
6 WEEKS.

7 Q WHEN YOU FIRST CAME TO THE RESIDENCE, DID YOU  
8 SECURE MR. LEVIN'S PHONE BOOK?

9 A DID I SECURE HIS PHONE BOOK?

10 Q YES, SIR.

11 A I'VE SEEN PHONE BOOKS THERE, BUT I DON'T KNOW  
12 WHAT YOU MEAN BY "SECURE" IT.

13 Q WELL, DID YOU TAKE POSSESSION OF HIS PERSONAL  
14 PHONE DIRECTORY? YOU KNOW, HIS PHONE BOOK?

15 A WHEN I FIRST CAME IN THERE I DIDN'T TAKE  
16 POSSESSION OF ANYTHING. I JUST LEFT EVERYTHING THE WAY IT  
17 WAS.

18 Q WELL, AT ANY POINT IN TIME DID YOU TAKE  
19 POSSESSION OF HIS PHONE BOOK?

20 A YES, I THINK SO. I THINK I WENT LOOKING  
21 THROUGH IT. I DON'T KNOW WHETHER I TOOK POSSESSION OR NOT,  
22 BUT I WENT LOOKING THROUGH IT TO SEE WHAT I COULD FIND, TO  
23 SEE WHAT NAMES WERE THERE, YES. I LOOKED THROUGH THEM.

24 Q AND WHAT DID YOU DO WITH THOSE NAMES, SIR?

25 A I DIDN'T DO ANYTHING WITH THEM.

26 Q DIDN'T YOU TELL THE POLICE ON SEPTEMBER 29TH  
27 THAT YOU CALLED AS MANY PEOPLE AS YOU COULD TO INQUIRE ABOUT  
28 MR. LEVIN'S DISAPPEARANCE?

750

1 A NOT AS MANY PEOPLE AS I COULD, BUT A FEW OF HIS  
2 ACQUAINTANCES THAT I KNEW AND HE KNEW. IN OTHER WORDS, THE  
3 ONES THAT I KNEW.

4 Q AND YOU TELEPHONED THEM TO SEE IF THEY HAD ANY  
5 ADVICE FOR YOU, OR INFORMATION, I GUESS?

6 A I WOULD SAY ONE OR TWO PEOPLE, IF THEY HAD  
7 HEARD ANYTHING ABOUT RON AT ALL.

8 Q AND WASN'T ONE OF THE PEOPLE YOU CALLED JOSEPH  
9 HUNT?

10 A YES, I CALLED JOSEPH HUNT.

11 Q AND DID YOU RECEIVE A PHONE CALL BACK?

12 A THE FIRST TIME I DID NOT GET A PHONE CALL BACK.  
13 I CALLED HIM TWICE.

14 Q AND YOU SPOKE TO HIM ON THE SECOND OCCASION?

15 A SECOND OCCASION HE CALLED ME.

16 Q AND ABOUT -- DO YOU RECALL HOW --

17 A I LEFT -- I GUESS I LEFT MY PHONE NUMBER WITH  
18 HIM, AND THEN HE CALLED ME BACK. NOW, I DID NOT GET HIS  
19 PHONE NUMBER FROM THE PHONE BOOK.

20 Q OH, I SEE. I SAY THAT, MR. LEVIN, ONLY BECAUSE  
21 THE WAY THAT --

22 A BECAUSE I WOULDN'T KNOW JOE HUNT FROM --

23 Q ADAM.

24 A -- TIMBUKTOO.

25 Q AND I'M ONLY SUGGESTING, MR. LEVIN -- I'M  
26 REFERRING TO A POLICE REPORT THAT I HAVE HERE, AND THE  
27 IMPLICATION FROM THE LANGUAGE IS THAT YOU GOT THE NUMBER  
28 FROM THE PHONE BOOK.



1 A NO, I DID NOT GET HIS NUMBER FROM THE PHONE  
2 BOOK.

3 Q BUT YOU CLARIFIED THAT. HOW MANY DAYS AFTER  
4 THE 7TH WAS IT WHEN YOU FINALLY SPOKE WITH MR. HUNT?

5 A AFTER WHEN?

6 Q AFTER THE 7TH OF JUNE, SIR.

7 A I THINK I SPOKE TO HIM BEFORE THE 7TH --

8 Q NO. I'M ASKING YOU NOW, SIR --

9 A -- OF SEPTEMBER. YOU'RE TALKING ABOUT  
10 SEPTEMBER THE 7TH.

11 Q NO, SIR. JUNE, SIR. DID I SAY SEPTEMBER?

12 A YES, SIR. I THOUGHT YOU SAID SEPTEMBER.

13 Q NO. HOW MANY DAYS AFTER JUNE 7TH WAS IT WHEN  
14 YOU FIRST SPOKE TO MR. HUNT?

15 A I CAN'T RECALL.

16 Q WOULD IT BE WITHIN A WEEK, SIR?

17 A I DON'T THINK SO. I THINK IT WOULD BE LONGER  
18 THAN THAT.

19 Q WOULD IT BE WITHIN THE FIRST TWO WEEKS?

20 A I CAN'T -- I REALLY CAN'T SAY.

21 Q AGAIN, REFERRING TO THIS STATEMENT YOU GAVE THE  
22 POLICE, THE SUGGESTION IN HERE -- AND I'M JUST ASKING YOU.  
23 CORRECT ME IF IT'S WRONG -- YOU SAID THAT YOU HAD SECURED  
24 THIS PHONE BOOK AND YOU CALLED HUNT AND A FEW DAYS LATER  
25 HUNT CALLED BACK. THE INDICATION OF THESE DOCUMENTS IS THAT  
26 IT HAPPENED WITHIN, LET'S SAY, A WEEK TO 10 DAYS AFTER  
27 MR. LEVIN DISAPPEARED.

28 MR. WAPNER: OBJECTION AS TO RELEVANCE OF THE

752

1 IMPLICATION OF A POLICE REPORT. THE POLICE REPORT IS NOT IN  
2 EVIDENCE AND THERE'S AN OBJECTION TO BASING A QUESTION ON AN  
3 IMPLICATION IN A POLICE REPORT. IT ASSUMES A FACT NOT IN  
4 EVIDENCE, YOUR HONOR.

5 MR. BARENS: I'M TRYING TO CROSS-EXAMINE THE WITNESS,  
6 YOUR HONOR, BASED ON PRIOR STATEMENTS HE'S MADE BEFORE.  
7 COUNSEL CERTAINLY HAS THE COPY I DO. WE BOTH GOT THEM THE  
8 SAME PLACE.

9 THE COURT: IF HE'S TRYING TO CROSS-EXAMINE HIM AS TO  
10 TIMES AND PLACES, THE OBJECTION WILL BE OVERRULED.

11 MR. BARENS: THANK YOU, YOUR HONOR.

12 Q NOW MR. LEVIN, AGAIN, I ASK FOR YOUR BEST  
13 RECOLLECTION PRESENTLY STATED AS TO WHEN YOU FIRST SPOKE TO  
14 MR. HUNT.

15 A I REALLY DON'T REMEMBER WHEN I FIRST CALLED  
16 MR. HUNT.

17 Q COULD YOU GIVE ME YOUR BEST RECOLLECTION, SIR.

18 A I CAN'T. I DON'T KNOW WHEN I CALLED HIM.

19 Q WELL --

20 A WE WERE ALL UPSET. I DON'T REMEMBER.

21 Q WHEN YOU CALLED MR. HUNT, WHAT DID YOU TELL  
22 HIM?

23 A I ASKED MR. HUNT IF HE KNEW -- I CALLED HIS  
24 OFFICE -- I GUESS THAT'S WHAT IT WAS -- AND LEFT MY NAME  
25 THERE, AND THEY SAID HE'D GET BACK TO ME. AND A FEW DAYS  
26 LATER --

27 Q HE PERSONALLY SAID HE'D GET BACK TO YOU?

28 A NO. A GIRL ANSWERED THE PHONE AND SHE SAID --

750

1 SHE JUST TOOK THE NUMBER. HE, IN TURN, CALLED ME BACK AND  
2 LET'S SEE, HE ASKED ME CERTAIN QUESTIONS --

3 Q WELL, LET'S TAKE IT FROM THE TOP. WHEN YOU  
4 FIRST SPOKE TO HIM, DID YOU TELL HIM SOMETHING TO THE  
5 PURPOSE OF YOUR CALL?

6 A YES.

7 Q WHAT DID YOU TELL HIM, SIR?

8 A I TOLD HIM IF HE KNEW RON.

9 Q YOU ASKED HIM IF HE KNEW RON.

10 A RIGHT.

11 Q AND THEN DID YOU THEN TELL HIM WHY YOU WERE  
12 CALLING?

13 A YES. I LET HIM KNOW THAT RON WAS MISSING AND I  
14 WANTED TO KNOW IF HE HAD ANY IDEA, IF HE'D SEEN OR TALKED OR  
15 HEARD OR ANYTHING ABOUT HIM.

16 Q NOW -- AND WHAT DID YOU TELL THE POLICE THAT  
17 MR. HUNT'S TYPE OF RESPONSE WAS TO YOUR INQUIRY?

18 MR. WAPNER: WELL, OBJECTION AS HEARSAY AS TO WHAT HE  
19 TOLD THE POLICE. THERE'S NO --

20 MR. BARENS: WELL, WE'VE GOT THE WITNESS HERE IN  
21 COURT, AND I'M ASKING HIM TO TELL US WHAT HE SAID AT A  
22 PREVIOUS TIME.

23 MR. WAPNER: WELL, UNLESS IT'S INCONSISTENT WITH  
24 SOMETHING THAT HE'S SAYING NOW --

25 MR. BARENS: I HAVEN'T HEARD WHAT HE'S SAYING NOW --

26 MR. WAPNER: THAT'S WHAT YOU'VE ASKED HIM, COUNSEL.

27 IF HE WANTS TO ASK HIM WHAT MR. HUNT'S RESPONSE  
28 WAS, I DON'T HAVE ANY OBJECTION TO THAT.

751

1 MR. BARENS: WELL, I'LL ASK HIM THAT FIRST.

2 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
3 SUSTAINED IN ITS PRESENT FORM.

4 Q BY MR. BARENS: MR. LEVIN, WOULD YOU TELL ME,  
5 IF YOU COULD, THE TYPE OF RESPONSE, HOW YOU WOULD  
6 CHARACTERIZE MR. HUNT'S TYPE OF RESPONSE TO YOUR INQUIRY?

7 A MR. HUNT WAS QUESTIONING ME AS TO --

8 Q I'M ASKING YOU, SIR, THE --

9 A WELL, THAT'S WHAT HE ASKED ME. YOU ASKED ME  
10 WHAT HE SAID. I'M TELLING YOU WHAT HE SAID.

11 Q ALL RIGHT. I'M NOT ASKING YOU THAT.

12 A WHAT ARE YOU ASKING ME?

13 Q I ASKED YOU IF YOU WOULD PLEASE CHARACTERIZE  
14 THE NATURE OF MR. HUNT'S RESPONSE TO YOUR INQUIRY -- LET ME  
15 GIVE .....

16 LET ME GIVE YOU AN EXAMPLE OF WHAT I MEAN, SIR.  
17 HE MIGHT HAVE ACTED SAD, HAPPY, SURPRISED, CONFUSED,  
18 EVASIVE, BELLIGERENT. HOW WOULD YOU CHARACTERIZE HIS  
19 RESPONSE TO YOUR INQUIRY?

20 A HE WAS A LITTLE BIT OF EACH.

21 Q OF ALL OF THOSE THINGS?

22 A OF ALL OF THOSE THINGS.

23 Q DID HE --

24 A HE ASKED ME QUESTIONS WHICH I DIDN'T QUITE  
25 UNDERSTAND, AND THAT'S WHY I KEEP COMING BACK TO THAT.

26 Q IN THE POLICE REPORT THAT IS DATED THE 29TH, IT  
27 SAYS TO THE POLICE THAT YOU SAID THAT JOE HUNT SEEMED  
28 SURPRISED WHEN YOU TOLD HIM THAT YOUR SON WAS MISSING.

755

1 THAT 'S THE ONLY CHARACTERIZATION THIS SEEMS TO CONTAIN.

2 MR. WAPNER: OBJECTION.

3 THE WITNESS: HE SAID -- HE SAID --

4 MR. WAPNER: EXCUSE ME. THAT WAS NOT A QUESTION. HE  
5 MADE A STATEMENT AND THEN STOPPED, WAITING FOR AN ANSWER.  
6 THERE 'S AN OBJECTION AS TO THE FORM OF THE QUESTION AND  
7 ALSO, THAT 'S AN IMPROPER WAY TO IMPEACH THIS WITNESS. HE  
8 CAN ASK HIM "DIDN'T YOU TELL THE POLICE X," BUT THAT WASN'T  
9 A QUESTION.

10 THE COURT: CAN YOU PUT A QUESTION MARK AFTER THAT?

11 MR. BARENS: INDEED.

12 Q DID YOU TELL THE POLICE THAT YOU -- DID YOU SAY  
13 THAT JOE HUNT SEEMED TO BE SURPRISED WHEN YOU TOLD HIM OF  
14 THE DISAPPEARANCE OF RON LEVIN?

15 A I DON'T KNOW IF I SAID HE WAS SURPRISED OR NOT.  
16 I DID -- I WOULD SAY THAT HE SAID HE DIDN'T KNOW WHERE RON  
17 WAS.

18 Q COULD YOU HAVE USED THE EXPRESSION "HE SEEMED  
19 SURPRISED" WHEN YOU SPOKE TO THE POLICE?

20 A I DON'T KNOW.

21 Q WOULD IT BE A MISSTATEMENT OF YOUR RECOLLECTION  
22 AS TO MR. HUNT 'S DEMEANOR TO SAY THAT HE SEEMED SURPRISED  
23 WHEN YOU TOLD HIM?

24 A I DON'T THINK I SAID HE WAS SURPRISED. I DON'T  
25 REMEMBER -- I DON'T RECALL THAT AT ALL.

26 Q AND, MR. LEVIN, YOU DON'T FEEL HE SOUNDED  
27 SURPRISED?

28 A I REALLY DON'T THINK SO BECAUSE HE CHANGED THE

756

1 SUBJECT RIGHT AWAY.

2 Q I SEE. AND SO IF THE -- IF A POLICE REPORT  
3 SAID THAT -- QUOTED YOU AS SAYING THAT MR. HUNT SEEMED  
4 SURPRISED, THAT WOULD BE IN ERROR?

5 A I DON'T KNOW. I DON'T KNOW. MAYBE I SAID IT;  
6 MAYBE I DIDN'T. I DON'T REMEMBER.

7 Q NOW --

8 A I REALLY CAN'T SAY FOR SURE.

9 Q EARLIER TODAY YOU TESTIFIED THAT -- AND CORRECT  
10 ME IF I'M WRONG, SIR. DID YOU TESTIFY THAT YOU CHANGED THE  
11 LOCKS ON YOUR SON'S APARTMENT 10 DAYS AFTER HE WAS MISSING?

12 A THAT'S CORRECT.

13 Q NOW, DID YOU TELL THE POLICE THAT YOU -- AND  
14 NOW I'M REFERRING TO AN INTERVIEW ON AUGUST 9 -- I'M SORRY,  
15 AUGUST 16, '84. DID YOU TELL THE POLICE THAT YOU HAD  
16 CHANGED THE LOCKS TWO DAYS AFTER HE DISAPPEARED?

17 A TWO DAYS AFTER HE DISAPPEARED?

18 Q YES, SIR.

19 A NO, I DIDN'T SAY THAT.

20 Q DID YOU EVER GIVE AN EARLIER TIME FRAME AS TO  
21 WHEN YOU SAY THE LOCKS WERE CHANGED?

22 A NO, NOT THAT I RECALL.

23 Q AND SO IT'S ALWAYS BEEN YOUR POSITION THAT YOU  
24 WAITED 10 DAYS?

25 A A WEEK TO 10 DAYS, I WOULD SAY, BEFORE I  
26 CHANGED THE LOCKS.

27 Q NOW, YOU MENTIONED THAT TWO WEEKS AFTER THE 7TH  
28 OF JUNE APPROXIMATELY YOU DISCOVERED THESE SEVEN PIECES OF

757

1 PAPER?

2 A YES.

3 Q NOW, WHEN DID YOU FIRST DISCUSS THOSE SEVEN  
4 PIECES OF PAPER WITH ANYONE?

5 A WHEN YOU SAY "ANYONE", WHO ARE YOU TALKING  
6 ABOUT?

7 Q ANYONE, SIR.

8 A ANYONE. I DISCUSSED IT WITH MY SON.

9 Q THAT WOULD BE MR. LEVIN'S YOUNGER BROTHER?

10 A UM-HMM.

11 Q WHEN DID YOU DISCUSS THEM WITH HIM?

12 A OH, MAYBE A DAY OR TWO AFTER I FOUND THEM.

13 Q AND WHO WOULD BE THE NEXT PERSON YOU DISCUSSED  
14 IT WITH?

15 A THE DETECTIVES.

16 Q AND WHEN WOULD THAT BE?

17 A WHEN THEY CAME IN TO THE -- SEPTEMBER THE --  
18 SEPTEMBER THE -- WHEN THEY CAME IN TO SEARCH THE HOUSE. I  
19 DON'T KNOW THE EXACT DATE.

20 Q WELL, IT'S A FAIR STATEMENT, ISN'T IT, THAT YOU  
21 NEVER BROUGHT THOSE SEVEN PAGES TO ANY POLICE OFFICIAL'S  
22 ATTENTION FOR AT LEAST TWO MONTHS AFTER YOU LOCATED THEM?

23 A YES.

24 Q WHY IS THAT, SIR?

25 A I JUST DIDN'T MAKE ANYTHING OUT OF IT.

26 Q IT DIDN'T SEEM IMPORTANT TO YOU, SIR?

27 A NOT THAT IT DIDN'T SEEM IMPORTANT, IT JUST I --  
28 I JUST COULDN'T FATHOM WHAT IT MEANT.

758

1 Q DIDN'T -- I THINK EARLIER ON TODAY YOU SAID  
2 THAT IT -- THEY SEEMED TO MEAN NOTHING TO YOU AND THEREFORE  
3 YOU LET THEM SIT, I THINK WAS YOUR EXPRESSION.

4 A THAT'S CORRECT.

5 Q NOW, WHEN YOU DISCOVERED THOSE PAPERS, WAS THAT  
6 THE FIRST TIME THAT YOU'D BEEN IN THAT ROOM WHERE YOU FOUND  
7 THEM?

8 A I DON'T THINK SO. NO. I THINK I WAS THERE  
9 BEFORE.

10 Q AND WHEN YOU HAD BEEN THERE BEFORE, YOU HADN'T  
11 SEEN THEM EARLIER?

12 A NO, I DIDN'T SEE THEM. NO. YOU MUST -- I'M  
13 NOT SUPPOSE TO SAY ANYTHING.

14 Q IF YOU'D WAIT FOR ME TO ASK A QUESTION, SIR.

15 A ALL RIGHT.

16 Q BY THE WAY, WHAT LOCKSMITH DID YOU UTILIZE TO  
17 CHANGE THE LOCKS AT THE APARTMENT?

18 A I BELIEVE IT WAS FAIRFAX LOCKS COMPANY, I  
19 THINK. I BELIEVE THAT'S WHAT IT WAS.

20 Q IT PROBABLY IS LOCATED ON FAIRFAX AVENUE?

21 A FAIRFAX AVENUE, THAT'S CORRECT.

22 Q THANK YOU. NOW, YOU TESTIFIED AT JAMES  
23 PITTMAN'S PRELIMINARY HEARING, DIDN'T YOU?

24 A YES.

25 Q AND DID YOU TESTIFY ABOUT THE SEVEN PIECES OF  
26 PAPER, MR. LEVIN?

27 A YES, I DID.

28 Q NOW, IN RESPONSE TO THE --



1 MR. BARENS: I'M APPROACHING THE WITNESS, YOUR HONOR.

2 THE COURT: THAT'S ALL RIGHT.

3 Q BY MR. BARENS: IN RESPONSE TO THE DISTRICT  
4 ATTORNEY'S INQUIRY, YOU SAID THAT YOU RECOGNIZED ALL SEVEN  
5 PAGES OF THIS PAPER HERE AS THE PAPER YOU FOUND THAT DAY.

6 A WOULD YOU REPEAT THAT, PLEASE.

7 Q I BELIEVE YOU TESTIFIED THAT YOU RECOGNIZED ALL  
8 SEVEN SHEETS OF THIS PAPER AS THE PRECISE SEVEN SHEETS YOU  
9 FOUND THAT DAY.

5  
10 A I DON'T THINK I DID THAT WITH ALL SEVEN. I  
11 THINK WITH ABOUT FOUR OR FIVE OF THEM, AND THE TWO I JUST --  
12 I THINK THERE WAS TWO OF THEM THERE THAT I DIDN'T QUITE  
13 REMEMBER AT THE TIME.

14 Q NOW, COULD YOU SHOW ME THE TWO, BECAUSE ISN'T  
15 IT TRUE THAT AT THE PITTMAN PRELIMINARY YOU WERE NOT  
16 POSSIBLE TO IDENTIFY ALL SEVEN OF THOSE SHEETS OF PAPER?

17 A YES.

18 Q CAN YOU SHOW ME THE ONES YOU CAN IDENTIFY AS  
19 HAVING BEEN THERE?

20 A I GUESS -- THE ONE ON TOP IS THE ONE THAT  
21 REALLY CAUGHT MY EYE AND THAT'S THE ONE THAT I KNOW MORE  
22 THAN ANY OF THEM.

23 Q WHAT I'M ASKING YOU TO DO IS IDENTIFY THE ONES  
24 THAT YOU DON'T RECALL SEEING THERE.

25 MR. WAPNER: YOUR HONOR, FOR THE RECORD, WHEN HE SAYS  
26 "THE ONE ON TOP" --

27 MR. BARENS: NOW, WAIT A MINUTE. I DON'T WANT TO GET  
28 INTO THE LANGUAGE ON THESE DOCUMENTS YET. WE BOTH SEE

1 WHAT 'S ON TOP. NOW, I'M JUST ASKING THE WITNESS TO IDENTIFY  
2 WHAT HE DOESN'T RECOGNIZE WITHOUT GETTING INTO THE CONTENTS  
3 OF THEM.

4 MR. WAPNER: YOUR HONOR, ALL I'M TRYING --

5 THE COURT: WE CAN MARK THEM 1, 2 AND 3 WITHOUT  
6 GETTING TO THE CONTENTS FOR THE PURPOSES OF --

7 MR. BARENS: I'M ONLY SEEKING TO MARK, YOUR HONOR,  
8 THE TWO PAGES THAT THE GENTLEMAN SAYS HE CAN'T IDENTIFY.

9 MR. WAPNER: ALL I'M TRYING TO DO, YOUR HONOR, IS TO  
10 MAKE A RECORD. SO THAT THE RECORD IS CLEAR, THE ONE ON THE  
11 TOP, HE 'S REFERRING TO A LIST THAT SAYS ON THE TOP --

12 MR. BARENS: NOW, WAIT A MINUTE. I THINK THAT 'S  
13 IMPROPER, AND WHAT 'S ON TOP RIGHT THIS MOMENT MAY NOT BE ON  
14 TOP WHEN I GET THROUGH SHUFFLING THE PAGES.

15 MR. WAPNER: YOUR HONOR, ALL I'M --

16 THE COURT: FOR THE PURPOSES OF THE RECORD, WE CAN  
17 IDENTIFY THEM AS 1, 2, OR PUT SOME IDENTIFICATION ON THEM  
18 OTHER THAN THE TITLE THAT MAY BE ON THE TOP OF IT OR THE  
19 CONTENTS OF. WHAT WE ARE IDENTIFYING HERE IS NOT CONTENTS,  
20 BUT REALLY PIECES OF PAPER.

21 MR. BARENS: WE 'RE NOT NUMBERING THEM.

22 THE COURT: THAT 'S WHAT I SUGGESTED.

23 MR. WAPNER: THIS IS NOT BEING ADMITTED INTO  
24 EVIDENCE. ALL WE ARE DOING IS IDENTIFYING IT FOR THE  
25 PURPOSES OF IDENTIFICATION.

26 MR. BARENS: WHY DON'T WE IDENTIFY THEM NUMERICALLY  
27 LIKE WE USUALLY DO.

28 MR. WAPNER: WELL, OKAY.

1 EXCUSE ME, MR. LEVIN.

2 THE COURT: WHY DON'T -- THEY WANT TO FIND OUT THE  
3 TWO THAT YOU'RE NOT SURE OF, MR. LEVIN. IF YOU COULD GO  
4 THROUGH THEM.

5 IS THAT WHAT YOU'RE ASKING?

6 MR. BARENS: YES. IF HE'LL JUST SHOW US THOSE, YOUR  
7 HONOR. I WILL MARK THOSE 1 AND 2.

8 MR. WAPNER: ALL I'M TRYING TO DO IS MAKE A RECORD OF  
9 AN IDENTIFICATION OF A PIECE OF PAPER THAT THE WITNESS HAS  
10 REFERRED TO SO THAT SOMEONE READING THIS TRANSCRIPT  
11 SUBSEQUENTLY WILL KNOW WHAT HE'S REFERRING TO --

12 MR. BARENS: THEN WHY DON'T WE NUMBER THEM.

13 MR. WAPNER: EXCUSE ME, COUNSEL.

14 IF COUNSEL WANTS TO DO IT BY NUMBER, THEN I  
15 SUGGEST THAT WE PUT A 7 -- NO. I'M SORRY.

16 THE COURT: IT'S PEOPLE'S 44.

17 MR. WAPNER: 44A ON THIS PIECE OF PAPER.

18 MR. BARENS: I HAVE NO PROBLEM WITH THAT.

19 THE COURT: ALL RIGHT. FIRST WE BETTER HAVE  
20 MR. LEVIN PICK OUT THE ONES THAT HE'S NOT SURE OF.

21 MR. BARENS: THAT'S ALL I'M TRYING TO -- THAT'S THE  
22 ONLY ONES I WANT TO ISOLATE, THE TWO WE CAN'T RECOGNIZE.

23 Q SO IF YOU'D BE KIND ENOUGH, SIR.

24 A AT THIS POINT, HAVING SEEN THE PAPERS AT THE --  
25 AT MR. PITTMAN'S, AND IT WOULD BE VERY DIFFICULT FOR ME.  
26 THEY ALL LOOK FAMILIAR AT THIS POINT AND IT WOULD BE VERY  
27 DIFFICULT FOR ME TO PICK OUT THE TWO THAT I DIDN'T SEE OR  
28 THAT THE --

1 Q YOU MEAN THE WELL HAS BEEN POISONED, MR. LEVIN.  
2 I CAN NO LONGER GET YOUR PURE RECOLLECTION? IS THAT WHAT  
3 YOU'RE TELLING ME?

4 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

5 THE WITNESS: NOW, I,

6 Q BY MR. BARENS: NO, MR. LEVIN --

7 THE COURT: WAIT A MINUTE. IS THERE A QUESTION?

8 MR. BARENS: THE QUESTION IS CAN HE NOW TELL ME WHICH  
9 TWO PIECES OF PAPER HE COULDN'T IDENTIFY AT THE PITTMAN  
10 PRELIMINARY HEARING. OFF THE RECORD FOR A MOMENT.

11 (A DISCUSSION WAS HELD OFF THE RECORD)

12 MR. BARENS: WELL, BACK ON THE RECORD.

13 Q CAN YOU TELL ME TODAY WHICH ARE THE TWO YOU  
14 COULDN'T IDENTIFY AT THE PITTMAN PRELIMINARY HEARING.

15 A NO, I REALLY COULDN'T.

16 MR. WAPNER: COUNSEL, I SUGGEST TO YOU THAT YOU MIGHT  
17 WANT TO LOOK AT THE COPIES THAT WERE HERE AT THE PITTMAN  
18 PRELIMINARY THAT THE CLERK HAS AND MAYBE YOU CAN FIND  
19 SOMETHING.

20 MR. BARENS: ALL RIGHT. LET'S TAKE A MOMENT. CAN I  
21 SEE THE COPIES THAT WERE MARKED AT THE PITTMAN PRELIMINARY  
22 IN THIS REGARDS?

23 YOUR HONOR, I'M NOW GOING TO DISCUSS WITH THE  
24 WITNESS AN EXHIBIT CONSISTING OF SEVEN PAGES WHICH  
25 FOUNDATIONALLY I BELIEVE TO BE XEROX COPIES OF THE SEVEN  
26 PAGES BEFORE THE WITNESS NOW. AT THE PITTMAN PRELIMINARY  
27 FOR REFERENCE THEY WERE MARKED AS PLAINTIFF'S 2 IN ORDER --

28 THE WITNESS: I THINK I MIGHT BE ABLE TO IDENTIFY

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1 THEM AS I LOOK THROUGH HERE.

2 MR. BARENS: BEAR WITH ME, MR. LEVIN.

3 THE COURT: ALL RIGHT. ARE YOU USING THIS TO REFRESH  
4 HIS RECOLLECTION? OR WHAT WAS --

5 MR. BARENS: YES.

6 THE COURT: DO YOU WANT HIM TO LOOK AT THAT OR DO YOU  
7 WANT HIM TO LOOK THROUGH --

8 MR. BARENS: I THINK WE MAY HAVE A BETTER WAY TO GO  
9 LOOKING THROUGH THESE AT THE MOVEMENT.

10 THE COURT: ALL RIGHT. TAKE A LOOK AT THESE,  
11 MR. LEVIN.

12 Q BY MR. BARENS: DO YOU RECALL SEEING THESE  
13 XEROXES PREVIOUSLY WHEN YOU TESTIFIED?

14 MR. WAPNER: REFERRING NOW TO --

15 THE WITNESS: DID I SEE THESE XEROXES?

16 Q BY MR. BARENS: YES, SIR.

17 A NO. I DON'T THINK I'VE EVER SEEN THE XEROXES.  
18 I DON'T REMEMBER. MAYBE SO.

19 MR. WAPNER: WHEN HE SAYS "THE XEROXES", REFERRING TO  
20 PEOPLE'S 2 FOR IDENTIFICATION, AND MAY THEY BE SO MARKED FOR  
21 THE PURPOSES OF THIS PRELIMINARY HEARING ALSO, YOUR HONOR?

22 THE COURT: ALL RIGHT. PEOPLE'S 2 FOR  
23 IDENTIFICATION, SO MARKED.

24 MR. WAPNER: THANK YOU, YOUR HONOR.

25 Q BY MR. BARENS: MR. LEVIN, DID YOU PLACE THIS  
26 (INDICATING) INITIALLY ON HERE?

27 A I THINK SO.

28 Q ALL RIGHT. NOW, MR. LEVIN, I ASK YOU AGAIN DID

1 YOU -- DID YOU SEE THESE AT THE PREVIOUS PRELIMINARY  
2 HEARING?

3 A WELL, I SAW -- WHETHER IT WAS THIS OR THAT, I  
4 SAW ONE OF THEM. I DON'T KNOW WHICH IT WAS. MAYBE I SAW  
5 THEM BOTH.

6 MR. WAPNER: "THIS OR OR THAT" REFERRING TO --  
7 THE COURT: PERHAPS HE 'S CONFUSED BECAUSE THESE ARE  
8 XEROX COPIES.

9 IS THAT WHAT 'S BOTHERING YOU?

10 THE WITNESS: IS THIS THE SAME AS --

11 Q BY MR. BARENS: MR. LEVIN, THESE --

12 MR. WAPNER: YOUR HONOR, MAY I MAKE THE RECORD CLEAR?  
13 "THIS" REFERS TO THE YELLOW PIECES OF PAPER MARKED AS 44,  
14 AND "THAT" REFERS TO THE XEROX MARKED AS PEOPLE 'S 2 FOR  
15 IDENTIFICATION.

16 THE WITNESS: I 'M SORRY.

17 THE COURT: ALL RIGHT. MAYBE YOU CAN GET THIS  
18 STRAIGHT.

19 Q BY MR. BARENS: ALL RIGHT. MR. LEVIN, I WANT  
20 YOU TO TELL ME THAT -- I NOTICE THAT ON THREE OF THESE  
21 SHEETS YOUR INITIALS SEEMS TO APPEAR.

22 A UM-HMM.

23 Q IS THERE ANY SIGNIFICANCE AS TO WHY YOUR  
24 INITIAL IS ON THREE SHEETS AND NOT ON THE OTHER FOUR?

25 A YES. I THINK AT THE TIME I WASN'T SURE WHETHER  
26 I HAD RECOGNIZED THEM AT THAT TIME WHEN I SEEN THEM DURING  
27 MR. PITTMAN 'S TRIAL.

28 Q AND DIDN'T YOU INITIAL ONLY THE PAGES AT THE

1 TIME OF THAT HEARING THAT YOU COULD RECALL SEEING?

2 A I DON'T REMEMBER WHETHER I INITIALED THE ONES  
3 THAT I COULD RECALL OR I INITIALED THE ONES THAT I COULDN'T  
4 RECALL. I DON'T REALLY REMEMBER WHICH I DID, BUT --

5 Q ALL RIGHT, SIR.

6 A -- I THINK, THOUGH, THAT I DO REMEMBER THE ONES  
7 THAT I COULDN'T -- THAT I DIDN'T RECOGNIZE AT THE TIME.

8 Q WELL, THE THING IS -- MY PROBLEM WITH THAT,  
9 MR. LEVIN, AND I ASK YOU -- IS THAT YOU'RE GOING TO TELL ME  
10 THAT TODAY AS WE SIT HERE OR STAND HERE YOU RECOGNIZE ALL OF  
11 THEM; IS THAT CORRECT?

12 A I RECOGNIZE THEM NOW, TODAY I DO.

13 Q WELL, I CAN'T TELL FROM THAT, MR. LEVIN -- AND  
14 MAYBE YOU CAN HELP ME -- DO YOU RECOGNIZE THEM BECAUSE YOU  
15 SAW THEM ON JUNE 21ST OR BECAUSE YOU SAW THEM IN THE D.A.'S  
16 OFFICE OR BECAUSE YOU SAW THEM AT THE PITTMAN PRELIMINARY  
17 HEARING ON SEVERAL OCCASIONS? CAN YOU CANDIDLY TELL ME HOW  
18 IS YOUR REFERENCE OR YOUR MEMORY REFRESHED IN THIS REGARD?

19 A I'M JUST TRYING TO RECALL MY MEMORY. I MEAN  
20 SOMETIMES IT JUST DOESN'T -- IT'S --

21 Q I'M SEEKING THE GENESIS OF YOUR MEMORY,  
22 MR. LEVIN. WHAT CREATES THE MEMORY? WHAT'S THE REFERENCE  
23 FOR YOUR MEMORY?

24 A WELL, I DON'T KNOW WHAT YOU MEAN BY  
25 "REFERENCE".

26 Q WELL, ISN'T IT TRUE YOU CAN'T TELL ME RIGHT  
27 THIS MOMENT WHETHER YOU RECALL THESE DOCUMENTS BECAUSE YOU  
28 SAW THEM AT PITTMAN'S PRELIMINARY OR YOU SAW THEM IN THE

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1 D.A.'S OFFICE, YOU SAW THEM TODAY OR YOU SAW THEM ON JUNE  
2 21ST? CAN YOU, AS A MATTER OF FACT, TELL ME?

3 A IT'S VERY DIFFICULT, AS A MATTER OF FACT. I'M  
4 TRYING TOO --

5 Q I'LL SUBMIT THAT.

6 A I -- I THINK THAT THESE TWO (INDICATING) ARE  
7 THE ONES THAT I DIDN'T QUITE REMEMBER SEEING, THESE TWO  
8 RIGHT HERE (INDICATING).

9 MR. WAPNER: OKAY. MAY WE HAVE THOSE MARKED, PLEASE,  
10 YOUR HONOR?

11 THE COURT: HOW DO YOU WANT THEM MARKED, NOW?  
12 THEY'VE BEEN INTRODUCED AS PEOPLE'S 44 COLLECTIVELY.

13 MR. WAPNER: I WANT THEM MARKED AS -- NO. I WANT  
14 THEM BOTH MARKED AS 44B AND 44C. AND FOR THE RECORD, 44B IS  
15 A PIECE OF PAPER WITH --

16 MR. BARENS: I DON'T WANT TO GET DESCRIPTIONS --

17 MR. WAPNER: I DON'T WANT TO --

18 THE COURT: WOULD COUNSEL BOTH APPROACH THE BENCH,  
19 PLEASE.

20 (A DISCUSSION WAS HELD AT THE BENCH OFF THE RECORD)

21 THE COURT: ALL RIGHT. NOW, THOSE HAVE BEEN  
22 IDENTIFIED AS A, B AND C; IS THAT CORRECT? THE THREE PIECES  
23 OF YELLOW PAPER.

24 MR. BARENS: THREE PIECES OF YELLOW PAPER. YES.  
25 THREE PIECES OF YELLOW PAPER.

26 THE COURT: ALL RIGHT.

27 Q BY MR. BARENS: NOW, MR. LEVIN, AT THE PITTMAN  
28 PRELIMINARY HEARING, IS IT YOUR TESTIMONY THAT YOU DON'T



1 RECALL WHETHER THE PAPERS YOU PUT YOUR INITIALS ON WERE THE  
2 ONES YOU COULD RECOGNIZE OR COULDN'T RECOGNIZE?

3 MR. WAPNER: OBJECTION AS VAGUE AS TO THE FORM OF THE  
4 QUESTION. THE QUESTION WAS "AT THE PITTMAN PRELIMINARY  
5 HEARING DIDN'T YOU RECALL" OR "DO YOU RECALL". I DON'T KNOW  
6 IF THAT MEANS DOES HE RECALL WHAT HE SAID AT THE PITTMAN  
7 PRELIMINARY HEARING OR WHAT.

8 MR. BARENS: NOW IN REFERENCE TO THE PITTMAN  
9 PRELIMINARY WHAT HIS TESTIMONY WAS.

10 Q AT THE PITTMAN PRELIMINARY YOU TESTIFIED, I  
11 BELIEVE, SIR, THAT THERE WERE CERTAIN OF THESE SEVEN PAGES  
12 THAT YOU COULD NOT IDENTIFY.

13 A UM-HMM.

14 Q IS THAT CORRECT, SIR?

15 A YES.

16 Q AND MR. LEVIN, ISN'T IT TRUE THAT AT THE  
17 PITTMAN PRELIMINARY HEARING IT WAS YOUR PRACTICE NOT TO  
18 INITIAL THE PAGES YOU COULD NOT RECOGNIZE?

19 MR. WAPNER: OBJECTION AS VAGUE, YOUR HONOR. IT'S A  
20 VERY CONFUSING QUESTION. THERE'S A DOUBLE NEGATIVE IN  
21 THERE, PLUS IT MISSTATES --

22 MR. BARENS: I'LL RESTATE IT, COUNSEL.

23 MR. WAPNER: -- THE EVIDENCE.

24 Q BY MR. BARENS: I'M ASKING YOU, SIR, IS IT NOT  
25 TRUE THAT AT THE PITTMAN PRELIMINARY HEARING WHEN YOU COULD  
26 NOT IDENTIFY ONE OF THESE PAGES YOU DID NOT PUT YOUR  
27 INITIALS ON IT, AND CONVERSELY ON THE PAGES YOU COULD  
28 IDENTIFY YOU DID PUT YOUR INITIAL.

