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M A S T E R I N D E X

NOVEMBER 4, 2016

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M A S T E R I N D E X

NOVEMBER 4, 2016

EXHIBITS

<u>PLAINTIFF'S</u>	<u>MARKED</u>	<u>RECEIVED</u>	<u>WITHDRAWN REJECTED</u>
796	10813		

1 CASE NUMBER: BC470714
2 CASE NAME: DUVAL V COUNTY OF LOS ANGELES, ET AL
3 LOS ANGELES, CALIFORNIA FRIDAY, NOVEMBER 4, 2016
4 DEPARTMENT: 89 HON. WILLIAM A. MACLAUGHLIN, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: ALISIA PATRICIO, CSR NO. 13606
7 TIME: 9:11 A.M.
8

9 ---OOO---

10
11 THE COURT: ALL RIGHT. EVERYONE MAY BE
12 SEATED. WE'RE ON THE RECORD. EVERYONE IS PRESENT.
13 GOOD MORNING TO ALL OF OUR JURORS. JUST A QUICK WORD
14 OF WHAT WE'RE GOING TO DO. YOU'RE GOING TO BE HEARING
15 SOME ADDITIONAL EVIDENCE AT THIS TIME. THIS WILL BE
16 FAIRLY BRIEF. FOLLOWING THAT, IT WILL TAKE ME -- AFTER
17 WE HEAR WHAT EVIDENCE WE'RE GOING TO HEAR, IT'S GOING
18 TO TAKE ME A LITERALLY JUST A COUPLE OF MINUTES TO PUT
19 TOGETHER THE INSTRUCTION THAT I WILL GIVE YOU. THERE'S
20 GOING TO BE ONE SINGLE INSTRUCTION. AND WE HAVE THE
21 VERDICT FORM READY, AND THERE WILL BE CLOSING ARGUMENTS
22 ON THIS PHASE OF THE CASE AFTER THE EVIDENCE AND AFTER
23 I'VE SHOWN COUNSEL WHAT THE INSTRUCTION WILL BE.

24 FOLLOWING THOSE CLOSING ARGUMENTS, YOU'RE
25 GOING TO BE SENT OUT TO DELIBERATE. WE EXPECT TO HAVE
26 YOU OUT WITHIN THE HOUR.

27 SO AT THIS TIME, MR. MCMILLAN, DO YOU WANT TO
28 CALL YOUR FIRST WITNESS.

1 MR. MCMILLAN: YES, YOUR HONOR. PLAINTIFF
2 CALLS MS. KIMBERLY ROGERS.

3 THE COURT: MS. ROGERS I EXCUSED YOU BEFORE WE
4 NOW HAVE TO SWEAR YOU AGAIN.

5
6 KIMBERLY ROGERS,
7 WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY
8 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

9
10 THE CLERK: THANK YOU. YOU MAY BE SEATED.
11 FOR THE RECORD, PLEASE STATE YOUR NAME AND SPELL YOUR
12 FIRST AND LAST NAME FOR THE REPORTER.

13 THE WITNESS: K-I-M-B-E-R-L-Y, R-O-G-E-R-S.

14 THE COURT: THANK YOU.

15 GO AHEAD, MR. MCMILLAN.

16 MR. MCMILLAN: THANK YOU, YOUR HONOR.

17

18 DIRECT EXAMINATION

19 BY MR. MCMILLAN:

20 Q MS. ROGERS, YOU UNDERSTAND WHY YOU'RE HERE
21 TODAY; RIGHT?

22 A YES.

23 Q WE'LL JUST GET INTO IT THEN.

24 AM I CORRECT THAT FOR THE CALENDAR YEAR 2015,
25 YOUR TOTAL PAY AND BENEFIT, THE VALUE OF YOUR TOTAL PAY
26 AND BENEFITS WAS \$152,115?

27 A THAT MAY BE AROUND THAT FIGURE.

28 Q THE YEAR PRIOR TO THAT, 2014, IT WAS \$131,524?

1 MR. GUTERRES: OBJECTION. RELEVANCE.

2 THE COURT: SUSTAINED.

3 BY MR. MCMILLAN:

4 Q YOU OWN A HOME; CORRECT?

5 A YES.

6 Q YOUR HOME CURRENTLY IS VALUED AT \$717,659;
7 CORRECT?

8 A NO.

9 Q WHEN'S THE LAST TIME THAT YOU HAD A FORMAL
10 APPRAISAL ON YOUR HOME?

11 A SEPTEMBER 2016. I DON'T KNOW IF IT'S A
12 FORMAL, BUT.

13 Q WELL, DID SOMEBODY COME OUT FROM --

14 A YES.

15 Q WAIT UNTIL I'M FINISHED WITH THE QUESTION.

16 DID SOMEBODY COME OUT FROM A PROFESSIONAL
17 ORGANIZATION, SOMEBODY WITH A LICENSE, AND EVALUATE AND
18 VALUE, APPRAISE YOUR HOME?

19 A WE REFINANCED, SO YES. THEY CONDUCTED AN
20 APPRAISAL.

21 Q DO YOU RECALL THE EXACT VALUE IN TERMS OF THE
22 AMOUNT THAT THEY PLACED ON YOUR HOME?

23 A \$600,000.

24 Q WHEN WAS IT THAT YOU REFI'D?

25 A SEPTEMBER 2016, THIS YEAR.

26 Q SO JUST LAST MONTH?

27 A YES. WAIT, NO, WE'RE IN NOVEMBER NOW, SO
28 SEPTEMBER.

1 Q OH, RIGHT. SORRY.

2 WHAT WAS THE TOTAL AMOUNT OF THE DEBT THAT YOU
3 INCURRED IN THAT REFI?

4 A \$345,000.

5 Q DID YOU DO THAT REFINANCING BECAUSE YOU
6 ASSUMED WHAT THE VERDICT WOULD BE IN THIS TRIAL AND
7 YOU'RE TRYING TO HIDE ASSETS?

8 MR. GUTERRES: OBJECTION --

9 THE WITNESS: ABSOLUTELY NOT.

10 MR. GUTERRES: NO FOUNDATION. SPECULATION.

11 THE WITNESS: NO.

12 THE COURT: OVERRULED. SHE'S ANSWERED THE
13 QUESTION.

14 GO AHEAD.

15 BY MR. MCMILLAN:

16 Q DO YOU OWN ANY OTHER HOMES ANY RENTAL PROPERTY
17 OF ANY KIND?

18 A NO.

19 Q YOU'RE MARRIED?

20 MR. GUTERRES: OBJECTION. RELEVANCE.

21 THE COURT: SUSTAINED.

22 MR. MCMILLAN: YOUR HONOR, CAN I HAVE A
23 SIDEBAR?

24 THE COURT: NOT ON THAT.

25 BY MR. MCMILLAN:

26 Q IS THERE ANY OTHER SOURCE OF INCOME IN YOUR
27 HOUSEHOLD BESIDES YOU?

28 MR. GUTERRES: OBJECTION. RELEVANCE.

1 THE COURT: SUSTAINED.

2 MR. MCMILLAN: THANK YOU, YOUR HONOR. I HAVE
3 NO FURTHER QUESTIONS.

4 THE COURT: MR. GUTERRES?

5 MR. MCMILLAN: OH, I'M SORRY. I DO.

6 BY MR. MCMILLAN:

7 Q YOUR RETIREMENT, YOU'VE BEEN WITH THE COUNTY
8 OF LOS ANGELES DEPARTMENT OF CHILDREN AND FAMILY
9 SERVICES FOR HOW MANY YEARS?

10 A 19 YEARS.

11 Q 19 YEARS. AND AT SOME POINT WHEN YOU RETIRE,
12 YOU'RE VESTED IN THE RETIREMENT PROGRAM; CORRECT?

13 A YES.

14 Q WHAT ARE THE BENEFITS THAT YOU ANTICIPATE YOU
15 WILL BE GAINING FROM THAT INVESTMENT?

16 A I DON'T KNOW.

17 Q WHAT'S THE TOTAL AMOUNT OF THAT INVESTMENT,
18 THE VALUE OF THAT INVESTMENT, YOUR RETIREMENT?

19 A IT WAS INCLUDED IN THAT FIGURE THAT YOU
20 MENTIONED, THE 152. IT'S AROUND 20,000. I JUST
21 STARTED 401 PROGRAM.

22 Q SO THEY HAVE A 401(K) PROGRAM, OR IT MIGHT BE
23 A DIFFERENT SUBPARAGRAPH, BUT --

24 A THAT'S WHAT'S INCLUDED IN THE AMOUNT THAT YOU
25 QUOTED.

26 Q OKAY. AND IN ADDITION TO 401 PROGRAM, ISN'T
27 THERE ALSO A SEPARATE VESTING IN A SEPARATE RETIREMENT
28 PROGRAM, 401(K), SOMETHING YOU CAN DO ADDITIONALLY

1 THAT'S VOLUNTARY; CORRECT?

2 A THAT'S -- WHAT I JUST MENTIONED WAS WHAT
3 YOU'RE TALKING ABOUT.

4 Q SO I'M TALKING ABOUT THE PART OF YOUR
5 RETIREMENT PROGRAM THAT IS NOT COMPRISED OF A 401
6 COUNTING, WHAT IS THAT?

7 A I DON'T KNOW. I BELIEVE YOU'RE REFERRING TO
8 MY PENSION.

9 Q CORRECT.

10 A I DON'T KNOW WHAT THAT IS AT THIS TIME.

11 Q DO YOU KNOW WHETHER OR NOT YOUR PENSION IS
12 CALCULATED AS A PERCENTAGE OF THE AVERAGE OF YOUR LAST
13 THREE YEARS' HIGHEST SALARY?

14 A I'M NOT SURE IN REGARDS TO HOW IT'S CALCULATED
15 OR -- IT IS BASED ON THE YEARS THAT YOU WORKED, YES.

16 Q DO YOU HAVE ANY UNDERSTANDING AS TO WHETHER OR
17 NOT YOUR -- WELL, LET ME JUST ASK IT THIS WAY: AT SOME
18 POINT BEFORE YOU SIGNED ON TO THE PENSION PROGRAM,
19 SOMEBODY EXPLAINED TO YOU HOW IT WORKED; RIGHT?

20 A YES, WHEN I STARTED BACK IN 1997, YES.

21 Q AND YOU HAVEN'T TRACKED IT OR LOOKED AT IT
22 SINCE 1997?

23 A I'M NOT RETIRING ANY TIME SOON. I CAN'T TOUCH
24 IT, SO NOT REALLY, NO.

25 Q IS IT YOUR UNDERSTANDING THAT WHEN YOU DO
26 RETIRE, THAT YOU'LL RETIRE WITH 90 PERCENT OF THE
27 AVERAGE OF YOUR LAST THREE YEARS' HIGHEST SALARY FOR
28 THE REST OF YOUR LIFE?

