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1 CASE NUMBER: BC470714
2 CASE NAME: DUVAL V COUNTY OF LOS ANGELES
3 LOS ANGELES, CALIFORNIA FRIDAY, OCTOBER 28, 2016
4 DEPARTMENT: 89 HON. WILLIAM A. MACLAUGHLIN
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: ELORA DORINI, CSR NO. 13755
7 TIME: 8:14 A.M.

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11 THE COURT: WE'RE ON THE RECORD. COUNSEL ARE
12 PRESENT. I HAVEN'T HAD A CHANCE TO LOOK AT THE VERDICT
13 FORMS THAT WERE SUBMITTED THIS MORNING.

14 HOWEVER, HAVING GONE OVER OUR LAST VERSION, I
15 HAVE SOME QUESTIONS -- NOT ABOUT THE -- SOME OF THE
16 CONTENT, BUT IN MOST INSTANCES ONLY ABOUT THE
17 DIRECTIONS OF WHAT TO DO. AND THOSE ARE DIRECTED TO
18 VERDICT FORM NUMBER 1.

19 ON VERDICT FORM NUMBER 2, I REALLY JUST HAVE
20 ONE QUESTION, WHICH IS TO MR. PRAGER. AND I'LL TELL
21 YOU WHAT THE QUESTION IS.

22 GENERALLY, WE MAY HAVE TO DO MORE TO MAKE SURE
23 WHAT DAMAGES ARE BEING AWARDED. THIS GOES TO -- I
24 THINK QUESTION NUMBER 11 IS THE DAMAGES QUESTION.

25 ARE YOU FOLLOWING ME?

26 MR. PRAGER: AND --

27 THE COURT: HAS THAT BEEN CHANGED SOME?

28 MR. PRAGER: YOU ARE CORRECT. 11 IS THE

1 DAMAGES QUESTION. BASED ON THE CONVERSATIONS
2 YESTERDAY, THE FORM I FILED THIS MORNING HAS TWO
3 CHANGES. ONE CHANGE IS QUESTION 11 HAS BEEN REDUCED
4 FROM FOUR ITEMS TO TWO.

5 THE ECONOMIC DAMAGES HAVE BEEN REMOVED PER OUR
6 DISCUSSION YESTERDAY.

7 THE COURT: ALL RIGHT. I'LL TELL YOU -- WE'LL
8 COME BACK TO THAT LATER -- BUT I WANT IT TO BE SOONER
9 RATHER THAN LATER.

10 MR. PRAGER: I'M READY NOW.

11 THE COURT: I KNOW YOU ARE. AND I THINK WHAT
12 WE'RE GOING TO HAVE TO DO IS -- THE QUESTION I HAD IS
13 QUESTION NUMBER 11 WAS PHRASED.

14 MAYBE I BETTER LOOK AT YOUR NEW VERSION TO
15 MAKE SURE I'M CAUGHT UP. AS I SAID, I DIDN'T HAVE
16 THESE, SO I DIDN'T HAVE THE OPPORTUNITY TO REVIEW IT.

17 QUESTION NUMBER 11 SAYS IN ADDITION TO THE
18 DAMAGES IN THE VERDICT FORM ONE, WHAT ADDITIONAL
19 DAMAGES ARE DUVAL'S DAMAGES, IF ANY?

20 TWO RELATED QUESTIONS -- AND YOU CAN THINK
21 ABOUT IT WHILE I'M TALKING ABOUT OTHER ISSUES -- IT MAY
22 BE THAT THERE'S NO DAMAGES AWARDED IN VERDICT FORM
23 NUMBER 1.

24 AND I SUPPOSE -- AND, THEREFORE, THIS WOULD BE
25 CORRECT EXCEPT IT MIGHT BE A -- IT MIGHT BE POTENTIALLY
26 MISUNDERSTOOD BY THE JURORS THAT WE MAY WANT TO MAKE
27 SURE THEY UNDERSTAND THAT EVEN IF THERE WERE NO DAMAGES
28 AWARDED IN NUMBER 1, WHAT DAMAGES DO THEY FIND.

1 AND THEN SECONDLY, THE ISSUE THAT I HAVE IS WE
2 MAY NEED TO KNOW WHETHER THEY'RE AWARDING DAMAGES FOR
3 THIS CLAIM THAT ARE IN ADDITION TO BUT ARE --

4 ARE THEY AWARDING THE SAME DAMAGES THAT WERE
5 AWARDED IN VERDICT FORM NUMBER 1 OR ARE THEY AWARDING
6 DAMAGES FOR DIFFERENT REASONS?

7 FOLLOW WHAT I'M SAYING?

8 MR. PRAGER: OF COURSE.

9 THE COURT: THAT WAS THE ONLY CONCERN I HAD,
10 ALTHOUGH I DIDN'T -- I DIDN'T SPENDS QUITE AS MUCH TIME
11 ON THAT ONE AS I DID ON NUMBER 1.

12 AND NUMBER 1, I'LL HAVE TO LOOK AT THE NEW
13 VERSION, BUT I THINK ONE OF THE DIRECTIONS PROBABLY
14 NEED TO BE CORRECTED. SO HAVING SAID THAT, LET ME GET
15 TO THE ISSUE OF -- THERE ARE TWO ISSUES, MS. SWISS,
16 THAT YOU HAD RAISED.

17 ONE INCLUDES THAT YOU'RE PROPOSING THAT
18 CERTAIN INTERROGATORIES WOULD BE PRESENTED TO THE JURY
19 IN CONNECTION WITH THE ISSUES WITH THE CLAIM FOR THE
20 DETENTION OF THE CHILD, WARRANTLESS DETENTION.

21 AND THEN, AS I UNDERSTOOD WHAT YOU SAID
22 YESTERDAY, YOU APPARENTLY BELIEVE THERE NEEDS TO BE AN
23 ADDITIONAL QUESTION AS PART OF THE VERDICT FORM ON
24 ADDRESSING INTENTIONAL INFLICTION.