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1 A I CAN'T RECALL.

2 Q ALL RIGHT. PERHAPS I CAN HELP YOU ON THIS,  
3 MR. LEVIN. JUST NOW IN ASKING YOU TO SELECT OUT WHICH OF  
4 THE PAGES IN FRONT OF YOU OF THE ORIGINALS IN THESE  
5 ENVELOPES, THESE PLASTIC ENVELOPES, THAT YOU COULD NOT  
6 RECOGNIZE, ONE OF THEM THAT YOU TURNED TO WOULD BE  
7 IDENTIFIED AS PEOPLE'S 44B PRESENTLY MARKED FOR PURPOSES OF  
8 THIS PROCEEDING; IS THAT CORRECT, SIR?

9 A YES.

10 Q I NOW SHOW YOU AMONG THE XEROX PAGES OF  
11 PEOPLE'S EXHIBIT 2 WHICH YOU WERE SHOWN, I BELIEVE, AT THE  
12 PITTMAN PRELIMINARY HEARING, WHAT APPEARS TO BE A XEROX OF  
13 PAGE 44B.

14 MR. WAPNER: MAY THAT BE MARKED AS PEOPLE'S 2A FOR  
15 IDENTIFICATION, YOUR HONOR?

16 THE COURT: ALL RIGHT.

17 MR. WAPNER: MAY THE RECORD SO REFLECT THAT I'M  
18 PUTTING A 2A IN INK AT THE BOTTOM OF THE PAGE?

19 THE COURT: ALL RIGHT.

20 Q BY MR. BARENS: NOW, MR. LEVIN, LOOKING AT  
21 THOSE SIDE BY SIDE AS YOU ARE, YOUR INITIAL DOES NOT APPEAR  
22 ON 2A.

23 A THAT'S CORRECT.

24 Q NOW --

25 A I DON'T SEE IT.

26 Q I DON'T EITHER, SIR.

27 A OKAY.

28 Q NOW, WITH THAT IN MIND, DOES THAT HELP REFRESH

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1 YOUR RECOLLECTION AS TO WHAT YOUR INITIALING PRACTICE WAS AT  
2 THE PITTMAN PRELIMINARY HEARING?

3 A NO.

4 Q DO YOU KNOW IF THERE IS ANY REASON WHY, THEN,  
5 THAT YOUR INITIAL WOULD APPEAR ON ANY OF THESE PAGES, SIR,  
6 OF THE -- OF PEOPLE'S 2 MARKED FOR THIS PROCEEDING?

7 A YES. I GUESS THEY -- IF I WOULD HAVE BEEN  
8 ASKED TO IDENTIFY IT AND PUT MY INITIAL ON IT BECAUSE I  
9 GUESS I WOULD HAVE PUT IT ON IT. IT ALL DEPENDS ON WHAT I  
10 WAS ASKED AT THE TIME AS TO WHETHER I SHOULD PUT MY INITIAL  
11 ON THERE AND IF I RECOGNIZE IT, AND IF I WAS ASKED THAT,  
12 THEN, AND I DID RECOGNIZE IT, THEN I WOULD PUT MY INITIAL ON  
13 IT.

14 Q DO YOU RECALL THAT'S WHAT, IN FACT, HAPPENED?

15 A I DON'T KNOW. I DON'T REMEMBER.

16 Q ALL RIGHT. REFERRING TO --

17 MR. WAPNER: YOUR HONOR, IF THIS IS -- MAY I JUST  
18 INTERRUPT FOR ONE SECOND?

19 EXCUSE ME, COUNSEL.

20 I NOTICE THAT IT'S 4:15. I DO HAVE THE WITNESS  
21 HERE THAT WE REFERRED TO BEFORE. I DON'T KNOW HOW MUCH  
22 LONGER COUNSEL IS GOING TO BE WITH THIS WITNESS AND I DON'T  
23 KNOW HOW LONG THE COURT INTENDS TO GO TODAY. I WOULD LIKE  
24 TO TRY TO PUT MR. FURSTMAN ON TODAY.

25 MR. BARENS: ALL RIGHT. LET ME SPEAK TO COUNSEL, IF  
26 YOU WOULD.

27 (A DISCUSSION WAS HELD OFF THE RECORD)

28 MR. BARENS: YOUR HONOR, I BELIEVE WHAT WE HAVE

1 DETERMINED TO DO IS MR. WAPNER WILL PROCEED WITH  
2 MR. FURSTMAN AT THIS POINT. WE'LL RECALL MR. LEVIN TOMORROW  
3 MORNING. MR. WAPNER WILL MAKE AVAILABLE TO MR. TITUS A COPY  
4 OF THE TRANSCRIPT OF THE PITTMAN PROCEEDING SO THAT WE CAN  
5 TRY TO GO BACK OVER HIS TESTIMONY ON THE SEVEN-PAGE  
6 IDENTIFICATION MATTER. IN THE INTERIM, WE'LL TRY TO  
7 CONCLUDE WITH MR. FURSTMAN THIS AFTERNOON.

8 THE COURT: VERY WELL. DO YOU STILL WANT TO BREAK AT  
9 4:30, MR. BARENS?

10 MR. BARENS: WELL, YOUR HONOR, I'M GOING TO, WITH THE  
11 COURTS PERMISSION, WITHDRAW FOR THE AFTERNOON NOW, AND  
12 MR. TITUS WILL PROCEED WITH MR. FURSTMAN, WHO I UNDERSTAND  
13 WON'T BE AVAILABLE TOMORROW.

14 THE COURT: ALL RIGHT. WHAT TIME DID YOU WANT TO  
15 RESUME TOMORROW MORNING, THEN, MR. BARENS? WOULD YOU BE  
16 BACK HERE OR ARE YOU GOING TO BE IN ANOTHER COURT?

17 MR. BARENS: NO, SIR. I WILL BE HERE TOMORROW  
18 MORNING AT 9:00 O'CLOCK.

19 THE COURT: ALL RIGHT. IT WILL BE MORE LIKE 9:30.  
20 WE'LL ELIMINATE SOME OF THE SHORT MATTERS FIRST.

21 MR. BARENS: THANK YOU, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU VERY MUCH,  
23 MR. LEVIN. THEY HAVE A WITNESS HERE WHO'S -- WHO THEY WANT  
24 TO PUT ON RIGHT NOW. IF YOU'D RETURN TOMORROW MORNING,  
25 WE'LL RESUME AT THAT TIME.

26 ALL RIGHT. THE RECORD MAY INDICATE THAT  
27 MR. LEVIN IS BEING EXCUSED AT THIS TIME AND THAT FURTHER  
28 CROSS-EXAMINATION WILL BE RESUMED TOMORROW MORNING.

1 MR. WAPNER: CALL SCOTT FURSTMAN.

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

6 THE WITNESS: I DO.

7

8

9 SCOTT SMITH FURSTMAN,  
10 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
11 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

12 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
13 SPELL YOUR LAST NAME FOR THE RECORD.

14 THE WITNESS: SCOTT SMITH FURSTMAN, F-U-R-S-T-M-A-N.

15 THE CLERK: THANK YOU.

16

17

DIRECT EXAMINATION

18 BY MR. WAPNER:

19 Q MR. FURSTMAN, WHAT IS YOUR OCCUPATION?

20 A I'M AN ATTORNEY.

21 Q AND WHAT TYPE OF LAW DO YOU PRACTICE,  
22 PRIMARILY?

23 A CRIMINAL.

24 Q DID YOU REPRESENT RON LEVIN?

25 A YES, I DID.

26 Q DO YOU RECOGNIZE THE PERSON DEPICTED IN  
27 PEOPLE 'S 45 FOR IDENTIFICATION?

28 A YES, I DO.

Q WHO IS THAT?

1 A THE PERSON KNOWN TO ME AS RONALD GEORGE LEVIN.

2 Q AND WERE YOU REPRESENTING HIM IN THE EARLY PART  
3 OF 1984 INCLUDING AND UP UNTIL JUNE 6, 1984?

4 A YES.

5 Q AND DID YOU -- WHEN WAS THE LAST TIME THAT YOU  
6 SPOKE WITH MR. LEVIN?

7 A I BELIEVE IT WAS JUNE 6, 1984. IT WAS THE LAST  
8 TIME I SPOKE WITH HIM. I BELIEVE THAT WAS A WEDNESDAY.

9 Q DID HE HAVE AN APPOINTMENT TO MEET YOU IN YOUR  
10 OFFICE?

11 A YES, HE DID.

12 Q WHAT TIME WAS YOUR APPOINTMENT?

13 A THE APPOINTMENT WAS FOR 3:30.

14 Q DID HE KEEP THE APPOINTMENT?

15 A NO.

16 Q AND IN REFERENCE TO THAT APPOINTMENT DID HE  
17 CALL YOU?

18 A YES, HE DID.

19 Q ALL RIGHT. AND WHAT DID HE SAY?

20 A HE INDICATED THAT HE WOULD NOT BE ABLE TO MAKE  
21 THE APPOINTMENT, THAT HE HADN'T BEEN ABLE TO MAKE THE  
22 APPOINTMENT -- AND HE CALLED ME AFTER THE APPOINTMENT TIME  
23 HAD ALREADY PASSED -- AND WE BASICALLY DISCUSSED WHEN IT  
24 COULD BE RESCHEDULED.

25 Q AND HE HAD A CASE THAT WAS PENDING PRELIMINARY  
26 HEARING IN THE BEVERLY HILLS MUNICIPAL COURT; IS THAT  
27 CORRECT?

28 A THAT'S CORRECT.

1 Q WHAT WAS THE DATE FOR THE PRELIMINARY HEARING?

2 A THE PRELIMINARY HEARING AS OF THAT TIME WAS SET  
3 FOR OCTOBER 9, 1984.

4 Q AND HAD THE -- WHEN WAS THE PRELIMINARY HEARING  
5 ORIGINALLY SCHEDULED FOR, IF YOU RECALL?

6 A I DON'T RECALL OFFHAND THE ORIGINAL DATE IT WAS  
7 SCHEDULED. IT MAY HAVE BEEN CONTINUED ONCE OR TWICE BEFORE.  
8 I REMEMBER I HAD APPEARED ON MAY 29, WHICH WAS THE PRIOR  
9 PRELIMINARY HEARING DATE. MAY 29TH IT HAD BEEN SET. IT MAY  
10 HAVE BEEN SET FOR A TIME EVEN BEFORE MAY 29TH AND CONTINUED  
11 TO THE 29TH, BUT I KNOW THE LAST TIME I APPEARED TO CONTINUE  
12 THE CASE FOR PRELIMINARY WAS MAY 29, 1984.

13 Q HAD MR. LEVIN MADE ALL OF HIS COURT  
14 APPEARANCES?

15 A YES.

16 Q HAD YOU HAD MEETINGS WITH MR. LEVIN IN YOUR  
17 OFFICE OTHER THAN THE ONE THAT YOU WERE SCHEDULED TO HAVE ON  
18 JUNE THE 6TH?

19 A YES.

20 Q AND HAD YOU TALKED TO HIM ON THE PHONE ABOUT  
21 THE CASE?

22 A DURING --

23 Q DURING THE PENDENCY OF THE CASE, BEFORE JUNE  
24 THE 6TH?

25 A WE HAD SPOKEN ON THE PHONE, WE HAD MET IN MY  
26 OFFICE, AT RON'S HOME AND WE HAD MADE ADDITIONAL COURT  
27 APPEARANCES AS WELL.

28 Q AND WERE YOU FAMILIAR WITH MR. LEVIN'S PRACTICE

1 VIS-A-VIS RETURNING HIS PHONE CALLS? AND WAS HE GENERALLY  
2 PROMPT AT IT?

3 A IN RETURNING MESSAGES OR CALLS THAT I HAD MADE  
4 TO HIM?

5 Q YES.

6 A YES. HE ALWAYS GOT BACK TO ME.

7 Q AND WERE YOU FAMILIAR WITH MR. LEVIN'S PRACTICE  
8 REGARDING HIS OWN PERSONAL USE OF THE TELEPHONE?

9 MR. TITUS: YOUR HONOR, I'D OBJECT. THERE'S NO  
10 FOUNDATION. HOW WOULD HE KNOW?

11 MR. WAPNER: WELL, IF HE DOESN'T KNOW, HE CAN SAY  
12 THAT.

13 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
14 OVERRULED.

15 DO YOU KNOW?

16 THE WITNESS: WELL --

17 THE COURT: CAN YOU ANSWER THAT?

18 THE WITNESS: ONLY IN THE CONTEXT OF HIS  
19 COMMUNICATIONS WITH ME.

20 Q BY MR. WAPNER: AND WHAT WAS THE NATURE OF HIS  
21 COMMUNICATIONS WITH YOU?

22 A WITH REFERENCE TO THE CASE. HE WOULD  
23 FREQUENTLY CONTACT ME WITH REGARD TO THE PENDENCY OF THE  
24 PROCEEDINGS.

25 Q DID HE APPEAR TO BE INTERESTED IN THE CASE?

26 A YES.

27 Q HAD YOU HAD ANY CONTACT WITH HIM WHATSOEVER  
28 FROM THE TIME THAT YOU TALKED TO HIM ON -- SPOKE WITH HIM ON



1 THE PHONE ON JUNE THE 6TH?

2 A NO.

3 Q HAD YOU TRIED TO CONTACT HIM?

4 A YES.

5 Q AND HAD YOU LEFT MESSAGES FOR HIM?

6 A UP UNTIL A POINT IN TIME, YES, I DID. I LEFT A  
7 NUMBER OF MESSAGES FOR HIM.

8 Q AND HAD HE RETURNED THOSE MESSAGES?

9 A NO. NOT SUBSEQUENT TO OUR CONVERSATION ON JUNE  
10 THE 6TH. HE NEVER RETURNED ANY OF MY CALLS SUBSEQUENT TO  
11 THAT DATE.

12 MR. WAPNER: MAY I HAVE A MOMENT?

13 THE COURT: YES.

14 MR. WAPNER: I HAVE NOTHING FURTHER.

15 MR. TITUS: MAY I PROCEED?

16 THE COURT: YES.

17

18

CROSS-EXAMINATION

19 BY MR. TITUS:

20 Q MR. FURSTMAN, WHAT WAS THE NATURE OF THE CHARGE  
21 THAT YOU WERE REPRESENTING MR. LEVIN ON HERE IN BEVERLY  
22 HILLS?

23 A THERE WERE MULTIPLE COUNTS IN THE COMPLAINT.

24 Q OKAY. WOULD YOU START WITH COUNT I.

25 MR. WAPNER: OBJECTION AS TO RELEVANCE, YOUR HONOR.

26 THE COURT: WELL, YOU BROUGHT IT OUT ON DIRECT  
27 EXAMINATION. I PRESUME THAT -- WHAT IS THE RELEVANCE?

28 MR. TITUS: YOUR HONOR, I -- IT WAS BROUGHT UP THAT

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1 HE WAS REPRESENTING THE DEFENDANT HERE IN BEVERLY HILLS ON  
2 DIRECT, AND I'M MERELY INQUIRING ON CROSS WHAT THE NATURE OF  
3 THE CHARGES WERE. WHAT THE NATURE OF THIS WITNESSES  
4 UNDERSTANDING OF THE CHARGES WERE.

5 THE COURT: ALL RIGHT. ARE YOU GOING TO ASK HIM WHAT  
6 EACH COUNT WAS OR JUST IN GENERAL?

7 MR. TITUS: IN GENERAL.

8 THE WITNESS: YOUR QUESTION WAS WHAT WAS COUNT 1?

9 Q BY MR. TITUS: YES. WHAT WAS THE NATURE OF THE  
10 CHARGES AGAINST YOUR CLIENT, RON LEVIN?

11 A 487, GRAND THEFT.

12 Q GRAND THEFT PERSON?

13 A NO. GRAND THEFT PROPERTY. AND ONE NSF, 476  
14 CHARGE. THERE WERE 11 COUNTS ALTOGETHER.

15 Q 11 COUNTS, AND THE MATTER WAS PENDING  
16 PRELIMINARY HEARING FOR WHAT DATE?

17 A OCTOBER 9, 1984.

18 Q SO THIS WAS THE 6TH OF JUNE THAT YOU SPOKE TO  
19 HIM AND HE DIDN'T MAKE HIS APPOINTMENT?

20 A WE HAD APPEARED IN COURT ON JUNE 5TH. WE HAD  
21 AN APPOINTMENT FOR THE FOLLOWING DAY, JUNE 6TH. HE CALLED  
22 ME JUNE 6TH AFTER THE DESIGNATED TIME FOR THE APPOINTMENT.

23 Q WHAT DIVISION DID YOU APPEAR IN ON 6-5 WITH  
24 MR. LEVIN?

25 A THIS DIVISION, DIVISION I.

26 Q BEFORE JUDGE KIDNEY?

27 A YES.

28 Q WAS THIS THE ONLY CASE YOU REPRESENTED

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1 MR. LEVIN ON?

2 A YES.

3 Q HAD YOU HAD ANY PROFESSIONAL DEALINGS WITH  
4 MR. LEVIN PRIOR TO THIS?

5 A NONE.

6 Q ARE YOU FAMILIAR WITH ANY OTHER DIFFICULTIES  
7 MR. LEVIN MAY OR MAY NOT HAVE HAD, ESPECIALLY WITH THE  
8 FEDERAL GOVERNMENT, THE SECURITIES EXCHANGE COMMISSION --

9 MR. WAPNER: OBJECTION, RELEVANCE.

10 MR. TITUS: YOUR HONOR, I'M ATEMPTING TO DETERMINE  
11 WHAT THIS WITNESS MAY KNOW ABOUT MR. LEVIN'S PROPENSITY TO  
12 FLEE THE JURISDICTION. THEY'VE ALREADY BROUGHT UP THE  
13 MATTER THAT HE'S CHARGED IN AN 11-COUNT COMPLAINT IN THIS  
14 COURT, AND I'M TRYING TO ASCERTAIN WHETHER OR NOT THERE ARE  
15 OTHER DIFFICULTIES INVOLVING MR. LEVIN.

16 THE COURT: ARE YOU ASKING MR. FURSTMAN IF HE WAS  
17 REPRESENTING HIM IN OTHER CASES OR ARE YOU ASKING FOR  
18 HEARSAY WHAT HE MAY HAVE TOLD HIM OR --

19 MR. TITUS: WHAT HE KNOWS. I'M NOT ASKING FOR ANY  
20 STATEMENTS BECAUSE I THINK THAT WOULD VIOLATE THE  
21 ATTORNEY-CLIENT PRIVILEGE, TOO. I'M ASKING HIM IF HE KNOWS  
22 OF ANY DIFFICULTIES.

23 MR. WAPNER: WELL, IF HE DIDN'T REPRESENT HIM, HOW  
24 WOULD HE KNOW OTHER THAN BY HEARSAY EITHER BY SOMEONE  
25 TELLING HIM OR BY HIM GOING AND READING SOME COURT DOCKET.  
26 IN ANY EVENT -- OR IF HIS CLIENT TOLD HIM, OBVIOUSLY WE HAVE  
27 A PROBLEM WITH THE PRIVILEGE ANYWAY YOU CUT IT.

28 IT'S OBJECTIONABLE TESTIMONY, SO I DON'T SEE --

1 FIRST OF ALL, I DON'T SEE THE RELEVANCE, BUT SECOND OF ALL,  
2 EVEN IF IT IS RELEVANT, IT'S OBJECTIONABLE UNDER SEVERAL  
3 THEORIES.

4 MR. TITUS: YOUR HONOR, WE DON'T KNOW IF IT'S  
5 OBJECTIONABLE UNTIL WE DETERMIN WHAT THE NATURE IS. IF HE  
6 OBTAINED THE INFORMATION FROM COURT DOCUMENTS, THEN HE  
7 WOULDN'T HAVE OBTAINED IT FROM A HEARSAY SOURCE.

8 MR. WAPNER: HIS TESTIMONY ABOUT A COURT DOCUMENT IS  
9 NOT HEARSAY? IT SEEMS TO ME IT WOULD BE HEARSAY UNLESS WE  
10 HAVE THE COURT DOCUMENT IN FRONT OF US, THE ORIGINAL COURT  
11 RECORD.

12 THE COURT: ALL RIGHT. I'M GOING TO -- WHAT IS YOUR  
13 SPECIFIC OBJECTION NOW? LET'S GET -- WHAT IS THE ACTUAL  
14 OBJECTION?

15 MR. WAPNER: WELL, THERE ARE SEVERAL OBJECTIONS.  
16 ONE, AS TO RELEVANCE. TWO, HEARSAY. THREE, PRIVILEGE, AND  
17 THAT -- AND THE HEARSAY OBJECTION ENCOMPASSES HOW THIS  
18 WITNESS SINCE -- HE'S ALREADY ANSWERED THAT HE DID NOT  
19 REPRESENT MR. LEVIN ON ANY OTHER CASE AND HAD NO  
20 PROFESSIONAL DEALINGS WITH HIM BEFORE THE INSTANT CASE, SO  
21 THE ONLY WAY THAT HE CAN LEARN ABOUT ANY OTHER CASE IS BY  
22 READING SOME OTHER DOCUMENT. WHATEVER IT IS, IT'S AN OUT OF  
23 COURT STATEMENT, OUT OF COURT DOCUMENT, AND HIS TESTIMONY  
24 ABOUT IT IS HEARSAY. OR HE GETS THE INFORMATION FROM  
25 MR. LEVIN, IN WHICH CASE IT'S A HEARSAY STATEMENT FROM  
26 MR. LEVIN AND IT'S ALSO A PRIVILEGED COMMUNICATION BETWEEN  
27 MR. LEVIN AND HIS ATTORNEY.

28 THE COURT: WELL, FIRST OF ALL, WE DON'T KNOW WHETHER

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1 HE CAN ANSWER THE QUESTION AT ALL. THE QUESTION IS DO YOU  
2 KNOW OF ANY OTHER PENDING LITIGATION; IS THAT CORRECT?

3 MR. TITUS: YES, THAT 'S CORRECT.

4 MR. WAPNER: BUT THE ANSWER HAS TO BE BASED ON  
5 HEARSAY UNLESS HE REPRESENTED HIM, WHICH HE DIDN'T BECAUSE  
6 HE 'S ALREADY ANSWERED THAT QUESTION.

7 THE COURT: WELL, HE HASN'T TOLD US THAT. WE DON'T  
8 KNOW WHETHER OR NOT HE DID REPRESENT HIM. THE FIRST  
9 QUESTION IS WHETHER HE KNOWS OF ANY OTHER. AS FAR AS  
10 RELEVANCE IS CONCERNED, IT MAY BE RELEVANT TO ESTABLISH SOME  
11 KIND OF CREDIBILITY OR MOTIVES HERE AS FAR AS HEARSAY IS  
12 CONCERNED. AT THIS POINT WE DON'T KNOW WHAT THE SOURCE OF  
13 IT IS AND WHETHER IT WOULD BE RELIABLE TESTIMONY THAT WOULD  
14 TAKE IT OUT OF THE HEARSAY RULING.

15 AS FAR AS THE ATTORNEY-CLIENT PRIVILEGE IS  
16 CONCERNED, WE DON'T KNOW WHETHER HE WAS THE PARTY WHO WAS --  
17 WHETHER THERE WAS ACTUALLY AN ATTORNEY-CLIENT PRIVILEGE AS  
18 FAR AS THE FEDERAL MATTERS WERE CONCERNED HERE.

19 MR. WAPNER: WELL, AS TO THE QUESTION "DO YOU KNOW",  
20 WHICH CAN BE ANSWERED YES OR NO, THERE 'S NO OBJECTION.

21 THE COURT: ALL RIGHT.

22 Q BY MR. TITUS: MR. FURSTMAN, DO YOU KNOW OF ANY  
23 OTHER DIFFICULTIES THAT MR. LEVIN WAS FACING PARTICULARLY  
24 POINTING TO THE SECURITIES EXCHANGE COMMISSION AND THE  
25 FEDERAL GOVERNMENT?

26 MR. WAPNER: OBJECTION TO THE WAY THE QUESTION IS  
27 PHRASED. THE QUESTION IS DO YOU KNOW WHETHER HE 'S HAD ANY  
28 OTHER DIFFICULTIES. NOW HE 'S PHRASED THE QUESTION IN SUCH A

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1 WAY THAT THE ANSWER, IF IT'S YES, REFERS TO SOMETHING  
2 SPECIFIC AND THAT GETS INTO THE BASIS OF THE OBJECTION.

3 THE COURT: THE OBJECTION WILL BE SUSTAINED, AND THE  
4 QUESTION SHOULD BE PUT IN THE ORIGINAL FORM.

5 Q BY MR. TITUS: DO YOU KNOW OF ANY ADDITIONAL  
6 DIFFICULTIES THAT MR. LEVIN WAS FACING WITH THE LAW?

7 A I DON'T RECALL THAT HE HAD ANY OTHER PENDING  
8 CRIMINAL MATTERS. THERE WERE NONE THAT I CAN RECALL. I DID  
9 NOT REPRESENT HIM ON ANY AND I KNOW OF NONE.

10 Q YOU KNOW OF -- YOU KNOW OF NO INVESTIGATION  
11 THAT HE WAS UNDERGOING AT THE TIME. IF THERE WAS.

12 A NO, I DON'T. I WAS NOT AWARE OF IT. WE DID  
13 NOT DISCUSS IT.

14 Q DO YOU KNOW IF MR. LEVIN WAS ON BAIL ON THE  
15 CHARGE -- THE 11-COUNT COMPLAINT IN BEVERLY HILLS?

16 A YES. YES, HE WAS.

17 Q DO YOU KNOW THE AMOUNT OF THAT BAIL?

18 A \$10,000. AS OF -- PERHAPS -- AS OF WHAT POINT  
19 IN TIME? AS OF JUNE 5TH OR JUNE 6TH?

20 Q THE LAST TIME YOU HAD CONTACT WITH HIM I  
21 BELIEVE WAS THE 5TH OF JUNE HERE.

22 A IN COURT, THAT'S CORRECT, AND AT THAT TIME HIS  
23 BAIL WAS \$10,000.

24 Q AND HE WAS OUT ON BAIL?

25 A HE WAS OUT ON BAIL, YES.

26 Q DID YOU KNOW THE DISPOSITION OF THAT CASE?

27 A THE CASE THAT I REPRESENT?

28 Q YES.

1 A YES.

2 Q AND WHAT IS THAT DISPOSITION?

3 A IT'S MY UNDERSTANDING THAT THE CASE HAS BEEN  
4 DISMISSED.

5 Q YOU APPEARED ON THE 9TH OF OCTOBER '84 IN THIS  
6 DIVISION?

7 A YES, I DID.

8 Q AND THE CASE WAS DISMISSED AT THAT TIME?

9 A NO, IT WASN'T DISMISSED AT THAT TIME.

10 Q DO YOU KNOW WHEN IT WAS DISMISSED?

11 A I DON'T KNOW THE EXACT DATE IT WAS DISMISSED.

12 THE CASE WAS CONTINUED AGAIN FOR PRELIMINARY HEARING ON  
13 OCTOBER 9TH. I DON'T RECALL WITHOUT REFERRING TO MY  
14 CALENDAR WHAT DATE IT WAS CONTINUED TO, BUT SUBSEQUENT TO  
15 THE NEXT SETTING DATE, THE MATTER WAS DISMISSED.

16 Q MR. FURSTMAN, DO YOU KNOW THE A-NUMBER ON THAT  
17 CASE OFFHAND?

18 A NOT OFFHAND. I'D HAVE TO REFER TO -- REFER TO  
19 A COPY OF THE COMPLAINT, BUT I DON'T KNOW IT OFFHAND, NO.

20 Q DO YOU RECALL WHAT THE NATURE OF THE PEOPLE'S  
21 REQUEST FOR DISMISSAL WAS? I'M ASSUMING THE PEOPLE DID MOVE  
22 TO DISMISS.

23 A I DON'T UNDERSTAND YOUR QUESTION. IF --  
24 WHAT --

25 Q WAS IT BASED ON WHAT SECTION OF THE PENAL CODE?  
26 1385 OF THE PENAL CODE WITH A STATEMENT OF REASON FOR  
27 DISMISSAL?

28 A IT WAS 1380- -- I BELIEVE IT WAS -- I BELIEVE

1 IT WAS 1385. I'M NOT SURE.

2 Q YOU ARE AN EXPERIENCED CRIMINAL PRACTITIONER?

3 A YES.

4 Q DID YOU -- WHAT DISTRICT ATTORNEY DID YOU DEAL  
5 WITH?

6 A I WAS NOT PRESENT WHEN THE CASE WAS DISMISSED.

7 Q WHO WAS?

8 A THE CASE -- IT'S MY UNDERSTANDING --

9 MR. WAPNER: WELL, AGAIN, THIS IS BASED ON HEARSAY,  
10 YOUR HONOR. IF HE WASN'T THERE, NOW HE'S TRYING TO ANSWER  
11 BASED ON --

12 MR. TITUS: I'M ASKING IF HE KNOWS WAS SOMEONE  
13 REPRESENTING HIM.

14 THE COURT: THE ANSWER IS HE WASN'T PRESENT AT THE  
15 TIME.

16 IS THAT CORRECT?

17 THE WITNESS: THAT'S CORRECT.

18 Q BY MR. TITUS: WHEN WAS THE LAST TIME YOU  
19 APPEARED ON THE CASE, MR. FURSTMAN?

20 A I BELIEVE THE LAST TIME I ACTUALLY APPEARED ON  
21 THE CASE PROBABLY WAS OCTOBER 9. THERE MAY HAVE BEEN ONE  
22 SUBSEQUENT APPEARANCE. AS I SAY, I'D HAVE TO REFER TO MY  
23 CALENDAR.

24 Q AND THE MATTER WAS CONTINUED WHEN YOU APPEARED  
25 THE LAST TIME?

26 A YES.

27 Q THAT -- YOUR LAST EXPERIENCE WITH THE CASE WAS  
28 THAT IT WAS CONTINUED FOR PRELIMINARY HEARING?



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1 A THAT 'S CORRECT.

2 Q AND MR. LEVIN WAS NOT PRESENT ON THAT OCCASION  
3 THE LAST TIME YOU APPEARED?

4 A THAT 'S CORRECT.

5 Q NO WARRANT WAS ISSUED?

6 A A BENCH WARRANT WAS HELD, IT'S MY UNDERSTANDING.

7 Q SO A BENCH WARRANT WAS ISSUED BUT HELD?

8 A A BENCH WARRANT WAS ISSUED BUT HELD. THAT 'S MY  
9 RECOLLECTION.

10 Q DO YOU HAVE ANY KNOWLEDGE OF HOW THE CASE WAS  
11 DISMISSED FROM PERSONAL KNOWLEDGE?

12 A THE MECHANICS OF WHETHER THE MOTION WAS MADE IN  
13 OPEN COURT OR -- I DON'T UNDERSTAND WHAT YOU'RE SAYING.

14 Q YES.

15 A NO. I DON'T RECALL. IT WAS REPRESENTED TO ME  
16 THAT THE CASE HAD BEEN DISMISSED.

17 Q REPRESENTED TO YOU BY WHO?

18 A I BELIEVE IT WAS PAUL EDHOLM.

19 Q DO YOU KNOW WHO PAUL EDHOLM IS?

20 A CERTAINLY.

21 Q WHO?

22 A PAUL EDHOLM IS THE DETECTIVE AT THE BEVERLY  
23 HILLS POLICE DEPARTMENT. HE WAS THE INVESTIGATOR IN THIS  
24 CASE.

25 MR. TITUS: MAY I HAVE A MOMENT, YOUR HONOR?

26 THE COURT: YES.

27 Q BY MR. TITUS: MR. FURSTMAN, THE 11 CHARGES  
28 WERE FELONIES AGAINST MR. LEVIN?

1 A YES.

2 Q AND HAD YOU HAD ANY PLEA BARGAIN DISCUSSIONS  
3 WITH THE DISTRICT ATTORNEY?

4 MR. WAPNER: OBJECTION, RELEVANCE.

5 THE COURT: WHAT IS THE RELEVANCE?

6 MR. TITUS: THE RELEVANCE IS IF THEY'RE 11 NAKED  
7 FELONIES, THE CHARGES PENDING AGAINST HIM BECOME MORE  
8 SERIOUS AND GIVE MR. LEVIN ADDITIONAL REASON TO FLEE THE  
9 JURISDICTION. I'M TRYING TO FIND OUT THE NATURE OF THE  
10 SERIOUSNESS OF THE CHARGES AND I'M --

11 THE COURT: WELL, HE'S ALREADY ENUMERATED WHAT THE  
12 CHARGES WERE, MR. TITUS. THE OBJECTION WILL BE SUSTAINED.

13 Q BY MR. TITUS: DID YOU HAVE ANY AGREEMENT WITH  
14 THE DISTRICT ATTORNEY UNDER PEOPLE VERSUS WEST THAT WOULD  
15 ELICIT A PLEA OR LIMIT THE PUNISHMENT?

16 A NO.

17 MR. TITUS: I HAVE NOTHING FURTHER OF THIS WITNESS.

18 THE COURT: ANY REDIRECT, MR. WAPNER?

19 MR. WAPNER: JUST BRIEFLY.

20

21

REDIRECT EXAMINATION

22 BY MR. WAPNER:

23 Q WHEN YOU TALKED TO MR. LEVIN ON THE PHONE ON  
24 THE 6TH, DID HE GIVE YOU ANY INDICATIONS THAT THERE WAS  
25 ANYTHING WRONG? THAT HE WAS HAVING A PROBLEM OF ANY SORT?

26 A NO, HE DIDN'T.

27 Q DID HE INDICATE THAT HE WOULD RESCHEDULE HIS  
28 APPOINTMENT?

1 A YES, HE DID.

2 Q DURING THE ENTIRE TIME THAT YOU REPRESENTED  
3 HIM, DID HE GIVE YOU ANY INDICATION THAT HE INTENDED TO JUMP  
4 BAIL AND FLEE THE JURISDICTION?

5 MR. TITUS: OBJECTION, YOUR HONOR. CALLS FOR A  
6 CONCLUSION AND SPECULATION. VAGUE AS TO --

7 THE COURT: WELL, THE ISSUE HAS COME UP HERE NOW ON  
8 CROSS-EXAMINATION AS TO WHETHER OR NOT HE MIGHT HAVE A  
9 MOTIVE FOR FLEEING, AND THE QUESTION THAT THE DISTRICT  
10 ATTORNEY IS NOW ASKING IS DID HE DISCUSS --

11 IS THAT WHAT YOU'RE SAYING -- OR WAS THERE  
12 ANY --

13 MR. WAPNER: EITHER BY DISCUSSION OR IN ANY OTHER  
14 MANNER.

15 MR. TITUS: THEN, OF COURSE, WE HAVE THE DIFFICULTY  
16 OF THE PRIVILEGE, THE ATTORNEY-CLIENT PRIVILEGE. I HAVE  
17 STUDIOUSLY AVOIDED ANY REFERENCE OF DISCUSSIONS BETWEEN  
18 MR. FURSTMAN AND MR. LEVIN BECAUSE OF THAT PRIVILEGE.

19 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
20 SUSTAINED.

21 MR. WAPNER: I HAVE NOTHING FURTHER.

22 THE COURT: MAY THIS WITNESS BE EXCUSED?

23 MR. TITUS: NO OBJECTION.

24 MR. WAPNER: NO OBJECTION.

25 THE COURT: THANK YOU VERY MUCH.

26 MR. WAPNER, DO YOU WANT TO PROCEED WITH ANY  
27 FURTHER WITNESSES OR DO YOU WANT TO TAKE YOUR RECESS AT THIS  
28 TIME?

1 MR. WAPNER: I'D JUST AS SOON TAKE A RECESS AT THIS  
2 TIME.

3 MR. TITUS: SECOND THE MOTION.

4 THE COURT: ALL RIGHT. AT THIS TIME WE'LL TAKE OUR  
5 RECESS FOR THE DAY. WE'LL RECONVENE THE IN THE MATTER OF  
6 PEOPLE VERSUS JOE HUNT AT 9:30 TOMORROW MORNING.

7 (AT 4:40 P.M., AN ADJOURNMENT WAS TAKEN UNTIL TUESDAY,  
8 MARCH 19, 1985 AT 9:30 A.M.)

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1 BEVERLY HILLS, CALIFORNIA, TUESDAY, MARCH 19, 1985

2 10:30 A.M.

3 --000--

4  
5 THE COURT: IN THE MATTER OF JOE HUNT, DEFENSE READY?

6 MR. BARENS: DEFENSE IS READY, YOUR HONOR.

7 THE COURT: PEOPLE READY?

8 MR. WAPNER: READY.

9 THE COURT: ALL RIGHT. I BELIEVE WHEN WE RECESSED  
10 YESTERDAY, THE UNDERSTANDING WAS THAT MR. LEVIN WOULD BE  
11 CONTINUED ON CROSS-EXAMINATION; IS THAT CORRECT?

12 MR. BARENS: THAT'S CORRECT, YOUR HONOR.

13 THE COURT: ALL RIGHT. MR. LEVIN, WOULD YOU RESUME  
14 THE STAND, PLEASE. YOU'VE PREVIOUSLY BEEN SWORN IN.

15  
16 CROSS-EXAMINATION (CONT'D)

17 BY MR. BARENS:

18 Q MR. LEVIN, YOU MAY RECALL YESTERDAY THAT WE  
19 WERE HAVING SOME DISCUSSION CONCERNING THE SEVEN PAGES THAT  
20 YOU FOUND AT YOUR SON'S APARTMENT I BELIEVE YOU TESTIFIED  
21 ABOUT TWO WEEKS AFTER HIS DISAPPEARANCE. AND YOU WERE SHOWN  
22 SEVEN ORIGINAL PAGES IN PLASTIC SLEEVES, AND OUR DISCUSSION  
23 WAS ON THE AREA OF YOUR TRYING TO RECALL WHICH OF THOSE  
24 PAGES YOU HAD SEEN AND COULD RECALL SEEING PREVIOUSLY AND  
25 WHICH YOU DIDN'T RECALL SEEING PREVIOUSLY. DO YOU REMEMBER  
26 THAT?

27 A YES.

28 Q NOW, MR. LEVIN, YOU TESTIFIED AT THE

1 PRELIMINARY HEARING IN THIS COURT IN THE MATTER OF JAMES  
2 PITTMAN ON DECEMBER 12TH AND DECEMBER 13TH, DID YOU NOT?

3 A YES.

4 Q I'M NOW REFERRING TO -- WELL, FIRST OF ALL, YOU  
5 WERE SHOWN SOME XEROX COPIES DURING THAT HEARING OF THE  
6 SEVEN PAGES WE REFERRED TO YESTERDAY?