1 MR. GUTERRES: OBJECTION. RELEVANCE.

2 THE COURT: SUSTAINED. LET ME SEE COUNSEL FOR
3 A MOMENT.

4 (THE FOLLOWING PROCEEDINGS WERE HELD AT
5 SIDEBAR.)

6 THE COURT: ALL RIGHT. WE'RE IN CHAMBERS AND
7 COUNSEL ARE PRESENT.

8 THE REASON I'M SUSTAINING SOME OBJECTIONS AND,
9 YOU KNOW, THE --

10 MR. MCMILLAN: COMMUNITY PROPERTY.

11 THE COURT: WELL, COMMUNITY PROPERTY COULD BE
12 SUBJECT TO EXECUTION OF A JUDGMENT. IT COULD ALSO BE
13 PART OF THE ASSET, COMMUNITY PROPERTY INTEREST IN
14 SOMETHING. SO WHAT I'M TRYING TO DO IS POINT OUT THAT
15 THE REASON I'VE SUSTAINED SOME OBJECTIONS ABOUT INCOME
16 AND SO ON, INCOME IS NOT THE TEST. THE EVIDENCE OF
17 INCOME NORMALLY WOULD ONLY BE USED IN A PUNITIVE DAMAGE
18 PHASE IN A SITUATION WHERE SOMEONE HAS NO NET WORTH OR
19 IN A SITUATION WHERE SOMEONE HAS REFUSED A COURT ORDER
20 TO PRODUCE DOCUMENTS FOR A PUNITIVE DAMAGE PHASE. SO
21 IN OTHER WORDS, SOMETIMES THEY JUST WON'T DO IT. SO
22 WHEN THEY WON'T DO IT, THEY CAN'T HAVE THE ADVANTAGE OF
23 AVOIDING EVIDENCE ABOUT FINANCIAL ABILITY.

24 SO IF SOMEONE SPECIFICALLY DECLINES, IT DOES
25 HAPPEN, THEY JUST WON'T BRING IT IN, THEN YOU'RE
26 DEPRIVED OF THE OPPORTUNITY TO PRESENT EVIDENCE OF NET
27 WORTH.

28 SO INCOME CAN BECOME IMPORTANT. NONE OF THESE

1 INSTANCES ARE HERE, SO THE REASON I'VE BEEN SUSTAINING
2 THE OBJECTIONS IS YOU SIMPLY HAVE TO ESTABLISH WHAT THE
3 NET WORTH WOULD BE, AND THAT HAS TO BE ASSETS MINUS
4 LIABILITIES. THAT'S YOUR NET WORTH. SO IF YOU DON'T
5 ESTABLISH NET WORTH, THEN YOU WOULD BE NONSUITED --

6 MR. MCMILLAN: RIGHT.

7 THE COURT: -- AND YOU HAVEN'T ESTABLISHED IT.
8 SO I DIDN'T CATCH IT BECAUSE I WAS TRYING TO GET MY
9 REALTIME WORKING, BUT I KNOW SHE DID TALK ABOUT
10 REFINANCING THE HOME.

11 MR. MCMILLAN: IT WAS 345.

12 THE COURT: 345. AND I THINK SHE GAVE AN
13 EARLIER -- HER ON ESTIMATE I BELIEVE OF AROUND 600 AND
14 YOU ASKED HER ABOUT A HIGHER VALUE AND SHE SAID NO.

15 MR. MCMILLAN: RIGHT.

16 THE COURT: SO I'M NOT TRYING TO PREVENT YOU
17 FROM PRESENTING YOUR EVIDENCE NOR MR. GUTERRES'S
18 OBJECTIONS NOR PREVENTING YOU FROM ESTABLISHING A NET
19 WORTH SO YOU JUST HAVE TO GO WITH WHATEVER THE
20 QUESTIONS YOU HAVE ABOUT SOME ASSET TO FIND OUT WHAT IT
21 IS. SO WHAT THE PENSION WOULD PAY HER, FOR EXAMPLE, IF
22 SHE HAS A PENSION.

23 MR. MCMILLAN: IT'S NOT NECESSARILY.

24 THE COURT: UNCLEAR WHAT THE PENSION WOULD
25 PAY. IT'S A DIFFERENT SUBJECT.

26 MR. MCMILLAN: RIGHT.

27 THE COURT: FOR YOUR PART OF THIS YOU WANT TO
28 BE ABLE TO ESTABLISH WHETHER OR NOT -- I WOULD BELIEVE

1 IF SHE HAS A VALUE OF WHATEVER RETIREMENT ACCOUNTS SHE
2 HAS, SHE MAY OR MAY NOT. SHE INDICATED SHE HADN'T
3 CHECKED ON IT. I'M NOT PRECLUDING YOU FROM INQUIRING
4 ABOUT THAT, BUT IF YOU'RE NOT READY -- YOU'RE OLD
5 ENOUGH TO THINK ABOUT RETIRING, NEITHER AM I.

6 MR. MCMILLAN: I'M NOT.

7 THE COURT: THAT'S NOT QUITE A FAIR STATEMENT.
8 LET'S JUST SAY I'VE NEVER CHECKED ON ANY RETIREMENT
9 ASSET BECAUSE IT DOESN'T MAKE ANY DIFFERENCE TO ME.
10 AND THAT'S WHY SHE HASN'T OR AT LEAST THAT'S WHAT SHE
11 SAYS. SO YOU CAN INQUIRE ABOUT THE VALUE OF THE
12 ASSETS, IF SHE HAS A 401(K), HOW MUCH IS IN THERE.
13 DOES SHE HAVE AN OWNERSHIP INTEREST IN ANY OTHER REAL
14 PROPERTY? YOU DID ASK HER THAT.

15 MR. MCMILLAN: I DID.

16 THE COURT: AND THAT WOULD COVER COMMUNITY
17 PROPERTY.

18 MR. MCMILLAN: RIGHT. OKAY.

19 THE COURT: AND SO FOR ANY ASSET, THOUGH, IT
20 ISN'T SUFFICIENT TO JUST ESTABLISH THE VALUE OF THE
21 ASSET BECAUSE YOU HAVE TO ESTABLISH NET WORTH. AND SO
22 ANYTHING YOU INTEND TO INQUIRE ABOUT WHAT SHE HAS, IT
23 ISN'T ENOUGH JUST TO ESTABLISH WHAT THE VALUE OF IT IS.
24 SO AS AN EXAMPLE, DO YOU HAVE A HOME? YES. WHAT'S IT
25 WORTH? \$600,000. IF YOU HADN'T ESTABLISHED IT'S A
26 LIABILITY, THE \$345,000 THAT VALUE OF THE HOME BECOMES
27 IRRELEVANT. NOT IRRELEVANT BUT IT DOESN'T SATISFY THE
28 BURDEN OF PROOF. THAT'S WHY I'M SUSTAINING SOME OF THE

1 OBJECTIONS. I'M NOT TRYING TO MAKE A MYSTERY OF IT.

2 ALL RIGHT LET'S RETURN TO THE COURTROOM.

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN
4 OPEN COURT IN THE PRESENCE OF THE
5 JURY.)

6 THE COURT: ALL RIGHT. WE'RE BACK ON THE
7 RECORD.

8 MR. MCMILLAN: MY TURN?

9 THE COURT: YES. GO AHEAD.

10 MR. MCMILLAN: THANK YOU, YOUR HONOR.

11 BY MR. MCMILLAN:

12 Q WE WERE TALKING ABOUT MOMENT AGO ABOUT YOUR
13 401 PROGRAM. DO YOU KNOW HOW MUCH MONEY YOU HAVE IN
14 THAT PROGRAM?

15 MR. GUTERRES: OBJECTION. ASKED AND ANSWERED.

16 THE COURT: OVERRULED.

17 THE WITNESS: I DON'T KNOW THE EXACT AMOUNT.
18 IT'S AROUND PROBABLY LIKE \$20,000.

19 BY MR. MCMILLAN:

20 Q DO YOU HAVE ANY OTHER IRA ACCOUNTS OR OTHER
21 RETIREMENT ACCOUNTS OF ANY KIND?

22 A NO.

23 Q WHAT ABOUT DOES ANYONE ELSE IN YOUR FAMILY,
24 SPECIFICALLY SOMEONE YOU'RE MARRIED TO, FOR EXAMPLE,
25 HAVE ANY RETIREMENT ACCOUNTS THAT YOU KNOW OF?

26 MR. GUTERRES: OBJECTION. RELEVANCE.

27 THE COURT: OVERRULED. AS TO THAT QUESTION.

28 THE WITNESS: YES.

1 THE COURT: IT HAS TO BE LIMITED TO A SPOUSE
2 HOWEVER.

3 MR. MCMILLAN: CORRECT. THAT'S WHAT I'M
4 LOOKING FOR IS YOUR SPOUSE.

5 THE WITNESS: YES.

6 BY MR. MCMILLAN:

7 Q HOW MUCH IS IN THAT ACCOUNT?

8 A I DON'T KNOW.

9 Q IS THAT ACCOUNT THROUGH YOUR SPOUSE'S WORK?

10 A YES.

11 Q DO YOU KNOW HOW LONG YOUR SPOUSE HAS BEEN
12 CONTRIBUTING TO THAT ACCOUNT?

13 A ABOUT A YEAR.

14 Q IS THAT DONE ON A MONTHLY BASIS, OR HOW DOES
15 THAT HAPPEN, IF YOU KNOW?

16 A I DON'T KNOW.

17 Q I THINK YOU ALREADY TOLD ME THIS, YOU DON'T
18 KNOW HOW MUCH IS IN THAT ACCOUNT?

19 A I DON'T.

20 Q DOES YOUR SPOUSE HAVE ANY OWNERSHIP IN ANY
21 REAL PROPERTY?

22 MR. GUTERRES: OBJECTION. RELEVANCE.

23 THE COURT: OVERRULED.

24 THE WITNESS: WHEN YOU SAY "REAL PROPERTY,"
25 OTHER THAN THE HOME WE LIVE IN?

26 BY MR. MCMILLAN:

27 Q RIGHT. OTHER THAN THE HOUSE YOU LIVE IN?

28 A NO.

1 Q I ALSO NOTICED THAT YOU LISTED A COUPLE
2 AUTOMOBILES ON YOUR LIST HERE, MERCURY SABLE AND A
3 HONDA ACCORD.

4 DO YOU HAVE AN ESTIMATE OF THE VALUE OF THOSE?

5 A CAN I REFER TO MY NOTES?

6 Q ABSOLUTELY.

7 A THE 2003 MERCURY SABLE WE OWE ABOUT 4,000, AND
8 ON THE 2010 HONDA ACCORD, ABOUT 5,000.

9 Q THAT'S HOW MUCH THEY'RE WORTH, OR THAT'S HOW
10 MUCH YOU OWE?

11 A THAT'S HOW MUCH I OWE.

12 Q HOW MUCH DID YOU PAY FOR THOSE CARS?

13 MR. GUTERRES: OBJECTION. RELEVANCE.

14 THE COURT: SUSTAINED. YOU CAN ASK ABOUT
15 PRESENT VALUE.

16 BY MR. MCMILLAN:

17 Q WHAT'S YOUR ESTIMATE, YOUR BEST ESTIMATE OF
18 THE PRESENT VALUE OF THOSE CARS?

19 A PROBABLY WHAT I OWE ON IT. I DON'T KNOW.

20 Q DO YOU HAVE ANY SAVINGS ACCOUNTS?

21 A YES.

22 Q HOW ABOUT CHECKING ACCOUNTS, DO YOU HAVE A
23 CHECKING ACCOUNT?

24 A YES.

25 Q HOW MUCH IS IN YOUR SAVINGS ACCOUNT?

26 A AROUND 500.

27 Q 500,000?

28 A DOLLARS.

1 Q \$500.

2 HOW ABOUT YOUR CHECKING ACCOUNT?

3 A I DON'T KNOW AT THE PRESENT MOMENT THE EXACT
4 AMOUNT.

5 Q ARE YOU THE BENEFICIARY OF ANY TRUST?

6 A NO.

7 Q HOW ABOUT CREDIT CARD DEBT, DO YOU HAVE CREDIT
8 CARD DEBT?

9 A YES.

10 Q HOW MUCH TOTAL?

11 A AROUND 50,000.

12 Q I'M GOING TO SHOW YOU A DOCUMENT, WE'LL MARK
13 IT AS EXHIBIT 796.

14 (PLAINTIFF'S EXHIBIT NO. 796, WAS
15 MARKED FOR IDENTIFICATION BY THE
16 COURT.)