25 MS. SWISS: YES, YOUR HONOR.

26 THE COURT: ALL RIGHT. TELL ME WHAT THE --
27 WHAT IT IS YOU THINK NEEDS TO BE PART OF THE QUESTIONS
28 FOR INTENTIONAL INFLICTION.

1 MS. SWISS: THE ADDITIONAL QUESTION, WHICH I
2 SENT TO COUNSEL A COUPLE DAYS AGO WOULD STEM FROM CACI
3 1605 THAT -- AND THAT CACI, IN ORDER, IT'S FOR
4 PRIVILEGED CONDUCT UNDER CIVIL CODE SECTION 47, THE
5 LITIGATION PRIVILEGE.

6 SO THE QUESTION THAT I WOULD PROPOSE WOULD BE
7 SOMETHING TO THE ORDER OF WAS THE CONDUCT OF VICTORIA
8 SCHEELE MADE IN GOOD FAITH FOR THE PURPOSE OF
9 EXERCISING A LAWFUL RIGHT TO REPORT HER OBSERVE
10 VACATIONS AND FINDINGS AS A SOCIAL WORKER TO THE
11 JUVENILE COURT.

12 OBVIOUSLY, THE LANGUAGE CAN BE DEALT WITH, BUT
13 IT STEMS DIRECTLY FROM CACI 1065 -- 1605.

14 THE COURT: ALL RIGHT. I UNDERSTAND THE
15 ISSUE. I'M GOING TO ADDRESS THE ISSUE OF THE
16 INTERROGATORIES FIRST.

17 AND I HAVE RECEIVED AND CONSIDERED RATHER
18 QUICKLY YOUR POINTS AND AUTHORITIES ON THIS,
19 MR. MCMILLAN, WHICH WERE -- WHICH WERE BRIEF AND TO THE
20 POINT, AND THAT'S WHY I WAS ABLE TO TAKE A LOOK AT
21 IT.

22 AND, MS. SWISS, THE INTERROGATORIES THAT YOU
23 PROPOSED ESSENTIALLY GO TO THE STATE OF MIND OF
24 MS. PENDER AND MS. ROGERS AT OR ABOUT THE TIME OF THE
25 DETENTION.

26 AND IT'S MY UNDERSTANDING OF THE REASON THAT
27 YOU'RE PROPOSING THE SPECIAL -- OR INTERROGATORIES TO
28 GO TO JURY SO TO HAVE THEM MAKE A FACTUAL FINDING AS TO

1 THEIR STATE OF MIND. CORRECT?

2 MS. SWISS: YES, YOUR HONOR.

3 THE REASON FOR THE INTERROGATORIES IS SO THAT
4 THE JURY CAN MAKE THE FACTUAL FINDINGS IN THE DISPUTES
5 OF FACTS SO THAT SHOULD THE JURY FIND THAT THE SEIZURE
6 WAS UNLAWFUL AND THAT EXIGENT CIRCUMSTANCES DID NOT, IN
7 FACT, EXIST, IF THE FACTUAL QUESTIONS ARE ANSWERED IN
8 FAVOR OF THE SOCIAL WORKERS.

9 THEN THE JUDGE CAN ULTIMATELY MAKE A
10 DETERMINATION OF THE QUESTION OF LAW OF QUALIFIED
11 IMMUNITY.

12 AND THAT QUESTION WOULD BE, COULD BE -- WOULD
13 A REASON SOCIAL WORKER HAVE BELIEVED AT THE TIME THAT
14 THEY SEIZED BABY RYAN THAT THAT CONDUCT WAS LAWFUL.

15 AND THE REASON FOR THAT IS BASED ON THEIR
16 UNDERSTANDING OF THE MEDICAL EVIDENCE THAT WAS
17 PRESENTED TO THEM AT THE TIME EVEN IF THAT
18 UNDERSTANDING WAS INCORRECT.

19 THE COURT: ALL RIGHT. MR. MCMILLAN, I HAVE
20 READ YOUR OPPOSITION.

21 DID YOU HAVE SOMETHING MORE TO SAY BEFORE I GO
22 AHEAD?

23 MR. MCMILLAN: THE ADDITIONAL INFORMATION THAT
24 I WOULD ADD IS THAT THE STANDARD OF QUALIFIED IMMUNITY
25 DOES NOT RESOLVE OR RESOLVE OR WHAT SUBSTANTIVELY THE
26 PARTICULAR SOCIAL WORKER BELIEVED OR WOULD HAVE
27 BELIEVED.

28 IT RESOLVED WHAT A REASON SOCIAL WORKER FACED

1 WITH SIMILAR CIRCUMSTANCES WOULD BELIEVE. IT'S AN
2 OBJECTIVE STANDARD.

3 IT USED TO BE SUSSMAN KATZ, IT USED TO BE A
4 MIXTURE OF OBJECTIVE AND SUBSTANTIVE. BUT THAT WAS
5 CHANGED. THE SUPREME COURT CHANGED THAT STANDARD FOR
6 QUALIFIED IMMUNITY SO IT IS AN OBJECTIVE STANDARD.

7 SECONDARILY, THE ISSUES ADDRESSED IN THESE
8 INTERROGATORIES ARE SUBSUMED INTO THE QUESTION OF
9 EXIGENCY BECAUSE THAT IS THE LAW REQUIRED.

10 SPECIFIC ARTICULABLE EVIDENCE TO SHOW
11 IMMEDIATE DANGER. AND NECESSARILY, THOSE WOULD BE THE
12 INTERROGATORIES THAT GO TO THE QUALIFIED IMMUNITY
13 ISSUE.