7 A YES.

8 Q AND ARE THESE -- AND I'M NOW REFERRING TO  
9 PEOPLE'S EXHIBIT NO. 2 IN ORDER, ARE THESE THE PAGES YOU  
10 WERE SHOWN AT THE PITTMAN PRELIMINARY HEARING?

11 A YES.

12 Q NOW, AT THAT HEARING WERE YOU ASKED TO PUT YOUR  
13 INITIAL ON THE PAGES THAT YOU COULD RECALL HAVING SEEN IN  
14 THE LEVIN APARTMENT?

15 A YES, I BELIEVE, SO.

16 Q AND DID YOU DO SO?

17 A I BELIEVE I DID, YES.

18 Q WOULD YOU PLEASE EXAMINE THAT EXHIBIT AND TELL  
19 ME HOW MANY OF THOSE SEVEN PAGES HAVE YOUR INITIAL ON THEM.

20 A THIS WOULD BE THE INITIAL HERE, I GUESS  
21 (INDICATING).

22 MR. WAPNER: INDICATING, YOUR HONOR, FOR THE RECORD  
23 WHEN HE SAYS "HERE", JUST TO THE IMMEDIATE RIGHT OF THE TAG,  
24 THE YELLOW EXHIBIT TAG.

25 THE COURT: VERY WELL. THE RECORD MAY SO INDICATE.

26 MR. WAPNER: INDICATING ON THE -- THE FIRST TIME WHEN  
27 HE SAID "HERE" WAS ON THE TOP PAGE, AND THE SECOND TIME WAS  
28 ON THE FOURTH PAGE IN THE BOTTOM RIGHT HAND CORNER.

1 THE WITNESS: AND THE NEXT PAGE.

2 THE COURT: THE RECORD MAY SO INDICATE.

3 THE WITNESS: THIS PAGE (INDICATING).

4 MR. WAPNER: INDICATING ON THE FIFTH PAGE IN THE  
5 BOTTOM RIGHT HAND CORNER, YOUR HONOR?

6 THE WITNESS: AND THIS PAGE (INDICATING).

7 THE COURT: INDICATING ON THE SIXTH PAGE IN THE  
8 BOTTOM RIGHT HAND CORNER.

9 THE WITNESS: I GUESS THAT WAS IT.

10 Q BY MR. BARENS: NOW, I BELIEVE, THEN, THAT  
11 YOU'RE SAYING THAT THERE ARE FOUR OF THESE PAGES THAT YOU  
12 TESTIFIED THAT YOU RECOGNIZED AND THREE THAT YOU DID NOT  
13 RECALL PREVIOUSLY; IS THAT CORRECT, SIR?

14 A I -- I GUESS SO.

15 MR. BARENS: WHAT I'D LIKE TO DO NOW, YOUR HONOR, IS  
16 MATCH THESE PAGES -- SINCE IT WAS THE ORIGINAL THAT THE  
17 PEOPLE TENDERED AT THIS HEARING, TO MATCH AND MARK THE  
18 ORIGINALS IN A SIMILAR FASHION.

19 THE COURT: ALL RIGHT.

20 MR. BARENS: WHERE ARE THE ORIGINALS AT THIS POINT?

21 THE COURT: DO WE HAVE THE ORIGINALS HERE?

22 THE CLERK: YES.

23 MR. BARENS: YOUR HONOR, I NOTE THAT THERE ARE A  
24 COUPLE OF PEOPLE IN THE COURTROOM THAT ARE POTENTIAL  
25 WITNESSES, MR. ANTON AND I BELIEVE A GIRL FRIEND OF  
26 MR. KARNY'S. I'D LIKE A MOTION TO HAVE THEM EXCLUDED,  
27 PLEASE.

28 THE COURT: ALL RIGHT. ANY POTENTIAL WITNESSES IN

1 THE HUNT CASE WHO ARE PRESENT IN THE COURTROOM ARE ASKED TO  
2 STEP OUTSIDE.

3 MR. WAPNER: MR. ANTON MAY BE A WITNESS AT TRIAL. HE  
4 WON'T BE AT THIS HEARING. AS FAR AS THE GIRL FRIEND OF  
5 MR. KARNY'S, MAYBE SHE'S A POTENTIAL DEFENSE WITNESS. SHE'S  
6 CERTAINLY NOT AT THIS POINT A POTENTIAL PEOPLE'S WITNESS.

7 MR. BARENS: WE RESERVE THE RIGHT TO CALL THEM AS  
8 WITNESSES, YOUR HONOR, AND ASK THAT THEY BE EXCLUDED.

9 THE COURT: ALL RIGHT. YOU BETTER BOTH STEP OUTSIDE,  
10 THEN.

11 DO YOU WANT THE YOUNG LADY TO STEP OUTSIDE,  
12 ALSO?

13 MR. BARENS: YES, YOUR HONOR.

14 THE COURT: ALL RIGHT. WOULD YOU PLEASE STEP OUTSIDE  
15 ALSO.

16 WHO IS IT?

17 MR. BARENS: I BELIEVE IT'S THE YOUNG LADY IN THE  
18 WHITE BLOUSE.

19 THE COURT: OH, I'M SORRY. I THOUGHT IT WAS THE  
20 OTHER PARTY.

21 MR. BARENS: THANK YOU, YOUR HONOR.

22 Q NOW, MR. LEVIN, I'M GOING TO ASK YOU TO PLEASE  
23 ISOLATE FROM THESE SEVEN PAGES THAT APPEAR TO BE IN SLEEVES  
24 HERE THE -- JUST THE PAGES THAT WOULD MATCH THOSE IN THE  
25 XEROX THAT HAVE YOUR INITIAL ON THEM. DO YOU UNDERSTAND  
26 THAT?

27 A YOU WANT ME TO JUST MATCH THEM UP AGAINST THEM  
28 RIGHT NOW? IS THAT WHAT YOU WANT ME TO DO?



1 Q YES, IF YOU WOULD, SIR, AND SET THOSE TO THE  
2 SIDE PERHAPS, IF YOU WOULD.

3 A I DON'T SEE THIS ONE HERE (INDICATING).

4 Q ONE OF THE PAGES IS DIFFERENT THAN THE PAGES  
5 YOU SEE IN THE YELLOW -- IN THE ORIGINALS?

6 A DO YOU SEE IT?

7 Q NO, I FRANKLY DON'T, SIR.

8 A I'M NOT SURE WHAT YOU WANT ME TO DO.

9 Q WELL -- IT APPEARS AND I ASK.

10 MR. BARENS: IT APPEARS -- AND I ASK THE COURT TO  
11 TAKE JUDICIAL NOTICE OF THE FACT -- THAT THE ORIGINALS THAT  
12 ARE OFFERED AS PEOPLE'S 2 ARE DIFFERENT, THEN, IN SOME  
13 RESPECTS TO THE COPIES THAT WE HAVE HERE. ONE OF THE PAGES  
14 IS TOTALLY DIFFERENT THAN ANYTHING I CAN FIND IN THESE  
15 COPIES.

16 MR. WAPNER: WELL, THAT MIGHT BE TRUE EXCEPT THAT  
17 IF MR. BARENS WOULD TURN THE LIST OVER AND TAKE A LOOK AT  
18 THE BACK OF AN EXHIBIT THAT'S BEEN MARKED AS 44C AND COMPARE  
19 IT TO WHAT'S PAGE TWO OF PEOPLE'S 2, I THINK HE'LL FIND IT'S  
20 THE SAME THING.

21 MR. BARENS: WELL, EXCEPT THAT I ONLY HAVE SEVEN  
22 PAGES HERE, AND I HAVE SEVEN PAGES HERE.

23 THE COURT: WELL --

24 MR. BARENS: AND I SHOULD HAVE EIGHT, ACTUALLY, IF  
25 IT'S THE COPY OF A BACK SIDE.

26 MR. WAPNER: WELL, WHEN YOU'RE ASKING THE COURT TO  
27 TAKE JUDICIAL NOTICE OF A SPECIFIC THING, YOU'RE TALKING  
28 ABOUT --

1 THE COURT: JUST A MOMENT. LET 'S CLARIFY THIS A  
2 LITTLE BIT HERE. THERE ARE SEVEN YELLOW SHEETS HERE; IS  
3 THAT CORRECT?

4 MR. BARENS: YES, SIR.

5 THE COURT: SEVEN YELLOW SHEETS.

6 MR. BARENS: YES, SIR.

7 THE COURT: THERE ARE SEVEN PAGES THERE OF XEROXED,  
8 PRESUMABLY, SEVEN PAGES OF THESE YELLOW SHEETS --

9 MR. BARENS: YES.

10 THE COURT: -- THAT HAVE BEEN USED IN THE PITTMAN  
11 HEARING.

12 MR. BARENS: YES.

13 THE COURT: AND WHAT IS THE PROBLEM? IS THERE STILL  
14 SOMETHING MISSING?

15 MR. BARENS: WELL, THERE HAS TO BE, YOUR HONOR,  
16 BECAUSE IF COUNSEL IS NOW SAYING THAT ONE OF THEM IS A COPY  
17 OF THE REVERSE SIDE OF THE ORIGINAL AND I ONLY HAVE SEVEN  
18 PAGES HERE, THAT CAN 'T BE IN TERMS OF PHYSICAL EVIDENCE,  
19 YOUR HONOR.

20 THE WITNESS: YOUR HONOR, CAN I --

21 THE COURT: LET 'S GO OFF THE RECORD FOR JUST A  
22 SECOND.

23 (A DISCUSSION WAS HELD OFF THE RECORD)

24 THE COURT: BACK ON THE RECORD. ALL RIGHT. LET 'S  
25 START WITH MR. BARENS ' COMMENTS NOW.

26 MR. BARENS: I 'M ONLY TRYING TO BE ABLE TO IDENTIFY  
27 FOR PURPOSES OF THIS HEARING WHICH PAGES THE GENTLEMAN CAN  
28 RECALL HAVING SEEN IN LEVIN 'S APARTMENT IN WHICH HE COULD

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1 NOT -- HOWEVER, I THINK THE WAY I MIGHT OFFER TO THE COURT  
2 THE WAY TO SHORTCUT THIS IS THAT THE DEFENSE WILL ADAPT --  
3 ADOPT PEOPLE'S 2 FOR PURPOSES OF THIS HEARING, THE ONES THAT  
4 HAVE HIS INITIALS ON THEM AND THAT DON'T HAVE HIS INITIALS  
5 ON THEM FOR PURPOSES OF REFERENCE.

6 MR. WAPNER: FOR PURPOSES OF WHAT?

7 MR. BARENS: REFERENCE.

8 THE COURT: I DON'T -- DO YOU FOLLOW THIS,  
9 MR. WAPNER?

10 MR. BARENS: OKAY. WHAT I'M TRYING TO BE ABLE TO DO  
11 IS --

12 THE COURT: LOOK. WHAT WE HAVE BEFORE US NOW IS THE  
13 YELLOW SHEETS THAT ARE BEING INTRODUCED AS PEOPLE'S 43, IS  
14 IT?

15 MR. BARENS: 44, I THOUGHT.

16 THE COURT: 44. ALL RIGHT. WHICH CONTAINS SEVEN  
17 PAGES. IF SOME OF THESE PAGES HAVE BEEN IDENTIFIED -- I'M  
18 TALKING ABOUT THE YELLOW SHEETS NOW, IF I'M CORRECT -- ALL  
19 OF THEM HAVE BEEN FOUND ALLEGEDLY IN A CERTAIN PLACE.  
20 MR. LEVIN HAS IDENTIFIED CERTAIN ONES NOW; IS THAT CORRECT,  
21 OUT OF THESE HERE. ALL RIGHT. NOW, AS FAR AS THAT IS  
22 CONCERNED, THAT'S WHAT THE PEOPLE ARE INTRODUCING RIGHT NOW.

23 MR. BARENS: YES.

24 THE COURT: IF THERE'S AN INCONSISTENCY WITH THE ONES  
25 ON THE PITTMAN ONE, THEN THAT WOULD BE -- YOUR POSITION  
26 WOULD BE THAT THERE WOULD BE AN IMPEACHMENT OF HIS  
27 CREDIBILITY OR THAT CERTAIN RECORDS WERE NOT -- IF WE CAN  
28 GET TO THE CORE OF THIS --

1 MR. BARENS: OKAY. I'M NOT --

2 THE COURT: I DON'T THINK IT'S AS SERIOUS AS YOU  
3 APPEAR IT TO BE.

4 MR. BARENS: I'M NOT LOOKING TO IMPEACH THE WITNESS  
5 AT THIS POINT. I'M LOOKING SOLELY TO HAVE A MEANS TO  
6 IDENTIFY FOR FURTHER COMMENT THE FACT THAT THERE ARE FOUR  
7 PAGES THAT HE COULD RECALL AT THAT TIME AND EVIDENTLY THREE  
8 PAGES THAT HE CAN'T --

9 THE COURT: THAT HE COULD NOT, RIGHT.

10 MR. BARENS: AND IN ORDER NOT TO BELABOR THIS POINT,  
11 I WILL SUBMIT THAT WE'LL USE THE ORIGINALS OFFERED BY THE  
12 PEOPLE, AND WHAT I WOULD LIKE TO DO NOW IS SIMPLY HAVE A --  
13 WELL, I DON'T EVEN THINK WE NEED TO ISOLATE IT FOR NOW.

14 MR. WAPNER: MAY I INTERRUPT COUNSEL FOR A SECOND AND  
15 MAYBE I CAN SHORTCUT THIS. I WOULD ASK THAT THE COPIES THAT  
16 WERE PREVIOUSLY MARKED AT THE PITTMAN PRELIMINARY HEARING AS  
17 PEOPLE'S 2 AGAIN COLLECTIVELY BE MARKED AS PEOPLE'S 2 FOR  
18 IDENTIFICATION AND ANY SUBMARKINGS THAT MAY NOW BE ON THEM,  
19 AND I BELIEVE WE CAN STIPULATE THAT PEOPLE'S 2 AS WELL AS  
20 PEOPLE'S 44 CAN BE RECEIVED.

21 MR. BARENS: I'LL STIPULATE TO THAT, YOUR HONOR.

22 THE COURT: ALL RIGHT. THAT WOULD CLARIFY IT, THEN.

23 MR. BARENS: I SUPPOSE FOR REFERENCE IT HAS BEEN  
24 CLARIFIED.

25 Q ALL RIGHT, THEN IT WAS YOUR TESTIMONY AT THE  
26 PITTMAN HEARING THEN, SIR, THAT THERE WERE AT LEAST THREE OF  
27 THESE PAGES THAT YOU COULD NOT RECALL HAVING PREVIOUSLY  
28 SEEN?

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1 A THAT'S CORRECT.

2 Q NOW, WHEN YOU FIRST LOCATED THOSE PAGES, DID  
3 YOU READ THEM?

4 A I READ THE TOP ONE, MOSTLY GLANCED THROUGH THE  
5 OTHERS, BUT THE TOP ONE IS THE ONE THAT CAUGHT MY ATTENTION.

6 Q I UNDERSTAND THAT, SIR. DID YOU READ THE OTHER  
7 ONES?

8 A I GLANCED AT THEM.

9 MR. WAPNER: EXCUSE ME, COUNSEL. THE TOP ONE REFERS  
10 TO 44A FOR IDENTIFICATION.

11 THE COURT: ALL RIGHT.

12 Q BY MR. BARENS: WELL, YOU READ THE OTHER ONES.

13 A I GLANCED AT THEM. I REALLY DIDN'T GO THROUGH  
14 IT, NO. I DID READ THE TOP ONE THOROUGHLY.

15 Q AND ON THE OTHER ONES, DID YOU READ THE WORDS  
16 ON THE PAGES?

17 A JUST CASUALLY. JUST HAD NO MEANING TO ME AND I  
18 HAD NO REASON TO GO INTO IT THAT THOROUGHLY.

19 Q AND WHEN YOU READ THAT, THAT WAS AROUND THE  
20 21ST OF JUNE?

21 A IT COULD BE AROUND THAT TIME OR LATER. I JUST  
22 DON'T REMEMBER THE TIME.

23 Q I THOUGHT YESTERDAY YOU TOLD ME THAT YOU  
24 LOCATED --

25 A I DIDN'T TELL YOU EXACTLY, THOUGH. I SAID  
26 APPROXIMATELY.

27 Q ABOUT TWO WEEKS AFTER MR. LEVIN DISAPPEARED.

28 A TWO WEEKS OR FOUR WEEKS. I DON'T REMEMBER.

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1 I'M SORRY. I JUST CAN'T ANSWER.

2 Q YOU DIDN'T CALL THE POLICE WHEN YOU READ THAT,  
3 DID YOU?

4 A NO, I DID NOT.

5 Q YOU DID NOT TAKE THEM TO THE POLICE WHEN YOU  
6 READ THAT, DID YOU?

7 A NO, I DID NOT.

8 MR. BARENS: I HAVE NOTHING FURTHER OF THEIR WITNESS.

9 THE COURT: ANY REDIRECT?

10 MR. WAPNER: YES.

11

12

REDIRECT EXAMINATION

13

BY MR. WAPNER:

14

Q HAD YOU ALREADY MADE A REPORT TO THE POLICE  
15 ABOUT YOUR SON'S DISAPPEARANCE BEFORE YOU FOUND THESE PAPERS  
16 THAT ARE LABELED AS PEOPLE'S 44?

17

A YES.

18

Q WHEN YOU TALKED TO -- YOU CALLED MR. HUNT ON  
19 THE TELEPHONE, IS THAT RIGHT?

20

A YES.

21

Q AND YOU WERE ASKING HIM IF HE KNEW ANYTHING  
22 ABOUT THE WHEREABOUTS OF YOUR SON; IS THAT RIGHT?

23

A YES.

24

Q AND DID -- WHEN YOU HAD THAT CONVERSATION WITH  
25 HIM, DID HE ASK YOU SOMETHING?

26

MR. BARENS: OBJECT AS CALLING FOR HEARSAY.

27

MR. WAPNER: IT'S AN ADMISSION OF A PARTY, YOUR  
28 HONOR.

1 MR. BARENS: WELL, YOUR HONOR, IF HE ASKED HIM --  
2 MR. WAPNER WOULD LIKE THIS COURT TO BELIEVE THAT ANYTHING  
3 MR. HUNT HAS TO SAY IS AN ADMISSION OF SOME HEINOUS CRIME.  
4 I DON'T BELIEVE THAT'S EVEN REMOTELY THE POSSIBILITY AND I  
5 THINK THESE ARE CALLING FOR AN OBVIOUS HEARSAY RESPONSE.

6 MR. WAPNER: I'M NOT TALKING ABOUT A CONFESSION. I'M  
7 TALKING ABOUT AN EXCEPTION TO THE HEARSAY RULE FOR  
8 ADMISSIONS OF A PARTY OFFERED BY AN ADVERSE PARTY AND  
9 TENDING TO PROVE OR DISPROVE SOME DISPUTED ISSUE IN THE  
10 CASE.

11 MR. BARENS: THAT'S --

12 MR. WAPNER: IT'S NOT A CONFESSION.

13 MR. BARENS: IT HAS TO BE RELATED TO A CRIME, YOUR  
14 HONOR.

15 MR. WAPNER: NO, IT DOESN'T.

16 THE COURT: WILL BOTH COUNSEL APPROACH THE BENCH,  
17 PLEASE. ALL COUNSEL.

18 (A DISCUSSION WAS HELD AT THE BENCH OFF THE RECORD)

19 THE COURT: ALL RIGHT. LET THE RECORD SHOW THAT  
20 THERE WAS A CONVERSATION AT THE BENCH. ANY MATTERS THAT  
21 WERE REFERRED TO OR DISCUSSED AT THE BENCH ARE GOING TO BE  
22 PUT ON THE RECORD; THAT THERE WAS NO DISCUSSION OF ANY  
23 PARTICULAR EVIDENTIARY FACTS. ALL RIGHT. MR. --

24 MR. BARENS: YOUR HONOR, I BELIEVE THAT I KNOW THE  
25 STATEMENT THAT MR. WAPNER SEEKS TO SOLICIT FROM THIS WITNESS  
26 AND IT IS NO QUESTION THAT IT IS A HEARSAY STATEMENT. IT IS  
27 MY CONTENTION THAT THAT STATEMENT IS BOTH HEARSAY, AND EVEN  
28 IF IT'S A HEARSAY STATEMENT NOT RELATED TO THE COMMISSION OF

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1 A CRIME. WE HAVE THE SAME CONTINUING OBJECTION TO THIS TYPE  
2 OF HEARSAY THAT WE DID AS BROUGHT BEFORE THE COURT IN OUR  
3 MOTION RELATIVE TO THE SALING MATTER.

4 HOWEVER, AS YOU 'LL RECALL, THE STATEMENTS WE  
5 OBJECTED TO IN THE MOTION IN LIMINE WENT TO STATEMENTS OF  
6 THE DISCUSSION OF A CRIME, THAT MR. LEVIN IS DEAD, "I KILLED  
7 MR. LEVIN", ET CETERA. WHAT COUNSEL NOW SEEKS IS SOMETHING  
8 MUCH MORE OBTUSE, REMOTE AND OBLIQUE THAN THAT. HE SEEKS TO  
9 GET INTO SOME CONVERSATION THAT THIS GENTLEMAN HAD WITH  
10 MR. HUNT THAT WE FIND IRRELEVANT AND IMMATERIAL AND HEARSAY  
11 AND IT COULD NOT DIRECTLY BE RELATED TO AN ADMISSION ABOUT  
12 COMMITTING A CRIME OR NOT. IT IS REMOTE IN THAT SENSE, IT  
13 IS WELL AFTER THE DISAPPEARANCE OF MR. LEVIN, AND WE FEEL  
14 THAT IT DOES NOT EVEN REMOTELY FALL UNDER ANY OF THE  
15 EXCEPTIONS OF 1220 OR 1223 OF THE EVIDENCE CODE.

16 THE COURT: ALL RIGHT. FIRST OF ALL, IT WOULD BE  
17 HEARSAY. NOW, THE NEXT QUESTION IS UNDER WHAT THEORY ARE  
18 YOU ASKING, THEN, IF IT WERE ADMITTED?

19 MR. WAPNER: FIRST OF ALL, DOES THE COURT WANT AN  
20 OFFER OF PROOF AS TO THE STATEMENT?

21 THE COURT: YES.

22 MR. WAPNER: OKAY. THE OFFER OF PROOF AS TO THE  
23 STATEMENT IS THAT AFTER THIS WITNESS ASKED MR. HUNT WHETHER  
24 HE KNEW ABOUT HIS SON AND THE DISAPPEARANCE OF HIS SON THAT  
25 THE DEFENDANT THEN SAID -- THEN ASKED MR. LEVIN "DO YOU HAVE  
26 A KEY TO RON LEVIN'S APARTMENT" AND MR. LEVIN SAID "YES",  
27 AND THAT THE DEFENDANT THEN ASKED MR. LEVIN TO LET HIM IN  
28 THE APARTMENT SO THAT HE COULD GET SOME IMPORTANT BUSINESS



1 PAPERS THAT HAD BEEN LEFT IN THE APARTMENT.

2 THE HEARSAY EXCEPTION TO WHICH I REFER IS  
3 SECTION 1220 OF THE EVIDENCE CODE. IT READS VERY SIMPLY  
4 "EVIDENCE OF A STATEMENT IS NOT MADE INADMISSIBLE BY THE  
5 HEARSAY RULE WHEN OFFERED AGAINST THE DECLARENT IN AN ACTION  
6 TO WHICH HE IS A PARTY IN EITHER HIS INDIVIDUAL OR  
7 REPRESENTATIVE CAPACITY REGARDLESS OF WHETHER THE STATEMENT  
8 WAS MADE IN HIS INDIVIDUAL OR REPRESENTATIVE CAPACITY."

9 THIS HEARSAY EXCEPTION HAS NOTHING TO DO WITH  
10 CONFESSIONS, IT HAS NOTHING TO DO WITH ADMISSIONS OF A  
11 CRIME. IT APPLIES EQUALLY TO ADMISSIONS OF A PARTY IN A  
12 CIVIL ACTION AS WELL AS A CRIMINAL ACTION. THE STATEMENT  
13 DOESN'T HAVE ANY -- WHATEVER STATEMENT IS PROFFERED DOESN'T  
14 HAVE TO DO ANYTHING WITH ADMITTING CULPABILITY WITH A CRIME,  
15 AND IT'S OFFERED -- THE STATEMENT IS OFFERED AGAINST THE  
16 DECLARANT; THAT IS, IT'S OFFERED BY ME AGAINST MR. HUNT IN  
17 AN ACTION TO WHICH HE IS A PARTY, AND THAT'S ALL THAT'S  
18 REQUIRED.

19 MR. BARENS: WELL, AGAIN --

20 MR. WAPNER: IT'S A VERY SIMPLE STRAIGHTFORWARD  
21 EXCEPTION TO THE HEARSAY RULE. IT'S NOT ANY COMPLICATED  
22 PREFACE TO ADMISSIBILITY OFFERED BY A PARTY AGAINST HIM IN  
23 AN ACTION TO WHICH HE IS A PARTY.

24 MR. BARENS: AGAIN, WAPNER ON EVIDENCE HAS US BELIEVE  
25 THAT ANY STATEMENT MADE BY A DEFENDANT IN A CRIMINAL  
26 PROCEEDING IS ADMISSIBLE AGAINST HIM, HEARSAY, COMPOUND  
27 HEARSAY OR THE LIKE. THAT SIMPLY ISN'T WHAT THE CODE SAYS.  
28 THE CODE TALKS ABOUT ADMISSIONS. I SUBMIT TO YOUR HONOR

1 MAKING AN INQUIRY ABOUT THE RETRIEVAL OF BUSINESS DOCUMENTS  
2 I HARDLY SEE AS AN ADMISSION OF ANYTHING. IT'S AN INQUIRY  
3 ON A CIVIL LEVEL DURING A CONVERSATION INITIATED BY  
4 MR. LEVIN, NOT THE DEFENDANT, AS TO THE AVAILABILITY OF SOME  
5 BUSINESS RECORDS. HARDLY AN ADMISSION OF A -- AGAINST  
6 INTEREST OF A CRIME, UNLESS WE ARE GOING TO TRY TO PREJUDGE  
7 EVIDENCE AND START MAKING SOME REACHES ABOUT WHAT'S REALLY  
8 GOING ON, AND I DON'T THINK WE'RE HERE TO DO THAT KIND OF AN  
9 EXERCISE.

10 THE COURT: ALL RIGHT. WHAT WAS TOLD OVER THE  
11 TELEPHONE, FIRST OF ALL, IS OBVIOUSLY HEARSAY. NOW, AS TO  
12 WHETHER OR NOT IT'S AN EXCEPTION FROM WHAT MR. WAPNER STATED  
13 HERE, I QUESTION VERY MUCH THAT IT WOULD BE AN EXCEPTION,  
14 MR. WAPNER. THE OBJECTION WILL BE SUSTAINED.

15 MR. BARENS: THANK YOU, YOUR HONOR.

16 MR. WAPNER: THE COURT IS RULING THAT THE STATEMENT  
17 DOES NOT FALL WITHIN SECTION 1220 OF THE EVIDENCE CODE; IS  
18 THAT CORRECT?

19 THE COURT: THAT'S CORRECT.

20 MR. WAPNER: I HAVE NOTHING FURTHER.

21 MR. BARENS: NOTHING FURTHER.

22 THE COURT: ALL RIGHT. MAY THIS WITNESS BE EXCUSED?

23 MR. WAPNER: I HAVE NO OBJECTION.

24 THE COURT: ALL RIGHT. YOU MAY BE EXCUSED.

25 MR. WAPNER: NICOLE CULROSS. YOUR HONOR, THIS  
26 TESTIMONY IS COMING IN SLIGHTLY OUT OF ORDER.

27 THE COURT: VERY WELL.

28 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY

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1 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT  
2 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE  
3 TRUTH, SO HELP YOU GOD.

4 THE WITNESS: I DO.

5  
6 NICOLE CULROSS,  
7 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
8 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

9 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
10 SPELL YOUR LAST NAME FOR THE RECORD.

11 THE WITNESS: NICOLE CULROSS, C-U-L-R-O-S-S.

12 THE CLERK: THANK YOU.

13  
14 DIRECT EXAMINATION

15 BY MR. WAPNER:

16 Q MISS CULROSS, WHERE DO YOU WORK?

17 A WORLD TRADE BANK.

18 Q WHERE IS THAT LOCATED?

19 A 9444 SANTA MONICA BOULEVARD IN BEVERLY HILLS.

20 Q WHAT'S YOUR JOB AT THE BANK?

21 A ASSISTANT VICE-PRESIDENT, OPERATIONS.

22 Q HOW LONG HAVE YOU WORKED THERE?

23 A SINCE JANUARY 7TH.

24 Q OF 1985?

25 A YES.

26 Q WHAT DOES YOUR JOB ENTAIL?

27 A I'M IN CHARGE OF THE OPERATION OF AND RUNNING  
28 OF THE BANK.

802

1 Q ARE YOU FAMILIAR WITH HOW THE RECORDS OF THE  
2 BANK ARE KEPT?

3 A YES, I AM.

4 Q AND ARE YOU FAMILIAR WITH HOW THOSE RECORDS  
5 WERE KEPT BEFORE YOU BECAME EMPLOYED WITH THE BANK?

6 A YES, I AM.

7 MR. WAPNER: YOUR HONOR, I HAVE HERE SEVERAL  
8 DOCUMENTS THAT I WOULD LIKE TO MARK AS EXHIBITS. AS  
9 PEOPLE'S 36 FOR IDENTIFICATION, YOUR HONOR, A YELLOW  
10 CARDBOARD TYPE CARD THAT APPEARS TO BE A BANK SIGNATURE  
11 CARD.

12 AS PEOPLE'S 37 FOR IDENTIFICATION A CHECK ON  
13 THE SWISS CREDIT BANK MADE OUT TO MICROGENESIS OF NORTH  
14 AMERICA FOR ONE MILLION FIVE HUNDRED THOUSAND.

15 AS PEOPLE'S 38 FOR IDENTIFICATION A XEROX OF A  
16 LETTER ON THE STATIONERY OF THE WORLD TRADE BANK, AND  
17 ATTACHED TO THAT IS A GREEN HALF SLIP OF PAPER THAT SAYS  
18 "WORLD TRADE BANK", AND THE LETTER IS TO THE "CREDIT  
19 SUISSE".

20 AS PEOPLE'S 39 FOR IDENTIFICATION A SMALL  
21 YELLOW PIECE OF PAPER THAT IS IN THE NAME OF THE WORLD TRADE  
22 BANK AND SAYS "ACCOUNT DEBIT" ON IT.

23 AS PEOPLE'S 40 FOR IDENTIFICATION WHAT APPEARS  
24 TO BE A -- IT'S LIKE A HALF SLIP OF WHITE PAPER WITH  
25 COMPUTER TYPE PRINTING ON IT AND IT SAYS "WORLD TRADE BANK  
26 OF NORTH AMERICA, 9935 SANTA MONICA BOULEVARD".

27 AND AS PEOPLE'S 41 FOR IDENTIFICATION, AGAIN,  
28 ABOUT A HALF SLIP OF PAPER WITH A SMALLER PIECE OF PAPER

800

5  
1 ATTACHED TO IT AND IT'S ADDRESSED TO "WORLD TRADE BANK OF  
2 NORTH AMERICA" AT "9935 SANTA MONICA BOULEVARD". MAY THE  
3 EXHIBITS BE SO MARKED, YOUR HONOR?

4 THE COURT: YOUR FIRST ONE WAS THIRTY- --

5 MR. WAPNER: SIX.

6 THE COURT: ALL RIGHT. 36 THROUGH 41 WILL BE SO  
7 MARKED FOR IDENTIFICATION.

8 Q BY MR. WAPNER: MA'AM, I'M SHOWING YOU PEOPLE'S  
9 36 FOR IDENTIFICATION. DO YOU RECOGNIZE THAT?

10 A IT'S A SIGNATURE CARD FOR THE BANK.

11 Q IS THAT FOR THE BANK THAT YOU WORK AT?

12 A YES, IT IS.

13 Q ARE YOU FAMILIAR WITH HOW THOSE RECORDS WERE  
14 MADE IN JUNE OF 19 --

15 MR. BARENS: COULD WE --

16 MR. WAPNER: -- 84?

17 MR. BARENS: EXCUSE ME, YOUR HONOR. COULD WE GET A  
18 LITTLE FOUNDATION OF THIS WOMAN'S ROLE AT THE BANK OR WHAT  
19 HER OCCUPATIONAL FUNCTIONS --

20 MR. WAPNER: I JUST DID THAT.

21 MR. BARENS: WELL, IN TERMS OF HOW SHE'D HAVE ACCESS  
22 TO THESE RECORDS AND THE CONSISTENCY IN HOW THEY'RE  
23 PREPARED.

24 THE COURT: ALL RIGHT. DO YOU WANT --

25 MR. BARENS: I'LL TELL YOU WHY I'M BRINGING THIS UP,  
26 YOUR HONOR. WE ARE GOING TO GET INTO AT LEAST SEVEN  
27 DIFFERENT TYPES OR 10 DIFFERENT TYPES OF DOCUMENTS, AND I  
28 DON'T KNOW WHETHER HER JOB FUNCTION BRINGS HER IN

1 RELATIONSHIP WITH ALL OF THESE OR NONE OF THESE AT ALL.

2 THE COURT: YOU CAN ASK HER, MR. WAPNER, IN HER  
3 CAPACITY WHAT ARE HER DUTIES AND WHAT SHE DOES WHICH WOULD  
4 GIVE HER SOME EXPERTISE AS TO WHAT HER FUNCTIONS AT THE BANK  
5 ARE.

6 MR. WAPNER: WELL, I THOUGHT THAT I HAD JUST ASKED  
7 HER THAT WHOLE SERIES OF QUESTIONS, BUT I WILL GO AND DO  
8 THAT AGAIN.

9 MR. BARENS: BECAUSE --

10 THE COURT: ALL RIGHT. ARE ARE THERE ANY PARTICULAR  
11 QUESTIONS THAT YOU 'RE TALKING ABOUT?

12 MR. BARENS: WELL, I 'LL TELL YOU WHAT WE CAN GET  
13 INTO. I PRESUME MR. WAPNER IS POINTING TOWARDS THE BUSINESS  
14 RECORDS, YOU KNOW, KEPT IN THE CUSTOMARY COURSE OF BUSINESS  
15 AS AN EXCEPTION TO THE HEARSAY RULE HERE, AND I JUST WANT TO  
16 MAKE SURE WE ARE ON GOOD FOOTING WITH THAT, YOUR HONOR.

17 MR. WAPNER: IT'S SO NICE OF MR. BARENS TO BE  
18 CONCERNED ABOUT MY CASE.

19 MR. BARENS: I AM INDEED CONCERNED ABOUT THEIR CASE,  
20 YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 Q BY MR. WAPNER: ARE YOU FAMILIAR WITH HOW THAT  
23 CARD IS PREPARED?

24 A YES, I AM.

25 Q OKAY. HOW IS IT THAT YOU 'RE FAMILIAR WITH  
26 THAT?

27 A MY BANKING BACKGROUND OF ABOUT 20 YEARS. MOST  
28 OF IT HAS BEEN IN OPERATIONS WHICH INCLUDES ALL PHASE OF NEW

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1 ACCOUNT, TELLER, INTERNATIONAL LOANS.

2 Q YOU HAVEN'T WORKED AT THIS BANK FOR 20 YEARS.

3 A NO.

4 Q OKAY. HAVE YOU EVER SEEN A DOCUMENT SIMILAR TO  
5 THAT AT THIS BANK THAT YOU'VE BEEN WORKING AT SINCE JANUARY?

6 A YES.

7 Q ARE THE SIGNATURE CARDS THAT HAVE BEEN USED  
8 THERE SINCE JANUARY THE SAME AS THE ONES BEFORE YOU,  
9 PEOPLE'S 36?

10 A YES, THEY ARE.

11 Q AND ARE YOU FAMILIAR WITH HOW THOSE ARE FILLED  
12 OUT?

13 A YES, I AM.

14 Q THEY ARE FILLED OUT BY THE NEW ACCOUNTS PEOPLE?

15 A NO. THEY'RE FILLED OUT BY THE CUSTOMER.

16 Q ALL RIGHT. AND ARE THEY GIVEN TO THE CUSTOMER  
17 TO BE FILLED OUT?

18 A YES, THEY ARE.

19 Q WHEN DOES THE BANK GIVE THEM TO THE CUSTOMER?

20 A I'M SORRY?

21 Q AT WHAT POINT ARE THEY GIVEN TO THE CUSTOMER?

22 A WHEN THEY COME IN AND THEY WANT TO OPEN AN  
23 ACCOUNT AT THE SAME TIME.

24 Q IS THERE ANYTHING ON THAT FORM, PEOPLE'S 36,  
25 THAT'S FILLED OUT BY THE BANK?

26 A YES, THERE IS.

27 Q WHAT IS THAT?

28 A THE TOP PORTION OF THE CARD SAYING THE DATE,

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1 THE ACCOUNT NUMBER AND THE NAME OF THE COMPANY.

2 Q WHO FILLS THAT OUT?

3 A THE NEW ACCOUNT CLERK.

4 Q WHAT RELATION DO YOU HAVE TO THE NEW ACCOUNTS  
5 CLERKS IN YOUR CAPACITY AT THE BANK RIGHT NOW?

6 A SHE REPORTS TO ME.

7 Q YOU SUPERVISE HER?

8 A YES, I DO.

9 Q AND WITH RESPECT TO PEOPLE'S 36, DO YOU KNOW  
10 WHEN THE INFORMATION THAT'S PUT ON THERE BY THE NEW ACCOUNTS  
11 CLERK WOULD HAVE BEEN PUT ON THERE?

12 A YES, I DO.

13 Q WHEN?

14 A ON JUNE THE 8TH, 1984.

15 Q AND HOW DO YOU KNOW THAT?

16 A THE SIGNATURE CARD HAS DATE OPENED AT THE TOP.

17 Q WHO PUTS THAT DATE ON THERE?

18 A NEW ACCOUNT CLERK.

19 Q IS THAT DONE IN THE ORDINARY COURSE OF  
20 BUSINESS?

21 A YES, IT IS.

22 Q IS THAT DONE AT OR NEAR THE TIME THAT THE  
23 ACCOUNT IS OPEN?

24 A AT THE TIME THE ACCOUNT IS OPEN.

25 Q AND THE CARD IS GIVEN TO THE CUSTOMER FOR THEM  
26 TO PUT THEIR --

27 MR. BARENS: DID WE MEAN JANUARY OF '85 BEFORE OR  
28 '84?



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1 THE WITNESS: '85.