17 BY MR. MCMILLAN:

18 Q IS THAT THE SAME NOTES YOU'RE LOOKING AT?

19 A YES.

20 Q CAN YOU TOTAL UP THOSE THREE ITEMS FOR ME?

21 A THIS IS ON -- I DON'T PAY.

22 Q OKAY. AM I CORRECT THAT --

23 MR. GUTERRES: YOUR HONOR, IF I MAY JUST LOOK
24 AT WHAT HE'S SHOWING --

25 THE COURT: YES.

26 MR. GUTERRES: -- THE WITNESS?

27 BY MR. MCMILLAN:

28 Q AM I CORRECT, MA'AM, THAT THE TOTAL FOR THE

1 ITEMS YOU'VE IDENTIFIED AS CREDIT CARD DEBT, THAT WOULD
2 INCLUDE CREDIT CARD NO. 1, NO. 2, AND NO. 3, IS
3 APPROXIMATELY \$37,000?

4 A YES.

5 Q OKAY. THEN YOU HAVE SOME DENTAL WORK HERE
6 THAT YOU HAD DONE?

7 A YES.

8 Q AND YOU OWE ABOUT \$11,000 FOR THAT DENTAL
9 WORK?

10 A YES.

11 MR. MCMILLAN: NO FURTHER QUESTIONS, YOUR
12 HONOR.

13 THE COURT: ALL RIGHT. MR. GUTERRES OR
14 MS. SWISS? I'M NOT SURE WHICH.

15 MR. GUTERRES: THANK YOU, YOUR HONOR.

16

17

CROSS-EXAMINATION

18 BY MR. GUTERRES:

19 Q GOOD MORNING, MS. ROGERS.

20 A GOOD MORNING.

21 Q WITH REGARD TO YOUR SALARY THAT YOU RECEIVE,
22 CAN YOU TELL US ON A MONTHLY BASIS HOW MUCH YOU'RE
23 ACTUALLY GETTING?

24 A ABOUT \$5,200.

25 Q AND THAT GETS DEPOSITED?

26 A YES.

27 Q HOW DO YOU ACTUALLY GET THAT? IN A CHECK OR
28 SOME OTHER WAY?

1 A AUTOMATIC DEPOSIT TWICE A MONTH.

2 Q LET ME ASK ABOUT YOUR MONTHLY EXPENSES.

3 ARE YOU PAYING ANY MONTHLY EXPENSES FOR THE
4 MERCURY? HOW MUCH ARE YOU PAYING FOR THE MERCURY ON A
5 MONTHLY BASIS?

6 MR. MCMILLAN: OBJECTION. RELEVANCE.

7 THE COURT: OVERRULED.

8 THE WITNESS: INCLUDING INSURANCE, 250 A
9 MONTH.

10 BY MR. GUTERRES:

11 Q THAT'S FOR THE INSURANCE?

12 A INCLUDING INSURANCE -- WELL.

13 Q HOW ABOUT FOR THE HONDA ACCORD?

14 A ABOUT 350 A MONTH ON THAT -- WELL, INCLUDING
15 INSURANCE, ABOUT 500 A MONTH.

16 Q YOU ALSO --

17 A AND I HAVE LEASE AS WELL.

18 Q AND HOW MUCH ARE YOU PAYING PER MONTH ON THAT
19 VEHICLE?

20 A \$504 A MONTH.

21 Q OTHER THAN THE DEBTS THAT YOU'VE ALREADY
22 IDENTIFIED, DO YOU HAVE ANY OTHER DEBTS OR EXPENSES
23 THAT YOU PAY OUT ON A MONTHLY BASIS?

24 MR. MCMILLAN: OBJECTION. COMPOUND. AND
25 VAGUE.

26 THE COURT: OVERRULED.

27 THE WITNESS: WITH UTILITIES AND COLLEGE
28 EXPENSES AND DAY CARE, IT COMES TO ABOUT --

1 BY MR. GUTERRES:

2 Q WELL, LET'S --

3 A ON A MONTH, IT'S HARD TO SAY, BUT, LIKE, WITH
4 UTILITIES AND OTHER EXPENSES, ABOUT LIKE 2,000 A MONTH.

5 Q AND THAT WOULD BE THE UTILITIES, AFTER-SCHOOL
6 CARE, AND TUITION FOR YOUR CHILDREN?

7 A YES.

8 Q HAVE WE NOW COVERED ALL OF YOUR MONTHLY
9 EXPENSES?

10 A I BELIEVE SO.

11 THE COURT: MR. MCMILLAN?

12

13 REDIRECT EXAMINATION

14 BY MR. MCMILLAN:

15 Q MS. ROGERS, YOU KNEW THAT LAST NIGHT YOUR
16 ATTORNEY SENT ME A BRIEF STATEMENT OF YOUR ASSETS AND
17 LIABILITIES; CORRECT?

18 A YES.

19 Q AND YOU KNEW THAT YOU'D BE COMING IN HERE
20 TODAY TO TALK ABOUT THE NUMBERS THAT YOU PUT DOWN ON
21 THIS STATEMENT OF ASSETS AND LIABILITIES; CORRECT?

22 A YES.

23 Q AND THEN YOU JUST TOLD US HERE THAT -- AND
24 THIS IS JUST A COUPLE OF EXAMPLES -- YOUR MERCURY
25 SABLE, YOU'RE PAYING \$250 PER MONTH; RIGHT?

26 A I'M FACTORING IN INSURANCE AS WELL.

27 Q WELL, MA'AM, ON YOUR LIST THAT YOU PUT
28 TOGETHER LAST NIGHT, YOU SAY IT'S \$150. YOU'RE TELLING

1 US THAT YOU DIDN'T FACTOR IN ALL THE COSTS --

2 A FOR THE CAR NOTE. FOR THE CAR NOTE. HE ASKED
3 ME HOW MUCH DO I PAY FOR THE CAR NOTE. I DIDN'T
4 INCLUDE THE INSURANCE.

5 Q NOW, I SUPPOSE THE SAME IS TRUE FOR THE HONDA,
6 YOU DIDN'T INCLUDE THE INSURANCE WHEN YOU GAVE YOUR
7 ATTORNEY THE DOCUMENT THAT YOU KNEW WE WERE GOING TO
8 RELY ON HERE TODAY IN COURT, DID YOU?

9 A HE ASKED MORE IN DEPTH. LAST NIGHT WHEN I
10 RECEIVED THE INFORMATION, IT WAS VERY LATE IN THE
11 EVENING, WELL, AND I WAS JUST TRYING TO PROVIDE THE
12 INFORMATION AS ACCURATE AS POSSIBLE.

13 Q HOW MUCH DO YOU PAY, WITHOUT LOOKING AT YOUR
14 LIST THERE -- CAN YOU DO ME A FAVOR AND JUST TURN YOUR
15 LIST OVER?

16 A YOU CAN GO AHEAD AND ASK THE QUESTION. I'M
17 LOOKING AT YOU.

18 Q OKAY. HOW MUCH DO YOU PAY EACH MONTH FOR YOUR
19 DAUGHTER'S AFTER-SCHOOL CARE?

20 A 300 A MONTH.

21 Q HOW MUCH DO YOU PAY EACH MONTH FOR YOUR
22 COLLEGE TUITION FOR YOUR SON?

23 A ABOUT 2,600 EVERY QUARTER.

24 Q EVERY QUARTER. SO WHAT'S THAT, ABOUT 850 OR
25 SO, 900 A MONTH?

26 A I'D NEED A CALCULATOR TO BREAK IT DOWN.

27 Q WELL, WE'RE TALKING ABOUT, BASICALLY, YOUR
28 ABILITY TO PAY HERE. YOUR SPOUSE CONTRIBUTES TO SOME

1 OF THESE EXPENSES; RIGHT?

2 MR. GUTERRES: OBJECTION. RELEVANCE.

3 THE COURT: OVERRULED.

4 THE WITNESS: YES, HE DOES HELP.

5 BY MR. MCMILLAN:

6 Q HE'S GOT A FULL-TIME JOB?

7 A PART-TIME.

8 Q PART-TIME. WHAT'S HE DO?

9 A HE'S A PHLEBOTOMIST.

10 Q THAT'S SOMEBODY WHO DRAWS BLOOD; RIGHT?

11 A YES.

12 Q A MEDICAL PROFESSIONAL?

13 A YES, HE'S A MEDICAL PROFESSIONAL.

14 Q DOES HE WORK IN A HOSPITAL?

15 A YES, HE WORKS IN A HOSPITAL.

16 Q ABOUT HOW MUCH A YEAR DOES HE CONTRIBUTE TO
17 YOUR MONTHLY EXPENSES HERE? OR HOW MUCH A MONTH DOES
18 HE CONTRIBUTE TO YOUR MONTHLY EXPENSES HERE?