14 IF THERE IS -- AND THIS IS WHAT WOULD HAPPEN
15 ON A SUMMARY JUDGMENT, TOO, IF AS A MATTER OF LAW,
16 THERE IS PARTICULARIZED, SPECIFIC ARTICULABLE EVIDENCE,
17 THEN NECESSARILY, THE FIRST STEP IN THE QUALIFIED
18 IMMUNITY ANALYSIS WOULD NOT BE MET BY THE PLAINTIFF,
19 AND SUMMARY JUDGMENT WOULD BE GRANTED.

20 THE COURT: ALL RIGHT. THAT'S ENOUGH. I'M
21 NOT GOING TO USE THE INTERROGATORIES. PRETTY MUCH FOR
22 THE REASONS THAT MR. MCMILLAN JUST STATED.

23 I DON'T THINK -- FIRST OF ALL, NO
24 INTERROGATORIES AT ALL WOULD BE CALLED FOR UNLESS THERE
25 IS THERE WAS A DISPUTE IN THE FACTS AS TO WHAT
26 OCCURRED. THERE WAS NOTHING THAT WHAT -- WHAT THEIR
27 BELIEF WAS IS NOT RELEVANT.

28 AND AS FAR AS I'M CONCERNED, THERE IS AN

1 OBJECTIVE STANDARD AS TO WHETHER THE CONDUCT WAS
2 ENTITLED TO QUALIFIED IMMUNITY OR NOT, THAT'S FOR THE
3 COURT TO DECIDE.

4 THE REASON, FOR EXAMPLE, ON THE ZELLNER CASE,
5 WHICH YOU PROVIDED TO ME THAT THEY SUGGESTED WITHOUT
6 VERY MUCH DISCUSSION, THERE WAS A QUESTION OF FACT AS
7 TO WHAT THE CONDUCT WAS, SO THEY WERE GOING TO DECIDE
8 WITH INTERROGATORIES WHAT THE FACT FINDER FOUND THE
9 CONDUCT TO BE.

10 IN THIS INSTANCE, THERE'S NO QUESTION ABOUT
11 THE CONDUCT, AND I DON'T FEEL THAT THE COURT THEREFORE
12 NEEDS ANY KIND OF FACTUAL FINDINGS IN ORDER TO BE ABLE
13 TO RULE ON WHAT OCCURRED.

14 I ALSO AGREE THAT YOU HAVE DEFENSIVE EXIGENCY,
15 IF YOU PROVE EXIGENT CAN CIRCUMSTANCES, WHICH WILL
16 DEPEND ON SHOWING NOT THEY WHAT THEY, BUT WHETHER IN
17 FACT THERE WAS A PROBLEM THAT NEEDED'S TO BE ADDRESSED
18 REALLY AT THAT MOMENT, THAT'S REALLY WHAT THE EXIGENCY
19 DEFENSE IS ABOUT.

20 SO THE JURY WOULD MAKE A FINDING ON OF WHETHER
21 THAT EXISTED OR NOT. AS FAR AS THEIR CONDUCT IS
22 CONCERNED, AS A MATTER OF LAW, I BELIEVE THAT STANDARD
23 BY WHICH WE WOULD JUDGE THEIR BEHAVIOR -- THAT IS THE
24 SEIZURE OF THE CHILD.

25 AND THE UNDERSTANDING AS TO THE NEED FOR A
26 WARRANT IF THERE'S NO CONSENT OR EXIGENT CIRCUMSTANCE,
27 WAS THAT CONSTITUTIONAL RIGHT THAT WAS WELL ESTABLISHED
28 LONG BEFORE THESE EVENTS, AND THAT ANY PERSON IN THIS

1 POSITION WOULD NECESSARILY HAVE TO KNOW OF THAT
2 STANDARD?

3 SO I DON'T FEEL THAT I HAVE ANY ADDITIONAL
4 FACTUAL MATTERS TO DECIDE AND THE JURY WILL DECIDE
5 WHETHER OR NOT THE CIRCUMSTANCES WERE EXIGENT. I'M NOT
6 MAKING THAT FACTUAL DETERMINATION BECAUSE I DON'T NEED
7 TO. THAT IS, IN MY VIEW, A JURY DECISION.

8 DOES THE STATE OF MIND THE QUESTIONS GO TO IS
9 NOT A FACTUAL DISPUTE THAT NEEDS TO BE RESOLVED BRING
10 THE COURT. SO I'M NOT GOING TO USE IT.

11 MS. SWISS: YOUR HONOR, IN HEARING THE COURT'S
12 DISCUSSION, MAY I REQUEST THAT THE INTERROGATORIES BE
13 REVISED SO THEY ARE NOT ASKING FOR THE INDIVIDUAL
14 SOCIAL WORKERS'S BELIEFS, BUT THAT THE JURY WOULD MAKE
15 THE FACTUAL DETERMINATIONS?

16 FOR EXAMPLE, NUMBER 1, CIRCUMSTANTIAL EVIDENCE
17 WHETHER THE SOCIAL WORKERS BELIEVED, IT JUST BE WHETHER
18 BABY RYAN WAS DIAGNOSED WITH FAILURE TO THRIVE DUE TO
19 ENVIRONMENTAL CAUSES AT THE TIME OF THE DETENTION, YES
20 OR NO.

21 AND PROCEED FROM THERE WITH THE REMAINING
22 QUESTIONS SO THEY ACTUALLY ARE MAKING THE FACTUAL
23 DETERMINATIONS.

24 THE COURT: LOOK, I CAN'T PREVENT YOU
25 SUBMITTING SOMETHING TO THE COURT, AND I WOULDN'T DO
26 THAT. SO IF THAT'S WHAT YOU CHOOSE TO DO, THAT'S YOUR
27 DECISION TO MAKE.

28 BUT I DON'T FIND IN ORDER FOR ME TO MAKE THE

1 DECISION AS TO WHETHER OR NOT THERE IS A QUALIFIED
2 IMMUNITY FOR WHAT OCCURRED, THE EVIDENCE IS QUITE CLEAR
3 TO ME THAT THERE IS A NOT A QUALIFIED IMMUNITY FOR THE
4 CONDUCT.