2 MR. BARENS: YOU'VE ONLY BEEN WITH THIS BANK SINCE  
3 JANUARY OF '85?

4 THE WITNESS: YES, I HAVE.

5 MR. BARENS: WELL, THAT PRESENTS SOME OBVIOUS  
6 PROBLEMS. SHE WASN'T EVEN THERE WHEN THESE DOCUMENTS WERE  
7 PREPARED, RECEIVED, GENERATED OR ANYTHING ELSE. SHE  
8 CERTAINLY COULDN'T HAVE BEEN THE CUSTODIAN OF THESE RECORDS  
9 AT THAT TIME, YOUR HONOR, NOR COULD SHE HAVE BEEN -- I MEAN  
10 SHE WASN'T EVEN WITH THIS BANK WHEN ALL THIS PAPERWORK  
11 MR. WAPNER IS PROFFERING WAS GENERATED.

12 THE COURT: MR. WAPNER?

13 MR. WAPNER: WELL, THE BUSINESS RECORD EXCEPTION  
14 TALKS ABOUT CUSTODIAN OF RECORDS OR OTHER QUALIFIED  
15 REPRESENTATIVE. THIS WOMAN IS THE SUPERVISOR OF THE  
16 OPERATIONS DEPARTMENT, SHE'S FAMILIAR WITH HOW ALL THESE  
17 FORMS ARE FILLED OUT. IT SEEMS TO ME THAT SHE'S A QUALIFIED  
18 REPRESENTATIVE OF THE BANK IN TERMS OF HOW THESE EXHIBITS --  
19 THESE PARTICULAR DOCUMENTS ARE PREPARED AND THE MANNER IN  
20 WHICH THEY'RE PREPARED, AND IF -- AND SHE WILL KNOW AND BE  
21 ABLE TO TELL US WHETHER THEY'RE PREPARED DIFFERENTLY NOW OR  
22 IN THE SAME MANNER THEN AS THEY ARE NOW.

23 SHE'S NOT, AS ANY CUSTODIAN OR QUALIFIED  
24 REPRESENTATIVE IS NOT, PERCIPIENT TO THE PREPARATION OF THE  
25 DOCUMENTS, BUT THAT'S NOT THE IMPORTANT ISSUE. THE WHOLE  
26 PURPOSE FOR THE BUSINESS RECORDS EXCEPTION IS SO THAT YOU  
27 DON'T HAVE TO HAVE THE PERSON WHO PREPARED THE DOCUMENT COME  
28 INTO COURT. YOU HAVE A CUSTODIAN OF RECORDS OR OTHER

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1 QUALIFIED REPRESENTATIVE TESTIFY AS TO HOW THE DOCUMENTS ARE  
2 PREPARED, AND IF SHE -- IF SHE TESTIFIES THAT SHE KNOWS HOW  
3 IT WAS DONE IN 1984 AND IT WAS DONE THE SAME WAY, THAT  
4 TESTIMONY EITHER SATISFIES THE COURT OR IT DOESN'T THAT  
5 THESE DOCUMENTS WERE PREPARED PROPERLY. BUT THE FACT IN AND  
6 OF ITSELF THAT SHE DIDN'T WORK AT THE BANK AT THAT TIME IS,  
7 I THINK, IRRELEVANT.

8 MR. BARENS: WELL, I THINK IT'S CRITICAL, YOUR HONOR,  
9 IN THE SENSE THAT HER ENTIRE KNOWLEDGE OF THESE DOCUMENTS  
10 NOT -- NOT ONLY ARE THE DOCUMENTS HEARSAY, THIS WITNESS'  
11 KNOWLEDGE OF THE DOCUMENTS IS HEARSAY IN ITSELF. SO WE ARE  
12 INTO A COMPOUND SITUATION WHERE I'VE GOT HEARSAY DOCUMENTS  
13 EVIDENCED BY HEARSAY KNOWLEDGE WITH A WITNESS WHO WASN'T AT  
14 THE BANK WHEN THE DOCUMENTS ARE GENERATED OR RECEIVED.

15 I HAVE A MAN HERE WHO IS AT A PRELIMINARY  
16 HEARING FOR A MURDER CASE, YOUR HONOR. I THINK WE -- THE  
17 DEFENSE DESERVES BETTER THAN THIS. YOUR HONOR, NOT ONLY --  
18 CERTAINLY IT APPEARS INNOCUOUS WHEN WE ARE DISCUSSING A  
19 SIGNATURE CARD.

20 I WOULD RESPECTFULLY SUBMIT IT APPEARS ONEROUS  
21 WHEN WE ARE TALKING ABOUT CORRESPONDENCE CONCERNING CHECKS  
22 THAT ARE VALID OR NOT, SIGNATURES THAT ARE GOOD OR NOT ON  
23 THE CHECKS, AND I SUBMIT TO THE COURT MR. WAPNER IS NOW  
24 GOING TO TRY TO SHOW THE COURT DOCUMENTS DISCUSSING WHETHER  
25 SIGNATURES ARE GOOD OR NOT ON CHECKS AND WHETHER THE CHECKS  
26 ARE BACKED BY SUFFICIENT FUNDS OR NOT, ET CETERA, ET CETERA.  
27 WE HAVE A WITNESS THAT WASN'T EVEN EMPLOYED BY THE BANK  
28 DURING THOSE TRANSACTIONS.

1 THE COURT: WELL, I UNDERSTAND THE PROBLEM HERE. <sup>800</sup> IS  
2 THERE ANY REASON, MR. WAPNER, WHY THE PARTY WHO IS IN CHARGE  
3 AT THAT PARTICULAR TIME THIS OCCURRED IS NOT CALLED? I  
4 REALIZE THAT UNDER THE -- UNDER 1220 WHAT YOU'RE TRYING TO  
5 DO HERE, BUT IF THIS PARTY HAS ONLY BEEN EMPLOYED AT THE  
6 BANK SINCE JANUARY OF THIS YEAR -- IS THAT MY UNDERSTANDING?

7 MR. WAPNER: THAT'S CORRECT.

8 THE COURT: ALL RIGHT. AND YOU'RE GOING TO HAVE HER  
9 TESTIFY TO WHAT THE PROCEDURE IS NOW AND WHAT THE PROCEDURE  
10 WAS BEFORE SHE CAME THERE?

11 MR. WAPNER: CORRECT.

12 MR. BARENS: HER KNOWLEDGE OF WHAT THE PROCEDURE WAS  
13 BEFORE SHE CAME THERE IS BASED ON HEARSAY STATEMENTS SHE  
14 RECEIVED FROM PARTIES WHO ARE NOT HERE TO BE CROSS-EXAMINED  
15 ON THEIR VALIDITY.

16 MR. WAPNER: MAY I HAVE JUST A MOMENT?

17 THE COURT: YES.

18 MR. WAPNER: MAY I HAVE JUST A MOMENT AGAIN?

19 THE COURT: YES.

20 MR. WAPNER: THE ANSWER TO THE COURT'S LAST PROFFERED  
21 QUESTION IS THAT THE PERSON WHO WAS DOING HER JOB IN JUNE OF  
22 1984 DOES NOT WORK AT THE BANK NOW. AS THE COURT WILL  
23 RECALL, AT MR. PITTMAN'S PRELIMINARY HEARING THE PERSON WHO  
24 CAME IN AND TESTIFIED AS TO THESE RECORDS DIDN'T WORK AT THE  
25 BANK AT THE TIME THAT THE RECORDS ARE PREPARED EITHER. THAT  
26 WAS A MR. MARINELLO. HE ALSO NO LONGER WORKS AT THE BANK.

27 MR. BARENS: AGAIN, I'M --

28 MR. WAPNER: EXCUSE ME, COUNSEL. I'M NOT QUITE

1 THROUGH.

2 AGAIN, I JUST WANTED TO --

3 THE COURT: WELL --

4 MR. WAPNER: WHAT I WAS REFERRING TO ABOUT CUSTODIAN  
5 OF THE RECORD AND OTHER QUALIFIED REPRESENTATIVE APPEARS  
6 1271(C), SUBSECTION (C), OF THE EVIDENCE CODE.

7 MR. BARENS: YOUR HONOR, I FEEL IN A MURDER  
8 PRELIMINARY HEARING WE SHOULD PROCEED FROM AN ABUNDANCE OF  
9 CAUTION ON HOW WE DEFINE "OTHER QUALIFIED PERSON",  
10 PARTICULARLY WHEN WE ARE GOING TO GET INTO SOME CENTRALLY  
11 SENSITIVE DOCUMENTS THAT WE ARE GOING TO DISCUSS WITH THIS  
12 PARTICULAR WITNESS, DOCUMENTS THAT WILL BE OUTCOME  
13 DETERMINATIVE FOR MY CLIENT.

14 MR. WAPNER: WELL, YOUR HONOR, I JUST RESENT THE  
15 IDEA THAT WE SHOULD CHANGE THE RULES BECAUSE, ONE, IT'S A  
16 MURDER CASE, OR TWO, IT'S OUTCOME DETERMINATIVE. I MEAN IT  
17 EITHER COMES WITHIN THE EVIDENCE CODE OR DOESN'T, AND I'M  
18 MORE THAN HAPPY TO HAVE THE COURT DECIDE IT ON THAT BASIS,  
19 BUT --

20 MR. BARENS: CERTAINLY --

21 THE COURT: HEARS THE POINT. WE ARE ALL FAMILIAR  
22 WITH THE REASON FOR THE BUSINESS RULE EXCEPTION. FOR THE  
23 RECORD, WE HAVE IT HERE, THE FOUR CONDITIONS ARE THAT "THE  
24 WRITING WAS MADE IN THE REGULAR COURSE OF BUSINESS." ALL  
25 RIGHT. "THE WRITING IS MADE AT OR NEAR THE ACT, CONDITION  
26 OR EVENT." (C), "THE CUSTODIAN OR OTHER QUALIFIED WITNESS  
27 TESTIFIES TO ITS IDENTITY AND THE MODE OF ITS PREPARATION;  
28 THAT IS, OF THE RECORD THAT'S BEING INTRODUCED AT THE TIME".

1 CORRECT?

2 MR. WAPNER: CORRECT.

3 THE COURT: ALL RIGHT. "THE SOURCE OF INFORMATION,  
4 METHOD AND TIME OF PREPARATION ARE SUCH TO INDICATE ITS  
5 TRUSTWORTHINESS."

6 ALL RIGHT. THE ONLY ISSUE HERE IS WE DON'T  
7 HAVE TO BRING THE WITNESS IN. BUT THE WITNESS YOU'VE  
8 PRESENTED TO US NOW HAS WORKED THERE SINCE JANUARY. YOU  
9 HAVE SAID THAT SHE IS BRINGING RECORDS IN PRIOR TO THAT  
10 TIME. NOW, IF YOU CAN ESTABLISH THAT THIS IS A UNIVERSAL  
11 PRINCIPAL OF THE BANK OR THAT'S THE WAY THE BANK HANDLES  
12 THESE MATTERS ALL THE TIME, THEN PROBABLY (C) CAN BE MET.

13 DO WE KNOW OFFHAND RIGHT NOW THAT THERE HAS  
14 BEEN NO CHANGE IN THE SYSTEM THAT'S BEEN USED OR THAT THIS  
15 IS A UNIVERSAL BANKING PRINCIPAL THAT IS USED BY ALL BANKS  
16 OR WHAT IT IS THAT WOULD MAKE HER KNOW THAT SHE CAN TESTIFY  
17 TO THE MODE OF THE PREPARATION BACK AT THE TIME THAT IT WAS  
18 BEFORE SHE CAME INTO THE BANK'S EMPLOYMENT?

19 MR. WAPNER: WELL, I --

20 THE COURT: THE ONLY QUESTION THERE IS WHETHER  
21 CONDITION (C) IS MET. AS TO WHETHER OR NOT MR. MARINELLO OR  
22 WHOEVER WAS HERE ON THE PITTMAN CASE, MR. YOUNG OR WHOEVER  
23 ELSE WAS THE DEFENSE COUNSEL DID NOT RAISE THE ISSUE, NOR  
24 WAS IT ASKED -- AS I RECALL -- WHEN THE PARTY WAS FIRST  
25 EMPLOYED THERE SO THAT THE ISSUE HAD NOT ARISEN ON THE FIRST  
26 PRELIMINARY HEARING. NOW THE ISSUE HAS BEEN BROUGHT OUT.

27 MR. WAPNER: YOUR HONOR, WITHOUT PROLONGING THIS  
28 UNNECESSARILY AT THIS TIME, WHAT I'D LIKE TO DO IS NOT TO

1 ASK ANY FURTHER QUESTIONS OF THIS WITNESS AT THIS TIME, <sup>812</sup> AND  
2 IF THE COURT CAN GIVE ME ABOUT TWO MINUTES AND SPEAK WITH  
3 THE WITNESS, I 'LL BE READY TO PROCEED WITH ANOTHER WITNESS.

4 THE COURT: ALL RIGHT.

5 MR. WAPNER: THANK YOU.

6 THE COURT: I -- I'M NOT SAYING THIS BECAUSE THE  
7 CHARGE HERE IS A 187 THAT WE SHOULD MAKE A DIFFERENCE IN  
8 THE --

9 MR. WAPNER: I UNDERSTAND WHAT THE COURT IS SAYING.

10 THE COURT: -- CONSTRUING OF 1271, BUT I WANT TO MAKE  
11 SURE THAT THERE IS NO ERROR OR POSSIBLE ERROR IN THIS  
12 MATTER. DO YOU WANT ME ME TO TAKE A BRIEF RECESS?

13 MR. WAPNER: I DON'T THINK YOU EVEN HAVE TO LEAVE THE  
14 BENCH. I CAN JUST TALK TO THE WITNESS OUTSIDE.

15 MR. BARENS: YOUR HONOR, I'D LIKE A FIVE MINUTE  
16 RECESS.

17 THE COURT: ALL RIGHT. WHY DON'T WE TAKE A FIVE  
18 MINUTE RECESS AT THIS TIME.

19 (A RECESS WAS TAKEN)

20 THE COURT: ALL RIGHT. IN THE MATTER OF PEOPLE VERSUS  
21 HUNT, LET THE RECORD SHOW IS THAT WE ARE RESUMING AT THIS  
22 TIME. MR. HUNT IS PRESENT WITH BOTH HIS COUNSEL, AND THE  
23 DISTRICT ATTORNEY IS PRESENT.

24 MR. WAPNER: CALL LES ZOELLER.

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

1 THE WITNESS: I DO.

2

3

LESLIE H. ZOELLER,

4

CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
5 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

5

6

THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
7 SPELL YOUR LAST NAME FOR THE RECORD.

7

8

THE WITNESS: LESLIE H. ZOELLER, Z-O-E-L-L-E-R.

9

THE CLERK: THANK YOU.

10

11

DIRECT EXAMINATION

12

BY MR. WAPNER:

13

Q MR. ZOELLER, WHAT IS YOUR OCCUPATION AND

14

ASSIGNMENT?

15

A I'M A POLICE OFFICER FOR THE CITY OF BEVERLY

16

HILLS ASSIGNED TO DETECTIVE DIVISION.

17

Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED AND

18

ASSIGNED?

19

A I'VE BEEN EMPLOYED AS A POLICE OFFICER FOR 12

20

YEARS. I'VE BEEN ASSIGNED TO DETECTIVE DIVISION FOR SIX

21

YEARS.

22

Q ARE YOU THE INVESTIGATING OFFICER IN THIS CASE?

23

A I AM.

24

MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

25

THE COURT: YES.

26

Q BY MR. WAPNER: IN AUGUST OF 1984,

27

APPROXIMATELY AUGUST THE 9TH, DID YOU HAVE A MEETING IN

28

ATTORNEY'S OFFICE WITH SEVERAL OF THE WITNESSES IN THIS

1 CASE?

2 A YES, I DID.

3 Q AND WHO WERE THOSE WITNESSES?

4 A THE ATTORNEY WAS THE ONE WHO CALLED. HIS NAME  
5 WAS PAUL TOBIN. THE WITNESSES ARE TOM AND DAVE MAY, GENE  
6 BROWNING AND JEFF RAYMOND.

7 Q AND DID YOU HAVE A DISCUSSION WITH THEM ABOUT  
8 THE MURDER OF RON LEVIN?

9 A YES, I DID.

10 Q AND DID THEY PROVIDE YOU WITH CERTAIN  
11 INFORMATION REGARDING THE DEFENDANT IN THIS CASE, JOE HUNT?

12 A YES, THEY DID.

13 Q AND BRIEFLY, FOR THE PURPOSES OF PROBABLE CAUSE  
14 ONLY, CAN YOU TELL US WHAT IT WAS THAT THEY SAID TO YOU?

15 MR. BARENS: I'M GOING TO OBJECT TO THAT AS -- JUST  
16 FOR THE RECORD, YOUR HONOR -- AS HEARSAY. IT GOES TO  
17 ULTIMATE FACTS. THOSE WITNESSES ARE AVAILABLE TO TESTIFY ON  
18 THEIR OWN AND BE CROSS-EXAMINED. THE COURT KNOWS VERY WELL  
19 THAT WE ARE GOING TO GET THE MOST PREJUDICIAL  
20 CHARACTERIZATION OF THAT TESTIMONY POSSIBLE FOR THE PEOPLE  
21 TO PRESENT IN THIS OFFER OF PROOF. I FIND IT SPECIOUS.

22 IT DOESN'T GO -- WE DON'T NEED A BASIS FOR  
23 PROBABLE CAUSE NOW. THOSE WITNESSES ARE AVAILABLE TO COME  
24 IN AND TESTIFY. IF WE WANT TO KNOW WHAT THOSE WITNESSES HAD  
25 TO SAY ABOUT THE MURDER OF RON LEVIN OR ANY OTHER FACTOR, I  
26 BELIEVE THE GOVERNMENT HAS THEM UNDER SUBPOENA RIGHT NOW AND  
27 WE CAN SEE HOW THEY TESTIFY RATHER THAN HAVE THEIR TESTIMONY  
28 CONVENIENTLY PUNCTUATED, SUMMARIZED AND CONDENSED FOR YOUR



1 HONOR THIS MORNING.

2 THE COURT: WHAT IS -- YOU SAY YOU'RE OFFERING THIS  
3 NOT FOR THE TRUTH OF THE STATEMENTS, BUT FOR PROBABLE CAUSE.  
4 IS THIS --

5 MR. WAPNER: WELL, I'M OFFERING IT REALLY NOT FOR THE  
6 TRUTH OF THE STATEMENTS TO EXPLAIN WHAT I'M ABOUT TO -- IT'S  
7 A PREFACE TO ASKING THIS OFFICER DID HE OBTAIN CERTAIN  
8 DOCUMENTS WHICH WITHOUT THE EXPLANATION -- WHICH REALLY IS  
9 NOT OFFERED FOR THE TRUTH, BUT IS ONLY OFFERED TO EXPLAIN  
10 HOW HE GOT THE DOCUMENTS AND I DON'T INTEND TO OFFER IT FOR  
11 THE TRUTH.

12 COUNSEL IS CLEARLY RIGHT. IF THIS INFORMATION  
13 IS TO COME IN IN THIS HEARING FOR THE TRUTH, THEN IT EITHER  
14 HAS TO COME IN FROM THESE WITNESSES OR IT'S NOT -- IT CAN'T  
15 BE ACCEPTED BY YOUR HONOR FOR THE TRUTH. BUT FOR THE  
16 PURPOSE OF SOLELY OF EXPLAINING THEIR CONDUCT AND EXPLAINING  
17 HIS OBTAINING OF CERTAIN DOCUMENTS, IT'S BEING OFFERED FOR  
18 THAT PURPOSE AND NOT FOR THE TRUTH OF THE MATTER ASSERTED,  
19 YOUR HONOR.

20 MR. BARENS: YOUR HONOR, AGAIN, THE OFFICER IS  
21 COMPETENT TO TESTIFY THAT I RECEIVED, YOU KNOW, THIS  
22 DOCUMENT AND THIS DOCUMENTS, HE CAN IDENTIFY THE DOCUMENT,  
23 HE CAN IDENTIFY THE PARTY HE RECEIVED THE DOCUMENT FROM;  
24 HOWEVER, AS FAR AS WHAT THE PARTY TOLD HIM THE SIGNIFICANCE  
25 OF WHAT THE DOCUMENT WAS OR HOW THAT PARTY OBTAINED THAT  
26 DOCUMENT, OBVIOUSLY WE HAVE THE RIGHT TO HAVE THE WITNESS  
27 HERE.

28 I THINK IF THE PEOPLE WANT TO INTRODUCE CERTAIN

1 DOCUMENTS THAT THIS OFFICER TOOK CUSTODY FROM CERTAIN  
2 PARTIES, I HAVE NO PROBLEM WITH THAT, YOUR HONOR. AND I  
3 CERTAINLY DON'T NEED AN EXPLANATION AS TO THE WHEREWITHAL OF  
4 THAT. IF THIS OFFICER IS GOING TO TALK ABOUT DOCUMENTS, I  
5 SUBMIT THAT HE CAN SAY "THIS IS A DOCUMENT I GOT FROM JOHN  
6 SMITH ON SUCH AND SUCH A DATE AND THAT DOCUMENT TO ME  
7 APPEARS TO BE SO AND SO."

8 I DON'T SEE WHY WE NEED TO GET INTO AN  
9 EXPLANATION OF WHAT PEOPLE WERE TOLD ABOUT THE DEATH OR THE  
10 ALLEGED DEATH OF RON LEVIN OR HIS DISAPPEARANCE IN ORDER TO  
11 REFER TO THE FACT THAT THIS OFFICER CAN SAY HE GOT DOCUMENTS  
12 FROM PEOPLE.

13 THE COURT: ALL RIGHT. I'M GOING TO OVERRULE THE  
14 OBJECTION, BUT IF IT'S GOING TO BE LIMITED TO PROBABLE CAUSE  
15 AS TO WHAT A REASON OF SOMETHING HE WAS TOLD HE PURSUED  
16 CERTAIN ACTIVITIES OR ACTIONS, IT COULD BE ADMITTED FOR THAT  
17 PURPOSE.

18 MR. WAPNER: THANK YOU.

19 THE COURT: THE OBJECTION WILL BE OVERRULED.

20 MR. WAPNER: THANK YOU.

21 Q CAN YOU TELL US BRIEFLY WHAT YOU WERE TOLD AT  
22 THIS MEETING?

23 A THE INDIVIDUAL STATED THAT THEY -- AND BY  
24 "THEY", IT WAS TOM MAY AND JEFF RAYMOND -- WERE PRESENT AT A  
25 MEETING IN JUNE WHERE THE DEFENDANT STATED TO THEM THAT HE  
26 HAD KILLED RON LEVIN AND THAT THE REASON FOR THE KILLING WAS  
27 OBTAINING 1.5 MILLION DOLLARS, AND IT WAS COVERED UP BY AN  
28 OPTION AGREEMENT THAT THEY HAD THE VICTIM SIGN BEFORE HE WAS

1 KILLED, AND SUBSEQUENT TO THE KILLING OF THE VICTIM THEY HAD  
2 SUPPOSED MEETINGS THAT WERE ON PAPER THAT NONE OF THEM  
3 ACTUALLY HAD ATTENDED.

4 Q AND DID THEY IN THIS CONNECTION PROVIDE YOU  
5 WITH CERTAIN DOCUMENTS?

6 A YES, THEY DID.

7 Q AND WHAT DID THEY GIVE YOU?

8 MR. BARENS: ALL RIGHT, YOUR HONOR. WE ARE GOING TO  
9 RENEW OUR OBJECTION ON THE SAME BASIS BECAUSE I BELIEVE THE  
10 COURT RULED THAT COUNSEL COULD PROCEED WITH THIS LINE OF  
11 QUESTIONING IF THE OFFICER WOULD DEMONSTRATE THAT HE TOOK  
12 CERTAIN INVESTIGATIVE ACTIVITIES BASED ON THE STATEMENTS  
13 MADE. WHAT WE HAVE DONE NOW IS MAKE THE LEAP FROM ALLEGED  
14 CONVERSATIONS FROM -- I'M NOT EVEN SURE THAT WE HAVE  
15 SPECIFICALLY IDENTIFIED THE PARTIES COMMUNICATING THE  
16 INFORMATION -- WE ARE GOING FROM THAT TO THE DOCUMENT. PER  
17 SE.

18 THE COURT: ALL RIGHT. THE RECORD MAY SHOW THAT  
19 THERE IS A CONTINUING OBJECTION; HOWEVER, THE COURT WILL  
20 OVERRULE THE OBJECTION.

21 MR. WAPNER: THANK YOU, YOUR HONOR.

22 THE COURT: WITH THE UNDERSTANDING THAT THIS IS  
23 SOLELY FOR PROBABLE CAUSE.

24 MR. BARENS: AND THE WEIGHT OF IT GOES SOLELY, YOUR  
25 HONOR, TO THIS OFFICER'S ACTIVITIES AND NOT AT ALL TO ANY  
26 RELIANCE BY THE COURT UPON ANY VALIDITY OR VORACITY TO THE  
27 STATEMENTS --

28 THE COURT: OF THE PARTIES THAT CAUSED THE

1 INVESTIGATION TO BE MADE, YES.

2 MR. BARENS: THANK YOU, YOUR HONOR.

3 THE COURT: THE RECORD WILL SO REFLECT.

4 MR. WAPNER: THANK YOU.

5 Q WHAT WAS IT THAT THEY GAVE YOU?

6 A THEY GAVE ME A COPY OF THE 1.5 MILLION-DOLLAR  
7 CHECK, A COPY OF THE OPTION AGREEMENT THAT THEY INDICATED, A  
8 COPY OF THE MINUTES OF THE MEETINGS THAT THEY WERE NOT  
9 PRESENT.

10 MR. WAPNER: YOUR HONOR, I HAVE HERE SEVERAL  
11 DOCUMENTS THAT I'D LIKE TO MARK AS PEOPLE'S NEXT IN ORDER AS  
12 PEOPLE'S --

13 THE COURT: 47?

14 MR. WAPNER: IS THERE A 46, YOUR HONOR?

15 THE COURT: IT WOULD BE 46, YES.

16 MR. WAPNER: AS PEOPLE'S -- MAY I HAVE JUST A MOMENT  
17 WITH THE WITNESS, YOUR HONOR?

18 THE COURT: YES.

19 MR. WAPNER: AS PEOPLE'S 46 FOR IDENTIFICATION; TWO  
20 PIECES OF PAPER THAT AT PRESENT ARE NOT STAPLED TOGETHER,  
21 BUT ARE PART OF THE SAME DOCUMENT, AND IT'S ENTITLED  
22 "MICROGENESIS OF NORTH AMERICA OPTION AGREEMENT". AND ON  
23 THE BACK IT'S DATED 6-5 ON ONE SIDE UNDER WHERE IT SAYS "RON  
24 LEVIN", AND 6-6 ON THE OTHER SIDE WHERE IT SAYS "JOE HUNT".

25 THE COURT: ALL RIGHT. PEOPLE'S 46 FOR  
26 IDENTIFICATION.

27 MR. WAPNER: AS PEOPLE'S -- AND WOULD THE RECORD  
28 REFLECT THAT I'M PUTTING A 46 ON THE BACK OF THE SECOND PAGE

1 OF THAT DOCUMENT.

2 AND AS PEOPLE'S 47 A LETTER ON MICCROGENESIS OF  
3 NORTH AMERICA LETTERHEAD PURPORTEDLY SIGNED BY JOE HUNT.

4 AS PEOPLE'S 48 FOR IDENTIFICATION A TWO PAGE  
5 DOCUMENT THAT PURPORTS TO BE MINUTES OF A MEETING OF THE  
6 BOARD OF DIRECTORS OF MICROGENESIS OF NORTH AMERICA. MAY  
7 THAT BE MARKED PEOPLE'S 48? AND THAT'S A TWO PAGE DOCUMENT.

8 THE COURT: PEOPLE'S 48.

9 MR. WAPNER: AND AS PEOPLE'S 49, WHAT APPEARS TO BE A  
10 COPY OF A CHECK ON CREDIT SUISSE.

11 Q BY MR. WAPNER: DETECTIVE ZOELLER, SHOWING YOU  
12 PEOPLE'S 46 THROUGH I BELIEVE IT'S 49, DO YOU RECOGNIZE  
13 THOSE DOCUMENTS?

14 A YES, I DO.

15 Q WHAT ARE THEY?

16 A THESE ARE THE DOCUMENTS THAT THE PEOPLE AT THE  
17 MEETING GAVE ME; THAT BEING TOM MAY AND DAVE MAY, JEFF  
18 RAYMOND AND GENE BROWNING.

19 Q AND AS THE INVESTIGATING OFFICER IN THIS CASE,  
20 DID YOU CONTACT MARTIN LEVIN, THE FATHER OF THE VICTIM, RON  
21 LEVIN?

22 A YES, I DID.

23 Q AND DID YOU GO TO 144 SOUTH PECK DRIVE IN THE  
24 CITY OF BEVERLY HILLS WITH MR. MARTIN LEVIN?

25 A YES, I DID.

26 Q WAS THAT ON AUGUST THE 16TH OF 1984?

27 A YES, IT WAS.

28 Q AND WHEN YOU WENT TO THAT LOCATION, DID YOU

1 LOOK INSIDE OF THE LOCATION?

2 A YES.

3 Q DID MR. LEVIN POINT ANYTHING OUT TO YOU OR  
4 BRING SOMETHING TO YOU?

5 A HE -- YES, HE DID.

6 Q WHAT DID HE DO? WHAT DID HE BRING TO YOU?

7 A AS WE WERE IN THE OFFICE OF THE RESIDENCE, HE  
8 BROUGHT BACK A STACK OR A -- PAPERS, SEVEN PAPERS, YELLOW  
9 MANILA PAPERS.

10 Q AND WHAT DID HE DO WITH THEM?

11 A THEY WERE FOLDED IN HALF WITH THE WRITING ON  
12 THE INSIDE, AND HE HANDED THEM TO ME AND HE SAYS "SEE WHAT  
13 YOU THINK OF THIS. I DON'T UNDERSTAND THEM."

14 Q DID YOU ASK HIM WHERE HE HAD FOUND THOSE?

15 A NOT IMMEDIATELY, NO.

16 Q AT SOME POINT DID YOU?

17 A YES, I DID.

18 Q DID HE SHOW YOU?

19 A YES, HE DID.

20 Q DID YOU CAUSE THAT AREA TO BE PHOTOGRAPHED?

21 A YES, I DID.

22 Q SHOWING YOU A PHOTOGRAPH, PEOPLE'S 6 FOR  
23 IDENTIFICATION, DO YOU RECOGNIZE THAT?

24 A YES, I DO.

25 Q WHAT IS IT?

26 A THIS IS THE PHOTO TAKEN DEPICTING THE AREA  
27 WHERE HE OBTAINED THE PAPERS FROM.

28 Q AND WHAT DID YOU DO WITH THE PAPERS AFTER HE

1 GAVE THEM TO YOU?

2 A I READ THE FIRST PAGE AND I REALIZED ITS VALUE  
3 TO THE CASE AND I IMMEDIATELY PRESERVED IT FOR ANY PRINTS.

4 Q HOW DID YOU DO THAT?

5 A I PUT IT IN A FOLDER.

6 Q AND WHAT DID YOU DO WITH THE PAPERS AFTER YOU  
7 PUT THEM IN A FOLDER?

8 A AFTER I PUT THEM IN THE FOLDER, BESIDES  
9 CAREFULLY READING THEM, I CAUSED THEM TO BE PRINTED.

10 Q AND WAS THAT BY SOME IDENTIFICATION AND EXPERT  
11 PEOPLE AT THE BEVERLY HILLS POLICE DEPARTMENT?

12 A THAT'S CORRECT.

13 Q AND AFTER THAT WAS DONE, WHAT, IF ANYTHING, DID  
14 YOU DO WITH THEM?

15 A WELL, I -- WHAT I DID IS I PLACED THEM INTO  
16 EVIDENCE AND REFERRED IT TO THE IDENTIFICATION BUREAU, AND  
17 THEY REMAINED INTO EVIDENCE FROM THE TIME THEY CHECKED IT.

18 Q AFTER THEY CHECKED IT, DID YOU PICK THEM UP  
19 FROM EVIDENCE AT SOME POINT?

20 A YES.

21 Q WHEN WAS THAT?

22 A THAT WAS FOR THE PRELIMINARY HEARING FOR  
23 MR. PITTMAN.

24 Q ALL RIGHT. AND DID YOU BRING THEM TO COURT?

25 A YES.

26 Q WERE THEY INTRODUCED IN COURT AT THAT TIME?

27 A YES, THEY WERE -- NO. THE COPIES WERE  
28 INTRODUCED.

1 Q AND WHAT DID YOU DO WITH THE ORIGINALS?

2 A AND THE ORIGINALS AGAIN WENT BACK INTO  
3 EVIDENCE, AND WE BROUGHT THEM OUT FOR THIS PRELIMINARY  
4 HEARING WHICH WERE INTRODUCED YESTERDAY.

5 Q WHEN YOU ORIGINALLY SAW THOSE SEVEN PIECES OF  
6 PAPER, THEY DID NOT HAVE PLASTIC SLEEVES ON THE OUTSIDE; IS  
7 THAT RIGHT?

8 A THAT'S CORRECT.

9 Q AND WHEN YOU ORIGINALLY BOOKED THEM INTO  
10 EVIDENCE, I TAKE IT THEY DID NOT HAVE PLASTIC SLEEVES ON THE  
11 OUTSIDE?

12 A THAT'S CORRECT, ALSO.

13 Q WHEN YOU PICKED THEM UP FOR THE PRELIMINARY  
14 HEARING OF MR. PITTMAN, IN WHAT CONDITION WERE THEY?

15 A THEY WERE IN THE PLASTIC SLEEVES.

16 Q AND SHOWING YOU AN EXHIBIT THAT COLLECTIVELY  
17 HAS BEEN MARKED AS PEOPLE'S 44 FOR IDENTIFICATION, DO YOU  
18 RECOGNIZE THOSE ITEMS?

19 A YES, I DO. THESE ARE THE SEVEN PAGES THAT WERE  
20 FOUND IN THE VICTIM'S RESIDENCE ON THE 16TH OF AUGUST.

21 Q AND THERE'S AN ENVELOPE IN WHICH THEY ARE  
22 CONTAINED. DO YOU RECOGNIZE THAT?

23 A THAT IS NOT THE ENVELOPE I PUT IT IN. I PUT IT  
24 IN MORE OF A FOLDER AT THE TIME. THE EVIDENCE PEOPLE PUT IT  
25 IN THE ENVELOPE.

26 Q OKAY.

27 A AFTER THEY WERE CHECKED BY THE IDENTIFICATION  
28 BUREAU.



823

1 Q AND SO YOU'RE REFERRING --

2 MR. WAPNER: FOR THE RECORD, WE ARE REFERRING TO A  
3 MANILA TYPE ENVELOPE WITH THE NUMBER 8405436 AND THEN THE  
4 NUMBER 20504 ON THE OUTSIDE, YOUR HONOR.

5 Q DID YOU LOOK THROUGH MR. LEVIN'S OFFICE AND  
6 APARTMENT FOR BLANK YELLOW LEGAL TABLETS CONTAINING PAPERS  
7 SIMILAR TO THAT UPON WHICH THE LISTS -- LIST WHICH IS  
8 PEOPLE'S 44 IS CONTAINED?

9 MR. BARENS: WE ARE GOING TO OBJECT AS LEADING AND  
10 SUGGESTIVE.

11 MR. WAPNER: IT SEEMS TO ME IT CAN BE ANSWERED YES OR  
12 NO.

13 THE COURT: THE OBJECTION WILL BE OVERRULED.

14 THE WITNESS: YES.

15 Q BY MR. WAPNER: WHAT DID YOU FIND?

16 A I FOUND NUMEROUS YELLOW TABLETS, BUT NOT THE  
17 LEGAL SIZE. I FOUND NO LEGAL SIZE, WHICH IS WHAT THIS PAPER  
18 IS WRITTEN ON.

19 Q DID YOU FIND ANYTHING IN MR. LEVIN'S OFFICE,  
20 MR. RON LEVIN'S OFFICE, AT 144 SOUTH PECK DRIVE SIMILAR TO  
21 WHAT DAVE AND TOM MAY AND JEFF RAYMOND AND GENE BROWNING  
22 PROVIDED FOR YOU?

23 A YES.

24 Q WHAT WAS THAT?

25 A I FOUND A PACKET OF PAPERS THAT WERE BOUND BY A  
26 GREEN FOLDER AND THEY WERE LOCATED IN THE -- ACTUALLY IT WAS  
27 A -- IT'S A CLOSET CONVERTED INTO LIKE A SECRETARY'S ROOM  
28 OFF OF THE OFFICE OF THE APARTMENT, AND THE PAPERS WERE ON

10

1 SOME NOTEBOOKS AT THAT LOCATION.

2 MR. WAPNER: YOUR HONOR, I HAVE HERE A PACKET OF  
3 PAPERS. MAY I APPROACH THE WITNESS?

4 THE COURT: YES.

5 Q BY MR. WAPNER: SHOWING YOU THIS PACKET OF  
6 PAPERS, DO YOU RECOGNIZE THAT?

7 MR. BARENS: I HAVEN'T SEEN THAT PACKET OF PAPERS,  
8 YOUR HONOR.

9 MR. WAPNER: WELL, YOUR HONOR, I'M ONLY REALLY  
10 CONCERNED WITH THE TOP DOCUMENT, A COPY OF WHICH COUNSEL HAS  
11 BEEN PROVIDED.

12 MR. BARENS: WELL, I HAVEN'T SEEN IT THIS MORNING.

13 THE COURT: ALL RIGHT. TAKE A LOOK AT IT,  
14 MR. BARENS.

15 THE WITNESS: YES. THEY ARE THE PACKET OF PAPERS I  
16 FOUND.

17 Q BY MR. WAPNER: OF THE PACKET OF PAPERS THAT  
18 YOU FOUND IN MR. LEVIN'S APARTMENT OR OFFICE, THERE IS ON  
19 THE -- WHAT IS THE TOP DOCUMENT ON THERE ENTITLED?

20 A "MICROGENESIS OPTION AGREEMENT".

21 Q AND IS THAT TOP DOCUMENT SOMETHING SIMILAR TO  
22 WHAT THE MAYS HAD PROVIDED YOU?

23 A THE TYPING IS IDENTICAL TO IT. THE HANDWRITING  
24 IN THE MIDDLE IS DIFFERENT, JUST THE WRITING IS DIFFERENT,  
25 AND THEN THE DATE ON THE SECOND PAGE ON THE LEFT HAND SIDE  
26 UNDER "RON LEVIN" IS DIFFERENT. THIS IS DATED 6-6-84, WHERE  
27 THE OTHER ONE WAS DATED 6-5-84.