19 A EVERYTHING THAT WE MAKE, WE -- HE
20 CONTRIBUTES -- HE JUST HELPS WITH WHATEVER WE NEED TO
21 PAY FOR.

22 Q ARE YOU SORRY FOR WHAT YOU DID?

23 MR. GUTERRES: OBJECTION. RELEVANCE.

24 THE COURT: SUSTAINED.

25 MR. MCMILLAN: NO FURTHER QUESTIONS, YOUR
26 HONOR.

27 THE COURT: ANYTHING ELSE?

28 MR. GUTERRES: NO, YOUR HONOR.

1 THE COURT: ALL RIGHT. YOU ARE EXCUSED.
2 THANK YOU.

3 CALL YOUR NEXT WITNESS, MR. MCMILLAN.

4 MR. MCMILLAN: PLAINTIFF WILL CALL MS. SUSAN
5 PENDER.

6 THE COURT: ALL RIGHT.

7 (A DISCUSSION WAS HELD OFF THE RECORD.)
8

9 SUSAN PENDER,
10 WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY
11 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:
12

13 THE CLERK: FOR THE RECORD, PLEASE STATE YOUR
14 NAME AND SPELL YOUR FIRST AND LAST NAME.

15 THE WITNESS: S-U-S-A-N, P-E-N-D-E-R.

16 THE CLERK: THANK YOU.

17 THE COURT: GO AHEAD, MR. MCMILLAN.

18 MR. MCMILLAN: THANK YOU, YOUR HONOR.
19

20 DIRECT EXAMINATION

21 BY MR. MCMILLAN:

22 Q GOOD MORNING, MS. PENDER.

23 CAN YOU TELL US THE TOTAL OF ALL YOUR
24 LIABILITIES? DEBT, WHAT YOU OWE, HOW MUCH DO YOU OWE
25 IN TOTAL?

26 WELL, LET ME IS ASK IT FIRST: WITHOUT
27 LOOKING -- IF YOU DON'T REMEMBER, JUST TELL ME YOU
28 DON'T REMEMBER, AND WE'LL REFRESH YOUR RECOLLECTION.

1 DO YOU KNOW, WITHOUT LOOKING, HOW MUCH MONEY
2 YOU OWE?

3 A NO, I DON'T KNOW.

4 Q DO YOU KNOW, WITHOUT LOOKING, THE TOTAL VALUE
5 OF ANY BANK ACCOUNTS, INCLUDING RETIREMENT ACCOUNTS
6 THAT YOU HAVE?

7 A NO, I DON'T KNOW.

8 Q GO AHEAD AND LOOK. TAKE A MOMENT REFRESH YOUR
9 RECOLLECTION.

10 A APPROXIMATELY \$11,400, BUT THAT DOESN'T
11 INCLUDE -- I HAVE A LOT MORE MEDICAL BILLS COMING IN
12 EVERY MONTH. SO THAT'S ONLY -- THERE ARE MORE MEDICAL
13 BILLS COMING IN ALL THE TIME.

14 Q WELL, MA'AM, AS PART OF YOUR BENEFIT PACKAGE
15 WITH THE COUNTY OF LOS ANGELES, YOU HAVE MEDICAL
16 INSURANCE; RIGHT?

17 A I NO LONGER HAVE MEDICAL INSURANCE WITH THE
18 COUNTY. I HAVE TO PAY FOR THAT OUT OF MY OWN POCKET
19 RIGHT NOW. MEDICAL INSURANCE COMES OUT OF MY OWN
20 POCKET. COUNTY DOESN'T PAY FOR IT ANYMORE.

21 Q UP UNTIL WHAT POINT IN TIME DID THE COUNTY PAY
22 FOR IT?

23 A MAY OF 2015.

24 Q DO YOU OWN A HOME?

25 A WAIT, NO CORRECT THAT. COUNTY WASN'T PAYING
26 FOR IT UP UNTIL THEN EITHER. THEY -- I WAS PAYING
27 COBRA FOR ABOUT A YEAR BEFORE THAT.

28 Q PAYING WHAT?

1 A SO THAT CAME OUT OF MY POCKET FOR ABOUT A YEAR
2 BEFORE THAT. IT WAS THROUGH COBRA, BUT I HAD TO PAY
3 FOR IT MYSELF.

4 Q WHEN YOU SAY IT WAS COBRA, THAT WAS JUST THE
5 INSURANCE PREMIUM; CORRECT?

6 A CORRECT. I DON'T KNOW WHAT ELSE YOU'RE ASKING
7 ME ABOUT.

8 Q WELL, IN RELATION TO THE MEDICAL EXPENSES,
9 WHEN YOU'RE PAYING COBRA PAYMENTS, THAT'S JUST THE
10 INSURANCE PREMIUMS. SO YOU STILL HAVE INSURANCE THAT
11 COVERS THE COST OF YOUR MEDICAL; CORRECT?

12 A IT DIDN'T COVER VERY MUCH. COBRA WAS \$565 OUT
13 OF MY OWN POCKET, AND THAT DID NOT INCLUDE ALL THE
14 OUT-OF-POCKET COSTS.

15 Q NOW, IN TERMS OF ASSETS, YOU HAVE LISTED HERE
16 A CHECKING ACCOUNT; RIGHT?

17 A CORRECT.

18 Q HOW MUCH IS IN THAT ACCOUNT?

19 A \$2,010.26.

20 Q AND YOU HAVE A SAVINGS ACCOUNT THERE?

21 A YEAH.

22 Q DO YOU HAVE ANY OTHER BANK ACCOUNTS, 401(K) OR
23 IRA OR ANYTHING LIKE THAT?

24 A WELL, RETIREMENT. THERE'S NOT MUCH THERE.

25 Q SO YOU DO HAVE A RETIREMENT ACCOUNT?

26 A NOT MUCH.

27 Q BUT YOU DO HAVE ONE?

28 A CORRECT.

1 Q IS THERE A REASON YOU DIDN'T LIST IT HERE ON
2 YOUR ASSET SHEET?

3 A BECAUSE I DON'T KNOW HOW MUCH IT IS. THERE'S
4 NOT MUCH THERE.

5 Q WHAT ABOUT YOUR SPOUSE, DOES HE HAVE A
6 RETIREMENT ACCOUNT?

7 A I DON'T HAVE A SPOUSE.

8 MR. MCMILLAN: I HAVE NO FURTHER QUESTIONS,
9 YOUR HONOR.

10 THE COURT: MR. GUTERRES?

11

12 CROSS-EXAMINATION

13 BY MR. GUTERRES:

14 Q GOOD MORNING, MS. PENDER.

15 AS FAR AS MONTHLY PAYMENTS OR INCOME OF ANY
16 SORT, HOW MUCH ARE YOU GETTING AT THE PRESENT TIME?

17 A TWO-THOUSAND -- I'M CURRENTLY ON DISABILITY,
18 SO IT'S \$2,561.

19 Q AND MR. MCMILLAN COVERED THE AMOUNTS THAT YOU
20 HAVE IN YOUR CHECKING ACCOUNT.

21 HOW MUCH DO YOU HAVE IN YOUR SAVINGS?

22 A \$25.

23 Q AS FAR AS EXPENSES, HOW MUCH -- ARE YOU LIVING
24 IN A RENTAL?

25 A YES.

26 Q AND HOW MUCH DO YOU PAY PER MONTH?

27 A \$1,280.

28 Q AND AS FAR AS CREDIT CARD DEBT, CAN YOU TELL

1 US WHAT YOUR CREDIT CARD DEBT IS AT THE MOMENT?

2 A I BELIEVE I SAID THAT I TRIED TO ADD IT UP IN
3 MY HEAD. IT'S ABOUT 11,000. A LOT OF THAT IS DUE TO
4 MEDICAL BILLS.

5 Q AND YOU RECEIVED -- RIGHT NOW YOU HAVE SOME
6 MONIES OWED TO A HOSPITAL?

7 A YES.

8 Q AND HOW MUCH IS THAT?

9 A \$4,110.

10 Q ANY OTHER MONTHLY EXPENSES?

11 A UTILITIES, CAR INSURANCE, WHICH I DON'T DRIVE
12 THE CAR, BUT I STILL PAY INSURANCE. YEAH.

13 Q DO YOU KNOW HOW MUCH YOUR UTILITIES ARE PER
14 MONTH?

15 A ABOUT 300. IT'S CABLE AND ELECTRIC. I GUESS
16 IT'S 300-SOMETHING.

17 Q THANK YOU, MS. PENDER.

18 THE COURT: MR. MCMILLAN?

19 MR. MCMILLAN: THANK YOU, YOUR HONOR.

20

21 REDIRECT EXAMINATION

22 BY MR. GUTERRES:

23 Q NOW, MS. PENDER, LIKE MS. ROGERS, YOU ALSO PUT
24 TOGETHER A STATEMENT OF ASSETS AND LIABILITIES; RIGHT?

25 A CORRECT.

26 Q AND YOU KNEW THAT THAT STATEMENT WOULD BE
27 TRANSMITTED TO US?

28 A YES.

1 Q SO YOU UNDERTOOK TO BE TRUTHFUL, HONEST,
2 ACCURATE, AND COMPLETE IN PUTTING TOGETHER THIS
3 STATEMENT; RIGHT?

4 A ABSOLUTELY.

5 Q WHY DID YOU LEAVE OFF UTILITIES AND CAR
6 INSURANCE THEN?

7 A I DON'T THINK HE ASKED ME ABOUT THAT.

8 Q SO YOU ONLY INCLUDED THE THINGS THAT HE
9 SPECIFICALLY ASKED YOU ABOUT?

10 A I DON'T KNOW WHAT YOU'RE ASKING ME RIGHT NOW.

11 Q WELL, MAYBE I MISUNDERSTOOD.

12 WHEN YOU WERE TRYING TO PUT TOGETHER THIS
13 TRUTHFUL, HONEST, ACCURATE, AND COMPLETE STATEMENT OF
14 ASSETS AND LIABILITIES, DID I UNDERSTAND YOU CORRECTLY
15 THAT YOU ONLY LISTED ON IT THE THINGS MR. GUTERRES
16 SPECIFICALLY ASKED YOU TO LIST ON IT?

17 A I TOLD HIM WHATEVER HE ASKED ME, YES. AND I
18 DON'T UNDERSTAND THE QUESTION. IF YOU'RE IMPLYING I
19 LIED ABOUT ANYTHING, IT'S NOT THE CASE.

20 Q I'M SORRY?

21 A I DON'T LIE.

22 Q YOU DON'T LIE.

23 A NO, I DON'T.

24 Q BUT YOU DID LEAVE SOME STUFF OFF?

25 MR. GUTERRES: OBJECTION. ARGUMENTATIVE.

26 THE COURT: SUSTAINED.

27 MR. MCMILLAN: NO FURTHER QUESTIONS, YOUR
28 HONOR.

1 THE COURT: ANYTHING ELSE, MR. GUTERRES?

2 MR. GUTERRES: NO, YOUR HONOR.

3 THE COURT: MS. PENDER, THANK YOU VERY MUCH.
4 YOU ARE EXCUSED. MR. MCMILLAN, ANY FURTHER WITNESSES?

5 MR. MCMILLAN: NO, YOUR HONOR, NO FURTHER
6 WITNESSES.

7 THE COURT: ALL RIGHT. MR. GUTERRES?

8 MR. GUTERRES: NONE, YOUR HONOR.

9 THE COURT: BOTH SIDES REST ON THIS ISSUE?

10 MR. MCMILLAN: THAT'S AFFIRMATIVE, YOUR HONOR.

11 MR. GUTERRES: YES FOR US.

12 THE COURT: ALL RIGHT. LET ME SEE COUNSEL
13 WITH THE REPORTER, PLEASE. JUST A FEW MINUTES, AND
14 I'LL HAVE THE JURY STAY IN PLACE.