5 THERE MAY BE -- IT MAY NOT BE ACTIONABLE
6 BECAUSE THE JURY MAY FIND THAT THERE WAS AN EXIGENT
7 CIRCUMSTANCE, BUT I DON'T NEED TO KNOW MORE TO KNOW
8 WHAT THE LEGAL STANDARD IS FOR THEIR CONDUCT.

9 SO YES, YOU CAN DO IT, AND IF YOU -- TO
10 PROTECT YOUR RIGHTS IN THIS, IT MIGHT BE ADVISABLE TO
11 DO IT BECAUSE YOU WOULD WANT TO HAVE THE RECORD -- YOU
12 WANT TO HAVE THE RECORD REPRESENT AS BEST YOU CAN YOUR
13 POSITION IN THE CASE.

14 SO IN THE EVENT OF REVIEW BY A SUPERIOR COURT
15 OR HIGHER COURT THAT YOU WOULD HAVE THE RECORD THAT YOU
16 WOULD WANT.

17 BUT I DON'T -- I'M JUST TELLING YOU NOW YOU
18 CAN DO IT, AND IT'S NOT THAT I WOULD IGNORE THEM, BUT
19 AT THE MOMENT AS I'M SITTING HERE, I CAN'T IMAGINE WHAT
20 IT IS THAT WOULD CAUSE ME TO HAVE WHATEVER THE QUESTION
21 WAS -- WOULD CAUSE ME TO HAVE A DIFFERENT VIEWPOINT.

22 BUT WHAT I'M SAYING YOU USE THOSE
23 INTERROGATORIES WHERE THERE'S AN UNDERLYING FACTUAL
24 ISSUE THAT IS TO BE DECIDED WHICH WOULD THEN PERMIT THE
25 COURT TO MAKE THE LEGAL DECISION, AND THE FACTS OF THIS
26 CASE, THE EVIDENCE I'VE HEARD, I DO NOT BELIEVE THERE
27 IS ANY UNDERLYING FACTUAL ISSUE THAT IS NECESSARY FOR
28 MY DECISION ON THIS.

1 BUT I WOULD WANT YOU TO SUBMIT, IF YOU FEEL
2 THAT THERE'S SOME OTHER QUESTIONS THAT COULD BE ASKED
3 AND THAT SHOULD BE ASKED, THAT I'D WANT YOU TO DO IT IN
4 ORDER TO PROTECT YOUR CLIENT.

5 MS. SWISS: THANK YOU, YOUR HONOR.

6 THE COURT: ALL RIGHT. THE NEXT ISSUE IS THE
7 CIVIL CODE SECTION 47 PRIVILEGE WHICH IS BROADER THAN
8 THIS, BUT I'LL JUST REFER TO IT AS THE LITIGATION
9 PRIVILEGE, BUT IT DOES APPLY TO OTHER MATTERS.

10 AND, MS. SWISS, IS -- IT APPEARS TO ME,
11 MS. SWISS, THAT YOU'RE ASKING FOR THE CACI INSTRUCTION
12 1605 WITH THE BLANKS FILLED IN APPROPRIATELY TO BE
13 GIVEN, AND THAT THERE BE A QUESTION IN THE VERDICT FORM
14 FOR THE JURY TO DECIDE IN ESSENCE WHETHER THERE WAS
15 PRIVILEGED CONDUCT.

16 MS. SWISS: YES, YOUR HONOR.

17 THE COURT: OKAY. AND ON THIS SUBJECT, I'M
18 AWARE OF MR. MCMILLAN'S ARGUMENT YESTERDAY ABOUT
19 INTENTIONAL INFLICTION. AND WE HAVE IF ONLY INDIVIDUAL
20 DEFENDANT IS MS. SCHEELE.

21 AND ONE OF THE BASES FOR HIS OPPOSITION TO THE
22 MOTION FOR NON-SUIT -- OR FOR A DIRECTED VERDICT AN ON
23 THIS SUBJECT AS TO MS. SCHEELE WAS THAT HE CONTENDS
24 THERE WERE FACTUAL ISSUES AS TO THE CONDUCT AND NATURE
25 OF THE CONDUCT OF MS. SCHEELE IN HER INTERACTIONS WITH
26 THE PLAINTIFF DURING, AMONG OTHER THINGS, THE NUMBER OF
27 VISITATION WHICH SHE WAS THE MONITOR.

28 AND IT WAS ON THE BASIS OF THAT ABOUT THOSE --

1 THERE SEEMED TO BE SOME CONFLICT AS THINGS WENT ALONG
2 BETWEEN MS. SCHEELE AND MS. DUVAL, AND PLAINTIFF
3 CONTENDS THAT WITHIN THAT RELATIONSHIP, THERE WAS
4 CONDUCT, INCLUDING VERBAL, BY THE -- MS. SCHEELE, WHICH
5 RISES TO THE LEVEL OF OUTRAGEOUS CONDUCT.

6 AND SO I DENIED THE MOTION OF DIRECTED VERDICT
7 ON THE BASIS -- OF THOSE INTERACTIONS, PERSONAL
8 INTERACTIONS.

9 MR. MCMILLAN MADE A FURTHER ARGUMENT, WHICH I
10 FIND TO BE A STRETCH, WHICH WAS THAT MS. SCHEELE MADE
11 ENTRIES IN THE DSL WHICH WERE LATER REFERRED TO IN
12 RECORDING BY OTHERS TO THE COURT, AND THAT SHE SHOULD
13 HAVE KNOWN AND DID KNOW THAT THINGS THAT SHE HAD SAID
14 IN THE DSL WOULD BE REPORTED TO THE COURT AND THAT
15 WHICH WAS INTENTIONAL CONDUCT ON HER PART TO INFLICT
16 EMOTIONAL DISTRESS.