28 Q WOULD YOU REMOVE THAT DOCUMENT, THAT TOP

1 TWO-PAGE DOCUMENT, PLEASE.

2 MR. WAPNER: AND YOUR HONOR, MAY THAT BE MARKED AS  
3 PEOPLE'S 50 FOR IDENTIFICATION.

4 Q BY MR. WAPNER: TELL ME AGAIN WHERE IN  
5 MR. LEVIN'S OFFICE OR APARTMENT THAT WAS FOUND, PEOPLE'S 50?

6 A IT WAS A CLOSET CONVERTED TO A SMALL  
7 SECRETARY'S OFFICE, AND WITHIN THE OFFICE WERE BUILT-IN  
8 BOOKCASES ON THE LEFT SIDE, AND THERE WERE FOLDERS UP RIGHT  
9 IN THE BOOK CASE AND THAT FILE WAS SITTING ON TOP OF THOSE  
10 FOLDERS.

11 Q AND WHAT DID YOU DO WITH THAT AFTER YOU  
12 RETRIEVED IT FROM THAT LOCATION?

13 A I ALSO SEIZED THAT AS EVIDENCE.

14 Q AND AFTER YOU TOOK IT FROM MR. LEVIN'S HOUSE ON  
15 THAT DATE, WHAT DID YOU DO WITH IT?

16 A IT WAS BOOKED INTO THE EVIDENCE ROOM OF THE  
17 BEVERLY HILLS POLICE DEPARTMENT.

18 Q AND HAVE YOU REMOVED IT SINCE THEN?

19 A I HAD, AGAIN FOR THE PITTMAN MATTER, WHICH IT  
20 WAS XEROXED AND THEN PLACED BACK INTO EVIDENCE AND THEN IT  
21 WAS BROUGHT HERE TODAY FOR THIS PRELIMINARY HEARING FOR  
22 MR. HUNT.

23 Q AND YOU BROUGHT IT TO COURT ON BOTH OCCASIONS?

24 A THAT'S CORRECT.

25 Q DID YOU HAVE OCCASION TO ARREST THE DEFENDANT  
26 IN THIS CASE ON SEPTEMBER THE 28TH, OF 1984?

27 A YES, I DID.

28 Q AND OTHER THAN THE INFORMATION THAT YOU'VE TOLD

1 US ABOUT THAT YOU 'VE RECEIVED FROM THE MAYS, WHAT WAS 826  
2 YOUR -- STRIKE THAT.

3 WAS THE INFORMATION THAT YOU RECEIVED IN THE  
4 AUGUST THE 9TH MEETING WITH DAVE AND TOM MAY, JEFF RAYMOND  
5 AND GENE BROWNING PART OF YOUR PROBABLE CAUSE FOR ARRESTING  
6 MR. HUNT?

7 A YES, IT WAS.

8 Q WHAT OTHER INFORMATION, IF ANY, DID YOU HAVE TO  
9 CAUSE YOU TO PLACE HIM UNDER ARREST?

10 MR. BARENS: I'M GOING TO OBJECT TO THAT AS VAGUE AND  
11 AMBIGUOUS. IT WOULD ENABLE THE WITNESS TO GET INTO A LOT OF  
12 SPECULATIVE AND COLLATERAL AREAS. IT COULD BE STUFF THAT  
13 COULD NEVER BE VERIFIED. WE CAN GET INTO A WHOLE NARRATION.  
14 IT COULD BE VERY PREJUDICIAL AND CALL FOR HIS OPINIONS AND  
15 PERCEPTIONS ABOUT THE WORLD HE LIVES IN.

16 THE COURT: THE OBJECTION WILL BE SUSTAINED FOR THIS  
17 REASON, MR. WAPNER. I REALIZE FOR PROBABLE CAUSE, BUT WHAT  
18 OTHER EVIDENCE -- I THINK IT SHOULD BE MORE SPECIFIC  
19 CONCERNING IT. AS MR. BARENS SAYS, THAT COULD OPEN THE DOOR  
20 TO ALMOST ANYTHING.

21 MR. WAPNER: I 'LL REPHRASE THE QUESTION.

22 THE COURT: THE QUESTION ITSELF IS SO BROAD.

23 MR. WAPNER: I 'LL REPHRASE THE QUESTION, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 Q BY MR. WAPNER: WHAT WAS YOUR PROBABLE CAUSE  
26 FOR ARRESTING MR. HUNT?

27 A IT WAS THE INFORMATION I RECEIVED IN THE  
28 MEETING OF AUGUST 9TH PLUS THE FACT OF THE SEVEN PAGES OF

827

1 NOTES WHICH WERE FOUND IN THE VICTIM'S APARTMENT WHICH HAD  
2 JOE HUNT'S NAME ON IT, FOR ONE, PLUS OTHER ITEMS POINTING ON  
3 THE -- ON THE LIST POINTING TO MR. HUNT, AND THE FACT THAT  
4 WE FOUND THE OPTION AGREEMENT, PURPORTEDLY AN ORIGINAL BY  
5 WHAT IT APPEARED ON ITS FACE VALUE, WHICH CORRESPONDED WITH  
6 THE INFORMATION WE HAD RECEIVED AT THE MEETING.

7 Q AND WHERE WAS IT THAT MR. HUNT WAS PLACED UNDER  
8 ARREST?

9 A HE WAS PLACED UNDER ARREST AT WILSHIRE --  
10 OUTSIDE OF HIS APARTMENT. JUST EAST. I DON'T RECALL THE  
11 EXACT LOCATION. WILSHIRE JUST EAST OF MANNING.

12 Q AND WAS HE ARRESTED ON THE STREET? IN A  
13 VEHICLE?

14 A HE WAS ARRESTED ON THE STREET IN HIS VEHICLE,  
15 WHICH WAS A JEEP.

16 Q AND WERE YOU ONE OF THE OFFICERS THAT PLACED  
17 HIM UNDER ARREST?

18 A YES, I WAS.

19 Q AT THE TIME HE WAS ARRESTED, DID YOU RECOVER  
20 ANY PROPERTY?

21 A AT THE TIME HE WAS ARRESTED HE REQUESTED THAT  
22 WE, THE ARRESTING OFFICERS, TAKE HIS BRIEFCASE, HE HAD  
23 VALUABLE ITEMS IN THE BRIEFCASE, AND WITH THAT WE BROUGHT IT  
24 AND SEIZED THAT AS EVIDENCE.

25 Q WHEN HE WAS ARRESTED IN THE CAR, WAS THERE ANY  
26 ONE ELSE IN THE CAR?

27 A NO, HE WAS ALONE.

28 Q WHERE WAS THE BRIEFCASE?

828

1           A       THE BRIEFCASE WAS I BELIEVE ON THE FRONT  
2 PASSENGER FLOOR OR -- RIGHT FRONT PASSENGER FLOOR.

3           Q       WHAT DID YOU DO WITH THE BRIEFCASE?

4           A       I BROUGHT IT TO THE STATION AND BOOKED IT INTO  
5 EVIDENCE.

6           Q       AND I TAKE IT THAT IT REMAINS THERE AT THIS  
7 TIME?

8           A       IT'S STILL THERE, YES.

9           Q       DID YOU -- AND I'M SKIPPING SLIGHTLY  
10 CHRONOLOGICALLY -- BUT AT SOME POINT DID YOU OBTAIN A SEARCH  
11 WARRANT FOR THE DEFENDANT'S RESIDENCE AND HIS BRIEFCASE?

12          A       YES, I DID.

13          Q       AND DID YOU DO A SEARCH OF THE BRIEFCASE?

14          A       YES, I DID.

15          Q       AND WHAT DID YOU FIND?

16          A       NUMEROUS ITEMS INSIDE. I --

17               MR. BARENS: EXCUSE ME, YOUR HONOR. I DON'T RECALL  
18 EVER SEEING THE SEARCH WARRANT OR THE PROBABLE CAUSE FOR THE  
19 SEARCH WARRANT ON THE BRIEFCASE, AND I DON'T KNOW HOW WE GET  
20 TO -- I GUESS WE'RE GOING TO TALK ABOUT WHAT'S IN THE  
21 BRIEFCASE NOW.

22                       WOULD THE PEOPLE OBLIGE ME WITH A COPY OF THE  
23 WARRANT? I'D LIKE TO SEE WHAT THE EXPRESSION OF PROBABLE  
24 CAUSE WAS FOR THE BRIEFCASE.

25               MR. WAPNER: YOUR HONOR, THE WARRANT FOR THE SEARCH  
26 OF THE HOUSE IS THE SAME WARRANT THAT AUTHORIZES THEM TO  
27 SEARCH THE BRIEFCASE, A COPY OF WHICH AS I UNDERSTAND IT HAS  
28 BEEN PROVIDED TO COUNSEL FROM --

1 MR. BARENS: I DON'T SEEM TO UNDERSTAND IT THE SAME  
2 WAY, YOUR HONOR.

3 THE COURT: WELL, EITHER YOU WERE GIVEN A COPY OF IT  
4 OR YOU WERE NOT --

5 MR. BARENS: I DON'T RECALL EVER HAVING SEEN THAT.

6 THE COURT: -- AS HE SAYS, IT WAS CONTAINED IN THE  
7 SEARCH WARRANT FOR THE HOUSE.

8 IS THAT WHAT YOU'RE SAYING, MR. WAPNER?

9 MR. WAPNER: THAT'S CORRECT.

10 MR. BARENS: I JUST HAVE NEVER SEEN IT.

11 THE COURT: IT'S THE WARRANT FOR THE HOUSE AND THE  
12 BRIEFCASE AND SO FORTH.

13 MR. WAPNER: WELL, IT WAS MY UNDERSTANDING THAT THIS  
14 WAS IN THE ORIGINAL DISCOVERY MATERIALS THAT WERE PROVIDED  
15 TO COUNSEL --

16 MR. BARENS: I HAVEN'T SEEN IT. COULD I JUST SEE  
17 YOUR COPY FOR ONE MOMENT?

18 MR. WAPNER: WELL, SINCE WE ARE AT NOON, WHY DON'T WE  
19 TAKE A BREAK AND THEY CAN LOOK AT IT.

20 THE COURT: ALL RIGHT. IT'S EXACTLY NOON, NOW. WHY  
21 DON'T WE TAKE OUR -- OBVIOUSLY YOU'RE NOT GOING TO FINISH  
22 CROSS-EXAMINATION UNTIL THIS AFTERNOON. WE'LL RECESS  
23 THIS TIME UNTIL 2:00 O'CLOCK THIS AFTERNOON.

24 ((AT 12:00 NOON, A RECESS WAS TAKEN UNTIL 2:  
25 OF THE SAME DAY.))

26 THE COURT: IN THE MATTER OF PEOPLE VERSU  
27 LET THE RECORD SHOW THAT MR. HUNT IS PRESENT WITH  
28 COUNSEL; THAT THE DISTRICT ATTORNEY IS PRESENT

1 OF OUR NOON RECESS, WE WERE STILL ON DIRECT FOR DETECTIVE  
2 ZOELLER, WERE WE NOT?

3 MR. WAPNER: YES. THANK YOU, YOUR HONOR.

4  
5 DIRECT EXAMINATION (CONT'D)

6 BY MR. WAPNER:

7 Q DETECTIVE ZOELLER, DID YOU SEARCH THE BRIEFCASE  
8 THAT YOU TOOK FROM JOE HUNT'S VEHICLE AT THE TIME HE WAS  
9 ARRESTED?

10 A WE DIDN'T SEARCH IT AT THE TIME HE WAS  
11 ARRESTED. WE SEARCHED IT PURSUANT TO THE WARRANT. WE  
12 SEARCHED IT ON THE 3RD OF OCTOBER. YES, WE DID SEARCH IT.

13 Q THAT WASN'T A VERY CLEAR QUESTION. THANK YOU.  
14 AND WAS THAT SEARCH MADE PURSUANT TO A SEARCH  
15 WARRANT?

16 A YES.

17 MR. WAPNER: YOUR HONOR, I HAVE BEFORE ME A DOCUMENT  
18 THAT AT THE TOP SAYS "MICROGENESIS OF NORTH AMERICA, INC.".   
19 IT'S LABELED "OPTION AGREEMENT". IT CONSISTS OF TWO PAGES,  
20 AND ON THE SECOND PAGE IT IS SIGNED -- PURPORTEDLY SIGNED BY  
21 A RON LEVIN ON JUNE THE 5TH AND BY A JOSEPH HUNT ON JUNE THE  
22 6TH. MAY THIS DOCUMENT BE MARKED AS PEOPLE'S 51 FOR  
23 IDENTIFICATION?

24 THE COURT: PEOPLE'S 51 FOR IDENTIFICATION.

25 MR. WAPNER: THANK YOU.

26 Q DETECTIVE ZOELLER, DO YOU RECOGNIZE PEOPLE'S 51  
27 FOR IDENTIFICATION?

28 A YES, I DO. THIS IS THE DOCUMENT THAT -- IT WAS



1 ACTUALLY IN A FOLDER INSIDE THE BRIEFCASE.

2 Q INSIDE THE BRIEFCASE -- JOE HUNT'S BRIEFCASE?

3 A THAT'S CORRECT.

4 Q AND DID YOU PURSUANT TO THE SAME SEARCH WARRANT  
5 SEARCH A RESIDENCE, CONDOMINIUM, LOCATED AT 10660 WILSHIRE  
6 BOULEVARD, NO. 1505?

7 A YES.

8 Q AND PURSUANT TO THAT SEARCH WARRANT, DID YOU  
9 FIND SOME ITEMS THAT WERE LATER USED FOR HANDWRITING  
10 EXEMPLARS?

11 A YES, I DID.

12 MR. WAPNER: YOUR HONOR, I HAVE TWO SETS OF  
13 DOCUMENTS. THE FIRST SET COMES ATTACHED WITH IT AN ENVELOPE  
14 THAT'S MARKED "BEVERLY HILLS POLICE DEPARTMENT  
15 PROPERTY/EVIDENCE TAG", AND BEARS THE DATE 10-2-84 AND THE  
16 REGISTER NUMBER 20635. THE DOCUMENTS THEMSELVES CONSIST OF  
17 THREE PIECES OF YELLOW LEGAL SIZED PAPER WITH HANDWRITING ON  
18 THEM AND TWO PIECES OF WHITE LETTER SIZED PAPER WITH THE  
19 NAME "JOE HUNT" PRINTED ON THE TOP OF EACH PAGE. MAY THIS  
20 ENVELOPE AND THE DOCUMENTS TOGETHER COLLECTIVELY BE PEOPLE'S  
21 52 FOR IDENTIFICATION?

22 THE COURT: PEOPLE'S 52 FOR IDENTIFICATION.

23 MR. WAPNER: AND I'M PUTTING A 52 ON THE OUTSIDE OF  
24 THE ENVELOPE YOUR HONOR.

25 THE COURT: VERY WELL.

26 MR. WAPNER: I HAVE A SECOND GROUP OF DOCUMENTS AND  
27 ENVELOPE. THAT ENVELOPE BEARS THE DATE 10-2-84 ON THE  
28 OUTSIDE AND A REGISTER NUMBER 20635, AND THE DOCUMENTS ARE

1 TWO PAGES. ONE, A LEGAL SIZED YELLOW PAGE THAT ON ONE SIDE  
2 HAS A -- SOME WRITING THAT SAYS "HELLO MY DARLING JOSEPH",  
3 AND ON THE OTHER SIDE HANDWRITING THAT 'S SIGNED AT ONE PLACE  
4 "JOSEPH" AND AT ONE PLACE "JOSEPH HUNT". AND THE SECOND  
5 PIECE OF PAPER IS A WHITE PIECE OF PAPER, LETTER SIZED, AND  
6 IT BEARS HANDWRITING ON IT THAT SAYS "DEAR BROOKE". MAY  
7 THOSE DOCUMENTS AND THE ENVELOPE BE COLLECTIVELY 53?

8 THE COURT: PEOPLE'S 53 FOR IDENTIFICATION. ALL  
9 RIGHT. SO MARKED.

10 Q BY MR. WAPNER: DETECTIVE ZOELLER, DO YOU  
11 RECOGNIZE THE ENVELOPE AND THE DOCUMENTS, PEOPLE'S 52 FOR  
12 IDENTIFICATION?

13 A YES, I DO.

14 Q HOW DO YOU RECOGNIZE THEM?

15 A I MADE OUT THE TAG ON THE OUTSIDE. IT'S  
16 FURTHER DELINEATED BY AN "ITEM NO. 10".

17 Q AND WHERE HAVE YOU SEEN THOSE ITEMS BEFORE?

18 A THESE ARE ITEMS THAT WERE REMOVED FROM JOSEPH  
19 HUNT'S RESIDENCE PURSUANT TO THE SEARCH WARRANT.

20 Q AND WHO REMOVED THOSE?

21 A I DID.

22 Q AND WHAT DID YOU DO WITH THOSE?

23 A I PLACED THEM IN THE ENVELOPE AND PUT THEM INTO  
24 EVIDENCE.

25 Q IN THE ENVELOPE THAT 'S ALSO PEOPLE'S FIFTY --

26 A 52.

27 Q IS THAT 52 OR 53?

28 A IT SAYS "52" ON THE OUTSIDE.

1 Q THANK YOU. AND SHOWING YOU ITEMS IN AN  
2 ENVELOPE THAT HAS BEEN MARKED AS PEOPLE'S 53, DO YOU  
3 RECOGNIZE THOSE?

4 A YES.

5 Q AND WHERE HAVE YOU SEEN THOSE BEFORE?

6 A THESE ARE THE ADDITIONAL PAPERS THAT WERE TAKEN  
7 FROM JOE HUNT'S RESIDENCE ON THE 2ND OF OCTOBER PURSUANT TO  
8 THE SEARCH WARRANT.

9 Q REFERRING TO PEOPLE'S 52 AND -- STRIKE THAT.  
10 REFERRING TO PEOPLE'S 53, AFTER YOU TOOK THOSE  
11 ITEMS FROM JOE HUNT'S APARTMENT, WHAT DID YOU DO WITH THOSE  
12 PAPERS?

13 A THEY, TOO, WERE PLACED IN THE ENVELOPE WHICH IS  
14 MARKED PEOPLE'S 53 AND PLACED INTO EVIDENCE.

15 Q AND WITH REGARD TO PEOPLE'S 52 AND 53, DID YOU  
16 PICK THEM UP FROM EVIDENCE AND BRING THEM TO COURT TODAY?

17 A YES, I DID.

18 Q AND ARE THEY IN THE SAME CONDITION TODAY AS  
19 THEY WERE WHEN YOU PICKED THEM UP WITH THE POSSIBLE  
20 EXCEPTION OF MARKINGS MADE ON THERE BY BY THE HANDWRITING  
21 EXPERT?

22 A YES.

23 Q AND WITH REGARD TO THE DOCUMENT THAT'S PEOPLE'S  
24 51 FOR IDENTIFICATION, WHAT DID YOU DO WITH THAT AFTER YOU  
25 RECOVERED IT FROM THE BRIEFCASE?

26 A IT, TOGETHER WITH THE FOLDER THAT IT WAS IN  
27 WHEN WE TOOK IT OUT OF THE BRIEFCASE WAS PLACED IN AN  
28 ENVELOPE AND PLACED INTO EVIDENCE.

1 Q AND DID YOU BRING THAT -- PICK THAT UP IN  
2 EVIDENCE AND BRING THAT TO COURT TODAY?

3 A YES, I DID.

4 Q WHERE WAS THE BRIEFCASE WHEN YOU SEARCHED IT?

5 A THE BRIEFCASE WAS SEARCHED IN THE  
6 IDENTIFICATION BUREAU WHICH IS ADJACENT TO THE EVIDENCE  
7 LOCKER OF THE BEVERLY HILLS POLICE DEPARTMENT.

8 Q WAS THERE ANYONE PRESENT AT THE RESIDENCE OF  
9 10660 WILSHIRE BOULEVARD, NO. 1505, AT THE TIME THAT YOU  
10 EXECUTED THE SEARCH WARRANT?

11 A YES, THERE WAS.

12 Q WHO?

13 A BROOKE ROBERTS AND EVAN DICKER.

14 Q AND AT SOME POINT AFTER YOU MADE THIS SEARCH,  
15 DID YOU OBTAIN AN ARREST WARRANT FOR THE DEFENDANT IN THIS  
16 CASE?

17 A YES, I DID.

18 Q DID YOU EXECUTE THAT WARRANT?

19 A I DID.

20 Q DID YOU AT SOME POINT SUBSEQUENT TO PLACING THE  
21 DEFENDANT UNDER ARREST WITNESS A HANDWRITING EXEMPLAR?

22 A YES, I DID.

23 Q AND WAS THAT HANDWRITING EXEMPLAR GIVEN BY  
24 COURT ORDER?

25 A IT WAS.

26 MR. WAPNER: YOUR HONOR, I HAVE HERE A DOCUMENT THAT  
27 CONSISTS OF FIVE PAGES, TWO WHITE AND THREE YELLOW, EIGHT  
28 AND A HALF BY 11 PIECES OF PAPER, ALL CONTAINING SAMPLES OF

1 HANDWRITING. MAY THIS DOCUMENT COLLECTIVELY BE MARKED AS  
2 PEOPLE'S 54 FOR IDENTIFICATION?

3 THE COURT: ALL RIGHT. PEOPLE'S 54 COLLECTIVELY.

4 MR. BARENS: YOUR HONOR, FOR THE RECORD, RELATIVE TO  
5 ANY TESTIMONY SOLICITED AS TO THE HANDWRITING EXEMPLAR, WE  
6 ARE GOING TO HAVE A CONTINUING OBJECTION THAT IT VIOLATES  
7 THE DEFENDANT'S 4TH AMENDMENT RIGHT, AND WE'D LIKE THAT  
8 NOTED FOR THE RECORD.

9 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
10 OVERRULED, AND THE RECORD MAY INDICATE THAT THERE IS A  
11 CONTINUING OPTION.

12 ON WHAT BASIS? THAT IT'S SELF-INCRIMINATORY?

13 MR. BARENS: BEG YOUR PARDON, YOUR HONOR?

14 THE COURT: BASED ON THAT IT'S SELF-INCRIMINATORY?

15 MR. BARENS: YES, YOUR HONOR. OUT OF AN ABUNDANCE OF  
16 CAUTION, YOUR HONOR.

17 THE COURT: ALL RIGHT. THE RECORD MAY SHOW THERE'S A  
18 CONTINUING OBJECTION.

19 Q BY MR. WAPNER: DETECTIVE ZOELLER, DO YOU  
20 RECOGNIZE PEOPLE'S 54 FOR IDENTIFICATION?

21 A YES, I DO.

22 Q WHAT IS IT?

23 A THIS IS HANDWRITING THAT I HAD JOE HUNT  
24 COMPLETE FOR ME IN THE LOCKUP HERE AT BEVERLY HILLS  
25 MUNICIPAL COURT.

26 Q SO THE RECORD IS CLEAR, IS THE PERSON WHO PUT  
27 THE WRITING ON THAT PAGE IN THE COURTROOM RIGHT NOW?

28 A YES. HE'S THE DEFENDANT, JOE HUNT, IN THE BLUE

1 JUMPSUIT.

2 MR. WAPNER: INDICATING THE DEFENDANT FOR THE RECORD,  
3 YOUR HONOR.

4 THE COURT: THE RECORD MAY SO INDICATE.

5 MR. WAPNER: THANK YOU.

6 Q AT SOME POINT AFTER YOU TALKED TO THE MAYS ON  
7 AUGUST THE 9TH AND DURING THE INVESTIGATION OF THIS CASE,  
8 DID YOU GO WITH ONE OR BOTH OF THE MAY BROTHERS TO THE  
9 LOCATION CALLED SOLEDAD CANYON?

10 A YES, I DID.

11 Q WHO DID YOU GO WITH?

12 A I WENT WITH TOM MAY AND STEVE TAGLIANETTI.

13 Q AND WHEN DID YOU DO THAT?

14 A THAT WAS -- I DON'T HAVE THE EXACT DATE. IT  
15 WAS APPROXIMATELY --

16 MR. BARENS: I'M GOING TO OBJECT ON THE BASE OF  
17 RELEVANCY, YOUR HONOR. I DON'T KNOW WHAT THE TRIP OF THESE  
18 PEOPLE TO SOLEDAD CANYON HAS TO DO WITH THE SITUATION AT  
19 HAND.

20 MR. WAPNER: MAY I MAKE AN OFFER OF PROOF?

21 THE COURT: YES.

22 MR. WAPNER: THE OFFER OF PROOF IS THAT THE AREA IN  
23 SOLEDAD CANYON THAT DETECTIVE -- TO WHICH DETECTIVE ZOELLER  
24 WAS TAKEN CORRESPONDS ROUGHLY TO THE HAND DRAWN, OR WHAT  
25 PURPORTS TO BE A HAND DRAWN MAP, WHICH IS ON ONE OF THE  
26 SEVEN PAGES FOUND IN RON LEVIN'S APARTMENT, AND WE'LL  
27 PURPORT --

28 MR. BARENS: WELL, I'LL ASK --

1 MR. WAPNER: EXCUSE ME, COUNSEL.

2 THE COURT: YES.

3 MR. WAPNER: WE'LL PURPORT TO SHOW THIS NOT ONLY BY  
4 THE TESTIMONY OF DETECTIVE ZOELLER, BUT ALSO BY ANOTHER  
5 XEROX MAP OF THE SOLEDAD CANYON AREA.

6 MR. BARENS: THAT'S REALLY A BOOTSTRAP, YOUR HONOR.  
7 FIRST OF ALL, I THINK THE DOCUMENT COUNSEL IS REFERRING TO  
8 IS INDISCERNABLE. IT COULD BE A DRAWING OF ANYPLACE,  
9 PERIOD. THERE ARE NO STREET NAMES ON IT, NO NORTH, EAST,  
10 WEST, SOUTH. THERE ARE NO GUIDEPOSTS WHATSOEVER ON THAT  
11 HANDWRITTEN DOCUMENT TO SHOW THAT IT'S DESCRIPTIVE OF ANY  
12 PARTICULAR AREA, NOR IS THERE ANYTHING PECULIAR IN THAT  
13 DOCUMENT TO ASSOCIATE IT WITH SOLEDAD CANYON OR ANYTHING  
14 ELSE.

15 I THINK THE ONLY WAY HE CAN DO THAT -- THE  
16 GOVERNMENT COULD DO THAT WOULD BE TO BRING A MAP EXPERT IN  
17 THAT WOULD OVERLAY THE TWO AND SIDE BY SIDE THEM. AGAIN, I  
18 DON'T FEEL THAT THIS IS -- THIS ISN'T EVEN REMOTELY RELEVANT  
19 AT THIS POINT. THE FACT THAT HE GOES THERE ON THIS TRIP,  
20 AND THEN TO KEY OFF OF THAT TO SAY THAT IT'S SIMILAR TO A  
21 DOCUMENT THAT WE FOUND, WE FOUND A DOCUMENT THAT'S SIMILAR  
22 TO NOTHING.

23 THE COURT: WELL, THE THE QUESTION HERE IS RELEVANCE.  
24 THEY FOUND A DOCUMENT -- A DOCUMENT IS FOUND. THE FUNCTION  
25 OF AN INVESTIGATOR, OF COURSE, IS TO INVESTIGATE. WHAT IT  
26 ULTIMATELY WOULD PRODUCE IS CERTAINLY A FACTOR THAT MIGHT BE  
27 RELEVANT. THE OBJECTION WILL BE OVERRULED.

28 MR. WAPNER: THANK YOU.

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1 MR. BARENS: WELL, YOUR HONOR, AGAIN, HE IS  
2 INVESTIGATING SOMETHING BASED ON WHAT SOMEBODY ELSE THOUGHT.  
3 HE 'S SAYING THAT HE SHOWS THIS DOCUMENT TO SOMEONE, THE  
4 MAYS, BE IT AS IT MAY -- SO TO SPEAK -- AND THEY THINK THAT  
5 IT LOOKS LIKE SOLEDAD CANYON OR SOMETHING LIKE THAT. AND HE  
6 GOES UP THERE, AND IT DOESN'T PROVE -- IT DOESN'T ESTABLISH  
7 ANYTHING THAT WE ARE DEALING WITH HERE. IT'S NOT -- THIS  
8 ISN'T FOUNDATIONAL FOR ANYTHING. IT DOESN'T BEAR OUT THAT  
9 THE MAP TAKES THEM ANYWHERE, THAT THEY FIND ANYTHING WHEN  
10 THEY GO TO THIS LOCATION. I DON'T SEE ITS RELEVANCY. WE GO  
11 ON A WILD GOOSE CHASE, SO TO SPEAK, TO A LOCATION. WHAT  
12 DOES THAT ESTABLISH? WHAT IS IT PROBATIVE OF IN THIS  
13 HEARING?

14 THE COURT: ALL RIGHT. THE QUESTION OF RELEVANCY IS  
15 WHETHER IT TENDS TO PROVE OR DISPROVE AN ULTIMATE FACT IN  
16 THE CASE AND THAT, OF COURSE, IS AN ISSUE THAT'S YET TO BE  
17 DETERMINED AS FAR AS -- CERTAINLY IT'S NOT IRRELEVANT.

18 MR. BARENS: I HAVE AN OFFER OF PROOF THAT WHEN THEY  
19 GO TO THIS LOCATION, YOUR HONOR, NOTHING HAPPENS THAT --

20 THE COURT: WELL, THAT STILL WOULDN'T EXCLUDE THE  
21 EVIDENCE IF THE DISTRICT ATTORNEY WANTS TO INTRODUCE IT.  
22 THIS IS NOT A QUESTION OF -- THE QUESTION IS SOLELY WHETHER  
23 IT'S RELEVANT TO BE INTRODUCED FOR IDENTIFICATION. THE  
24 OBJECTION IS OVERRULED.

25 Q BY MR. WAPNER: DID YOU GO TO THAT AREA WITH  
26 TOM MAY AND STEVE TAGLIANETTI?

27 A THAT'S CORRECT.

28 Q AND CAN YOU -- HOW LARGE OF AN AREA IS SOLEDAD



1 CANYON, ROUGHLY?

2 A IT'S PROBABLY AN AREA OF ABOUT NINE MILES BY  
3 NINE MILES OR NINE MILES BY FIVE MILES.

4 Q DID YOU GO TO A SPECIFIC PART OF THAT CANYON?

5 A YES, I DID.

6 Q AND AFTER GOING THERE, DID YOU LOOK AT A MAP --

7 A YES, I DID.

8 Q -- OF SOLEDAD CANYON?

9 A YES.

10 Q AND DID YOU COMPARE THAT TO ANYTHING THAT YOU  
11 FOUND AND --

12 MR. BARENS: I'D LIKE TO TAKE THE WITNESS ON VOIR  
13 DIRE AS TO HIS QUALIFICATIONS TO COMMENT ON MAP SIMILARITIES  
14 BETWEEN A FORMAL MAP AND THIS INFORMAL MAP.

15 MR. WAPNER: WELL, I DON'T HAVE ANY OBJECTION EXCEPT  
16 I THINK THAT'S MORE PROPERLY A MATTER FOR CROSS-EXAMINATION.

17 MR. BARENS: WELL, BEFORE HE -- YOU KNOW, WE'RE GOING  
18 TO GET TO A POINT WHEN MR. WAPNER IS GOING TO ASK THIS  
19 WITNESS DOES HE HAVE AN OPINION ABOUT THE SIMILARITY BETWEEN  
20 THE MAP THAT THEY LOCATE -- THAT MR. LEVIN PROVIDES THEM  
21 WITH AND A -- AND AN ATLAS MAP OR A WHATEVER MAP OF SOLEDAD  
22 CANYON. NOW, I THINK BEFORE WE START ASKING HIM HIS OPINION  
23 ON SIMILARITIES --

24 THE COURT: WELL --

25 MR. BARENS: -- WE SHOULD QUALIFY THAT OPINION.

26 THE COURT: IT WOULD SEEM TO ME MORE PROPERLY TO BE A  
27 MATTER FOR CROSS-EXAMINATION, BUT I'LL PERMIT YOU TO TAKE  
28 HIM ON VOIR DIRE. WE'LL PERMIT IT AT THIS POINT.

## VOIR DIRE EXAMINATION

1  
2 BY MR. BARENS:

3 Q DETECTIVE, DO YOU HAVE ANY BACKGROUND IN THE  
4 PREPARATION OF MAPS?

5 A NO.

6 Q DO YOU HAVE ANY BACKGROUND IN THE ANALYSIS OF  
7 MAPS?

8 A NO.

9 Q DO YOU KNOW WHAT A CARTOGRAPHER IS?

10 A NO.

11 Q I SUBMIT TO YOU THAT A CARTOGRAPHER IS A PERSON  
12 SKILLED IN ANALYZING MAPS AND UNDERSTANDING THEIR CONTENT.

13 MR. WAPNER: WELL, I'D OBJECT TO THAT BECAUSE FIRST  
14 OF ALL, IT'S A STATEMENT, AND SECOND OF ALL, MY  
15 UNDERSTANDING IS THAT A CARTOGRAPHER IS SOMEONE WHO MAKES  
16 MAPS AND DOESN'T ANALYZE THEM, AND THAT WASN'T A QUESTION.

17 MR. BARENS: WELL, I SUBMIT THAT THIS OFFICER ISN'T  
18 EITHER. IN ANY EVENT, MOVING AHEAD.

19 Q I'M SHOWING YOU A PIECE OF PAPER ON -- ONE  
20 MOMENT.

21 I'M SHOWING YOU A PIECE OF PAPER WITH MARKINGS  
22 ON IT.

23 MR. WAPNER: MAY THAT BE MARKED AS --

24 MR. BARENS: WE'LL MARK IT AS DEFENSE A.

25 MR. WAPNER: WHATEVER DEFENSE NEXT IN ORDER IS.

26 MR. BARENS: WE'LL CALL THIS DEFENSE MAP.

27 THE COURT: IS THIS DEFENDANT'S A?

28 THE CLERK: E.

1 THE COURT: ALL RIGHT. IT WILL BE DEFENDANT'S E.  
2 IT'S A MAP?

3 MR. BARENS: YES. WE'LL CALL THIS "MAP".

4 Q BY MR. BARENS: NOW, DOES THAT LOOK LIKE  
5 ANYTHING TO YOU, OFFICER?

6 A IT LOOKS SIMILAR TO THE HAND DRAWN MAP THAT WAS  
7 FOUND AT RON LEVIN'S HOUSE.

8 Q AND DOES THAT INDICATE ANY PARTICULAR AREA TO  
9 YOU?

10 A NOT IN ITSELF, NO.

11 Q WELL, NOW, I'M GOING TO SHOW YOU A MAP THAT HAS  
12 PREVIOUSLY BEEN MARKED --

13 MR. WAPNER: YOUR HONOR, I'D OBJECT TO THIS AS  
14 IMPROPER VOIR DIRE --

15 MR. BARENS: NOW, WELL --

16 MR. WAPNER: EXCUSE ME, COUNSEL, I'M TRYING TO STATE  
17 AN OBJECTION.

18 THE COURT: GO AHEAD. YES.

19 MR. WAPNER: I DON'T UNDERSTAND HOW THIS GOES TO THE  
20 WITNESS' QUALIFICATIONS TO DO THIS. HE'S NOW ASKING HIM  
21 ABOUT THE EXHIBITS --

22 MR. BARENS: I AM --

23 MR. WAPNER: -- WHICH I'M GOING TO DO --

24 MR. BARENS: -- TO HIS QUALIFICATION --

25 MR. WAPNER: COUNSEL, I'M NOT FINISHED -- WHICH IS  
26 WHAT I'M GOING TO DO ON DIRECT AND WHAT HE'S GOING TO DO ON  
27 CROSS-EXAMINATION.

28 MR. BARENS: I THINK DURING VOIR DIRE, YOUR HONOR, I

1 CAN TEST THIS OFFICER'S QUALIFICATIONS WHICH I AM ABOUT TO  
2 DEMONSTRATE.

3 THE COURT: ALL RIGHT. I PRESUME THAT YOU'RE LAYING  
4 A FOUNDATION NOW FOR THE ULTIMATE QUESTION THAT YOU'RE GOING  
5 TO ASK.

6 MR. BARENS: I AM QUITE SO, SIR.

7 THE COURT: ALL RIGHT. YOU MAY PROCEED.

8 Q BY MR. BARENS: I'M GOING TO SHOW YOU THIS MAP  
9 PREVIOUSLY MARKED PEOPLE'S 26 AT THE PITTMAN PRELIMINARY  
10 HEARING.

11 MR. WAPNER: MAY IT AGAIN BE SO MARKED, YOUR HONOR?

12 THE COURT: ALL RIGHT. PEOPLE'S 26.

13 MR. BARENS: NOW, LOOKING AT THOSE TWO MAPS SIDE BY  
14 SIDE, ARE YOU ABLE TO -- DOES THAT HELP YOU IDENTIFY AN AREA  
15 ON THE -- ON PEOPLE'S 26 IN CONJUNCTION WITH DEFENSE E?

16 A I CAN'T READ WHAT'S IN THE UPPER RIGHT HAND  
17 CORNER OF THE MAP OF DEFENSE E, AND --

18 MR. BARENS: I THINK IT SAYS "EAST", "RANGER  
19 STATION".

20 THE WITNESS: BY THIS -- IT'S DIFFERENT THAN PEOPLE'S  
21 WHATEVER NUMBER THAT IS, BUT BY THIS (INDICATING) I CAN --  
22 WITH THE KNOWLEDGE THAT I HAVE OF THE AREA AND AGAIN  
23 REFERRING BACK TO THE ITEM YOU HAVE IN YOUR HAND, I CAN  
24 BASICALLY DETERMINE THIS TO BE AN AREA.

25 Q WHAT AREA IS THIS?

26 A THIS IS THE INDIAN CANYON AREA OF SOLEDAD  
27 CANYON. IT INDICATES "EAST" WITH AN ARROW AND A RANGER  
28 STATION. WHAT YOU PUT HERE -- AGAIN, I'M REFERRING TO THE

813

1 ITEM YOU HAVE IN YOUR HAND --

2 MR. WAPNER: YOUR HONOR, FOR REFERENCE, 44B FOR  
3 IDENTIFICATION.

4 THE COURT: ALL RIGHT. 44B.

5 THE WITNESS: BY THIS IT'S UNDISCERNABLE, BUT BY  
6 REFERRING TO WHAT YOU HAVE IN YOUR HAND IT COULD BE THE TOP  
7 OF THE MOUNTAINS, AND AS I SAID, THIS IS NOT IDENTICAL TO  
8 WHAT YOU HAVE IN YOUR HAND, SO --

9 Q BY MR. BARENS: WHAT IS "THIS"?

10 MR. WAPNER: "THIS" REFERRING TO DEFENSE E, YOUR  
11 HONOR.

12 MR. BARENS: WELL, I DIDN'T EVEN MEAN TO SUGGEST THAT  
13 THIS IS IDENTICAL TO ANYTHING ELSE IN THE WHOLE WORLD.

14 Q I'M SIMPLY SAYING THAT THIS HELPS YOU IDENTIFY  
15 SOMETHING ON THIS MAP.

16 MR. WAPNER: OBJECTION AS TO VAGUE AS TO WHAT "THIS"  
17 REFERS TO.

18 Q BY MR. BARENS: DOES DEFENSE E HELP YOU  
19 IDENTIFY ANYTHING ON PEOPLE'S 26?

20 A WITH JUST REFERENCE TO THIS AND THE AREA I WAS  
21 TAKEN UP TO, I CAN MAKE A REFERENCE TO THIS AS FAR AS "EAST"  
22 AND "RANGER STATION" AND THE "TOP OF THE MOUNTAIN" TO THIS  
23 MAP, YES, I CAN.