15 (THE FOLLOWING PROCEEDINGS WERE HELD AT
16 SIDEBAR.)

17 THE COURT: ALL RIGHT WE'RE IN CHAMBERS AND
18 COUNSEL ARE PRESENT. AND I HAVE THE INSTRUCTION 3942.

19 MR. MCMILLAN: DO YOU MIND IF I TAKE OFF MY
20 COAT?

21 THE COURT: NO, GO AHEAD. EVEN FOR A MINUTE
22 HELPS.

23 MR. MCMILLAN: EVERY SECOND HELPS.

24 THE COURT: I WISH WE HAD AIR-CONDITIONED
25 COLD.

26 MR. MCMILLAN: THAT WOULD BE GREAT.

27 THE COURT: THAT WOULD BE GREAT, WOULDN'T IT?

28 MR. MCMILLAN: THAT WOULD BE WONDERFUL.

1 THE COURT: ALL RIGHT. I'M GOING TO GIVE THE
2 DEFENDANTS' VERSION OF THIS ONE INSTRUCTION 3942. I'M
3 TAKING OUT THE BRACKETED PART FROM SUBPARAGRAPH B. I
4 AM INCLUDING THE LANGUAGE IN C ABOUT ABILITY TO PAY.
5 I'LL GIVE THE LAST PARAGRAPH ABOUT IT HAS TO BE ANY
6 PUNISHMENT -- HAS TO BE FOR THE IMPACT ON THE PLAINTIFF
7 AND NOT OTHER PERSONS. I DON'T THINK ANYONE WOULD
8 OTHER SIDE CONSTRUE IT DIFFERENTLY, BUT I'LL INCLUDE
9 THE LANGUAGE.

10 SO I'VE REDONE THE INSTRUCTION. SO OUR CLERK
11 SEEMS TO WANT TO DO A TEAR OFF. I THOUGHT ABOUT
12 TALKING HIM OUT OF THAT, BUT IT WASN'T WORTH IT. SO
13 I'VE RECOPIED OUR INSTRUCTION, SO HE CAN TEAR OFF THE
14 TOP. AND SO WITH THAT, WE WILL -- WE HAVE THE VERDICT
15 FORM, AND WE HAVE THE INSTRUCTION I'M GOING TO GIVE.
16 SO IT'S UP TO YOU. HAVE TO PUT THAT COAT BACK ON.

17 MR. MCMILLAN: OH, MAN. I WAS HOPING I COULD
18 GET JUST A FEW SECONDS' DELAY.

19 THE COURT: AND WE'LL GO BACK OUT AS SOON AS
20 YOU'RE FULLY CLOTHED.

21 MR. MCMILLAN: READY TO GO.

22 THE COURT: AND WE'LL HAVE -- AND IT IS
23 CLOSING ARGUMENT, SO YOU WILL HAVE AN OPENING, YOU WILL
24 ALSO HAVE A REPLY. LET'S NOT BELABOR THIS. I'M NOT
25 TRYING TO TALK YOU OUT OF SAYING WHAT YOU NEED TO SAY,
26 BUT THERE'S NOT A LOT TO SAY.

27 MR. MCMILLAN: YOUR HONOR, I CAN EASILY GET IT
28 DONE IN 40 MINUTES.

1 THE COURT: YOU'LL BE TALKING TO AN EMPTY
2 ROOM.

3 MR. MCMILLAN: I GET IT. I'LL BE QUICK.

4 THE COURT: OKAY. THAT'S GOOD.

5 (THE FOLLOWING PROCEEDINGS WERE HELD IN
6 OPEN COURT IN THE PRESENCE OF THE
7 JURY.)

8 THE COURT: ALL RIGHT. WE'RE BACK ON THE
9 RECORD.

10 LADIES AND GENTLEMEN OF THE JURY, I HAVE AN
11 INSTRUCTION TO GIVE YOU ON THIS PHASE OF THE CASE.
12 THERE'S SIMPLY ONE ADDITIONAL INSTRUCTION. I WILL HAVE
13 THE OTHER INSTRUCTIONS WHICH WERE PROVIDED TO YOU --
14 PROVIDED TO YOU FOR YOUR DELIBERATIONS. ALL
15 INSTRUCTIONS APPLY DURING ANY PHASE OF THE CASE, BUT
16 YOU'LL ALSO RECALL IN THE PRIOR INSTRUCTIONS I GAVE
17 YOU, I TOLD YOU YOU MAY FIND THAT SOME INSTRUCTIONS
18 DON'T APPLY. IF THEY DON'T, IT MEANS YOU JUST IGNORE
19 THEM. I'LL LEAVE IT UP TO YOU AS TO WHAT YOU THINK
20 APPLIES, BUT I'M GIVING YOU ONLY ONE ADDITIONAL
21 INSTRUCTION FOR THIS PHASE OF THE CASE.

22 YOU MUST NOW DECIDE THE AMOUNT, IF ANY, THAT
23 YOU SHOULD AWARD RAFAELINA DUVAL IN PUNITIVE DAMAGES.
24 THE PURPOSE OF PUNITIVE DAMAGES ARE TO PUNISH A
25 WRONGDOER FOR THE CONDUCT THAT HARMED THE PLAINTIFF AND
26 TO DISCOURAGE SIMILAR CONDUCT IN THE FUTURE. THERE IS
27 NO FIXED STANDARD FOR DETERMINING THE AMOUNT OF
28 PUNITIVE DAMAGES, AND YOU'RE NOT REQUIRED TO AWARD ANY

1 PUNITIVE DAMAGES. IF YOU DECIDE TO AWARD PUNITIVE
2 DAMAGES, YOU SHOULD CONSIDER ALL OF THE FOLLOWING IN
3 DETERMINING THE AMOUNT:

4 A, HOW REPREHENSIBLE WAS SUSAN PENDER AND/OR
5 KIMBERLY ROGERS'S CONDUCT? IN DECIDING HOW
6 REPREHENSIBLE SUSAN PENDER AND/OR KIMBERLY ROGERS'S
7 CONDUCT WAS, YOU MAY CONSIDER AMONG OTHER FACTORS:
8 ONE, WHETHER THE CONDUCT CAUSED PHYSICAL HARM; TWO,
9 WHETHER SUSAN PENDER AND/OR KIMBERLY ROGERS DISREGARDED
10 THE HEALTH AND SAFETY OF OTHERS; THREE, WHETHER
11 RAFAELINA DUVAL WAS FINANCIALLY WEAK OR VULNERABLE AND
12 SUSAN PENDER AND/OR KIMBERLY ROGERS KNEW RAFAELINA
13 DUVAL WAS FINANCIALLY WEAK OR VULNERABLE AND TOOK
14 ADVANTAGE OF HER; FOUR, WHETHER SUSAN PENDER AND/OR
15 KIMBERLY ROGERS'S CONDUCT INVOLVED A PATTERN OR
16 PRACTICE; AND FIVE, WHETHER SUSAN PENDER AND/OR
17 KIMBERLY ROGERS ACTED WITH TRICKERY OR DECEIT.

18 B, IS THERE REASONABLE RELATIONSHIP BETWEEN
19 THE AMOUNT OF PUNITIVE DAMAGES AND RAFAELINA DUVAL'S
20 HARM.

21 C, IN VIEW OF SUSAN PENDER AND/OR KIMBERLY
22 ROGERS'S FINANCIAL CONDITION, WHAT AMOUNT IS NECESSARY
23 TO PUNISH HER AND DISCOURAGE FUTURE WRONGFUL CONDUCT.
24 YOU MAY NOT INCREASE THE PUNITIVE DAMAGE AWARD ABOVE AN
25 AMOUNT THAT IS OTHERWISE APPROPRIATE MERELY BECAUSE
26 SUSAN PENDER AND/OR KIMBERLY ROGERS HAVE ANY
27 SUBSTANTIAL FINANCIAL RESOURCES. ANY AWARD YOU IMPOSE
28 MAY NOT EXCEED SUSAN PENDER AND/OR KIMBERLY ROGERS'S

1 ABILITY TO PAY. PUNITIVE DAMAGES MAY NOT BE USED TO
2 PUNISH SUSAN PENDER AND/OR KIMBERLY ROGERS FOR THE
3 IMPACT OF THEIR ALLEGED MISCONDUCT ON PERSONS OTHER
4 THAN RAFAELINA DUVAL.

5 THAT CONCLUDES THE ADDITIONAL INSTRUCTIONS.
6 COUNSEL ARE GOING TO HAVE AN OPPORTUNITY TO ADDRESS YOU
7 IN WHAT IS A FURTHER CLOSING ARGUMENT, WHICH IS RELATED
8 TO THIS SUBJECT MATTER OF THIS PHASE OF THE CASE ONLY.

9 MR. MCMILLAN?

10 MR. MCMILLAN: THANK YOU, YOUR HONOR.

11 THIS IS VERY DISTASTEFUL FOR ME. COMING HERE,
12 ASKING THESE WOMEN THESE QUESTIONS IN FRONT OF ALL OF
13 YOU, BUT IT'S SOMETHING THAT HAS TO BE DONE. WE GIVE
14 THESE PEOPLE TREMENDOUS POWER OVER OUR CHILDREN, OUR
15 FAMILIES, OUR LIVES. AND THEY COME IN -- WHEN THEY
16 COME INTO COURT, ANY COURT, INCLUDING THIS COURT, THEY
17 COME IN CLOAKED IN THIS AURA OF CREDIBILITY JUST
18 BECAUSE OF THE JOB THEY PERFORM. AND THE THINGS THAT
19 WE TRUST THEM TO DO.

20 AND THERE'S A FEW THINGS THAT ARE IMPORTANT
21 ABOUT WHAT YOU ARE ABOUT TO DO RIGHT NOW. ONE OF THEM,
22 OBVIOUSLY, IS TO PUNISH, TO PUNISH MS. PENDER AND
23 MS. ROGERS FOR WHAT THEY DID IN THIS CASE TO MS. DUVAL.
24 BUT ANOTHER IS YOU'VE SEEN THE SYSTEM FROM THE INSIDE,
25 YOU'VE SEEN ITS DEFICIENCIES. I THINK THE NUMBER WAS
26 7,000 OTHER WORKERS OUT THERE INVESTIGATING, I DON'T
27 REMEMBER IF IT WAS 152,000 OR 156,000 REFERRALS A YEAR,
28 BUT IT'S A BIG NUMBER. THEY'RE KNOCKING ON A LOT OF

1 DOORS, INTERACTING WITH A LOT OF YOUR COMMUNITY.

2 IT'S IMPORTANT THAT EVERY SINGLE ONE OF THE
3 SOCIAL WORKERS OUT THERE THAT WORK FOR THE COUNTY OF
4 LOS ANGELES DOING THIS TYPE OF WORK KNOW AND UNDERSTAND
5 THAT THIS TYPE OF BEHAVIOR WILL NOT BE TOLERATED IN
6 YOUR COMMUNITY.