17 TO TELL YOU HONESTLY, I DON'T BUY THAT
18 ARGUMENT AT ALL. IT'S NOT CHANGING THE RULING ON THE
19 DIRECTED VERDICT.

20 BUT MY POINT IS RAISING THE ISSUE IS THIS, ANY
21 SECTION 47 CONDUCT WILL NOT APPLY TO THE CONDUCT AND
22 ACTIONS STATEMENTS MADE BETWEEN MS. SCHEELE AND
23 MS. DUVAL DURING THE CONTACTS OF -- DURING THE
24 VISITATION PERIODS OR OTHER CONTACTS THAT THEY HAD.

25 I DON'T REMEMBER IF THEY COMMUNICATED OUTSIDE
26 OF THE VISITATION, BUT IT'S POSSIBLE THERE WAS SOME
27 KIND OF COMMUNICATION, WHICH I DON'T THINK IS THE
28 SUBJECT OF THE CLAIM BEING MADE.

1 BUT MY POINT IS THAT I DON'T BELIEVE THE
2 LITIGATION PRIVILEGE WOULD APPLY TO THAT CONDUCT. THE
3 ONLY TIME THAT I THINK THE LITIGATION PRIVILEGE WOULD
4 APPLY WOULD BE TO SOMETHING THAT WAS COMMUNICATED IN
5 CONNECTION WITH THE LITIGATION.

6 MR. GUTERRES POINTED OUT YESTERDAY THAT THERE
7 IS ONLY ONE ACTUAL COMMUNICATION BETWEEN MS. SCHEELE
8 AND THE COURT, WHICH WAS THAT ONE SUBMISSION, AND I
9 THINK IT WAS ON AUGUST 9TH, OF 2010, AND THERE'S
10 NOTHING IN THAT COMMUNICATION ABOUT THE COMMUNICATION
11 ITSELF.

12 THAT WAS A TRANSMITTAL, THERE WAS NOTHING
13 SAID. SO AS TO THAT, SOMETHING BEING SAID OR DONE IN
14 THE CONDUCT THAT COULD BE CONSTRUED AT WITHIN THE
15 LITIGATION, THEN I WOULD SAY THIS WOULD APPLY, OR
16 POTENTIALLY CAN APPLY, AND PROBABLY WOULD.

17 BUT I DON'T THINK THAT THE BASIS FOR THE
18 CLAIMS THAT HE CAN MAKE OF CONDUCT FOR THE INTENTIONAL
19 INFLECTION IMPLICATE THE LITIGATION ITSELF. IT
20 IMPLICATE IT IS RIGHT OF THE PARENT FOR VISITATION,
21 WHICH IS INDEPENDENT OF THE LITIGATION.

22 IT'S SIMPLY THAT RIGHT THAT EXIST UNDER THE
23 LAW, AND IT IS BASED -- AND THE CLAIM OF INTENTIONAL
24 INFLECTION, I BELIEVE, DOES NEED TO BE LIMITED,
25 MR. MCMILLAN, TO THOSE INTERACTIONS, WHETHER IT BE
26 VERBAL -- AND THERE MAY HAVE BEEN SOMETHING -- ACT AS
27 OPPOSED TO SOMETHING VERBAL.

28 ALTHOUGH, MOST LIKELY, IT'S THINGS THAT WERE

1 SAID, MAYBE IN CONNECTION WITH SOMETHING THAT WAS DONE,
2 BUT NEVERTHELESS SAID AND COMMUNICATED.

3 SO IF -- I'M NOT GOING TO LET MR. MCMILLAN
4 BASE HIS INTENTIONAL INFLECTION CLAIM ON CONDUCT WHICH
5 IS -- WAS WITHIN THE LITIGATION ITSELF. BECAUSE I
6 DON'T THINK THERE'S ANY EVIDENCE THAT WOULD PERMIT THAT
7 ARGUMENT TO BE MADE.

8 AND FOR THAT REASON, I DON'T THINK THAT WE
9 NEED TO GIVE THE 1605 INSTRUCTION, AND I DON'T THINK WE
10 NEED ANY QUESTION ON IT.

11 MS. SWISS: THANK YOU, YOUR HONOR.

12 THE COURT: ANY QUESTIONS, MR. MCMILLAN?

13 MR. MCMILLAN: NO, THAT IS VERY CLEAR, AND YOU
14 PARROTED WHAT I WOULD HAVE SAID IS MY ARGUMENT TO THE
15 LETTER.

16 THE COURT: WELL, DID SOMEBODY HACK MY
17 COMPUTER?

18 MR. MCMILLAN: I CAN NEITHER CONFIRM NOR DENY
19 THAT.

20 THE COURT: THIS IS AN ASIDE, I WISH I KNEW
21 SOMETHING OR SAID SOMETHING IMPORTANT ENOUGH FOR
22 SOMEBODY TO WANT TO HACK MY COMPUTER. ALL RIGHT.

23 NOW, THEN THE NEXT THING THAT I WANT TO DO,
24 AND I THINK WE'LL -- AND WE'RE GOING TO DO THIS AT
25 LEAST INITIALLY OFF THE RECORD, FOR ME TO POINT OUT
26 SOME CONCERNS I HAVE, WHICH I'VE ALREADY ADDRESSED IN
27 GENERAL TERMS TO MR. PRAGER.

28 AND THEN IT WAS ON VERDICT FORM NUMBER 1 THAT

1 I WANT TO TAKE A LOOK AT THE ISSUES OR QUESTIONS I HAD
2 ABOUT THE INSTRUCTIONS AS TO WHAT TO DO THAT I
3 THOUGHT -- IT APPEARED TO ME AT LEAST IN THE LAST
4 VERDICT FORM I HAD BEFORE TODAY, THAT THE INSTRUCTIONS
5 WE'RE SENDING IN SOME INSTANCES TO THE WRONG QUESTION.