24 Q WELL, HOW MANY -- WHY -- HOW ARE YOU ABLE TO DO  
25 THAT, SIR?

26 A BECAUSE OF MY FAMILIARITY WITH THE LOCATION.

27 Q WELL, WHAT IN PARTICULAR?

28 A WELL, AS I SAID, THE TOP OF THE MOUNTAIN, THE

1 ROAD THAT GOES FROM THE TOP OF THE MOUNTAIN IN AN EASTERLY  
2 DIRECTION TO THE RANGER STATION.

3 Q IS THERE ONLY ONE RANGER STATION THAT YOU'RE  
4 FAMILIAR WITH?

5 A IN THAT AREA, IN INDIAN CANYON, YES, THERE IS.

6 Q AND WHERE ARE THE MOUNTAINS?

7 A THE MOUNTAINS -- IT GOES UP TO THE TOP OF THE  
8 MOUNTAIN.

9 Q THESE ARE MOUNTAINS HERE?

10 A THAT'S THE WAY I ASSUMED IT.

11 Q AND YOU'RE SAYING -- WELL, THE TWO GUIDEPOSTS,  
12 THEN, THAT YOU'RE REFERRING TO ARE "MOUNTAINS" AND "RANGER  
13 STATION"?

14 A IN YOUR HAND DRAWN MAP, DEFENSE E, YES.

15 Q NOTHING ELSE IN THERE, RIGHT?

16 A AS I SAID, AS I AM FAMILIAR WITH THE AREA, AND  
17 THEN I CAN ALSO TELL YOU WHAT ROAD THIS IS SUPPOSED TO BE,  
18 TOO, THAT BEING SOLEDAD CANYON.

19 Q HOW DO YOU KNOW THAT?

20 A WELL, IT'S A FAMILIARITY OF THAT AREA.

21 Q THAT'S THE ONLY ROAD IN THERE?

22 A IT MATCHES THIS TO ME IDENTICALLY.

23 Q SHOW ME WHERE IT DOES.

24 A WELL, HEARS THE ROAD, BEING SOLEDAD CANYON,  
25 DOWN HERE (INDICATING). THE TOP OF THE MOUNTAIN,  
26 (INDICATING) YOU GO EAST. HEARS THE RANGER STATION  
27 (INDICATING).

28 Q WHERE'S THE ROAD?

1 A OKAY. WE 'LL MARK ON IT. THE ROAD SOLEDAD  
2 CANYON IS THIS ROAD RIGHT HERE (INDICATING).

3 MR. BARENS: COULD THE RECORD INDICATE THAT THE  
4 WITNESS IS INDICATING A ROAD THAT RUNS EAST AND WEST?

5 Q WOULD YOU AGREE WITH ME?

6 A YES.

7 THE COURT: THE RECORD MAY SO INDICATE.

8 Q BY MR. BARENS: AND THEN THE RANGER STATION IS  
9 THEN SOUTH OF THAT?

10 A IT 'S A SOUTHEAST DIRECTION, YES.

11 Q ALL RIGHT. AND SO A ROAD GOING EAST AND WEST  
12 WITH A RANGER STATION SOUTH OF IT.

13 MR. BARENS: THANK YOU. YOU MAY PROCEED. I 'M  
14 THROUGH WITH -- I 'M GOING TO LET HIM GO AT THIS POINT.

15 THE COURT: ARE YOU THROUGH WITH YOUR VOIR DIRE?

16 MR. BARENS: YES, I AM.

17 THE COURT: ALL RIGHT. YOU MAY RESUME.

18 MR. BARENS: I SUPPOSE I SHOULD TURN THIS IN?

19 MR. WAPNER: JUST GIVE IT TO THE CLERK.

20 THE COURT: ALL RIGHT. FINE.

21

22 DIRECT EXAMINATION (CONT'D)

23 BY MR. WAPNER:

24 Q DO YOU KNOW WHERE PEOPLE 'S 26 CAME FROM?  
25 THAT 'S THE MAP THAT 'S IN FRONT OF YOU, THE XEROX OF THE MAP.

26 A YES. I XEROXED IT.

27 Q WHAT DID YOU XEROX IT FROM?

28 A I XEROXED IT FROM A NATIONAL FORESTRY MAP.

1 Q DID YOU HAVE THAT FORESTRY MAP WITH YOU WHEN  
2 YOU WENT TO SOLEDAD CANYON?

3 A YES, I DID.

4 Q AND THERE'S A AREA ON PEOPLE'S 26 CIRCLED; IS  
5 THAT CORRECT?

6 A THAT'S CORRECT.

7 Q WHAT DOES THAT AREA REPRESENT?

8 A THAT INDICATES THE INDIAN CANYON RANGER STATION  
9 AREA.

10 Q IS THE ROAD THAT YOU'RE REFERRING TO ON YOUR  
11 VOIR DIRE EXAMINATION WITHIN THAT CIRCLE?

12 A IT IS.

13 Q AND IS THERE AN AREA ON THAT -- BASED ON YOUR  
14 GOING UP TO THE AREA, SOLEDAD CANYON, IS THERE AN AREA THERE  
15 THAT CORRESPONDS ROUGHLY TO WHAT APPEARING TO BE SOME TYPE  
16 OF A HAND DRAWN MAP OR DIAGRAM ON THE -- ON PEOPLE'S 44B?

17 A YES, THERE IS.

18 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

19 THE COURT: MR. BARENS?

20

21

CROSS-EXAMINATION

22 BY MR. BARENS:

23 Q JUST TO SOMEWHAT TRY TO RESOLVE THIS MAP  
24 BUSINESS HERE. IN PEOPLE'S 44B, THE HANDWRITTEN MAP, I SEE  
25 A ROAD THAT TRAVELS WHAT DIRECTION, OFFICER?

26 A WHICH ROAD ARE YOU REFERRING TO, OR ARE YOU  
27 REFERRING TO ALL OF THEM?

28 Q IS THIS ROAD HERE (INDICATING). IS THIS LINE A



1 ROAD?

2 A IN MY REFERENCE TO THE MAP, YES, IT IS.

3 Q NO, NO, NO. IN REFERENCE TO 44B, IS THIS A  
4 ROAD (INDICATING)?

5 A YES.

6 MR. WAPNER: INDICATING, YOUR HONOR, WHEN HE SAYS  
7 "THIS", A LINE THAT STARTS OUT GOING HORIZONTALLY ACROSS THE  
8 PAGE AND THEN KIND OF MAKES A ZIGZIG SQUIGGLE UP TOWARDS THE  
9 TOP LEFT.

10 MR. BARENS: YES.

11 THE COURT: ALL RIGHT. THE RECORD MAY SO INDICATE.

12 Q BY MR. BARENS: IS IT A FAIR STATEMENT TO SAY  
13 THAT THAT ROAD GENERALLY TRAVELS INITIALLY WEST-EAST AND  
14 TURNS BACK AND TRAVELS NORTHWEST AND THEN NORTHEAST  
15 ULTIMATELY?

16 A YES.

17 Q AND ON THE MAP IT DEPICTS A RANGER STATION THAT  
18 WOULD BE IN THE NORTHWEST CORNER.

19 A THAT'S -- THE NORTHWEST CORNER?

20 Q WELL, OF THIS PAGE, ISN'T THAT THE NORTHWEST  
21 CORNER OF THAT PAGE AS YOU LOOK AT IT?

22 A IT WOULD BE THE NORTHEAST CORNER OF THE PAGE.

23 Q WELL, ISN'T WEST IN BACK OF ME HERE?

24 A OH, YOUR -- OKAY. YES.

25 Q IT WOULD BE THE NORTHWEST CORNER OF THE PAGE,  
26 RIGHT?

27 A RIGHT.

28 Q BUT WHAT WORD DO WE FIND IN THE NORTHWEST

1 CORNER OF THE PAGE. WE FIND THE WORD "EAST", DON'T WE? 818

2 A YES.

3 Q WELL, DOES THAT MEAN ANYTHING TO YOU?

4 A THAT WOULD MEAN TO ME THAT THE PERSON THAT MADE  
5 THE MAP WAS NOT WAS NOT A MAP -- AN EXPERT ON MAPS EITHER.

6 Q HE DIDN'T, IN FACT, KNOW EAST FROM WEST, DID HE  
7 IN DRAWING UP THIS MAP.

8 MR. WAPNER: OBJECTION. CALLS FOR A CONCLUSION ON  
9 THE PART OF THE WITNESS BECAUSE YOU PUT IT ON ONE SIDE OR  
10 THE OTHER --

11 MR. BARENS: NO. HE JUST WRITES EAST WHERE WEST IS.

12 MR. WAPNER: WELL --

13 THE COURT: WHAT IS YOUR OBJECTION?

14 MR. WAPNER: THE OBJECTION IS BASED ON SOMETHING  
15 THAT'S WRITTEN ON THE -- THE LEGAL BASIS FOR THE OBJECTION  
16 IS IT CALLS FOR A CONCLUSION, AND THE REASONING BEHIND THAT  
17 OBJECTION IS THAT HE'S ASKING THIS WITNESS TO DEDUCE FROM  
18 SOMETHING THAT'S WRITTEN ON THE PAGE THAT THE PERSON WHO  
19 WROTE IT DID NOT KNOW, AND THAT DOESN'T -- I DON'T KNOW HOW  
20 HE CAN MAKE THAT --

21 MR. BARENS: BUT, YOUR HONOR --

22 MR. WAPNER: EXCUSE ME, COUNSEL. I'M STILL NOT  
23 FINISHED.

24 MR. BARENS: I DIDN'T REALIZE THAT.

25 MR. WAPNER: I DON'T KNOW HOW HE CAN MAKE THAT  
26 DEDUCTION JUST BASED ON WHERE A PERSON PUTS IT ON THE PAGE.

27 THE COURT: FIRST OF ALL, THERE'S NOTHING TO INDICATE  
28 NORTH, SOUTH, EAST AND WEST BY INDICATION --

1 THE WITNESS: THERE 'S ONE --

2 MR. BARENS: NO. JUST THE WORD "EAST" AND "WEST" IS.

3 THE COURT: ALL RIGHT. YOU'RE SURMISING THAT THAT 'S  
4 EAST, AND WEST IS ON THE OTHER SIDE; IS THAT CORRECT?

5 MR. BARENS: WELL, I 'M ONLY --

6 THE COURT: THE OBJECTION WILL BE SUSTAINED.

7 MR. BARENS: NO --

8 MR. WAPNER: THANK YOU, YOUR HONOR.

9 Q BY MR. BARENS: WE DO HAVE, THOUGH, AM I  
10 CORRECT, THE WORD WRITTEN "EAST" WHERE IT SHOULD BE WEST ON  
11 THIS PAGE?

12 MR. WAPNER: AGAIN CALLS FOR SPECULATION. BUT TO SAY  
13 IT 'S WHERE WEST WOULD BE AGAIN IS CALLING FOR A CONCLUSION  
14 ON THE PART OF THIS WITNESS.

15 THE COURT: THERE IS A MARK ON HERE THAT SAYS "EAST"?

16 MR. BARENS: IT DOES SAY "EAST".

17 THE COURT: YOU'RE ASKING HIM TO CONFIRM THAT; IS  
18 THAT CORRECT?

19 MR. BARENS: YES, YOUR HONOR.

20 THE COURT: YOUR ANSWER IS YES, THAT 'S THE WAY --

21 THE WITNESS: YES, THERE IS AN ARROW WITH "EAST"  
22 WRITTEN ON IT.

23 Q BY MR. BARENS: ALL RIGHT, NOW, ON PEOPLE 'S 26,  
24 THE OTHER MAP WHICH YOU EARLIER ON TOLD ME THAT THIS MAP  
25 HELPED YOU INTERPRET -- THAT PEOPLE 'S 44B HELPED YOU  
26 INTERPRET, EARLIER ON YOU SHOWED ME A ROAD.

27 A THAT 'S CORRECT.

28 Q COULD YOU SHOW ME THAT AGAIN.

1 A WHAT ROAD ARE YOU REFERRING TO, SOLEDAD CANYON  
2 OR THE ROAD --

3 Q THE ONE THAT YOU TOLD ME RAN EAST TO WEST.

4 A THAT 'S SOLEDAD CANYON, WHICH IS THIS ROAD RIGHT  
5 HERE (INDICATING).

6 Q AND RELATIVE TO THAT ROAD, THE RANGER STATION  
7 APPEARS IN WHAT DIRECTION?

8 A IT APPEARS -- IT 'S JUST SOUTH ON THE PAGE OF  
9 THAT.

10 Q IS IT SOUTHEAST?

11 A IT 'S SOUTH BECAUSE THE ROAD CONTINUES EAST.

12 Q WELL, I SEE. SO IT 'S SOUTH OF THE ROAD?

13 A THAT 'S CORRECT.

14 Q NOW, ON 44B, IS IT NOT TRUE THAT WHERE RANGER  
15 STATION IS INDICATED IS NORTH OF THE ROAD ILLUSTRATED.

16 A YES.

17 Q THEREFORE, THE DISPLACEMENT OF THE RANGER  
18 STATION RELATIVE TO THE ROAD ON THE TWO MAPS IS OPPOSITE, IN  
19 FACT.

20 A IF THAT 'S THE WAY YOU WANT TO INTERPRET IT,  
21 YES.

22 Q WELL, I DON'T EXACTLY WANT TO INTERPRET IT THAT  
23 WAY, OFFICER. I 'M ASKING YOU IF THAT IS, IN FACT, TRUE OR  
24 NOT BASED ON WHAT YOU SEE BEFORE YOU.

25 A YES.

26 Q WELL, MOVING AWAY FROM THE MAPS FOR A MOMENT,  
27 ALTHOUGH I KNOW WE CAN SPEND ALL DAY ON IT, NOW, EARLIER ON  
28 YOU TESTIFIED THAT DURING AN AUGUST 9TH MEETING YOU SECURED

1 CERTAIN DOCUMENTS FROM SOME PEOPLE, THE MAYS, MR. RAYMOND  
2 AND MR. BROWNING; IS THAT CORRECT?

3 A THAT 'S CORRECT.

4 Q NOW, YOU DON'T KNOW WHETHER ANY OF THE  
5 SIGNATURES ON THOSE DOCUMENTS ARE VALID OR INVALID OR  
6 ANYTHING LIKE THAT, DO YOU?

7 A I DO NOT, NO.

8 Q AND YOU DO NOT KNOW ANYTHING OF THE FIRSTHAND  
9 KNOWLEDGE AS TO THE EXECUTION OF THOSE DOCUMENTS, DO YOU?

10 A NO, I DON'T.

11 Q NOW, LATER ON I THINK YOU TESTIFIED THAT ON THE  
12 16TH OF AUGUST YOU MET WITH MARTIN LEVIN; IS THAT CORRECT?

13 A THAT 'S CORRECT.

14 Q AND AT THAT TIME YOU TOOK POSSESSION OF AN  
15 OPTION AGREEMENT, DID YOU NOT?

16 A I DID.

17 Q AND THAT WAS THIS MICROGENESIS OPTION AGREEMENT  
18 MARKED PEOPLE 'S 50?

19 A IT WAS AN OPTION AGREEMENT. I'M NOT SURE WHICH  
20 PEOPLE 'S ITEM NUMBER IT WAS BECAUSE WE DID MARK TWO OPTION  
21 AGREEMENTS.

22 MR. BARENS: DO WE HAVE PEOPLE 'S 50?

23 Q BY MR. BARENS: NOW, YOU SECURED BOTH OF THESE  
24 OR THESE SETS OF DOCUMENTS AT THE SAME TIME, DIDN'T YOU?

25 A THAT 'S CORRECT.

26 Q NOW, YOU 'RE FAMILIAR, AREN'T YOU, WITH THE  
27 PRESERVATION OF EVIDENCE?

28 A YES.

1 Q GENERALLY, STEPS YOU TAKE TO PRESERVE EVIDENCE?

2 A YES.

3 Q YOU WERE INTERESTED IN OBTAINING A POSSIBLE  
4 FINGERPRINT EVIDENCE FROM THOSE DOCUMENTS, WEREN'T YOU?

5 A WHICH DOCUMENTS ARE YOU REFERRING TO?

6 Q THE YELLOW SHEETS, PEOPLE'S 44.

7 A YES.

8 Q WHAT DID YOU DO TO TAKE THOSE INTO CUSTODY TO  
9 PRESERVE THEM AS SAMPLES?

10 A WHAT I DID IS I PUT THEM IN A FOLDER.

11 Q IN A MANILA FOLDER.

12 A NO. IT WAS A TWO-SIDED --

13 Q PAPER --

14 A -- FOLDER.

15 Q PAPER FOLDER?

16 A IT WAS, I BELIEVE, A CARDBOARD TYPE SUBSTANCE.

17 Q AND LET ME ASK YOU SOMETHING. BASED ON YOUR  
18 TRAINING AND EXPERIENCE -- YOU'VE HAD SOME TRAINING IN  
19 PRESERVING EVIDENCE SAMPLES?

20 A YES.

21 Q ISN'T IT TRUE THAT THE LAST THING YOU WOULD  
22 EVER PUT SOMETHING IN TO PRESERVE A FINGERPRINT WOULD BE A  
23 SUBSTANCE LIKE THIS, A PLASTICIZED SUBSTANCE? ISN'T THAT  
24 THE LAST THING YOU'D DO WITH A PAPER EXHIBIT?

25 A YES.

26 Q THAT YOU'D NEVER PUT IT IN HERE IF YOU WANTED  
27 TO PRESERVE PRINTS, WOULD YOU?

28 A NO.

1 Q AND WOULDN'T IT BE IMPOSSIBLE FOR ME TODAY TO  
2 PRINT THAT AND HAVE ANY VORACITY BECAUSE OF WHAT'S REFERRED  
3 TO GENERALLY AS THE GREENHOUSE EFFECT THAT'S CREATED BY  
4 PLACING PAPER IN A PLASTICIZED WRAPPER LIKE THAT? DON'T  
5 THEY TEACH YOU THAT?

6 A THEY DO, AND THAT'S NOT -- THERE WAS A REASON  
7 WHY IT WAS PLACED IN THE PLASTIC.

8 Q ASIDE FROM NOT BEING ABLE TO PRINT IT, WHAT  
9 WAS THE REASON?

10 A IT WAS NOT PLACED IN THE PLASTIC WRAPPER BY ME.  
11 IT WAS PLACED IN BY THE IDENTIFICATION BUREAU BECAUSE OF THE  
12 NINHYDRIN PROCESS WHICH LEAVES WHEN THE PAPER DRIES OUT, SO  
13 IT'S PUT IN THE PLASTIC TO PRESERVE THE PRINT THAT IS  
14 LIFTED.

15 Q WELL, AS IT IS TODAY, OTHER THAN PRESERVING ONE  
16 POINT THAT WAS ON THERE, I CERTAINLY COULDN'T TAKE ANYBODY  
17 ELSE'S PRINTS AT THIS TIME, COULD I?

18 A I DON'T KNOW WHETHER YOU COULD OR NOT. I AM  
19 NOT A FINGERPRINT EXPERT.

20 Q WELL, WE CERTAINLY KNOW WE COULDN'T PRESERVE IT  
21 IN ITS INITIAL STATE BY DOING THAT, COULD WE?

22 A THAT'S CORRECT.

23 Q DID YOU ASK TO GET PRINTS ON THE MICROGENESIS  
24 OPTION AGREEMENT, PEOPLE'S 50?

25 A JUST THE FOLDER THAT IT WAS ENCASED IN.

26 Q WHY NOT THE DOCUMENT?

27 A NO REASON.

28 Q NOW, THAT DOCUMENT, TO THE BEST OF YOUR

1 KNOWLEDGE, HAS BEEN IN RON LEVIN'S POSSESSION?

2 A AND THE DEFENDANT'S POSSESSION, THAT'S CORRECT.

3 Q THIS SAME DOCUMENT?

4 A YES.

5 Q WELL, IT WAS GIVEN TO YOU BY RON LEVIN'S FATHER  
6 AND RETRIEVED FROM RON LEVIN'S OFFICE, WASN'T IT?

7 A IT WAS NOT GIVEN TO ME BY RON LEVIN'S FATHER.  
8 I FOUND IT IN THE RESIDENCE.

9 Q IN RON LEVIN'S RESIDENCE.

10 A THAT'S CORRECT.

11 Q DID YOU EVER TRY TO SEE WHOSE FINGERPRINTS WERE  
12 ON THAT DOCUMENT?

13 A NO.

14 Q WHY NOT?

15 A BECAUSE IT WOULD BE ADVANTAGEOUS FOR US TO FIND  
16 OUT A MISSING LINK TO IT, AND HERE IT'S OUR THEORY THAT BOTH  
17 RON LEVIN AND THE DEFENDANT HAD TOUCHED IT.

18 Q YES. BOTH OF THEIR SIGNATURES APPEAR ON IT,  
19 DON'T THEY.

20 A AND, AS I SAID, OUR THEORY, ALSO, YES.

21 Q THAT BOTH OF THEM TOUCHED IT.

22 A THAT'S CORRECT.

23 Q COULD YOU TELL WHEN YOU LOOKED AT THIS OPTION  
24 AGREEMENT, PEOPLE'S 51, IF THE SIGNATURES ON THERE ARE  
25 ORIGINALS? DO YOU WANT TO TAKE A LOOK?

26 A ORIGINALS OPPOSED TO XEROX COPIES?

27 Q YES.

28 A THEY APPEAR TO BE ORIGINALS.



1 Q THANK YOU.

2 MR. BARENS: COULD I HAVE JUST A MOMENT, YOUR HONOR?

3 THE COURT: VERY WELL.

4 Q BY MR. BARENS: DURING THE COURSE OF YOUR  
5 INVESTIGATION, DID YOU BECOME FAMILIAR WITH RON LEVIN'S  
6 SIGNATURE?

7 A YES.

8 Q IN PEOPLE'S 51 ABOVE WHERE THE NAME RON LEVIN  
9 IS TYPED, DOES THAT APPEAR TO BE RON LEVIN'S SIGNATURE AS  
10 YOU'VE COME TO KNOW IT?

11 MR. WAPNER: OBJECTION. FOUNDATION, YOUR HONOR.  
12 THIS WITNESS IS NOT A HANDWRITING EXPERT.

13 MR. BARENS: I ASKED HIM IF HE'D BECOME FAMILIAR WITH  
14 THE APPEARANCE OF THE SIGNATURE AND I'M ASKING HIM NOW IF  
15 THIS APPEARS LIKE THE SIGNATURE HE BECAME FAMILIAR WITH.

16 THE COURT: THE OBJECTION WILL BE OVERRULED. HE CAN  
17 TESTIFY AS TO WHETHER IT APPEARS TO BE. IT WOULDN'T GO TO  
18 THE ACTUAL VALIDITY OF THE SIGNATURE.

19 MR. WAPNER: THANK YOU, YOUR HONOR.

20 THE WITNESS: IT APPEARS TO BE SIMILAR.

21 Q BY MR. BARENS: AND IT APPEARS TO BE AN  
22 ORIGINAL SIGNATURE?

23 A IT IS IN PEN OPPOSED TO A XEROX, YES.

24 Q ISN'T IT TRUE THAT WHY YOU DIDN'T PRINT  
25 PEOPLE'S 50 IS BECAUSE IT APPEARED TO BE RON LEVIN'S --  
26 SIGNED BY RON LEVIN AND IN RON LEVIN'S POSSESSION? SO YOU  
27 HAD NO DOUBT AS TO ANYTHING ABOUT THAT DOCUMENT TAKING YOU  
28 ANYWHERE? IT SEEMED TO BE WHAT IT WAS.

1 MR. WAPNER: OBJECTION.

2 THE WITNESS: THAT'S NOT WHY I PRINTED IT, NO.

3 Q BY MR. BARENS: YOU DIDN'T PRINT IT?

4 A YOU ASKED THE REASON WHY WAS IT NOT PRINTED FOR  
5 THAT REASON, AND I STATED NO, THAT IT WAS NOT THE REASON.

6 Q WHY DIDN'T YOU PRINT IT?

7 A BECAUSE TO PRINT IT I FIGURED THE RESULTS OF IT  
8 WOULD BE THAT HUNT'S PRINTS WOULD BE ON IT AND LEVIN'S  
9 PRINTS WOULD BE ON IT, WHICH WOULD GAIN NOTHING TO THE  
10 INVESTIGATION.

11 Q THE OPTION THAT YOU SAW IN PEOPLE'S 51, A  
12 MICROGENESIS OPTION, THAT YOU RETRIEVED AS YOU SAID FROM A  
13 FOLDER AT THE DEFENDANT'S RESIDENCE, WASN'T THAT IDENTICAL  
14 IN FORM AND SUBSTANCE TO THIS OPTION AGREEMENT?

15 MR. WAPNER: OBJECTION. THE DOCUMENT -- THESE  
16 DOCUMENTS WILL SPEAK FOR THEMSELVES, AND IT CALLS FOR A  
17 CONCLUSION ON THE PART OF THIS WITNESS. THE COURT, IN  
18 VIEWING --

19 MR. BARENS: I ASKED HIM WHAT HIS OBSERVATION WAS,  
20 JUDGE.

21 MR. WAPNER: REALLY, THAT'S IRRELEVANT WHETHER HE  
22 PERCEIVES THEM TO BE IDENTICAL OR NOT. THE COURT DID LOOK  
23 AT THE DOCUMENTS AND MAKE THAT DETERMINATION.

24 MR. BARENS: THE SAME THING WITH THE MAP, YOUR HONOR.

25 THE COURT: WELL, THE DOCUMENTS DO SPEAK FOR  
26 THEMSELVES. THE OBJECTION WILL BE SUSTAINED.

27 MR. BARENS: NOTHING FURTHER OF THE OFFICER AT THIS  
28 TIME.

1 THE COURT: MR. WAPNER?

2 MR. WAPNER: I JUST HAVE ONE OR TWO QUESTIONS ON  
3 REDIRECT.

4

5

REDIRECT EXAMINATION

6

BY MR. WAPNER:

7

Q SHOWING YOU PEOPLE'S 48 FOR IDENTIFICATION, IS  
8 THE ORIGINAL OF THAT DOCUMENT IN THE POSSESSION OF THE  
9 POLICE DEPARTMENT?

10

A NO, IT IS NOT.

11

Q HAVE YOU EVER SEEN THE ORIGINAL OF THAT  
12 DOCUMENT?

13

A NO, I HAVE NOT.

14

Q DO YOU KNOW WHERE THE ORIGINAL OF THAT DOCUMENT  
15 IS?

16

A I DO NOT.

17

Q DO YOU HAVE ANY MEANS AT YOUR DISPOSAL AT THE  
18 MOMENT IF SOMEONE WERE TO ASK YOU "GET ME THE ORIGINAL",  
19 COULD YOU DO IT RIGHT NOW?

20

A UNLESS THAT SAME PERSON TOLD ME WHERE THE  
21 ORIGINAL WAS, NO.

22

MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

23

MR. BARENS: NOTHING ON RECROSS.

24

THE COURT: ANYTHING FURTHER OF WITNESS ZOELLER?

25

MR. WAPNER: NO, YOUR HONOR.

26

THE COURT: ALL RIGHT. MAY HE STEP DOWN?

27

MR. WAPNER: NO OBJECTION.

28

GENE BROWNING.

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

5 THE WITNESS: I DO.

6  
7 GENE BROWNING,  
8 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY  
9 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

10 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND  
11 SPELL YOUR LAST NAME FOR THE RECORD.

12 THE WITNESS: MY NAME IS GENE BROWNING,  
13 B-R-O-W-N-I-N-G.

14 THE CLERK: THANK YOU.

15  
16 DIRECT EXAMINATION

17 BY MR. WAPNER:

18 Q MR. BROWNING, WHAT IS YOUR OCCUPATION?

19 A I AM A BIOCHEMIST.

20 MR. WAPNER: YOUR HONOR, COULD WE APPROACH THE BENCH  
21 JUST BRIEFLY ABOUT SCHEDULING?

22 THE COURT: YES. DO YOU WANT THIS ON THE RECORD OR  
23 OFF THE RECORD?

24 MR. WAPNER: THIS DOESN'T HAVE TO BE ON THE RECORD,  
25 YOUR HONOR.

26 (A DISCUSSION WAS HELD AT THE BENCH OFF THE RECORD)

27 THE COURT: ALL RIGHT. YOU MAY PROCEED.

28 MR. WAPNER: THANK YOU.

1 MR. TITUS: EXCUSE ME, YOUR HONOR. AT THIS TIME I'D  
2 ASK TO EXCLUDE MRS. BROWNING, WHO IS PRESENT. I MAY BE  
3 CALLING HER AS A REBUTTAL WITNESS; AN AFFIRMATIVE DEFENSE.  
4 EXCUSE ME. AN AFFIRMATIVE DEFENSE.

5 THE COURT: MRS. BROWNING, YOU SAY?

6 MR. TITUS: YES.

7 THE COURT: ALL RIGHT. MRS. BROWNING WOULD YOU STEP  
8 OUTSIDE, PLEASE. THANK YOU VERY MUCH.

9 Q BY MR. WAPNER: DOCTOR BROWNING, WHAT IS YOUR  
10 OCCUPATION, FOR LACK OF A BETTER WORD?

11 A WELL, BY DESIGN I'M A BIOCHEMIST.

12 Q AND ARE YOU -- WOULD IT BE FAIR TO CHARACTERIZE  
13 YOU AS AN INVENTOR?

14 A I BELIEVE SO.

15 Q DO YOU KNOW THE DEFENDANT IN THIS CASE?

16 A YES, I DO.

17 Q HOW DO YOU KNOW HIM?

18 A I'VE HAD AN ASSOCIATION WITH HIM FOR ABOUT A  
19 YEAR AND A HALF.

20 Q WHEN DID YOU FIRST MEET HIM?

21 A I MET HIM I BELIEVE DURING THE MONTH OF  
22 NOVEMBER, 1982.

23 Q AND IN WHAT CONNECTION DID YOU MEET?

24 A HE WAS INTRODUCED AS A POTENTIAL INVESTOR IN A  
25 COMPANY TO WHICH I BELONGED AT THE TIME.

26 Q AND WHAT COMPANY WAS THAT?

27 A THE COMPANY WAS AMERICAN CYCLOGENESIS,  
28 INCORPORATED.

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1 Q AND IN CONNECTION WITH THAT -- OR DID THAT  
2 COMPANY HAVE TO DO WITH A PRODUCT THAT YOU INVENTED?

3 A YES.

4 Q WHAT WAS THAT?

5 A IT IS A DEVICE THAT IS USED TO REDUCE THE SIZE  
6 OF A PARTICLE.

7 Q AND IS THERE A NAME THAT WE CAN USE IN THIS  
8 HEARING TO REFER TO THAT DEVICE BY?

9 A IT IS AN ATTRITION MILLING DEVICE.

10 Q IF I CALL IT AN ATTRITION MILL, IS THAT OKAY  
11 FOR THIS HEARING?

12 A THAT'S FINE. FINE.

13 Q AND YOU INVENTED THAT DEVICE; IS THAT CORRECT?

14 A YES.

15 Q WHAT WAS THE PURPOSE OF IT?

16 A THE PURPOSE WAS TO MAKE SMALL PARTICLES, VERY  
17 FINE PARTICLES.

18 Q DID YOU EVENTUALLY GO -- ENTER INTO A BUSINESS  
19 ARRANGEMENT WITH THE DEFENDANT?

20 A YES.

21 Q AND WHAT WAS THE -- WAS THERE A COMPANY FORMED  
22 IN THAT REGARD?

23 A QUITE SOME TIME LATER THERE WAS, YES.

24 Q WHAT WAS THE NAME OF IT?

25 A THE FIRST COMPANY THAT WAS FORMED WAS A COMPANY  
26 CALLED CYCLATRONICS.

27 Q AND DID EVENTUALLY THAT -- AGAIN, I'M BEING  
28 VERY LOOSE ABOUT THIS -- EVOLVE INTO ANOTHER COMPANY?

1 A YES. THAT COMPANY SORT OF DISAPPEARED AND  
2 MICROGENESIS WAS FORMED SUBSEQUENTLY.

3 Q IS THAT MICROGENESIS OF NORTH AMERICA,  
4 INCORPORATED?

5 A YES.

6 Q AND WHAT DID YOU DO FOR MICROGENESIS OF NORTH  
7 AMERICA?

8 A I WAS BUILDING A NUMBER OF THE DEVICES THAT --  
9 OF A PROTOTYPE THAT I HAD BUILT BEFORE.

10 Q WHEN YOU SAY YOU WERE BUILDING ANOTHER ONE,  
11 BEFORE THE ONE THAT YOU WERE BUILDING, HOW MANY WERE IN  
12 EXISTENCE?

13 A ONE.

14 Q AND WHERE WAS THAT MACHINE LOCATED?

15 A THAT ONE WAS AT HESPERIA, CALIFORNIA.

16 Q WHERE WERE YOU BUILDING THIS PROTOTYPE MACHINE?

17 A AT GARDENA, CALIFORNIA.

18 Q WAS THAT ON SOME PREMISES THAT WERE OWNED OR  
19 LEASED BY MICROGENESIS?

20 A IT WAS LEASED, I UNDERSTAND, UNDER THE NAME OF  
21 WESTCARS OF NORTH AMERICA.

22 Q IS THAT ALSO A COMPANY THAT AS FAR AS YOU KNOW  
23 WAS OWNED IN PART BY THE DEFENDANT?

24 A YES.

25 MR. TITUS: OBJECTION, YOUR HONOR. NO FOUNDATION.  
26 MOVE TO STRIKE THE RESPONSE.

27 THE COURT: WHAT IS THE OBJECTION, MR. TITUS?

28 MR. TITUS: OBJECT. THERE'S NO FOUNDATION FOR HIS

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1 STATING WHETHER OR NOT THE PLANT WAS LEASED BY NORTH --  
2 WESTCARS OF NORTH AMERICA. THERE'S BEEN NO FOUNDATION  
3 ESTABLISHED THAT IT'S BEEN LEASED BY ANYBODY. I DON'T  
4 UNDERSTAND THAT THE WITNESS HAS ANY KNOWLEDGE OF THESE  
5 THINGS.

6 THE COURT: WELL, HE CAN CERTAINLY ANSWER THAT YES  
7 OR NO. WHAT IS YOUR --

8 MR. WAPNER: I'LL WITHDRAW THAT QUESTION AND MAYBE  
9 GET BACK TO SOMETHING ELSE.

10 THE COURT: ALL RIGHT. THE QUESTION IS WITHDRAWN.

11 Q BY MR. WAPNER: YOU WERE WORKING IN GARDENA  
12 AT -- FOR MICROGENESIS?

13 A YES.

14 Q AND GARDENA WAS THE LOCATION WHERE YOU WERE  
15 BUILDING THIS ATTRITION MILL; IS THAT RIGHT?

16 A THAT'S RIGHT.

17 Q AND AS OF JUNE OF 1984, CAN YOU TELL US THE  
18 STATUS OF THE MILL THAT YOU WERE BUILDING?

19 A THE ONE DEVICE WAS -- HAD BEEN ASSEMBLED, HAD  
20 NOT BEEN COMPLETED --

21 MR. TITUS: YOUR HONOR, I'M GOING TO OBJECT TO THIS  
22 TESTIMONY, THIS WHOLE LINE OF TESTIMONY, AS IRRELEVANT TO  
23 ANY ISSUE BEFORE THE COURT.

24 THE COURT: DO YOU WANT TO MAKE AN OFFER OF PROOF?

25 MR. WAPNER: YES, YOUR HONOR. THE VICTIM IN THIS  
26 CASE -- AT LEAST IT'S THE PROSECUTION'S THEORY -- WAS KILLED  
27 IN ORDER TO OBTAIN APPROXIMATELY 1.5 MILLION DOLLARS. THE  
28 COVERUP FOR THIS WAS TO HAVE HIM SIGN AN AGREEMENT



1 PURPORTING TO PURCHASE AN OPTION TO BUY THE MACHINE THAT WE  
2 ARE NOW REFERRING TO IN THIS TESTIMONY. THERE'S AN  
3 ALLEGATION, AMONG OTHERS, THAT THIS MURDER WAS COMMITTED IN  
4 THE COURSE OF A ROBBERY. THERE'S AN ISSUE AS TO WHETHER OR  
5 NOT THERE WAS A ROBBERY AND THE DOCUMENTS THAT WERE SIGNED  
6 WERE TO COVER UP THE ROBBERY OR WHETHER MR. LEVIN JUST  
7 COMPLETED A LEGITIMATE BUSINESS TRANSACTION AND THEN  
8 HAPPENED TO LEAVE.

9 I THINK THE TESTIMONY OF MR. BROWNING IS  
10 RELEVANT BECAUSE -- AT LEAST IT'S OUR THEORY -- IS THAT IT  
11 TENDS TO PROVE THAT THIS AGREEMENT THAT MR. LEVIN SIGNED WAS  
12 NOT AND COULD NOT HAVE BEEN A LEGITIMATE BUSINESS AGREEMENT  
13 BECAUSE OF THE STATE THAT THE ATTRITION MILL WAS IN, THAT  
14 MR. LEVIN -- NEITHER MR. LEVIN NOR ANYONE WOULD SPEND THE  
15 KIND OF MONEY THAT HE SPENT TO BUY SOMETHING THAT WAS  
16 BASICALLY WORTHLESS. SO THE TESTIMONY OF MR. BROWNING GOES  
17 TO THE ISSUE OF WHETHER OR NOT THERE WAS ANY VALUE TO THIS  
18 CONTRACT AND IF NOT, THEN IT TENDS TO PROVE THAT THERE WAS A  
19 ROBBERY.

20 THE COURT: THE OBJECTION WILL BE OVERRULED.

21 MR. WAPNER: THANK YOU.

22 Q DR. BROWNING, CAN YOU TELL US, PLEASE, WHAT THE  
23 STATE OF COMPLETION OR LACK THEREOF WAS OF THE ONE DEVICE  
24 THAT YOU WERE BUILDING?

25 A THE DEVICE HAD BEEN ASSEMBLED, THE PRINCIPAL  
26 STRUCTURE OF THE DEVICE HAD BEEN ASSEMBLED. THE ELECTRICAL  
27 CONTROLS OF THE DEVICE HAD NOT BEEN COMPLETED. THE ENTRANCE  
28 AND EXIT AIR DUCTS TO THE DEVICE HAD NOT BEEN COMPLETED AT

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1 THAT TIME. IT WAS NOT OPERABLE AT ALL.