7 THAT'S AN IMPORTANT MESSAGE TO SEND. YOU HAVE
8 SOME TOOLS TO DO THAT. I'M ASKING YOU TO DO THAT, TO
9 SEND THE MOST POWERFUL MESSAGE THAT YOU CAN TO MAKE
10 SURE THAT THIS NEVER EVER HAPPENS AGAIN.

11 THANK YOU, YOUR HONOR.

12 THE COURT: MR. GUTERRES?

13 MR. GUTERRES: THANK YOU, YOUR HONOR.

14 LADIES AND GENTLEMEN, THIS PHASE OF THE TRIAL
15 IS WHAT EVERY LAWYER DREADS. IT'S THE TIME WHEN YOUR
16 CLIENT IS PERSONALLY AT FINANCIAL RISK. AND SUSAN
17 PENDER AND KIMBERLY ROGERS ARE NOW PERSONALLY EXPOSED
18 TO THE IMPACT OF A FURTHER VERDICT FOR PUNITIVE
19 DAMAGES.

20 WHAT ARE PUNITIVE DAMAGES? WHAT IS THEIR
21 PURPOSE? THEY ARE PRIMARILY TO PUNISH FOR DESPICABLE
22 CONDUCT, AND SECONDARILY, TO SEND A MESSAGE, TO MAKE AN
23 EXAMPLE. LET ME ADDRESS THOSE IN REVERSE ORDER.

24 I CAN ASSURE YOU THAT WHAT YOU DID YESTERDAY
25 WAS HEARD AT THE DEPARTMENT OF CHILDREN AND FAMILY
26 SERVICES AND AT THE HEAD OF THE ADMINISTRATIVE OFFICES
27 OF THE COUNTY. AND IT WAS ALSO HEARD AND WILL BE
28 CONTINUALLY HEARD IN THE EMERGENCY RESPONSE UNITS OF

1 EVERY CHILD PROTECTIVE SERVICES UNIT OPERATED BY DCFS.
2 IT'S GOING TO IMPACT THE ENTIRE COMMUNITY OF SOCIAL
3 WORKERS AND, IN PARTICULAR, THOSE TASKED WITH HAVING TO
4 MAKE THE TOUGH DECISIONS OF WHETHER A CHILD SHOULD BE
5 TAKEN INTO PROTECTIVE CUSTODY IMMEDIATELY OR WHETHER
6 THERE'S TIME TO WAIT FOR A WARRANT.

7 FIRST OF ALL, PUNITIVE DAMAGES IS NOT TO
8 ADDITIONALLY COMPENSATE MS. DUVAL. IT IS TO MAKE AN
9 EXAMPLE OF MS. PENDER AND MS. ROGERS, THE SOCIAL
10 WORKERS THAT YOU HAVE FOUND THAT IN THIS CASE ACTED
11 WITHIN THE CUSTOMS AND PRACTICES OF THE DEPARTMENT.

12 SO WHAT MESSAGE IS REALLY DELIVERED BY THIS
13 ACTION? WHAT ARE YOU TELLING THE RANK AND FILE OF THE
14 SOCIAL WORKERS TASKED WITH INVESTIGATING CHILD ABUSE?
15 DO YOU WANT THE MESSAGE TO BE THAT YOU, SOCIAL WORKER,
16 YOU ARE AT RISK, PERSONALLY, FOR THE DECISIONS YOU MAKE
17 AT WORK IN CONNECTION WITH CHILD ABUSE INVESTIGATIONS?
18 IT'S HARD ENOUGH GETTING GOOD PEOPLE TO WORK AS SOCIAL
19 WORKERS. THINK ABOUT THE BURDEN THAT IT WILL IMPOSE ON
20 THOSE WHO HAVE TO ASSESS THE RISK TO CHILDREN, THOSE
21 TASKED WITH HAVING TO PROTECT THE LIVES OF CHILDREN WHO
22 CANNOT PROTECT THEMSELVES. I BEG YOU, DON'T BY YOUR
23 VERDICT MAKE AN EXAMPLE AND SEND THIS MESSAGE.

24 DO YOU WANT TO SEND THE MESSAGE TO CHILD
25 PROTECTIVE SOCIAL WORKERS THAT THE NEXT TIME THAT CHILD
26 ABUSE CALL COMES IN, AND THEY'RE SENT TO INVESTIGATE,
27 THAT THEY SHOULD JUST GET A WARRANT NO MATTER WHAT THE
28 CIRCUMSTANCES MAY BE OR HOW LONG IT MAY TAKE TO GET A

1 WARRANT OR THE RISK TO THE CHILD? JUST KEEP THAT CHILD
2 WITH THE PARENT WHO MAY BE BEATING OR TORTURING THE
3 CHILD, SEXUALLY ABUSING THAT CHILD, OR KEEPING THAT
4 CHILD LOCKED UP AND CHAINED TO A BEDPOST BECAUSE YOU
5 BETTER GET A WARRANT OR ELSE YOU MAY PERSONALLY BE
6 RESPONSIBLE OR LIABLE IF YOU WERE WRONG IN THAT
7 DECISION. I DON'T THINK THIS IS THE MESSAGE YOU WANT
8 TO SEND BY A FURTHER VERDICT AGAINST THESE SOCIAL
9 WORKERS.

10 THE SECOND REASON FOR PUNITIVE DAMAGES IS
11 PUNISHMENT. NOW, DON'T THINK FOR A MOMENT THAT
12 PUNISHMENT WON'T BE IMPOSED. THE VERDICT YOU HAVE
13 RENDERED IS A PUBLIC RECORD AND WILL FOLLOW MS. PENDER
14 AND MS. ROGERS FOR THE REST OF THEIR CAREERS.
15 MS. PENDER IS ALREADY ON DISABILITY, IS NO LONGER
16 WORKING, AND, IN FACT, MAY NOT BE ABLE TO RETURN TO
17 WORK AS A SOCIAL WORKER. SHE HAS CERTAINLY NOT WORKED
18 DOING CHILD ABUSE INVESTIGATIONS IN NUMEROUS YEARS.
19 AND MS. ROGERS IS ALSO NO LONGER WORKING IN EMERGENCY
20 RESPONSE.

21 LADIES AND GENTLEMEN, THESE SOCIAL WORKERS
22 HAVE BEEN PUNISHED ENOUGH. MS. DUVAL HAS BEEN
23 SUFFICIENTLY COMPENSATED BY YOUR VERDICT. PLEASE DO
24 JUSTICE AND AWARD NO PUNITIVE DAMAGES. THANK YOU.

25 THANK YOU, YOUR HONOR.

26 THE COURT: MR. MCMILLAN, YOU HAVE THE LAST
27 WORD.

28 MR. MCMILLAN: THANK YOU, YOUR HONOR.

1 NOW, MR. GUTERRES IS BASICALLY UP HERE BEGGING
2 FOR YOUR MERCY. AND I REMEMBER A LONG TIME AGO NOW,
3 MAYBE SIX WEEKS, I THINK, BACK IN THE VERY BEGINNING,
4 MAYBE FIVE WEEKS AGO, WHEN MS. DUVAL WAS ON THE STAND,
5 AND SHE RELIVED FOR US THE MOMENT WHEN HER BABY WAS
6 TAKEN. AND SHE BEGGED. DO YOU REMEMBER THAT? SHE
7 BEGGED THEM NOT TO DO THIS, THAT THEY WERE MAKING A
8 MISTAKE. HER PLEAS FELL ON DEAF EARS.

9 THE NEXT TIME -- AND THERE WILL BE A NEXT
10 TIME -- REMEMBER MR. POWELL AND MR. COX, THEY CAME IN
11 HERE AND TOLD YOU ABOUT THEIR EXPERIENCES SUING THE
12 COUNTY OF LOS ANGELES FOR THESE EXACT SAME THINGS,
13 SEIZING CHILDREN WITHOUT WARRANTS AND A WHOLE SUNDRY
14 LIST OF OTHER MISCONDUCT, AND YOU'VE SEEN QUITE A BIT
15 OF THAT AS WELL. AND THEY'VE BEEN DOING IT FOR ALMOST
16 A DECADE.

17 DID THOSE MESSAGES MAKE IT UP TO THE BOARD OF
18 SUPERVISORS AND MORE TRAINING AND POLICIES AND
19 ENFORCEMENT AND DISCIPLINE GET METED OUT? DO YOU
20 REMEMBER? NOT A SINGLE SOCIAL WORKER IN THE LAST TEN
21 YEARS HAS EVER BEEN DISCIPLINED FOR WHAT THEY DID TO
22 MS. DUVAL HERE IN SPITE OF THE FACT THAT THEY'VE BEEN
23 SUED DOZENS OF TIMES. SO WHEN HE COMES IN HERE AND HE
24 SAYS, "REST ASSURED, BELIEVE ME, WE'VE HEARD THE
25 MESSAGE THIS TIME," WHAT ABOUT THE LAST TIME AND THE
26 TIME BEFORE THAT? NO.

27 I'LL TELL YOU A LITTLE STORY, IT RELATES TO
28 THE PURPOSE AND THE EFFECT OF DISCIPLINE, OF

1 PUNISHMENT. WHEN I WAS A KID, I HAD A PRETTY FOUL
2 MOUTH. AND MY GRANDMOTHER, ACTUALLY, SHE -- SHE WAS
3 PRETTY TOUGH. SHE USED TO WASH MY MOUTH OUT WITH SOAP
4 WHENEVER SHE'D HEAR ME SAYING THESE. AND IT GOT TO THE
5 POINT WHERE IT REALLY WAS NOT EFFECTIVE. IT GOT TO THE
6 POINT WHERE I REALLY DIDN'T MIND, IN FACT, EVEN TODAY,
7 SOMETIMES IF I'M AWAY FROM HOME AND I RUN OUT OF
8 TOOTHPASTE, I'LL USE A LITTLE SOAP. IT'S REALLY NOT
9 THAT BIG OF A DEAL. AND SHE FIGURED THAT OUT, THAT
10 THESE MINOR SLAPS ON THE WRIST, THEY REALLY WERE
11 INEFFECTIVE WITH ME.

12 SO WHAT SHE DID IS SHE SAT ME DOWN AND SHE
13 TOLD ME, "THE NEXT TIME, THE NEXT TIME I HEAR THAT,
14 YOU'RE GOING TO GO OUT IN THE BACKYARD, AND YOU'RE
15 GOING TO CUT A SWITCH OFF THE PEACH TREE." AND SHE
16 GAVE ME VERY SPECIFIC SPECIFICATIONS FOR IT. IT
17 COULDN'T BE ANYTHING SMALLER THAN MY FINGER OR SHE
18 WOULD GO CUT ONE HERSELF.