6 MR. MCMILLAN: I DIDN'T CATCH THOSE, I CAUGHT
7 AN OH LOT OF OTHER STUFF LAST NIGHT.

8 THE COURT: A LOT OF OUR FOCUSES HAS BEEN ON
9 GETTING THE RIGHT QUESTIONS TO ASK. AND THAT IS A --
10 CAN BE A COMPLEX ISSUE, BUT ALL OF YOU HAVE WORKED A
11 GREAT DEAL ON THAT, AND I THINK WE HAVE THE RIGHT
12 QUESTIONS AT THIS POINT.

13 AND WE ARE GOING TO USE THE WORD ARTICULABLE,
14 SO IT GET AS LITTLE MORE COMPLEX, AND I MUST SAY THAT I
15 THINK ATTORNEYS AND COURTS MAYBE FOCUS LESS ON THE
16 INSTRUCTIONS THAN THEY DO ON THE SUBSTANTIVE QUESTIONS.

17 AS I REVIEWED THE LAST FORM, THERE WERE
18 QUESTIONS OF INSTRUCTIONS WHAT TO DO, IT'S GOING TO
19 SEND THE JURY ASTRAY.

20 SO WHAT I PROPOSE TO DO NEXT IS FOR US GOING
21 OVER THE VERDICT FORM, HAVE THAT DISCUSSION, AND I MAY
22 BE MISSING SOMETHING AS TO WHY THE INSTRUCTIONS WERE
23 GIVEN, BUT ONCE WE GET SETTLED ON THAT, THEN WE'RE
24 GOING TO DO INSTRUCTIONS.

25 SO WE'LL GO OFF THE RECORD AT THIS POINT. AND
26 I THINK THE DISCUSS IS BETTER DONE. I KNOW WE HAVE
27 CERTAIN SPECTATORS. BUT THIS IS OFF THE RECORD
28 DISCUSSION. IT'S BETTER DONE OFF THE RECORD, WHICH I'M

1 GOING TO DO IN THE JURY ROOM.

2 (PAUSE IN THE PROCEEDINGS)

3 THE COURT: SO WE ARE BACK ON THE RECORD.

4 MR. PARIS, GOOD MORNING.

5 MR. PARIS: GOOD MORNING, YOUR HONOR.

6 THE FIRST EVIDENTIARY, THE DELIVERED SERVICE
7 LOG, I BELIEVE, I'VE BEEN INFORMED THAT THERE HAS BEEN
8 AN AGREEMENT FOR THE ENTIRETY OF THE DELIVERED SERVICE
9 LOG WITH THE REDACTION OF THE RECESS NEYLAND ENTRY,
10 WHICH IS IS ON -- AND GO, SUBMITTED FOR A LIMITED
11 PURPOSE.

12 THE COURT: YES. AND YOU'RE CORRECT.
13 MR. GUTERRES WAS GOING TO THINK ABOUT THAT OVER NIGHT.
14 DO YOU AGREE WITH WHAT MR. PARIS JUST SAID? WE'LL TAKE
15 THE WHOLE THING WITH THE EXCEPTION OF THE REDACTION OF
16 THE ENTRY PERTAINING TO PASS NEYLAND?

17 MR. GUTERRES: YES, AND THAT'S FOR A LIMITED
18 PURPOSE. AND WE SUBMITTED A DRAFT, NEW EXHIBIT 82,
19 WITH THE ENTRY BY PASTOR NEYLAND REDACTED. AND I'VE
20 GIVEN ONE TO COUNSEL, AND IF THAT'S ACCEPTABLE --

21 THE COURT: IS THAT ACCEPTABLE?

22 MR. PARIS: THAT'S ACCEPTABLE.

23 THE COURT: ALL RIGHT. THAT WILL BE THE
24 RULING. AND EXHIBIT 82 WILL BE RECEIVED IN EVIDENCE AS
25 IT HAS PRESENTED BY MR. GUTERRES AND AGREED TO BY
26 MR. MCMILLAN. ALL RIGHT?

27 MR. PARIS: OKAY. WOW -- THAT MIGHT BE --
28 EXHIBIT 370, WHICH WAS IDENTIFIED DURING THE DEPOSITION

1 READ OF GUY TRIMARCHI, THE PERSON MOST KNOWLEDGEABLE
2 REGARDING DECEPTION IN THAT PROCEEDING, IT'S A
3 PROCEDURAL GUIDE REGARDING THE UP-FRONT ASSESSMENT.

4 THAT WOULD BE ONE OF THE PENT ULTIMATE EXHIBIT
5 THAT PLAINTIFF IS OFFERING. SO THERE'S ONE MORE AFTER
6 THAT.

7 MS. SWISS: BIG WORDS. HE'S HANGING OUT WITH
8 MR. MCMILLAN, TOO MUCH.

9 MR. PRAGER: I THINK IT'S ARTICULABLE.

10 THE COURT: MS. SWISS IS NOT INFERRING IN ANY
11 WAY YOU'RE AN INFECTIOUS DISEASE. AND AT LEAST ONE OF
12 OUR SPECTATORS IS CONNECTED WITH YOU.

13 MS. SWISS: WE HAVE NO OBJECTION.

14 THE COURT: ALL RIGHT. SO 370 WILL BE
15 RECEIVED.

16 MS. SWISS: THAT'S FINE.

17 MR. GUTERRES: THAT'S FINE.

18 THE COURT: IT'S RECEIVED. WHAT ELSE,
19 MR. PARIS? IS THAT IT?

20 MR. PARIS: I BELIEVE WE HAD RESOLVED THE
21 REDACTION TO THE MILL'S DECLARATION FOR EXHIBIT 24.

22 THE COURT: IT IS MY UNDERSTANDING THAT WE
23 HAD.

24 MR. GUTERRES: AND, YOUR HONOR, THIS
25 MORNING -- LAST NIGHT I SENT A VERSION OF THE REDACTED
26 DECLARATION. I THINK THAT PLAINTIFF'S SIDE AGREED TO
27 THE REDACTIONS. I HAVE SUBMITTED A COPY TO THE COURT.
28 AGAIN, THIS WOULD BE PART OF EXHIBIT 24, AND TO BE USED

1 FOR A LIMITED PURPOSE.

2 MR. PARIS: AND APPARENTLY -- THERE WERE A
3 NUMBER OF EXHIBITS THAT, BY AGREEMENT, WERE TO BE
4 RECEIVED FOR A LIMITED PURPOSE. THEY'RE CURRENTLY
5 MARKED IN THEIR ENTIRETY.