2 Q WERE YOU DESIGNING THAT PARTICULAR MACHINE TO  
3 GRIND A PARTICULAR TYPE OF PARTICLE?

4 A YES. THAT -- THIS PARTICULAR DEVICE BECAUSE OF  
5 AGREEMENTS WHICH WERE ALREADY IN PLACE WAS DESIGNED  
6 PARTICULARLY TO HANDLE COAL PRODUCTS.

7 Q AND WHAT WAS IT -- COULD IT HAVE BEEN USED TO  
8 GRIND SILICA IN ITS PRESENT FORM?

9 A NO.

10 Q WHAT WOULD HAVE TO HAVE BEEN DONE TO THE  
11 MACHINE IN ORDER TO GET IT IN A CONDITION WHERE IT COULD  
12 HAVE BEEN USED FOR THAT?

13 A WELL, FIRST --

14 MR. TITUS: YOUR HONOR, I'M GOING TO RENEW MY  
15 OBJECTION ON RELEVANCY. THIS REALLY IS STRETCHING.

16 THE COURT: THE OBJECTION WILL BE OVERRULED.

17 THE WITNESS: WELL, FIRST THE MACHINE HAD TO BE  
18 COMPLETED, THE WIRING MECHANISMS HAD TO BE COMPLETED.  
19 SECONDLY, THERE WOULD HAVE HAD TO HAVE BEEN AT LEAST A  
20 RUNNING TEST PERIOD BEFORE WE COULD APPROACH THAT PARTICULAR  
21 PROJECT. THE MACHINES WOULD HAVE HAD TO HAVE BEEN ADJUSTED  
22 PRIMARILY TO ACCOMMODATE A SILICA PRODUCT, AND WE WOULD HAVE  
23 TO KNOW WHAT THE OBJECTIVE WAS IN PROVIDING A SILICA  
24 PRODUCT.

25 Q BY MR. WAPNER: AND OTHER THAN THE -- YOU SAY  
26 THE ONE MACHINE WAS ASSEMBLED BUT HAD NOT BEEN COMPLETED.  
27 WERE THERE ANY OTHER MACHINES OTHER THAN THE ONE IN  
28 HESPERIA?

1           A       NO -- WELL, THERE WAS TWO WE HAD PARTS AND  
2           PIECES FOR, BUT THEY WERE NOT KNOW WHERE NEAR THE ASSEMBLY  
3           STAGE.

4           Q       AND HOW FAR WERE THESE MACHINES FROM BEING  
5           READY TO BE MARKETED?

6           A       IN MY ESTIMATION, WITHOUT ANY TEST TIME ON THE  
7           MACHINE, THEY WERE OH, SEVERAL MONTHS AWAY.

8           Q       DID YOU KNOW RON LEVIN?

9           A       NO.

10          Q       HAD RON LEVIN EVER COME TO THE GARDENA PLANT TO  
11          SEE THE MACHINE IN OPERATION?

12          A       NOT TO MY KNOWLEDGE.

13          Q       HAD RON LEVIN EVER BEEN WITH YOU IN YOUR  
14          PRESENCE AT HESPERIA TO SEE THE MACHINE IN HESPERIA IN  
15          OPERATION?

16          A       NO.

17          Q       HAD THE MACHINE IN GARDENA THAT YOU WERE  
18          BUILDING EVER -- EVER BEEN OPERABLE TO GRIND ANYTHING?

19          A       NOT AT THAT TIME, NO.

20          Q       HAVE YOU HAD AN OPPORTUNITY TO REVIEW A  
21          DOCUMENT MARKED PEOPLE'S 50 FOR IDENTIFICATION OR COPIES OF  
22          THAT DOCUMENT?

23          A       YES. I 'VE SEEN THIS DOCUMENT BEFORE.

24          Q       AND THAT PURPORTS TO BE A CONTRACT FOR THE --  
25          FOR AN OPTION ON THE ATTRITION MILL FOR THE PURPOSE OF  
26          SILICA; IS THAT RIGHT?

27          A       YES. IT SAYS "SILICA AND CERAMICS".

28          Q       AND AS THE INVENTOR OF THE MACHINE, DO YOU HAVE

1 AN OPINION AS TO THE VALUE OF THE MACHINE FOR THAT -- FOR  
2 THE PURPOSE THAT 'S STATED IN THAT CONTRACT?

3 A I WOULDN'T HAVE A MEANS OF DETERMINING WHAT THE  
4 VALUE -- IN ANSWER TO YOUR QUESTION -- OF THE MACHINE IN ITS  
5 APPLICATION. THAT HAD BEEN PRESET. THE MARKET AREA IS HARD  
6 TO DEFINE.

7 MR. TITUS: OBJECTION, YOUR HONOR. THERE'S NO  
8 FOUNDATION AS TO THE WITNESS' TESTIMONY AS TO THE MARKET  
9 AREA. HE'S FOUNDATIONALLY BEEN QUALIFIED AS AN INVENTOR.

10 THE COURT: WELL, AS THE OWNER OR INVENTOR OF  
11 SOMETHING, HE CAN GIVE WHAT HE THINKS IS HIS OPINION OF THE  
12 MARKET VALUE OF SOMETHING. THE OBJECTION IS OVERRULED.

13 Q BY MR. WAPNER: DO YOU HAVE ANY --

14 MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

15 Q DO YOU KNOW WHAT THE VALUE OF THIS MACHINE  
16 ITSELF WAS IN TERMS OF IF YOU WERE GOING TO SELL -- BUILD  
17 AND SELL A MACHINE TO SOMEONE?

18 MR. TITUS: OBJECT, YOUR HONOR. THERE IS NO  
19 FOUNDATION. THIS MAN IS NOT ESTABLISHED AS A VENTURE  
20 CAPITALIST. HE HAS NO QUALIFICATIONS IN THE AREA OF  
21 MARKETING THAT HAVE BEEN STATED.

22 THE COURT: THE OBJECTION IS OVERRULED.

23 THE WITNESS: THE DEVICE BY MR. HUNT HAD BEEN PRICED  
24 AT \$200,000 PER UNIT.

25 Q BY MR. WAPNER: THAT'S WHAT YOU WERE PLANNING  
26 TO SELL THEM FOR?

27 A THAT'S THE CONTRACT PRICE THAT HAD BEEN  
28 ESTABLISHED.

1 Q HOW LONG DID IT TAKE TO BUILD EACH ONE OF THESE  
2 MACHINES?

3 A THE LAST MACHINE WE HAD BUILT IN APPROXIMATELY  
4 THREE AND A HALF TO FOUR MONTHS.

5 Q WERE THESE MACHINES ALL MADE BY HAND?

6 A LITERALLY, YES.

7 Q HOW MANY PEOPLE WERE WORKING ON THEM?

8 A I HAD THREE PEOPLE ASSIGNED TO MY OPERATION IN  
9 BUILDING THE MACHINE.

10 Q WERE THERE ANY PLANS TO MASS PRODUCE THIS  
11 MACHINE?

12 A I KNOW OF NO PLANS --

13 MR. TITUS: OBJECTION AS TO ANY PLANS.

14 MR. WAPNER: WELL --

15 THE COURT: THE OBJECTION WILL BE OVERRULED. HE'S  
16 ASKING WERE THERE ANY PLANS. HE CAN ANSWER YES OR NO TO  
17 THAT.

18 THE WITNESS: I KNEW OF NO PLANS AT THE TIME.

19 Q BY MR. WAPNER: WHAT DID YOU KNOW ABOUT THE  
20 SILICA OR -- DO YOU KNOW WHAT SILICA IS?

21 A YES.

22 Q WHAT IS IT?

23 A SILICA IS A NATURAL ELEMENT. IT IS VERY HARD.  
24 IT OCCURS NATURALLY, AND MOST COMMONLY WE THINK OF SILICA AS  
25 BEACH SAND. IT FREQUENTLY OCCURS IN COMBINATION WITH OTHER  
26 ELEMENTS AS SALTS OF SILICA AND IT HAS RATHER UNUSUAL  
27 QUALITIES AS A CHEMICAL SUBSTANCE.

28 Q YOU'VE HAD A CHANCE TO LOOK AT THE DOCUMENT

1 THAT 'S IN FRONT OF YOU, PEOPLE 'S 50.

2 A YES.

3 Q AND AS THE INVENTOR OF THE MACHINE, IF SOMEONE  
4 HAD BROUGHT THAT CONTRACT TO YOU IN JUNE OF 1984, WOULD YOU  
5 SIGN IT?

6 A NO.

7 MR. TITUS: YOUR HONOR, I --

8 THE WITNESS: I 'M SORRY.

9 MR. BARENS: WHAT 'S THE RELEVANCE WHETHER HE 'D SIGN  
10 IT OR NOT? IT 'S NOT HIS SIGNATURE THAT 'S IN QUESTION, YOUR  
11 HONOR.

12 MR. WAPNER: I THINK THE OFFER OF PROOF --

13 THE COURT: WHAT IS THE RELEVANCY HERE?

14 MR. WAPNER: THE OFFER OF PROOF IS AS TO THE  
15 PURPORTED VALUE OF THE CONTRACT.

16 MR. BARENS: WELL, THE CONTRACT SPEAKS FOR ITSELF AS  
17 TO WHAT 'S BEING OPTIONED. IT 'S NOT THE SALE OF AN EQUIPMENT  
18 CONTRACT AS AN OPTION. IT 'S AN OPTION AGREEMENT, NUMBER  
19 ONE. NUMBER TWO, AGAIN, WE GET BACK TO WHETHER HE SIGNED IT  
20 OR NOT ISN'T WHAT 'S IN ISSUE HERE. NO ONE 'S CONCERNED WITH  
21 WHETHER HE SIGNED IT.

22 MR. TITUS: IT SEEMS A HYPOTHETICAL.

23 THE COURT: THE OBJECTION WILL BE SUSTAINED. IF IT 'S  
24 A QUESTION OF VALUES HERE, YOU CAN ASK HIM THAT, BUT TO ASK  
25 HIM WHETHER HE WOULD SIGN IT I THINK IS OBJECTIONABLE. THE  
26 OBJECTION WILL BE SUSTAINED.

27 MR. WAPNER: THANK YOU, YOUR HONOR.

28 Q THE MACHINE WAS NOT IN IT 'S PRESENT FORM

1 DESIGNED FOR SILICA; IS THAT CORRECT?

2 A NO. THE PRE-DESIGN OF THIS MACHINE WAS NOT TO  
3 ACCOMMODATE SILICA.

4 Q IT HAD TAKEN YOU THREE TO FOUR MONTHS TO BUILD  
5 THE FIRST MACHINE; IS THAT RIGHT?

6 A IF I REMEMBER CORRECTLY, WE STARTED IN FEBRUARY  
7 TO BUILD THE MACHINE. IN JUNE WE HAD THE INITIAL ASSEMBLY  
8 WITHOUT THE THINGS THAT I HAD STATED BEFORE.

9 Q THERE WERE TWO OTHER MACHINES THAT WERE IN THE  
10 PROCESS OF BEING BUILT?

11 A WE HAD THE COMPONENTS IN HOUSE TO BUILD THEM,  
12 AT LEAST MOST OF THEM. THEY HAD NOT BEEN ASSEMBLED. THEY  
13 HAD -- THEY WERE NOT IN A CONDITION IN WHICH THEY COULD HAVE  
14 BEEN ASSEMBLED AT THE TIME.

15 Q HOW LONG WOULD IT HAVE TAKEN -- STRIKE THAT.  
16 WERE THEY EVER ASSEMBLED?

17 A NO.

18 Q HOW LONG WOULD IT HAVE TAKEN TO ASSEMBLE THOSE  
19 TWO MACHINES?

20 A WELL, IF THE FIRST MACHINE WOULD HAVE WORKED  
21 AND WE HAD PROCEEDED WITH THE SECOND, IT WOULD HAVE TAKEN US  
22 TWO TO THREE WEEKS.

23 Q AND TO PRODUCE THE THIRD ONE, HOW LONG?

24 A IT WOULD HAVE TAKEN APPROXIMATELY TWO WEEKS PER  
25 MACHINE TO ASSEMBLE.

26 MR. WAPNER: MAY I HAVE JUST A MOMENT WITH THE  
27 WITNESS, YOUR HONOR?

28 THE COURT: YES. SURELY.

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1 MR. WAPNER: I HAVE NOTHING FURTHER.

2 THE COURT: MR. TITUS?

3

4

CROSS-EXAMINATION

5

BY MR. TITUS:

6

Q MR. BROWNING, WHAT IS YOUR FORMAL EDUCATION?

7

STARTING WITH THE HIGHEST DEGREE OBTAINED.

8

A I HAVE DEGREES IN -- POST GRADUATE DEGREES IN

9

MARKETING AND BUSINESS, AND --

10

Q WHAT IS THE HIGHEST DEGREE THAT YOU 'VE

11

OBTAINED, MR. BROWNING?

12

A THE LAST ONE IS AT CAL WESTERN IN FULLERTON.

13

Q WHAT YEAR?

14

A 1972, I BELIEVE.

15

Q WHAT IS THAT DEGREE?

16

A BUSINESS AND MARKETING.

17

Q WHAT IS THE DEGREE? A? B? M.D.?

18

A PHD.

19

Q PARDON ME?

20

A PHD.

21

Q IT WAS AWARDED IN 1972?

22

A YES.

23

Q BUSINESS AND MARKETING?

24

A YES.

25

Q IS CAL WESTERN AN ACCREDITED UNIVERSITY, DO YOU

26

KNOW?

27

A YES.

28

Q WHAT OTHER DEGREES? WHAT WAS THE NEXT DEGREE



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1 THAT YOU OBTAINED?

2 A I'M A GRADUATE OF THE UNIVERSITY OF UTAH. I  
3 GRADUATED IN 1950. MY POST GRADUATE WORK IN 1952.

4 Q WHAT WAS -- THE 1952 IS THE NEXT DEGREE BEFORE  
5 1972? THAT WAS THE LAST TIME YOU TOOK A DEGREE?

6 A YES.

7 Q THE UNIVERSITY OF UTAH WHAT WAS THE DEGREE?

8 A BIOCHEMISTRY.

9 Q WHAT LEVEL?

10 A I FINISHED MY BACHELORS AND MOST OF MY GRADUATE  
11 WORK AT THE UNIVERSITY OF UTAH.

12 Q IN 1952, DR. BROWNING, DID YOU -- WHAT DEGREE  
13 DID YOU GET?

14 A I HAD MY BACHELORS DEGREE FROM THE UNIVERSITY  
15 OF UTAH.

16 Q AND THAT WAS AWARDED IN 1952?

17 A 1950, I BELIEVE.

18 Q YOU DIDN'T RECEIVE A DEGREE IN 1952?

19 A 1952 I WAS IN GRADUATE SCHOOL.

20 Q YOU DID NOT SEE RECEIVE A DEGREE.

21 A NO.

22 Q YOU HAVE THEN TWO DEGREES, A PHD AND A  
23 BACHELORS DEGREE?

24 A I HAVE A BACHELORS DEGREE, I HAVE A MASTERS  
25 DEGREE AND I HAVE A PHD.

26 Q OKAY. YOUR MASTERS DEGREE, WHAT YEAR WAS THAT  
27 AWARDED?

28 A 19 -- I THINK I FINISHED THE WORK IN 1951.

1 Q WHEN WAS THE DEGREE AWARDED?

2 A WHEN?

3 Q WHEN.

4 A 1951.

5 Q WHAT UNIVERSITY?

6 A UNIVERSITY OF UTAH.

7 Q WHAT WAS THE DEGREE IN?

8 A BIOCHEMISTRY.

9 Q MASTERS. MASTER OF SCIENCE?

10 A M.S., YES.

11 Q DOCTOR BROWNING, YOU HAVE -- YOU ARE A  
12 PLAINTIFF AGAINST THE DEFENDANT, AGAINST JOE HUNT, AND  
13 OTHERS IN A CIVIL SUIT, AREN'T YOU?

14 A YES.

15 MR. WAPNER: OBJECTION. RELEVANCE, YOUR HONOR.

16 MR. TITUS: IT GOES TO BIAS.

17 THE COURT: IT COULD GO TO BIAS. THE OBJECTION WILL  
18 BE OVERRULED.

19 THE WITNESS: YES, I DO.

20 Q BY MR. TITUS: ARE YOU SUING THE DEFENDANT JOE  
21 HUNT HERE FOR MONEY AS WELL AS PROPERTY?

22 A YES.

23 Q YOU ALSO HAVE AN AGREEMENT, DO YOU NOT, WITH  
24 THE DEFENDANT AND HIS COMPANY, MICROGENESIS, FOR THE  
25 PROPERTY RIGHTS INVOLVING THE ATTRITION MILL THAT YOU'VE  
26 TESTIFIED TO HERE TODAY?

27 A I HAD EARLIER, YES I HAD. EARLIER, YES.

28 Q AND YOU DID MAKE A WRITTEN AGREEMENT, DIDN'T

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1 YOU, WITH THE DEFENDANT REGARDING THE LICENSING AND THE  
2 TECHNOLOGY INVOLVED IN THE ATTRITION MILL?

3 A JANUARY 17TH, 1983.

4 Q AND DID YOU SUBSEQUENTLY TURN AROUND AND SELL  
5 THOSE SAME RIGHTS TO SATURN ENERGY? DIDN'T YOU.

6 A NO.

7 Q YOU TRANSFERRED CERTAIN INTERESTS THAT YOU --  
8 TO SATURN ENERGY THAT YOU ALSO TRANSFERRED TO MICROGENESIS,  
9 DIDN'T YOU.

10 MR. WAPNER: OBJECTION. RELEVANCE, YOUR HONOR. I  
11 CAN SEE HOW THE PRIOR THING GOES TO BIAS, BUT I DON'T SEE  
12 HOW THIS DOES.

13 MR. TITUS: THIS GOES SPECIFICALLY TO FINANCIAL  
14 INTEREST. ADVERSE FINANCIAL INTEREST TO THE DEFENDANT.

15 MR. WAPNER: SO WHAT?

16 MR. BARENS: WELL --

17 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
18 OVERRULED. HE MAY ANSWER.

19 THE WITNESS: WHAT WAS THE QUESTION AGAIN? I'M SORRY.

20 Q BY MR. TITUS: YOU SOLD SIMILAR RIGHTS TO  
21 SATURN ENERGY THAT YOU ALSO TRANSFERRED IN JANUARY OF 1983  
22 TO MICROGENESIS, DIDN'T YOU.

23 A AFTER I HAD WITHDRAWN FROM THE AGREEMENT WITH  
24 MR. HUNT, YES.

25 Q SO THERE'S A DISPUTE, AN ONGOING DISPUTE,  
26 BETWEEN YOU AND THE DEFENDANT AND MICROGENESIS INVOLVING  
27 SUBSTANTIAL SUMS OF MONEY, CORRECT, DR. BROWNING?

28 A YES.

1 Q AND IT WOULD BE IN YOUR BEST INTERESTS, WOULD  
2 IT NOT, TO HAVE THE DEFENDANT CHARGED WITH MURDER -- THIS  
3 WOULD HELP YOU IN YOUR CIVIL SUIT; ISN'T THAT --

4 MR. WAPNER: OBJECTION. ARGUMENTATIVE, YOUR HONOR.

5 THE COURT: SUSTAINED.

6 Q BY MR. TITUS: WERE YOU INVOLVED IN AN AUGUST  
7 9TH MEETING WITH THE MAYS AND A FELLOW NAMED JEFF RAYMOND  
8 AND THE INVESTIGATING OFFICER, LES ZOELLER?

9 A I DON'T REMEMBER THE SPECIFIC DATE. I WAS  
10 INVOLVED IN A MEETING WITH THEM AT --

11 Q DO YOU RECALL --

12 A -- SOME DATE. I DON'T RECALL WHICH DATE IT  
13 WAS.

14 Q DO YOU RECALL A MEETING WITH A REPRESENTATIVE  
15 FROM THE BEVERLY HILLS POLICE DEPARTMENT, DETECTIVE ZOELLER,  
16 AND A MEMBER AND MEMBERS OF THE OTHER GROUP OF THE  
17 MICROGENESIS PEOPLE?

18 A YES, I DO.

19 Q AND PRIOR TO THAT MEETING, DR. BROWNING, HAD  
20 YOU SIGNED AN AGREEMENT -- SAY IMMEDIATELY PRIOR TO THAT  
21 MEETING, HAD YOU SIGNED AN AGREEMENT WITH SATURN ENERGY FOR  
22 TRANSFER OF THIS ATTRITION MILL?

23 A NO.

24 Q WHEN DID YOU SIGN THE AGREEMENT WITH SATURN  
25 ENERGY?

26 A I THINK I SIGNED THE AGREEMENT AROUND THE 15TH  
27 OR SO OF AUGUST.

28 Q OKAY. NOW, DR. BROWNING, YOU'VE TESTIFIED, I

875

1 THINK, THAT THE VALUE OF THIS ATTRITION MILL TO MICROGENESIS  
2 WAS SMALL, RIGHT? REALLY WORTH NOTHING?

3 MR. WAPNER: OBJECTION. MISSTATES THE EVIDENCE. I  
4 DON'T THINK HE EVER SAID THAT IN THIS HEARING. I DON'T  
5 RECALL THAT -- MAYBE THE COURT'S RECOLLECTION IS BETTER THAN  
6 MINE, BUT I DON'T RECALL ANY TESTIMONY ABOUT THAT IN THIS  
7 HEARING.

8 THE COURT: AS TO THE VALUE? WHAT IS YOUR QUESTION  
9 AGAIN?

10 MR. TITUS: I ASKED HIM IF HE TESTIFIED AT THIS  
11 HEARING JUST NOW ON DIRECT THAT THE VALUE OF THE ATTRITION  
12 MILL AS IT WAS -- AS IT PRESENTLY EXISTED IN JUNE OF 1984  
13 WAS RELATIVELY SMALL. I THINK THAT CORRECTLY  
14 CHARACTERIZES --

15 THE COURT: WELL, IN SUBSTANCE, I THINK IT -- THE  
16 OBJECTION IS OVERRULED.

17 THE WITNESS: I THINK THE PRICE HAD BEEN ESTABLISHED  
18 AT THAT TIME AT \$200,000 PER UNIT.

19 Q BY MR. TITUS: DO YOU KNOW WHAT THAT TWO  
20 HUNDRED THOUSAND WAS, DOCTOR BROWNING?

21 A SALE PRICE.

22 Q SALE PRICE OR LEASE PRICE? YOU DON'T KNOW, DO  
23 YOU.

24 MR. WAPNER: OBJECTION. ARGUMENTATIVE. IT'S ALSO  
25 NOT GIVING THE WITNESS A CHANCE TO ANSWER THE QUESTION.

26 THE COURT: ALL RIGHT. WHY DON'T YOU REPHRASE THE  
27 QUESTION. THE OBJECTION IS SUSTAINED.

28 Q BY MR. TITUS: DO YOU KNOW WHAT THE

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1 \$200,000-PRICE WAS?

2 A THAT WAS THE VALUE THAT WAS ATTRIBUTED TO THE  
3 MACHINE COMPLETED AND OPERATING.

4 Q DO YOU KNOW IF IT WAS \$200,000 OUTRIGHT  
5 PURCHASE?

6 A THERE WAS NO PLANS TO MY KNOWLEDGE OF SELLING  
7 THE MACHINES, PER SE.

8 Q DOCTOR BROWNING, YOU WERE THE INVENTOR AND  
9 DEVELOPER OF THE ATTRITION MILL; IS THAT RIGHT?

10 A THAT'S RIGHT.

11 Q YOU WERE NOT THE CHIEF FINANCIAL OPERATOR OF  
12 MICROGENESIS, WERE YOU.

13 A NO.

14 Q JOE HUNT WAS THE ONE WHO MAINTAINED THE  
15 FINANCIAL ARRANGEMENTS AND THE LONG TERM STRATEGY, DIDN'T  
16 HE.

17 A YES.

18 Q SO WHAT YOU TESTIFIED HERE TODAY TO YOUR  
19 KNOWLEDGE -- YOUR KNOWLEDGE IS LIMITED TO THAT OF A PERSON  
20 WHO WORKED IN THE SHED DEVELOPING THE PLANTS -- DEVELOPING  
21 THE ATTRITION MILL. YOU DIDN'T WORK ON THE CORPORATE  
22 STRATEGY; CORRECT.

23 MR. WAPNER: OBJECTION. COMPOUND, AND IT ALSO  
24 MISSTATES THE EVIDENCE. THERE'S ABOUT FIVE QUESTIONS IN  
25 THERE, I THINK.

26 THE COURT: ALL RIGHT. THE QUESTION IS COMPOUND.  
27 WHAT YOU'RE TRYING TO ASK HIM, HE JUST WAS THE INVENTOR OF  
28 IT AND DOES NOT KNOW THE MARKETABLE VALUE? IS THAT WHAT

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1 YOU'RE TRYING --

2 MR. TITUS: RIGHT. I'LL REPHRASE THE QUESTION.

3 THE COURT: ALL RIGHT: THE OBJECTION IS SUSTAINED.

4 Q BY MR. TITUS: DR. BROWNING, YOU WERE THE  
5 PERSON WHO WORKED IN THE ACTUAL ASSEMBLY OF THE ATTRITION  
6 MILLS.

7 A RIGHT.

8 Q YOU WERE NOT THE HEAD OF CORPORATE STRATEGY FOR  
9 MICROGENESIS, WERE YOU.

10 A I WAS NOT THE HEAD OF IT, NO.

11 Q JOE HUNT AND PEOPLE OTHER THAN YOU MADE THE  
12 DECISIONS AS TO WHETHER OR NOT THE ATTRITION MILL WOULD BE  
13 LEASED OR SOLD TO SOMEONE, DIDN'T THEY.

14 A I THINK THAT WAS A MUTUAL DECISION. THAT WAS  
15 NOT A SINGULAR DECISION.

16 Q WHO WAS THE PRESIDENT OF MICROGENESIS?

17 A AT THE TIME I --

18 Q IF YOU KNOW?

19 A -- THINK IT WAS DAVID MAY.

20 Q DO YOU KNOW WHO WAS THE CHAIRMAN OF THE BOARD?

21 A I BELIEVE JOE HUNT WAS.

22 Q WERE YOU A DIRECTOR?

23 A I WAS TOLD THAT I WAS, YES.

24 Q YOU DON'T KNOW IF YOU WERE A DIRECTOR?

25 A MY NAME IS ON THE DOCUMENTS, YES.

26 Q SO YOU'RE NAMED AS A DIRECTOR OF MICROGENESIS?

27 A YES.

28 Q AND DID YOU ATTEND ANY MEETINGS OF THE BOARD OF

1 DIRECTORS AT MICROGENESIS?

2 A ONE.

3 Q DID THEY DISCUSS ANY STRATEGY IN TERMS OF THE  
4 MARKETING OF THE ATTRITION MILL?

5 A I DON'T REMEMBER IF THAT WAS A PRODUCT OF THAT  
6 MEETING OR NOT.

7 Q WOULD IT BE FAIR TO CHARACTERIZE THE BOARD OF  
8 DIRECTORS OF MICROGENESIS AS PRETTY MUCH THE ALTER EGO OF  
9 JOE HUNT?

10 MR. WAPNER: OBJECTION. CALLS FOR SPECULATION AND A  
11 CONCLUSION -- NOT SPECULATION, BUT A CONCLUSION ON THE PART  
12 OF THE WITNESS, YOUR HONOR, AND AS TO RELEVANCY.

13 THE COURT: THE OBJECTION WILL BE OVERRULED. HE MAY  
14 ANSWER THAT, IF HE'S ABLE TO.

15 THE WITNESS: I DON'T UNDERSTAND THE ALTER EGO PART  
16 OF YOUR --

17 Q BY MR. TITUS: THE SAME AS --

18 A PARDON?

19 Q THE SAME AS, BUT ANOTHER PERSON. DO YOU  
20 UNDERSTAND WHAT THE TERM "ALTER EGO" MEANS?

21 A OH, OF COURSE I DO, BUT THE PEOPLE WHO AT THE  
22 TIME OF THAT DIRECTORS MEETING WERE PEOPLE, SOME OF WHICH I  
23 KNEW THEIR COMPETENT LEVEL, WHICH WOULD BE ANYTHING BUT  
24 ALTER EGOS TO MR. JOSEPH HUNT.

25 Q WELL, LET ME STATE THE QUESTION ANOTHER WAY,  
26 DR. BROWNING. WAS MICROGENESIS RUN ESSENTIALLY BY JOE HUNT?

27 A I THINK WITHIN HIS ORGANIZATION THAT WAS A FAIR  
28 STATEMENT.



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1 Q SO THE ANSWER IS YES.

2 A YES.

3 Q AND NOT BY YOU.

4 A OH, NO.

5 Q YOU HAD AN EXPERT REPORT DONE ON THE ATTRITION  
6 MILL, DID YOU NOT, DR. BROWNING?

7 A AT WHAT TIME?

8 Q AT ANY TIME.

9 A THERE WERE TWO THAT I KNOW OF.

10 Q DID YOU EVER SEE ANY OF THESE REPORTS?

11 A YES.

12 Q ANOTHER THING, DR. BROWNING. YOU MADE OUT A  
13 FINANCIAL STATEMENT, DID YOU NOT, IN CONNECTION WITH A LOAN  
14 APPLICATION?

15 A YES.

16 Q DO YOU RECALL WHEN YOU MADE THAT OUT AND TO  
17 WHAT BANK IT WAS?

18 A THE FIRST INTERSTATE BANK. I DON'T REMEMBER  
19 THE EXACT DATE.

20 Q YOU STATED ON THAT FINANCIAL STATEMENT THAT YOU  
21 HAD CERTAIN ASSETS WORTH CERTAIN AMOUNTS OF MONEY, DIDN'T  
22 YOU.

23 A YES.

24 Q DID -- AT THAT TIME YOU HAD SOLD THE RIGHTS IN  
25 THE ATTRITION MILL TO SATURN ENERGY FOR STOCK?

26 A I HAD AN AGREEMENT WITH THEM, A LICENSING AND A  
27 MARKETING AGREEMENT. NONE OF THEM WERE WITH SATURN ENERGY.  
28 THEY WERE WITH U.F.O.I..

1 Q WHICH WAS AN ORGANIZATION -- STRIKE THAT.  
2 YOU RECEIVED SATURN ENERGY STOCK, DID YOU NOT?

3 A NO, I DID NOT.

4 Q AN OPTION FOR THEM?

5 A I WILL AT SOME TIME. I DON'T KNOW WHEN.

6 Q DR. BROWNING, DID YOU STATE ON YOUR APPLICATION  
7 TO FIRST INTERSTATE FOR THE LOAN THAT YOU HAD STOCK AT A  
8 CERTAIN VALUE?

9 A I PRESENTED TO THEM THE AGREEMENTS THAT I HAD,  
10 THE LICENSING AND MARKETING AGREEMENTS AND THE OUTLINE OF  
11 THE STOCK THAT WOULD BE ISSUED WHEN THOSE AGREEMENTS WENT TO  
12 COMPLETION AND THE PRICE OF THE STOCK THAT WOULD HAVE BEEN  
13 THE PRICE OF THE STOCK WHEN IT EMITTED.

14 Q DO YOU RECALL WHAT THAT VALUE WAS, WHAT THAT  
15 COMBINED VALUE WAS, DR. BROWNING?

16 A IT WAS \$1.10 A SHARE, A STOCK.

17 Q WHAT DID IT ACTUALLY COME OVER? WAS IT OVER A  
18 HUNDRED THOUSAND DOLLARS?

19 A YES, IT WAS.

20 Q WAS IS IT OVER A MILLION?

21 A IT WOULD HAVE BEEN, YES.

22 Q WAS IT OVER TWO MILLION?

23 MR. WAPNER: OBJECTION, AS TO RELEVANCE.

24 MR. TITUS: YOUR HONOR, THE -- I JUST -- HE'S -- ON  
25 DIRECT TESTIMONY, HE WAS ATTEMPTING TO MINIMIZE THE VALUE OF  
26 THIS INVENTION. I'M TRYING TO SHOW THAT HE SPEAKS OUT OF  
27 ONE SIDE TO THE BANK AS TO THE VALUE AND ANOTHER SIDE NOW  
28 WHEN ATTEMPTING TO INCRIMINATE THE DEFENDANT.

1 THE COURT: ALL RIGHT.

2 MR. WAPNER: WELL, I THINK THAT THE OBJECTION IS THAT  
3 THE QUESTIONS AS PHRASED ARE VAGUE AS TO WHETHER -- AS TO  
4 WHAT IT IS ON THIS FINANCIAL STATEMENT THAT HE'S VALUING.  
5 IN OTHER WORDS, MY OBJECTION IS BASICALLY THAT WE ARE  
6 COMPARING APPLES AND ORANGES. IF COUNSEL DID ESTABLISH THAT  
7 HE'S TALKING ABOUT THE SAME THING IN THE FINANCIAL STATEMENT  
8 THAT HE REFERRED TO ON DIRECT EXAMINATION, THAT'S ONE THING,  
9 BUT AT THIS POINT HE'S JUST THROWING AROUND FIGURES AND THEY  
10 DON'T RELATE TO EACH OTHER.

11 THE COURT: WELL, THE WITNESS WAS INTRODUCED BY THE  
12 PEOPLE TO -- IT SEEMS TO ME PRIMARILY TO ESTABLISH THAT THE  
13 MILL WAS WORTH LESS OR WORTH NO MORE THAN \$200,000. ON  
14 CROSS-EXAMINATION -- CERTAINLY, ON CROSS-EXAMINATION THEY'RE  
15 ENTITLED TO GO INTO ANYTHING THAT WOULD DISPROVE THAT  
16 PARTICULAR FACT. THE OBJECTION WILL BE OVERRULED. ALL  
17 RIGHT.

18 Q BY MR. TITUS: WAS THE VALUE OF THIS INTEREST  
19 THAT YOU HAD TRANSFERRED TO U.F.O.I. OR SATURN ENERGY IN  
20 EXCESS OF TWO MILLION?

21 A I BELIEVE SO. I THINK IT WAS TWO MILLION ONE  
22 HUNDRED THOUSAND DOLLARS, I BELIEVE.

23 Q MR. BROWNING, THIS DIDN'T EVEN INCLUDE A  
24 MACHINE, DID IT? THIS VALUE OVER 200 MILLION DOLLARS DIDN'T  
25 EVEN ASSUME AN ATTRITION MILL, DID IT?

26 A THE AGREEMENT WAS FOR PROVISION OF ATTRITION  
27 MILLS.

28 Q BASICALLY, IT'S THE IDEA OF THE ATTRITION MILL

1 AND YOUR PLANS THAT HAS THE VALUE; IS THAT CORRECT?

2 A PLANS AND IDEAS HAVE NO VALUE UNLESS THEY'RE  
3 FUNCTIONING.

4 Q DR. BROWNING, YOU HAD AN EVALUATION DONE BY A  
5 PHYSICIST FROM THE UNIVERSITY OF CALIFORNIA?

6 A I DIDN'T ORDER THAT EXAMINATION. IT WAS DONE,  
7 YES.

8 Q BY WHO?

9 A BY DR. HENRY CHUNG.

10 Q DO YOU KNOW DR. CHUNG'S QUALIFICATIONS?

11 A DR. CHUNG IS AT THE LIVERMORE RADIATION  
12 LABORATORY. I BELIEVE DR. CHUNG IS THE PRESIDENT OF HIS OWN  
13 COMPANY. I BELIEVE DR. CHUNG IS QUALIFIED IN EVALUATING  
14 ENERGY APPLICATIONS.

15 Q SPECIFICALLY WHAT WE ARE TALKING ABOUT HERE.

16 A THAT'S WHAT HE WAS HERE FOR. YES.

17 Q DO YOU RECALL THE VALUE --

18 MR. BARENS: YOUR HONOR, EXCUSE ME. I'M GOING TO  
19 WITHDRAW FOR THE AFTERNOON. MR. TITUS WILL BE TAKING OVER.

20 THE COURT: I THINK THE RECORD SHOULD SHOW THAT  
21 MR. HUNT IS NOW BEING REPRESENTED SOLELY BY MR. TITUS. ALL  
22 RIGHT.

23 Q BY MR. TITUS: DID YOU EXCHANGE INFORMATION  
24 WITH DR. CHUNG ABOUT YOUR ATTRITION MILL?

25 A YES.

26 Q AND IN YOUR OPINION, HE HAD A THOROUGH  
27 UNDERSTANDING OF WHAT THIS MACHINE WAS DOING, WHAT THE  
28 TECHNOLOGY WAS AND WHAT YOUR IDEAS WERE WORTH.

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1 A I BELIEVE SO.

2 Q DO YOU RECALL WHAT VALUE HE PLACED ON --  
3 DR. CHUNG PLACED ON THIS ATTRITION MILL CONCEPT?

4 MR. WAPNER: OBJECTION.

5 ARE YOU FINISHED ABOUT THE QUESTION?

6 OBJECTION. IT CALLS FOR HEARSAY, YOUR HONOR.  
7 IT CALLS FOR AN EXPERT OPINION OF A WITNESS WHO'S NOT HERE.

8 THE COURT: THE OBJECTION WILL BE SUSTAINED.

9 MR. WAPNER: THANK YOU.

10 Q BY MR. TITUS: THE VALUE OF THE ATTRITION  
11 MILL -- STRIKE THAT. THE ATTRITION MILL CONCEPT WAS  
12 PATENTED, WAS IT NOT?

13 A NO.

14 Q HOW DO YOU PROTECT THE TECHNOLOGY INVOLVED,  
15 DR. BROWNING?

16 A BY PATENTS FOR TRADE SECRETS.

17 Q OKAY. YOU HAVE NOT PATENTED THE ATTRITION  
18 MILL?

19 A NO.

20 Q DO YOU KNOW IF ANYONE HAS SOUGHT A PATENT -- DO  
21 YOU KNOW IF U.F.O.I. HAD ACCESS TO ANY EXPERT REPORTS IN  
22 PLACING THE VALUE ON THE STOCK AND OPTIONS THAT YOU  
23 RECEIVED?

24 A ON THE VALUE OF WHAT?

25 Q THE STOCK AND OPTIONS YOU TESTIFIED THAT YOU  
26 RECEIVED IN EXCESS OF TWO MILLION DOLLARS.

27 MR. WAPNER: OBJECTION, UNLESS IT'S BASED ON PERSONAL  
28 KNOWLEDGE.

1 MR. TITUS: THAT'S WHAT I'M ASKING.

2 MR. WAPNER: BUT "DO YOU KNOW" COULD ALSO CALL FOR  
3 HEARSAY.

4 THE COURT: ALL RIGHT. IF IT'S ON PERSONAL  
5 KNOWLEDGE. ARE YOU ASKING WHETHER IT'S WITH HIS PERSONAL  
6 KNOWLEDGE?

7 MR. TITUS: YES.

8 THE COURT: ALL RIGHT. IF IT'S WITHIN PERSONAL  
9 KNOWLEDGE, YOU CAN ANSWER. IF IT'S HEARSAY, SOMETHING  
10 SOMEBODY TOLD YOU, YOU CAN'T.