19 WELL, IT WAS PREDICTABLE, OF COURSE, I WENT
20 OUT AND I GOT CAUGHT AGAIN RUNNING MY MOUTH. SO IT WAS
21 IMPORTANT -- SHE HAD FIVE GRANDSONS, WE'RE ALL UP THERE
22 TOGETHER. WE ALL HAD THE SAME ISSUES EVERY NOW AND
23 THEN, BUT I WAS THE ONE THAT GOT IT, I WAS THE ONE THAT
24 GOT CAUGHT. WHEN SHE TOOK THAT SWITCH, SHE LINED
25 EVERYBODY UP SO THEY COULD ALL WATCH, AND SHE DID IT.
26 AND IT HURT. AND I NEVER FORGOT. AND THE IMPORTANT
27 THING IS NEITHER DID MY COUSINS. THEY NEVER GOT THE
28 SWITCH BECAUSE I DID AND THEY SAW IT.

1 AND THAT IS THE EFFECT WE'RE LOOKING FOR WHEN
2 WE PUNISH IS TO DETER THIS SORT OF FUTURE BEHAVIOR IN
3 EVERYBODY. AND YEAH, WE WANT TO PUNISH THE WRONGDOERS,
4 OF COURSE, BUT WE WANT TO MAKE SURE THAT WE'RE NOT
5 SUBJECTED AS A COMMUNITY, WE ARE NOT SUBJECTED TO PETTY
6 PERSONALITY DIFFERENCES OR THIS SORT OF UNPROFESSIONAL
7 BEHAVIOR. IT'S IMPORTANT THAT IN EVERYTHING THE
8 GOVERNMENT DOES, EVERYTHING THE GOVERNMENT DOES, THAT
9 THEY RECOGNIZE THAT THERE ARE LIMITATIONS AND THERE
10 WILL BE PUNISHMENT IF THEY STEP BEYOND THOSE
11 LIMITATIONS.

12 SO WE ASK YOU, IF YOUR INCLINATION IS TO GRANT
13 MERCY, BECAUSE THAT'S WHAT'S IN YOUR HANDS RIGHT NOW,
14 IF YOUR INCLINATION IS TO GRANT MERCY, DON'T GIVE THEM
15 MORE MERCY THAN THEY GAVE HER.

16 THANK YOU.

17 THE COURT: ALL RIGHT. THANK YOU. AT THIS
18 TIME, LADIES AND GENTLEMEN OF THE JURY, YOU WILL RETURN
19 TO THE JURY ROOM TO DELIBERATE ON THE ISSUES PRESENTED
20 TO YOU. THERE IS A VERDICT FORM WHICH WILL CALL UPON
21 YOU TO ANSWER ONE QUESTION WHICH WOULD APPLY TO EACH OF
22 THE TWO PERSONS BEFORE YOU. THAT VERDICT FORM WILL BE
23 DELIVERED TO YOU VERY SHORTLY. AND I WILL HAVE THE
24 INSTRUCTIONS WHICH HAVE PREVIOUSLY BEEN GIVEN RETURNED
25 TO YOU INCLUDING THE ADDITIONAL INSTRUCTION WHICH I
26 JUST READ TO YOU.

27 YOU SHOULD NOW RETIRE AND BEGIN YOUR
28 DELIBERATIONS.

1 (JURY EXCUSED)

2 THE COURT: ON THE RECORD. COUNSEL ARE
3 PRESENT. ALL JURORS HAVE LEFT THE COURTROOM. JUST A
4 COUPLE OF QUICK THINGS. ONE, MR. MCMILLAN, YOU HAD
5 FILED A SUGGESTED VERDICT FORM THIS MORNING. IT HASN'T
6 ACTUALLY BEEN FILED. I'M HAPPY TO FILE IT, ALTHOUGH I
7 DON'T THINK IT MAKES ANY DIFFERENCE BECAUSE EACH
8 VERDICT FORM CALLED FOR THE SAME INFORMATION.

9 MR. MCMILLAN: THAT'S CORRECT, YOUR HONOR
10 THERE'S NO NEED.

11 THE COURT: OKAY. AND YOU ALSO DID FILE A
12 SUGGESTED FORM VERSION OF CACI INSTRUCTION 3942, WHICH
13 THE COURT GAVE WITH SOME MODIFICATIONS. THE
14 INSTRUCTION GIVEN EACH FOR ITSELF. MY QUESTION IS DO
15 YOU WANT TO FILE AND MAKE A REQUEST THAT THIS VERSION
16 OF 3942 BE FILED?

17 MR. MCMILLAN: THERE'S NO NEED, YOUR HONOR.
18 THANK YOU.

19 THE COURT: ALL RIGHT. THANKS VERY MUCH.
20 WELL, THEN JUST AS BEFORE, LET US KNOW WHERE
21 YOU ARE, AND WE'LL GET IN TOUCH WITH YOU RIGHT AWAY AS
22 SOON AS WE HEAR FROM THE JURY.

23 MR. MCMILLAN: THANK YOU, YOUR HONOR.

24 MR. GUTERRES: THANK YOU, YOUR HONOR.

25 MR. MCMILLAN: AND IF YOU DON'T MIND, I'D LIKE
26 TO EXTEND MY APOLOGIES TO THE CASE THAT'S COMING IN
27 RIGHT BEHIND US.

28 THE COURT: YEAH, YOU OWE THEM. I'M NOT SURE

1 WHAT IT IS.

2 (RECESS)

3 (JURY PRESENT)

4 THE COURT: EVERYONE MAY BE SEATED. WE'RE ON
5 THE RECORD. EVERYBODY IS PRESENT.

6 HAS THE JURY REACHED A VERDICT ON THIS PHASE?

7 PRESIDING JUROR: YES, SIR.

8 THE COURT: AND WILL YOU GIVE THE VERDICT FORM
9 TO OUR COURT ATTENDANT.

10 I'M GOING TO ASK THE CLERK TO READ THE
11 VERDICT, PLEASE.

12 THE CLERK: TITLE OF COURT AND CAUSE, VERDICT
13 FORM, PUNITIVE DAMAGES. WE THE JURY ANSWER THE
14 QUESTION SUBMITTED TO US AS FOLLOWS: 1, WHAT AMOUNT OF
15 PUNITIVE DAMAGES, IF ANY, DO YOU AWARD RAFAELINA DUVAL
16 FROM SUSAN PENDER?

17 ANSWER: 0.

18 QUESTION TWO, WHAT AMOUNT OF PUNITIVE DAMAGES,
19 IF ANY, DO YOU AWARD RAFAELINA DUVAL FROM KIMBERLY
20 ROGERS?

21 ANSWER: 0.

22 SIGNED ELEANOR HAHN, PRESIDING JUROR, DATED
23 NOVEMBER 4TH, 2016.

24 LADIES AND GENTLEMEN OF THE JURY, IS THIS YOUR
25 VERDICT, SO SAY YOU ONE SO SAY YOU ALL?

26 THE JURY: YES.

27 THE COURT: DO YOU WANT THE JURY POLLED?

28 MR. MCMILLAN: NO, YOUR HONOR.

1 THE COURT: OKAY.

2 WELL, SO YOU WANT ME TO HURRY YOU OUT THE
3 DOOR. BEFORE I DO THAT, THERE'S A COUPLE QUICK THINGS.
4 WE'RE GOING TO GET YOU OUT THE DOOR. IN A MOMENT, WHEN
5 I DISCHARGE YOU, YOU ARE RELIEVED OF ALL DUTIES IN THIS
6 CASE. THAT MEANS SEVERAL THINGS. ONE, AFTER YOU'RE
7 DISCHARGED, I'M GOING TO INVITE YOU BECAUSE I WANT TO
8 THANK YOU ALL PERSONALLY. AND YOU'RE NOT REQUIRED TO
9 DO IT ONCE YOU'RE DISCHARGED, YOU'RE OUT OF HERE IF YOU
10 WANT TO. FOR THOSE THAT'LL STAY FOR JUST A MOMENT,
11 I'LL HAVE DEANNA BRING YOU INTO CHAMBERS SO I CAN GET A
12 CHANCE TO SHAKE YOUR HAND AND THANK VERY ONE OF YOU.

13 WHEN I TELL YOU YOU'RE DISCHARGED, IT DOES
14 MEAN, AMONG OTHER THINGS, THAT AFTER YOU LEAVE HERE,
15 I'M GOING TO HAVE YOU GO DOWNSTAIRS TO ROOM 253, THE
16 JURORS' ASSEMBLY ROOM TO CHECK OUT. IT ALSO MEANS AT
17 THAT TIME THAT YOU ARE THEN RELIEVED OF THE ADMONITION
18 I'VE BEEN GIVING YOU FOR MUCH TOO LONG. AND SO THAT
19 MEANS THAT ONCE YOU'RE RELIEVED OF THE ADMONITION,
20 YOU'RE THEN FREE TO TALK ABOUT THE CASE, ALTHOUGH
21 YOU'RE NOT REQUIRED TO DO SO OR COMPELLED TO DO SO.
22 AND IT'S REALLY YOUR CHOICE.

23 IT IS COMMON AFTER A VERDICT HAS BEEN RECEIVED
24 THAT THE ATTORNEYS IN PARTICULAR BUT SOMETIMES THE
25 PARTIES LIKE TO TALK TO THE JURY A LITTLE BIT. AND
26 THAT'S ENTIRELY UP TO YOU. YOU'RE NOT REQUIRED TO DO
27 SO. YOU'RE ENTITLED JUST TO SAY, "OKAY. I'VE DONE MY
28 JOB, AND I'M GOING TO GO ON." AND SO WE LEAVE THAT UP

1 TO YOU ENTIRELY. IT ALSO MEANS YOU CAN TALK TO OTHERS.

2 LET ME TELL YOU ONE THING, AND THIS IS JUST
3 CAUTIONARY FROM THE COURT'S POINT OF VIEW. IT IS
4 POSSIBLE SOMETIMES AFTER THERE'S BEEN A VERDICT IN A
5 CASE THAT JURORS ARE CONTACTED BY SOMEBODY. AND I WANT
6 TO ASSURE YOU THAT WE DO NOT PROVIDE ANY PERSONAL
7 INFORMATION ABOUT YOU TO ANYONE. THAT IS PHONE NUMBERS
8 OR ADDRESSES OR ANYTHING ELSE. SO IF SOMEONE CONTACTS
9 YOU, THEY BY THEIR OWN MEANS HAVE CONTACTED YOU.