6 THEY'RE COURT REPORTS, MUCH OF THE SAME
7 VARIETY THAT WE'VE BEEN ADMITTING FOR A LIMITED PURPOSE
8 THAT JUST MADE THEIR WAY -- RECEIVED INTO EVIDENCE IN
9 FULL WHEN THEY WERE SUPPOSED TO BE RECEIVED FOR A
10 LIMITED PURPOSE.

11 AND I HAVE THE NUMBERS OF THOSE EXHIBITS.

12 THE COURT: OF THE ONES THAT SHOULD BE
13 RECEIVED FOR A LIMITED PURPOSE?

14 MR. PARIS: CORRECT, YOUR HONOR.

15 THE COURT: BUT I DID RECEIVE A MODIFIED CACI
16 INSTRUCTION -- THE ONE --

17 MR. PARIS: 206.

18 THE COURT: THIS MORNING, ARE THESE IN
19 ADDITION TO WHAT IS IN THERE?

20 MR. PARIS: THESE -- THE MODIFIED INSTRUCTION
21 FOR 206 DOES NOT COVER THESE. WE DIDN'T CATCH THE
22 ERROR INITIALLY, SO THESE WOULD BE IN ADDITION TO THE
23 EXHIBITS LISTED ON THAT MODIFIED INSTRUCTION.

24 THE COURT: SO THESE WOULD BE -- THESE ARE
25 ONES THAT HAVE BEEN RECEIVED THAT SHOULD BE RECEIVED
26 FOR A LIMITED PURPOSE?

27 MR. PARIS: THAT'S CORRECT, YOUR HONOR.

28 THE COURT: WHY DON'T YOU GIVE US THE NUMBERS,

1 AND MS. SWISS WILL BE HAPPY TO REVIEW THOSE. GO AHEAD.

2 MR. PARIS: IT WOULD BE EXHIBITS 11, 12, 26,
3 31, 32, 35, 63, 167 PAGE 2030.

4 THE COURT: ALL RIGHT.

5 MS. SWISS: WE WILL DOUBLE CHECK, BUT I
6 BELIEVE THAT WE AGREE ON ALL OF THOSE.

7 THE COURT: OKAY. WHY DON'T WE DO THIS? IS
8 THIS GOING TO BE THE END OF WHAT YOU HAVE TO DO TODAY,
9 MR. PARIS?

10 MR. MCMILLAN: JUST, YOUR HONOR, I THINK FOR
11 MR. PARIS, THAT'S CORRECT. HE'S PRETTY MUCH DONE.
12 THERE'S ONE EXHIBIT LEFT, 1088, PAGE 1088.3, 1088.28,
13 AND THEN 1088.30 THROUGH 1088.41, AND THOSE ARE
14 MS. ENNIS, I BELIEVE SHE WAS THE INITIAL MONITOR FOR
15 MS. DUVAL'S VISITS WITH HER SON.

16 AND THESE ARE HER MONITORING REPORTS. THESE
17 ARE HER MONITORING REPORTS, AND PLAINTIFF WOULD ALSO
18 OFFER THOSE INTO EVIDENCE. AND THAT'S BASICALLY IT.

19 THE COURT: ALL RIGHT. AS TO THE ADDITIONAL
20 EXHIBITS THAT MR. PARIS INDICATED, THAT PROBABLY SHOULD
21 BE INCLUDED IN ONES RECEIVED FOR A LIMITED PURPOSE.
22 YOU'LL TAKE A LOOK AT THOSE?

23 MS. SWISS: YES, THAT COULD BE DONE VERY
24 QUICKLY.

25 THE COURT: YES. I'VE GOT TO MR. GUTERRES TO
26 THE JURY ROOM HERE, AND YOU'LL JOIN US AS SOON AS WE HAD
27 A CHANCE TO LOOK AT THEM. SO, MR. PARIS, DON'T LEAVE
28 UNTIL MS. SWISS HAS OPPORTUNITY TO REVIEW THOSE.

1 IF THERE'S A DISPUTE, LET ME KNOW RIGHT AWAY,
2 AND WE WILL RESOLVE IT AWAY R RIGHT AWAY SO YOU CAN DO
3 OTHER THINGS.

4 MR. PARIS: THANK YOU, YOUR HONOR.

5 MR. GUTERRES: YOUR HONOR, JUST WITH THE
6 EVIDENCE, IF I MAY, ONE OTHER CORRECTION, WE HAD
7 WITHDRAWN EXHIBIT 1063, JVCT 919 THROUGH 923, WHICH WAS
8 THE DECLARATION OF MS. DUVAL IN RESPONSE THE
9 DECLARATION OF MR. MILLS.

10 THE COURT: YES.

11 MR. GUTERRES: AND IN LIEU OF THAT, WE HAD
12 AGREED THAT WE WOULD THE -- MS. DUVAL'S DECLARATION IN
13 EXHIBIT 24 FOR THE LIMITED PURPOSE.

14 THE COURT: RIGHT.

15 MR. GUTERRES: AND THAT'S -- THAT WOULD BE
16 EXHIBIT 24 AT PAGE -- BATES PAGES 631 THROUGH 636.

17 THE COURT: YES.

18 MR. PARIS: THAT'S CORRECT, YOUR HONOR.

19 THE COURT: AND THAT IS --

20 MR. GUTERRES: SO THAT NEEDS TO BE CORRECTED
21 IN THE COURT'S.

22 THE COURT: SO THE EXTENT NECESSARY, THE CLERK
23 WILL REFLECT THAT, AND THE EXHIBITS, AND THAT WAS MY
24 UNDERSTANDING AS WELL. AND THE ENNIS VISITATION
25 REPORTS, A LIMITED PURPOSE?