11 THE WITNESS: WOULD YOU REPEAT THAT AGAIN? BECAUSE I  
12 DIDN'T --

13 Q BY MR. TITUS: DO YOU KNOW IF U.F.O.I. OR  
14 SATURN ENERGY RELIED ON ANY EXPERT REPORTS TO PLACE A VALUE  
15 ON WHAT THEY GAVE YOU, DR. BROWNING?

16 A THE VALUE ON WHAT THEY GAVE ME WAS PREDICATED  
17 UPON THE STOCK PRICE ESTABLISHED BY THE VANCOUVER EXCHANGE.

18 MR. TITUS: MOVE TO STRIKE THE ANSWER AS  
19 NONRESPONSIVE. I'M ASKING SPECIFICALLY FOR HIS KNOWLEDGE  
20 ABOUT EXPERTS.

21 THE COURT: ALL RIGHT. THE ANSWER WILL BE STRICKEN.  
22 DO YOU UNDERSTAND THE QUESTION?

23 THE WITNESS: I DON'T KNOW WHAT HE'S GETTING AT.

24 THE COURT: ALL RIGHT. LET'S HAVE THE QUESTION AGAIN  
25 AND SEE.

26 Q BY MR. TITUS: DO YOU KNOW, DR. BROWNING -- YOU  
27 SOLD THE RIGHTS TO THE ATTRITION MILL TO U.F.O.I., RIGHT?  
28 YOU DID THAT.

1 A NO, I DID NOT. I LICENSED THEM THE USE OF THE  
2 DEVICE.

3 Q WHEN YOU LICENSED IT, WHEN YOU MADE THIS  
4 TRANSFER, WHATEVER YOU WANT TO CALL IT, DO YOU KNOW IF THE  
5 PERSON YOU SOLD IT TO HAD ANY EXPERTS EVALUATE YOUR IDEA?  
6 EITHER WRITTENLY -- WRITTEN FORM OR ORALLY?

7 A HE HAD AN EVALUATION AS TO THE VALUE OF THE  
8 MACHINE IN USE IN THE ENERGY FIELD, YES.

9 Q AND AFTER THAT IN DISCUSSIONS WITH YOU, YOU  
10 LICENSED IN EXCESS -- FOR VALUE IN EXCESS OF TWO MILLION  
11 DOLLARS?

12 A YES.

13 Q AT THAT TIME YOU WERE ALSO RECEIVING BENEFITS  
14 FROM MICROGENESIS AND WESTCARS OF NORTH AMERICA -- AND  
15 WESTCAR OF NORTH AMERICA; CORRECT?

16 A AT THE TIME THE AGREEMENTS WERE SIGNED?

17 Q LET'S SAY AT ANY TIME IN 1984. WERE YOU  
18 RECEIVING BENEFITS FROM MICROGENESIS OR WESTCAR OF NORTH  
19 AMERICA.

20 A UP UNTIL AND INCLUDING JUNE OF 1984. AFTER  
21 THAT, NO.

22 Q WHAT DATE DID YOU CEASE RECEIVING ANY BENEFITS  
23 FROM MICROGENESIS OR WESTCAR OF NORTH AMERICA OR JOE HUNT  
24 PERSONALLY?

25 A I BELIEVE IN JUNE.

26 Q DO YOU RECALL WHAT DATE?

27 A NO, I DON'T.

28 Q I BELIEVE THAT YOU HAVE ALLEGED IN YOUR CIVIL

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1 COMPLAINT AGAINST MR. HUNT THAT YOU WERE ENTITLED TO  
2 CONTINUE RECEIVING BENEFITS FROM WESTCAR OF NORTH AMERICA;  
3 ISN'T THAT CORRECT, DR. BROWNING?

4 A NO.

5 Q SPECIFICALLY THE POSSESSION OF A BMW  
6 AUTOMOBILE?

7 A I DON'T SEE WHERE THAT RELATES TO WESTCARS.

8 Q DR. BROWNING, I DON'T -- I'M NOT ASKING YOU IF  
9 YOU SEE THAT. I'M ASKING YOU IF YOU HAVE CONTENDED IN YOUR  
10 CIVIL SUIT THAT YOU'RE ENTITLED TO CONTINUAL POSSESSION OF A  
11 BMW AUTOMOBILE THAT IS REGISTERED TO WESTCARS OF NORTH  
12 AMERICA.

13 MR. WAPNER: OBJECTION AS TO RELEVANCE, YOUR HONOR.

14 THE COURT: THE OBJECTION WILL BE SUSTAINED. WHAT IS  
15 YOUR PURPOSE IN THIS?

16 MR. TITUS: YOUR HONOR, THIS IS A BASIS OF A GREAT  
17 DEAL OF BIAS ON THE PART OF THE WITNESS. DR. BROWNING HAS  
18 INITIATED THE CIVIL SUIT PREDICATED ON THE POSSESSION OF  
19 THIS AUTOMOBILE AND IT GOES TO EVEN MORE THAN THAT.

20 THE COURT: WELL, WE'VE ALREADY ESTABLISHED THAT HE  
21 SAID THE VALUE WAS TWO MILLION DOLLARS. HE SAYS THAT THERE  
22 HAS BEEN A CIVIL SUIT. NOW, GOING TO THE DETAILS, WHAT IS  
23 THE SIGNIFICANCE?

24 MR. TITUS: COULD WE APPROACH?

25 THE COURT: ALL RIGHT. WITH THE REPORTER.

26  
27 (THE FOLLOWING PROCEEDINGS WERE HELD AT THE BENCH:)

28 /////



1 MR. TITUS: YOUR HONOR, I DIDN'T WANT TO MAKE AN  
2 OFFER OF PROOF IN FRONT OF THE WITNESS. HE'S CLAIMING THAT  
3 THE BMW FROM WESTCARS OF NORTH AMERICA WAS STOLEN AND ON THE  
4 BASIS OF THIS AGREEMENT THAT HE CLAIMS DOESN'T EXIST, HE'S  
5 ACTIVELY SUING FOR THE RIGHT TO USE THAT CAR BASED UPON AN  
6 AGREEMENT THAT HE CLAIMS WAS VOIDED. AND THE RELEVANCE HAS  
7 TO DO WITH THAT THIS -- THIS WITNESS IS EXTREMELY BIASED  
8 AGAINST THE DEFENDANT. I THINK I SHOULD BE ALLOWED THE  
9 OPPORTUNITY TO EXPLORE THE DEPTH OF THE BIAS, AND EVEN TO  
10 THE POINT OF MAINTAINING A CIVIL SUIT DEMANDING THE RIGHT TO  
11 USE JOE HUNT'S CAR.

12 MR. WAPNER: MAY I BE HEARD?

13 THE COURT: SURE.

14 MR. WAPNER: I THINK THAT COUNSEL HAS CLEARLY ALREADY  
15 ESTABLISHED THAT THERE'S A LAWSUIT PENDING AND THAT THAT  
16 LAWSUIT COULD POTENTIALLY BE A BASIS FOR A BIAS ON THE PART  
17 OF THIS WITNESS, AND I THINK HE'S FURTHER CLEARLY  
18 ESTABLISHED THAT THERE'S QUITE A BIT OF ACRIMONY BETWEEN THE  
19 WITNESS AND THE DEFENDANT.

20 THE BASIS OF MY OBJECTION IS THAT TO ALLOW  
21 FURTHER DISCUSSION ON THIS ISSUE, WE START BASICALLY  
22 LITIGATING THE CIVIL SUIT. YOU KNOW, HE SAYS "WHAT RIGHT DO  
23 YOU HAVE TO THE CAR"; ONE GUY SAYS "I HAVE THIS RIGHT TO THE  
24 CAR"; ONE GUY SAYS "I BOUGHT THE CAR. IT WAS GIVEN TO ME  
25 OUTRIGHT FOR THIS." THIS GUY SAYS "NO, IT WASN'T GIVEN TO  
26 YOU. YOU DON'T HAVE THE RIGHT TO USE IT." AND I THINK WE  
27 HAVE REACHED THE POINT WHERE WE ARE NOW TOO FAR AFIELD ON  
28 THIS ISSUE. I THINK ANY BENEFIT THAT'S GOING TO BE GAINED

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1 FROM IT HAS ALREADY BEEN OBTAINED.

2 THE COURT: I'M INCLINED TO AGREE WITH THAT,  
3 MR. TITUS. HEAR'S THE ISSUE. WHAT THEY'VE PRESENTED TO ME  
4 ON DIRECT EVIDENCE WAS THAT THE MACHINE IS WORTH \$200,000;  
5 WHY WOULD ANYBODY SIGN -- BE INTERESTED IN THIS FOR A  
6 MILLION AND A HALF AND SO FORTH. ON RE-CROSS, YOU HAVE  
7 ESTABLISHED THAT HE THINKS THERE HAVE BEEN ISSUES WHERE IT  
8 IS WORTH A MILLION OR TWO MILLION. NOW YOU'VE GOTTEN INTO  
9 THE CIVIL SUIT. I THINK PERHAPS THAT WE ARE GETTING A  
10 LITTLE FAR AFIELD HERE. YOU'VE ALREADY ESTABLISHED, IF  
11 THERE'S ANY QUESTION AS TO THAT, THAT THE ISSUE THAT THE  
12 DISTRICT ATTORNEY RAISED; NAMELY, THAT THIS WAS A WORTHLESS  
13 \$200,000-MACHINE, YOU'VE ALREADY COUNTERBALANCED THAT IN  
14 YOUR CROSS-EXAMINATION.

15 MR. TITUS: OKAY.

16 THE COURT: THE NEXT QUESTION IS --

17 MR. TITUS: ACTUALLY I'M JUST DOING DISCOVERY.

18 THE COURT: YES. THE QUESTION IS HOW FAR SHOULD YOU  
19 GO IF THERE'S A PENDING CIVIL CASE. YOU'VE ALSO ESTABLISHED  
20 THAT THERE IS A CERTAIN BIAS BETWEEN THE PARTIES. NOW WE  
21 GET TO THE POINT OF WHERE ARE WE GOING TO TERMINATE THIS,  
22 AND I THINK IN VIEW OF THE FACT THAT THERE IS A CIVIL SUIT  
23 AND YOU'VE ESTABLISHED CERTAIN FACTS THAT I THINK HAVE  
24 OCCURRED TO THE PROSECUTION AND TO YOU AND OCCURRED TO ME,  
25 THAT THE CROSS-EXAMINATION AT THIS POINT HAS GONE A LITTLE  
26 TOO FAR AFIELD.

27 MR. TITUS: ALL RIGHT. IN THAT AREA?

28 THE COURT: SPECIFICALLY AS TO THE CAR. ALL RIGHT.

1 THE OBJECTION WILL BE SUSTAINED.

2  
3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)

4  
5 MR. TITUS: CAN WE TAKE A BREAK?

6 THE COURT: ALL RIGHT. WE 'LL TAKE A 10 MINUTE BREAK  
7 (A RECESS WAS TAKEN.)

8 THE COURT: ALL RIGHT. LET THE RECORD SHOW IN THE  
9 MATTER OF JOE HUNT, MR. HUNT IS PRESENT AND REPRESENTED BY  
10 HIS COUNSEL, MR. TITUS; THE DISTRICT ATTORNEY, MR. WAPNER,  
11 IS PRESENT. WHEN WE TOOK OUR RECESS I BELIEVE THAT  
12 DR. BROWNING WAS STILL UNDER CROSS-EXAMINATION. ALL RIGHT.

13 Q BY MR. TITUS: RESUMING, DR. BROWNING, WERE YOU  
14 AN EMPLOYEE OF MICROGENESIS?

15 A YES.

16 Q WERE YOU A STOCKHOLDER OF MICROGENESIS?

17 A IN THE AGREEMENT I WAS TO RECEIVE A STOCK  
18 POSITION IN MICROGENESIS. I 'D NEVER RECEIVED IT.

19 Q YOU HAD AN AGREEMENT THAT ENTITLED YOU TO STOCK  
20 IN MICROGENESIS?

21 A YES.

22 Q YOU 'RE ALSO A DIRECTOR OF MICROGENESIS?

23 A I WAS TOLD AND ASKED TO BE A DIRECTOR. I DON'T  
24 REMEMBER -- I DON'T REMEMBER. THERE WAS NEVER A FORMAL  
25 ELECTION AS SUCH. IT WAS JUST A VERBAL APPOINTMENT.

26 Q YOU DID ATTEND, I BELIEVE YOU TESTIFIED EARLIER  
27 ON CROSS-EXAMINATION, THAT YOU DID ATTEND A BOARD OF  
28 DIRECTORS MEETING OF MICROGENESIS.

800

1 A YES.

2 Q YOU DIDN'T ATTEND AS AN OBSERVER. YOU ATTENDED  
3 AS A DIRECTOR.

4 A YES.

5 Q DID YOU RESIGN FORMALLY YOUR POSITION WITH  
6 MICROGENESIS IN JUNE OF 1984?

7 A NO. THE RESIG- --

8 Q YOU'VE ANSWERED --

9 A PARDON?

10 Q YOU'VE ANSWERED THE QUESTION "NO".

11 A I'M SORRY.

12 Q DO YOU HAVE AN OPINION AS THE INVENTOR OF THE  
13 ATTRITION MILL OF THE OVERALL VALUE OF THE ATTRITION MILL IN  
14 TERMS OF ROYALTIES, LICENSE RIGHTS AND TECHNOLOGY TRANSFERS?  
15 MR. WAPNER: OBJECTION. VAGUE BECAUSE IT DOESN'T --  
16 THERE'S AN OMISSION IN THE QUESTION AS TO THE VALUE IN TERMS  
17 OF WHAT IT'S BEING USED FOR.

18 MR. TITUS: YOUR HONOR, I ASKED -- THE QUESTION WAS  
19 ALL APPLICATIONS. I WANTED TO COMBINE THE NUMBER OF WHICH I  
20 THINK THE WITNESS IS FAMILIAR WITH.

21 THE COURT: ALL RIGHT. THE OBJECTION WILL BE  
22 OVERRULED.

23 DO YOU UNDERSTAND WHAT HE MEANS BY THAT  
24 "OVERALL"?

25 Q BY MR. TITUS: THIS WOULD INCLUDE ROYALTY  
26 INCOME, LICENSING INCOME, ALL INCOME OF EVERY KIND. DO YOU  
27 HAVE AN OPINION AS TO THE VALUE?

28 A I HAVE NO IDEA OF WHAT THAT --

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1 Q DID YOU THINK THE VALUE IS IN EXCESS OF TWO  
2 MILLION DOLLARS?

3 A YES.

4 Q 10 MILLION?

5 A HOW MANY AND THE APPLICATION? I DON'T KNOW.

6 Q DR. BROWNING --

7 A IT'S IMPOSSIBLE TO ANSWER.

8 Q AS A WITNESS, IF I'M ASKING YOU FOR AN  
9 ESTIMATE, I'M ENTITLED TO --

10 MR. WAPNER: OBJECTION. ARGUMENTATIVE, YOUR HONOR.  
11 IF THERE'S GOING TO BE ANY INSTRUCTING OF THE WITNESS, THE  
12 COURT SHOULD DO IT.

13 THE COURT: THE OBJECTION WILL BE SUSTAINED. IT  
14 SEEMS, MR. TITUS, THAT IF IT'S NOT PRODUCTIVE OR NOT  
15 MARKETED HE MIGHT NOT KNOW WHAT THE MAXIMUM MIGHT BE ON ANY  
16 GIVEN MACHINE.

17 Q BY MR. TITUS: DO YOU KNOW IF THERE HAVE BEEN  
18 ANY EXPERT EVALUATIONS OF THE OVERALL VALUE OF THIS MILL AND  
19 ITS MANY APPLICATIONS?

20 A OF A SINGULAR APPLICATION, YES, THERE HAS BEEN.

21 Q DR. CHUNG DID AN OVERALL EVALUATION, DIDN'T HE?

22 A THAT WAS IN ITS APPLICATION TO COAL, YES.

23 Q AND THAT WAS OVER A HUNDRED MILLION DOLLARS?

24 MR. WAPNER: OBJECTION. RELEVANCE. EXCUSE ME. I'M  
25 SORRY. IT'S NOT RELEVANCE, BUT WE WENT THROUGH THIS ONCE  
26 BEFORE. HE'S REASKING IT. IT'S CALLING FOR AN OPINION OF A  
27 WITNESS THAT'S NOT HERE. ONE, THAT'S HEARSAY. THERE'S NO  
28 EXCEPTION TO THE HEARSAY RULE.

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1 THE COURT: THE OBJECTION WILL BE SUSTAINED.

2 Q BY MR. TITUS: NOW, AFTER MR. HUNT WAS  
3 ARRESTED, DR. BROWNING, DID YOU COME TO CONTROL THREE  
4 ATTRITION MILLS THAT WERE BUILT DURING YOUR EMPLOYMENT?

5 A NO.

6 Q DO YOU KNOW WHO CONTROLS THE ATTRITION MILLS  
7 THAT ARE CURRENTLY BUILT?

8 A NO. WHEN I LEFT THEM, THEY WERE AT GARDENA.

9 Q YOU DON'T KNOW WHERE THEY ARE OR WHO'S USING  
10 THEM.

11 A I WAS ONLY TOLD THAT THEY WERE IN THE DESERT.  
12 I HAD SEEN THEM ONCE.

13 Q DO YOU KNOW IF THEY'RE WORKING?

14 A I WOULD ASSUME THAT THEY ARE NOT.

15 Q DO YOU FEEL IF YOU HAVE ANY OWNERSHIP RIGHTS TO  
16 THESE ATTRITION MILLS BUILT DURING YOUR EMPLOYMENT WITH JOE  
17 HUNT?

18 A YES.

19 Q WHAT IS THE BASIS OF YOUR OWNERSHIP RIGHTS?

20 A BECAUSE THE MACHINES -- THE MACHINE WAS BUILT  
21 TO PROVE THAT I COULD BUILD IT, WHICH I DID. AND THE COST  
22 OF THE MACHINES I HAVE EITHER PICKED UP OR MADE ARRANGEMENTS  
23 TO PAY FOR THE COST OF THE MACHINES THAT WERE NOT PAID FOR.

24 Q WELL, DR. BROWNING, THESE WERE BUILT WITH  
25 MICROGENESIS, WITH JOE HUNT'S MONEY, WHILE YOU WERE AN  
26 EMPLOYEE OF JOE HUNT; ISN'T THAT A FAIR STATEMENT?

27 A NO, I DON'T THINK SO.

28 Q DID YOU PAY FOR THE RENTAL OF THE LOCATION AT

800

1 GARDENA WHERE YOU TESTIFIED THESE MACHINES WERE ASSEMBLED?

2 A NO.

3 Q DO YOU KNOW WHO DID?

4 A I PRESUMED WESTCARS DID.

5 Q OKAY. DID YOU PAY FOR THE PARTS, THE STEEL AND  
6 THE ELECTRICAL PARTS YOU TESTIFIED WERE NECESSARY TO BUILD  
7 THESE ATTRITION MILLS?

8 A SOME OF THEM.

9 Q HOW MUCH DID YOU PAY?

10 A I DON'T KNOW. I HAVEN'T GONE THROUGH THEM.

11 Q ISN'T IT TRUE THAT MR. HUNT AND MICROGENESIS  
12 AND OTHER CORPORATIONS THAT HE CONTROLLED PAID FOR THE  
13 MAJORITY OF THESE PARTS?

14 A FROM WHAT I'M FINDING OUT NOW, NO.

15 Q AS OF JUNE, DID YOU BELIEVE THAT MICROGENESIS  
16 WAS PAYING FOR THESE?

17 MR. WAPNER: OBJECTION. RELEVANCE. WHAT DIFFERENCE  
18 DOES IT MAKE WHAT HE BELIEVED --

19 MR. TITUS: I'LL WITHDRAW THE QUESTION.

20 THE COURT: THE QUESTION IS WITHDRAWN.

21 Q BY MR. TITUS: YOU DIDN'T PAY FOR THE MAJORITY  
22 OF THE PARTS THAT THESE ATTRITION MILLS WERE MADE FROM, DID  
23 YOU?

24 A NOT AT THAT TIME.

25 Q YOU DIDN'T. NOW, DR. BROWNING, YOU ARE NOT  
26 TRAINED AS A PHYSICIST, ARE YOU?

27 A TRAINED AS A PHYSICIST?

28 Q YES. YOU DON'T HAVE ANY DEGREES IN PHYSICS, DO

1 YOU.

2 A NO.

3 Q DR. CHUNG, THE PERSON YOU IDENTIFIED AT  
4 LAWRENCE RADIATION LABORATORY, HE'S A TRAINED PHYSICIST, IS  
5 HE NOT?

6 A HIS DEGREES ARE IN CHEMISTRY.

7 Q HE'S WORKING IN THE PHYSICS OF MINING?

8 A CHEMICAL ENGINEERING.

9 Q WOULD YOU SAY THAT HE'S MORE QUALIFIED TO  
10 EVALUATE THE ATTRITION MILL AND ITS PROCESSES THAN YOU ARE?

11 MR. WAPNER: OBJECTION. RELEVANCE. WE KNOW THAT --

12 MR. TITUS: WE'RE GOING TO CALL HIM AS A WITNESS,  
13 YOUR HONOR.

14 MR. WAPNER: WELL, WE'RE CERTAINLY NOT GOING TO CALL  
15 HIM AS A WITNESS IN THIS HEARING.

16 MR. TITUS: THAT'S MY OFFER OF PROOF.

17 MR. WAPNER: WELL, EVEN IF -- LET'S ASSUME THAT HE'S  
18 CALLED AS A WITNESS IN THIS HEARING. ALL RIGHT.  
19 DR. BROWNING'S OPINION AS TO WHO IS MORE QUALIFIED IS REALLY  
20 NOT RELEVANT. I MEAN DR. BROWNING WILL GIVE HIS  
21 QUALIFICATIONS AND DR. CHUNG WILL GIVE HIS QUALIFICATIONS,  
22 AND THE COURT -- IF THERE'S A DISPUTED ISSUE AS TO THE VALUE  
23 AND WHO'S QUALIFIED, THEN THE COURT WILL MAKE THAT  
24 DETERMINATION.

25 THE COURT: THAT DETERMINATION, YES. OBJECTION IS  
26 SUSTAINED.

27 MR. TITUS: ALL RIGHT. I'LL DEMONSTRATE FURTHER TO  
28 THE COURT.



1 Q DR. BROWNING, YOU TESTIFIED CONCERNING THE  
2 NATURE OF SILICA, CORRECT?

3 A YES.

4 Q WHAT IS SILICA?

5 A SILICA IS AN ELEMENT.

6 Q IS IT SILICON?

7 A NO.

8 Q SILICON IS THE ELECTROHYDROLYSIS OF SILICA.

9 Q IT'S NOT AN ELEMENT, "SI"?

10 A IT'S MARKED "SI2".

11 Q AND THAT'S BEACH SAND?

12 A NO. SILICA BY ITSELF IS PREDOMINANTLY BEACH  
13 SAND. THAT IS A SOURCE.

14 Q AND THAT IS A SILICA SILICATE?

15 A SILICATE IS WHEN SILICA IS COMBINED WITH  
16 SOMETHING ELSE.

17 Q WHAT?

18 A OH, CARBONATES, SULPHATES --

19 Q THE KIND OF THING YOU MIGHT WANT TO GRIND UP TO  
20 MAKE CERAMICS FROM?

21 A NO.

22 Q IT WOULDN'T HAVE ANY APPLICATION, THE GRINDING  
23 OF SILICA COMPOUNDS AND SILICON COMPOUNDS, WITH CERAMICS?

24 A ABSOLUTELY NOT.

25 Q AND IF DR. CHUNG SAID THAT, HE WOULD BE WRONG?

26 A I THINK THERE'S AN INTERPRETATION THAT YOU'RE  
27 MISSING.

28 Q IF HE SAID THAT, THOUGH, AS PRECISELY AS I

1 STATED IT, THAT WOULD BE WRONG. HE WOULD BE WRONG.

2 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

3 MR. TITUS: I'M --

4 THE COURT: THE OBJECTION WILL BE SUSTAINED.

5 MR. TITUS: I'M ATTEMPTING TO INQUIRE INTO THE  
6 WITNESS' QUALIFICATIONS.

7 THE COURT: WELL, BUT TO COMPARE HIM WITH -- COMPARE  
8 HIM WITH DR. CHUNG AND SAYING THAT IF DR. CHUNG WERE TO SAY  
9 THAT HE WOULD BE WRONG IS NOT WITHIN THE PROVINCE OF THIS  
10 WITNESS TO TESTIFY. ALSO, IT WOULD BE A CONCLUSION ON HIS  
11 PART.

12 ARE YOU TRYING TO -- ARE YOU SAYING THAT YOU'RE  
13 GOING TO PRODUCE DR. CHUNG, AND THAT --

14 MR. TITUS: YES.

15 THE COURT: -- AND THAT HE -- ALL RIGHT. THEN IT'S  
16 AS MR. WAPNER HAS STATED. THEN IT WOULD BE A QUESTION OF A  
17 CREDIBILITY OF THE WITNESS AS AGAINST ANOTHER WITNESS. ALL  
18 RIGHT. THE OBJECTION WILL BE SUSTAINED.

19 MR. TITUS: ALL RIGHT.

20 Q THERE WAS AN EXISTING WORKING ATTRITION MILL AT  
21 HESPERIA, CALIFORNIA; CORRECT?

22 A YES.

23 Q AND THAT WAS PRIOR TO THE -- THIS JUNE 1984  
24 AGREEMENT WITH RON LEVIN?

25 A YES.

26 Q WHAT WAS IT GRINDING?

27 MR. WAPNER: OBJECTION, VAGUE AS TO WHEN -- WHEN IT  
28 WAS GRINDING AND IF IT WAS GRINDING.

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8 1 MR. TITUS: I BELIEVE THE WITNESS ANSWERED IT WAS  
2 GRINDING.

3 MR. WAPNER: WELL, WAS IT CONSTANTLY --

4 MR. TITUS: JUNE, 1984.

5 THE WITNESS: PARDON? WHAT DATE?

6 MR. WAPNER: SAME OBJECTION, YOUR HONOR. AS I  
7 UNDERSTAND IT, FOR THE PURPOSE -- I REALIZE WE HAVEN'T HAD  
8 TESTIMONY, BUT AS A -- NOT REALLY AS AN OFFER OF PROOF, BUT  
9 IN MY SIMPLISTIC UNDERSTANDING OF THESE THINGS, IT'S THE  
10 KIND OF A THING WHERE YOU PUT SOMETHING IN THE TOP AND IT  
11 GRINDS IT UP AND THEN IT COMES OUT ON THE BOTTOM. AND SO  
12 THE NATURE OF MY OBJECTION IS WHEN HE SAYS "WHAT WAS IT  
13 GRINDING", I DON'T PERCEIVE THIS AS AN ONGOING PROCESS WHERE  
14 YOU PUT SOMETHING IN IN JANUARY AND IT GRINDS IT FOR THREE  
15 OR FOUR MONTHS AND IT COMES OUT IN MAY. SO THAT'S THE ONLY  
16 THING I'M ASKING -- OBJECTING TO IS THE NATURE OF THE  
17 QUESTION IN TERMS OF ITS SPECIFICITY. WHEN AND AT WHAT TIME  
18 AND WHAT PLACE.

19 THE COURT: THE OBJECTION WILL BE SUSTAINED. MAYBE  
20 YOU CAN REPHRASE THAT, MR. TITUS.

21 Q BY MR. TITUS: THERE WAS AN ATTRITION MILL  
22 WORKING IN HESPERIA, CALIFORNIA; CORRECT?

23 A THERE HAD BEEN, YEAH.

24 Q WAS IT -- WHEN WAS IT FUNCTIONING? IN WHAT  
25 MONTHS IN 1984, IF YOU KNOW? OF YOUR OWN PERSONAL  
26 KNOWLEDGE.

27 A I HAVE NO IDEA.

28 Q WHAT WAS IT DESIGNED TO GRIND? WHAT COMPOUNDS?

808

1 A THAT PARTICULAR MACHINE HAD BEEN SET UP TO  
2 GRIND GOLD BEARING ORES.

3 Q WHAT WAS THE NATURE OF THE GOLD BEARING ORES?

4 A THEY COME IN VARIOUS AND SUNDRY FORMS AND  
5 SHAPES.

6 Q WELL, DR. BROWNING, YOU DESIGNED THAT MACHINE;  
7 RIGHT?

8 A YES.

9 Q AND YOU CAN'T TELL ME WHAT IT WAS DESIGNED TO  
10 GRIND?

11 A I TOLD YOU.

12 MR. WAPNER: OBJECTION. HE JUST ANSWERED THAT  
13 QUESTION.

14 Q BY MR. TITUS: GOLD BEARING ORES, BUT WHAT  
15 SPECIFIC? ANY SILICATES?

16 MR. WAPNER: THERE'S ALWAYS SILICA IN GOLD BEARING  
17 ORES -- AT LEAST MOST OF THEM THAT I KNOW OF -- BUT USUALLY  
18 AS A DIFFERENT FORM OF SILICA. IT IS NOT A PREDOMINANTLY  
19 SILICA MATERIAL.

20 Q BUT THERE IS SILICA AND SILICON COMPOUNDS,  
21 SILICATES IN THAT ORE THAT YOU DESIGNED THE MACHINE TO BUILD  
22 THAT WAS ACTUALLY WORKING.

23 A YES. THERE ARE SILICAS IN IT.

24 Q ARE YOU FAMILIAR WITH AN ATTRITION MILL  
25 DESIGNATED A MORTON MACHINE?

26 A THE MORTON MACHINE?

27 Q YOU LEASED A -- A MACHINE WAS LEASED TO BILL  
28 MORTON; CORRECT?

1 A YES. MR. HUNT HAD MADE THAT ARRANGEMENT. 899

2 Q OKAY. WHEN WAS THAT MACHINE SHIPPED?

3 A I BELIEVE IN JUNE SOMETIME. I DON'T KNOW  
4 EXACTLY THE DATE.

5 Q THIS WAS AT OR ABOUT THE TIME OF THE AGREEMENT  
6 REFERRED TO -- THAT YOU REFERRED TO IN PEOPLE'S 50?

7 A I DON'T REMEMBER THE EXACT DATE THAT IT WAS  
8 TAKEN OUT. IT WAS RATHER CONFUSING AT THE TIME.

9 Q IN ADDITION TO THE MACHINE AT HESPERIA AND THE  
10 ONE THAT WAS LEASED TO BILL MORTON, IS IT MY UNDERSTANDING  
11 OF YOUR TESTIMONY THAT YOU HAD THE PARTS FOR TWO MORE  
12 MACHINES THERE AT GARDENA?

13 A YES.

14 Q SO, DR. BROWNING, THE MACHINE THAT BILL MORTON  
15 WAS SHIPPED IN JUNE OF 1984?

16 A IF I REMEMBER CORRECTLY --

17 Q YOU STOPPED WORKING IN JUNE OF 1984 FOR  
18 MICROGENESIS?

19 A NO. I INSTALLED THE MACHINE FOR MR. MORTON.

20 Q WHEN DID YOU STOP WORKING AT MICROGENESIS?

21 A I DIDN'T HAVE VERY MUCH TO DO WITH THAT AFTER I  
22 THINK THE 2ND OF JULY.

23 Q SO IT WAS JULY YOU STOPPED WORKING FOR  
24 MICROGENESIS?

25 A YES.

26 Q DURING THE TIME BETWEEN WHEN YOU SHIPPED THE  
27 MACHINE TO BILL MORTON, OR THE MACHINE WAS SHIPPED TO BILL  
28 MORTON, AND YOU STOPPED WORKING FOR MICROGENESIS, WAS ANY

900

1           PROGRESS BEING MADE ON ANY OTHER MILLS?

2           A       NO.

3           Q       NOTHING WAS DONE AT ALL?

4           A       NO.

5           MR. TITUS: I HAVE NO FURTHER QUESTIONS OF THIS  
6 WITNESS.

7           MR. WAPNER: I JUST HAVE A FEW QUESTIONS, YOUR HONOR.

8           THE COURT: ALL RIGHT.

9

10

REDIRECT EXAMINATION

11

BY MR. WAPNER:

12

Q       DO YOU REMEMBER THE DATE -- WELL, STRIKE THAT.

13

LET ME ASK YOU SOMETHING ELSE.

14

THE MACHINE THAT WAS PROVIDED TO MR. MORTON,

15

DID YOU TAKE THAT TO A LOCATION WHERE HE WAS AND INSTALL IT

16

THERE?

17

A       I WENT OUT WITH IT, YES.

18

Q       AT WHOSE DIRECTION DID YOU DO THAT?

19

A       MR. HUNT'S.

20

Q       AND DO YOU REMEMBER WHAT DATE THAT WAS?

21

A       NO, I DON'T, OTHER THAN JUNE.

22

Q       WELL, DO YOU REMEMBER WHETHER IT WAS THE FIRST

23

WEEK OF JUNE OR AFTER THE FIRST WEEK OF JUNE?

24

A       TO THE BEST OF MY RECOLLECTION, IT WAS AFTER

25

THE FIRST WEEK OF JUNE.

26

Q       THAT WAS WAS THE ONLY FUNCTIONING MACHINE AT

27

THAT TIME; IS THAT RIGHT?

28

A       UM --

1 Q I'M USING THE TERM "FUNCTIONING" LOOSELY. OF  
2 THE THREE THAT WERE BUILT AND THE ONE IN HESPERIA -- STRIKE  
3 THAT. I'M NOW GETTING TOO CONFUSED.

4 BESIDES THE MACHINE IN HESPERIA, THE ONE THAT  
5 YOU TOOK OUT TO MR. MORTON WAS THE ONLY ATTRITION MILL THAT  
6 YOU BUILT THAT WAS WORKING --

7 A IT WAS --

8 Q -- OR WAS EVEN IN A POSITION TO BE WORKING?

9 A IT WAS WORKING, YES.

10 Q AND THE SPECIFIC APPLICATION OF THAT MACHINE  
11 WAS WHAT?

12 A TO PROCESS GOLD BEARING ORES.

13 Q THAT'S THE ONE THAT YOU DELIVERED TO  
14 MR. MORTON.

15 A YES.

16 Q AND THE OTHER TWO THAT WERE BEING BUILT, WHAT  
17 WAS THERE -- WHAT APPLICATION WERE THEY BEING BUILT FOR, IF  
18 ANY?

19 A BECAUSE OF THE EXISTING AGREEMENTS, IT WAS MY  
20 PRESUMPTION THAT THEY WERE GOING TO BE USED FOR COAL.

21 MR. TITUS: OBJECTION. THE ANSWER IS NOT RESPONSIVE.  
22 HIS ASSUMPTION?

23 MR. WAPNER: I CAN REPHRASE THE QUESTION.

24 THE COURT: MAYBE YOU CAN REPHRASE THE QUESTION.

25 MR. WAPNER: THANK YOU.

26 THE COURT: IT IS AT LEAST A PARTIAL ANSWER.

27 Q BY MR. WAPNER: WERE YOU DESIGNING THOSE OTHER  
28 TWO MACHINES FOR A SPECIFIC APPLICATION OR WERE THEY --

1 STRIKE THAT. WERE YOU DESIGNING THOSE OTHER TWO MACHINES  
2 FOR A SPECIFIC APPLICATION?

3 A YES.

4 Q WHAT WAS THAT?

5 A FOR GRINDING COAL.

6 Q THE CONTRACTS THAT YOU ENTERED INTO WITH SATURN  
7 ENERGY COMPANY AND U.F.O.I. COMPANY, WHAT APPLICATION OF THE  
8 MACHINE WERE THOSE CONTRACTS FOR?

9 A SINGULARLY FOR COAL.

10 Q SHOWING YOU A DOCUMENT THAT'S MARKED PEOPLE'S  
11 48 FOR IDENTIFICATION, HAVE YOU EVER SEEN THAT BEFORE?

12 A YES, I'VE SEEN IT.

13 Q IT REFERS TO A MEETING OF THE BOARD OF  
14 MICROGENESIS ON JUNE THE 7TH, AND IN THERE IT STATES THAT  
15 YOU ATTENDED THAT MEETING BY TELEPHONE. DO YOU SEE THAT  
16 THERE?

17 A YES, I DO.

18 Q DID YOU ATTEND SUCH A MEETING BY TELEPHONE?

19 A NO.

20 Q THANK YOU. DID YOU ATTEND SUCH A MEETING IN  
21 PERSON?

22 A NO.

23 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

24 THE COURT: ANY RECROSS?

25 MR. TITUS: NOTHING, YOUR HONOR.

26 THE COURT: ALL RIGHT. MAY THIS GENTLEMAN BE  
27 EXCUSED?

28 MR. WAPNER: YES, YOUR HONOR. NO OBJECTION.



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1 MR. TITUS: NO OBJECTION.

2 MR. WAPNER: I HAVE NO FURTHER WITNESSES TODAY, YOUR  
3 HONOR.

4 THE COURT: ALL RIGHT. WHAT TIME, GENTLEMEN, DID YOU  
5 WANT TO START TOMORROW MORNING?

6 MR. WAPNER: 9:30.

7 MR. TITUS: AS EARLY AS POSSIBLE.

8 THE COURT: ALL RIGHT. WE'LL TRY TO MAKE IT FOR  
9 9:30. IF WE CAN GET OUR OTHER MATTERS OUT HERE BEFORE THAT,  
10 WE'LL DO SO. ALL RIGHT. WE'LL RECESS UNTIL 9:30 TOMORROW  
11 MORNING IN THE CASE OF PEOPLE VERSUS JOE HUNT.

12 (AT 4:45 P.M., AN ADJOURNMENT WAS TAKEN UNTIL  
13 WEDNESDAY, MARCH 20, 1985, AT 9:30 A.M.)

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IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA  
HON. DAVID A. KIDNEY, JUDGE PRO TEM DIVISION I

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff, )  
vs. )  
JOE HUNT )  
aka: JOSEPH HENRY GAMSKY, )  
and )  
JAMES PITTMAN )  
aka: JAMES GRAHAM, Defendants.)

No. A 090435

I hereby certify that on the 18th & 19th days of March, 1985,  
ANN CLARK, Official Reporter of the above entitled court, was  
assigned as shorthand reporter to report the testimony and  
proceedings contained herein; and did act as such reporter, and  
was by me directed to reduce the said shorthand notes to  
typewriting.

*David A. Kidney*

Judge of the Municipal Court of Beverly Hills  
Judicial District, County of Los Angeles,  
State of California, Division I.

I hereby certify that I am an Official Shorthand Reporter  
of the above entitled court. Pursuant to the Judge's Certificate  
above, I was assigned to report and did so correctly report the  
testimony and proceedings contained herein; that the foregoing  
is a true and correct transcription of my said notes, and a full,  
true and correct statement of said testimony and proceedings.

*Ann Clark, CR#5058*

Official Reporter

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