10 SECONDLY, IT IS EXTREMELY UNLIKELY THAT ANYONE
11 FROM THE COURT WOULD EVER CONTACT YOU BY PHONE ONCE
12 YOU'VE BEEN DISCHARGED OR PERHAPS BY OTHER MEANS, WHICH
13 WOULD BE POSSIBLE, ALTHOUGH ALSO HIGHLY UNLIKELY. AND
14 I TELL YOU THAT BECAUSE SOMETIMES PEOPLE CALL YOU AND
15 NOT NECESSARILY A MISREPRESENTATION, MAY CAUSE YOU TO
16 BELIEVE THAT IT REALLY IS SOMEONE FROM THE COURT ASKING
17 FOR SOME KIND OF INFORMATION FROM YOU. THAT WON'T
18 HAPPEN.

19 SO IF THAT OCCURS, AND THIS IS SOMETHING I
20 DON'T EXPECT IT TO OCCUR, BUT I DO NEED TO TELL YOU
21 THAT IF THE COURT EVER NEEDS ANY FURTHER CONNECTION TO
22 YOU IN WHATEVER WAY, YOU WILL BE PROVIDED SPECIFIC
23 VERIFICATION OF WHO IT IS AND THEIR REPRESENTATION OF
24 THE COURT. AND THAT IS ALSO EXTREMELY UNLIKELY TO
25 OCCUR.

26 SO NOW I'M GOING TO SOMETHING, TO ME, THAT IS
27 CONSIDERABLY MORE IMPORTANT. TO THOSE -- WHAT I WAS
28 JUST TELLING YOU IS JUST CAUTIONARY. WHEN WE STARTED

1 THE CASE, I THINK DURING THE JURY SELECTION, AND
2 SOMEWHERE ALONG THE LINE, I MENTIONED THAT ALL OF US
3 HAVE IN CALIFORNIA A CONSTITUTIONAL RIGHT TO A TRIAL BY
4 JURY IN BOTH CIVIL AND CRIMINAL CASES. AND WE COULDN'T
5 HONOR THAT RIGHT THAT WE ALL HAVE UNLESS WE HAVE
6 PERSONS LIKE YOURSELVES WHO ARE WILLING TO PROVIDE THAT
7 SERVICE.

8 I THINK EVERYBODY, WHEN THEY GET SUMMONED FOR
9 JURY DUTY, INCLUDING MYSELF, WISH, "OH, BOY. AM I
10 REALLY GOING TO HAVE TO DO THIS?" AND WE ALL NEED TO
11 SERVE. I THINK MYSELF, I HATE TO ADMIT TO IT, BUT I
12 THINK WHEN I GET CALLED FOR JURY DUTY, IT'S A BETTER
13 USE OF MY TIME TO BE HERE CONDUCTING TRIALS THAN ADDING
14 ONE PERSON TO A JURY TO HEAR A CASE SOMEWHERE ELSE.

15 NOW, CHANCES ARE PRETTY GOOD THAT WOULDN'T
16 HAPPEN BECAUSE THE LAWYERS PROBABLY WOULDN'T WANT ME
17 ANYWAY, AND SO I'D PROBABLY END UP GETTING EXCUSED.
18 BUT HAVING SAID ALL THAT, I UNDERSTAND THAT EVERYBODY,
19 WHEN THEY GET THE SUMMONS, THINK, "OH, BOY. AM I GOING
20 TO HAVE TO DO THIS? I HAVE OTHER THINGS TO DO." AND
21 I'M JUST TELLING YOU, I SHARE THE SENTIMENT.

22 BUT IT IS SUCH A VALUABLE SERVICE, AND EVEN
23 THOUGH IT'S AN IMPOSITION ON US, IT'S ONE OF THE VERY
24 SMALL OBLIGATIONS THAT WE HAVE AS CITIZENS TO SOCIETY
25 IN GENERAL. YOU KNOW, YOU HAVE TO PAY TAXES, YOU HAVE
26 TO SERVE ON A JURY. THERE'S NOT MUCH ELSE YOU HAVE TO
27 DO.

28 AND SO BUT FOR PEOPLE LIKE YOU, WE WOULDN'T BE

1 ABLE TO HONOR THE RIGHTS THAT ALL OF US HAVE. SO
2 THERE'S A DEEP SENSE OF GRATITUDE THAT I EXPERIENCE
3 JUST PERSONALLY. BUT I CAN TELL YOU AS AN OFFICER OF
4 THE STATE OF CALIFORNIA AND A REPRESENTATIVE OF
5 LOS ANGELES SUPERIOR COURT, I CAN TELL YOU ON BEHALF OF
6 THE STATE, ON BEHALF OF THE COUNTY OF LOS ANGELES,
7 LOS ANGELES COUNTY SUPERIOR COURT, AND THEN ME
8 PERSONALLY, I WANT TO TELL YOU HOW GRATEFUL WE ARE AND
9 HOW IMPRESSED I AM WITH THE WILLINGNESS OF PEOPLE TO
10 SERVE.

11 THE HARDEST PART, I TELL THIS TO THE
12 ATTORNEYS, THE HARDEST PART ABOUT GETTING A JURY IS THE
13 SELECTION PROCESS BECAUSE AT THE TIME WHEN YOU FIRST
14 COME IN HERE, YOU'RE STILL HOPING FOR SOME FORM OF
15 INTERVENTION. I WOULDN'T CALL IT NECESSARILY DIVINE
16 INTERVENTION, BUT SOME FORM OF INTERVENTION THAT'S
17 GOING TO GET YOU OUT OF HERE, AND THAT'S NORMAL.

18 ONCE WE GET JURORS ON A CASE, THEY'RE ON THE
19 CASE. AND I'VE NEVER HAD -- I GUESS I SHOULD NEVER SAY
20 NEVER. I CAN REMEMBER IN VERY ISOLATED OCCURRENCES
21 WHERE JURORS DID SOMETHING THEY REALLY SHOULDN'T HAVE
22 DONE. BUT OVER MANY YEARS, IT'S VERY FEW AND FAR
23 BETWEEN. AND THE DEVOTION TO THE DUTY IS REALLY, YOU
24 DON'T THINK OF THEM THAT WAY YOURSELF, BUT DEVOTION TO
25 THE DUTY IS RATHER REMARKABLE. AND I CONTINUE AFTER
26 ALL THESE YEARS TO HAVE THE HIGHEST RESPECT FOR THE
27 GREAT -- ALMOST ALL, THE GREAT MAJORITY ALMOST ALL
28 PERSONS THAT COME IN AND CERTAINLY ONCE THEY'RE CHOSEN

1 ON A JURY, IT WOULD BE AN EXTREME RARITY FOR SOMEONE TO
2 DO SOMETHING THEY SHOULDN'T DO.

3 THEY ALSO DON'T WANT OFF. LOOK, WE HAD AN
4 OPPORTUNITY HERE, WE HAD ONE JUROR HAD TO TAKE CARE OF
5 A COUPLE MATTERS FOR HER MOTHER WHILE YOU WERE HERE.
6 NEVER ASKED TO BE RELIEVED OR DISCHARGED FROM THE JURY,
7 JUST ASKED TO BE ABLE TO HAVE THE TIME. I CAN
8 REMEMBER, AS IT'S BEEN SOME YEARS AGO, BUT I REMEMBER
9 HAVING A JURY ONE TIME WHERE I HAD TWO JURORS WHO HAD
10 PAID FOR A CRUISE, DIFFERENT CRUISES. AND LIKE WE DID
11 WITH JURORS HERE, I SAID, IF WE GET TO THAT POINT AND
12 WE'RE NOT FINISHED AND WE GET TO THAT POINT, I'M GOING
13 TO LET YOU GO.

14 SO I'M KEEPING TRACK OF IT AS WE GO ALONG AND
15 REALIZE WE'RE GETTING PRETTY CLOSE, AND NEITHER ONE OF
16 THOSE JURORS HAD SAID ANYTHING TO ME ABOUT THE CRUISE
17 OR THE TIME. SO WITHIN A DAY OR TWO OF THE FIRST ONE,
18 THE OTHER ONE WAS LEAVING LIKE ONE OR TWO DAYS LATER,
19 SO I FINALLY HAD THEM COME IN, WHENEVER IT WAS, AND I
20 SAID, "YOU HAVEN'T SAID ANYTHING, BUT I KNOW THE TIME
21 IS COMING UP. YOU'RE STILL GOING ON THE CRUISE?"

22 AND THEY SAID, "DON'T WORRY ABOUT IT. I
23 CANCELED IT." AND IN BOTH OF THOSE CASES, THERE WAS A
24 PENALTY FOR DOING IT. THEY DID TELL ME THEY WOULD GET
25 PART OF WHAT THEY PAID BACK, BUT THEY WEREN'T GETTING
26 EVERYTHING BACK. THEY WERE SO INTO THAT CASE THAT THEY
27 JUST WERE NOT GOING TO GO. THEY DECIDED I'M GOING TO
28 SEE IT THROUGH UNTIL THE END. AND THIS REALLY IS

1 REMARKABLE. SO WE'RE ALL VERY GRATEFUL TO YOU.

2 AND THE PARTIES CAN'T TALK TO YOU YET, THE
3 ATTORNEYS CAN'T TALK TO YOU. AS I SAID, THEY CAN IF
4 YOU CHOOSE TO AFTER YOU'RE DISCHARGED. BUT I CAN
5 ASSURE YOU ON BEHALF OF THE PARTIES AND BEHALF OF ALL
6 COUNSEL, REGARDLESS OF THE OUTCOME OF ANY CASE,
7 EVERYBODY SHARES THAT SAME ADMIRATION FOR WHAT YOU DO
8 AND GRATITUDE FOR WHAT YOU BRING TO THE JOB. SO IT'S A
9 GREAT SERVICE YOU'VE RENDERED TO US.

10 SO IN A MOMENT, YOU MAY HAVE THINGS IN THE
11 JURY ROOM YOU NEED TO COLLECT BEFORE YOU GO, YOU WANT
12 TO HAVE EVERYTHING WITH YOU. BUT IN A MOMENT NOW, I'M
13 GOING TO TELL YOU YOU'RE DISCHARGED. FOR THOSE OF YOU
14 WHO WILL TAKE THE TIME, DEANNA WILL BRING YOU AROUND
15 THE BACK, AND I WOULD LOVE TO HAVE THE OPPORTUNITY TO
16 PERSONALLY THANK YOU.

17 YOU ARE NOW DISCHARGED.

18 (JURY EXCUSED)

19 THE COURT: COUNSEL, I'M ORDERING THAT ALL
20 EXHIBITS BE RETURNED. YOU DECIDE AMONG YOURSELVES WHO
21 WILL TAKE POSSESSION OF THEM. WHOEVER HAS POSSESSION
22 OF ANY OF THE EXHIBITS MUST MAINTAIN THEM WITHOUT ANY
23 CHANGE, MODIFICATION, OR ALTERATION UNTIL JUDGMENT IN
24 THIS CASE BECOMES FINAL.

25 (RECESS)

26 (WHEREUPON, AT THE HOUR OF 11:42 A.M.,
27 THE PROCEEDING ADJOURNED.)

28 (NEXT PAGE IS 11001.)