26 MS. SWISS: WE OBJECT TO THOSE COMING IN AS
27 HEARSAY. AND THERE WERE CERTAIN OF THEM THAT EVEN IF
28 THEY DO COME IN FOR THE WILL YOU EXPLAIN, THERE WERE

1 CERTAIN PORTIONS WHICH THE COURT WOULD NOT ALLOW
2 QUESTIONING ON IT BECAUSE IT WAS HEARSAY.

3 AND IT WAS NOT A STATEMENT OF A PARTY
4 OPPONENT. IT WAS REGARDING THIRD PARTY STATEMENTS, IN
5 PARTICULAR, REGARDING STATEMENTS ALLEGEDLY MADE BY
6 KAREN VANCE, WHO WAS MS. SCHEELE'S SUPERVISOR.

7 SO SHOULD THEY COME IN FOR A LIMITED PURPOSE,
8 WE WOULD REQUEST CERTAIN REDACTIONS. I DON'T THINK
9 IT'S THAT EXTENSIVE.

10 THE COURT: ALL RIGHT. I'M NOT GOING TO DO
11 THAT BECAUSE I WANTED TO GET THE WORK DONE ON THE
12 VERDICT FORM. WERE HER -- WERE HER VISITATION REPORTS
13 SUBMITTED TO DCFS?

14 MS. SWISS: THAT IS A QUESTION THAT I DON'T
15 BELIEVE HAS EVER BEEN ANSWERED. I DON'T BELIEVE THEY
16 WERE EVER PRODUCED IN THIS CASE UNTIL THIS LITIGATION,
17 SO I DON'T THINK THERE WAS ANY EVIDENCE THAT THEY WERE
18 RECEIVED BY DCFS AND USED FOR ANY PURPOSE.

19 MR. PRAGER: YOUR HONOR, IF I MAY.

20 MY RECOLLECTION IS THAT DURING MS. SCHEELE'S
21 DIRECT TESTIMONY HERE IN COURT, THERE WAS A DISCUSSION
22 CONTRASTING ONE OF MS. ENNIS'S VISITATION LOGS WITH
23 MS. SCHEELE'S RECORDING OF THAT SAME TIME FRAME.

24 OF COURSE, THE COURT'S AWARE THE EFFORT THERE
25 WAS TO SHOW MS. SCHEELE'S BIAS IN THE WAY SHE
26 DOCUMENTED EVENTS COMPARED TO OTHERS, SUCH AS
27 MS. LEWIS, A DIFFERENT DCFS EMPLOYEE WHO DOCUMENTED THE
28 BABY BEING HAPPY, WHEREAS MS. SCHEELE NEVER DID, AND

1 DOCUMENTING POSITIVE TRAITS OF THE MOTHER.

2 SO I DO BELIEVE THERE WAS ONE EXHIBIT, BUT I
3 HAVE TO CONFIRM THAT.

4 MR. MCMILLAN: ALSO, YOUR HONOR, WITH RESPECT
5 TO THE, I GUESS IT'S FOUNDATIONAL ISSUE THAT THEY'RE
6 RAISING, I BELIEVE MS. ENNIS THAT SHE TESTIFIED THERE
7 WERE RULES SHE HAD TO FOLLOW IN MONITORING.

8 AND I DON'T RECALL -- I BELIEVE, BUT I DON'T
9 RECALL EXACTLY -- THAT ONE OF THOSE RULES THAT SHE WAS
10 TO REPORT AND SHE DID AND I DON'T RECALL WHETHER OR NOT
11 IT CAME FROM HER THAT SHE TRANSMITTED HER REPORTS TO
12 DCFS, EITHER THROUGH MS. SCHEELE OR MS. VANCE.

13 I DON'T RECALL ON THAT. BUT I BELIEVE
14 MS. DUVAL MAY HAVE TESTIFIED THAT SHE DID, AND THE WAY
15 SHE KNEW SHE DID IS BECAUSE THERE WAS SOME
16 COMMUNICATION BACK AND FORTH BETWEEN MS. DUVAL AND
17 MS. SCHEELE. I DON'T RECALL EXACTLY.

18 THE COURT: NOR DO I. AND THE REASON -- YOU
19 KNOW WHY I'M ASKING THE QUESTION.

20 A GREAT DEAL, IN FACT, IT I MAY BE TRUE OF ALL
21 THE EXHIBITS WE HAVE RECEIVED IN EVIDENCE FOR A LIMITED
22 PURPOSE ARE ONES WHICH WOULD REFLECT INFORMATION KNOWN
23 TO DCFS TO SHOW WHAT IT WAS THEY WERE ACTING UPON.

24 AND SO OBVIOUSLY, IF THEY DIDN'T HAVE WHATEVER
25 SHE HAD THEN THERE'S NOT -- WE DON'T HAVE A BASIS FOR
26 LIMITED ADMISSION AT ALL BECAUSE THEY ARE HEARSAY.
27 NOW, THERE'S NO QUESTION ABOUT FOUNDATION.

28 I'M NOT QUESTIONING THAT AT ALL.

1 SHE SAID THOSE WERE NOTES THAT SHE MADE. BUT
2 I THINK WE'RE MISSING THE CONDUCTION THAT WE EITHER
3 PERMIT THEM -- AND THEY ARE HEARSAY.

4 SO I THINK THE ONLY QUESTION WOULD BE DO THEY
5 COME IN FOR A LIMITED PURPOSE, AND IS THERE SOME
6 EVIDENCE THAT SHOWS THAT THESE WERE, IN FACT, SUBMITTED
7 TO DEFICIT, AND THIS IS INFORMATION THEY ALSO HAD, THEN
8 IT -- IT MAY BE ADMISSIBLE.

9 WHEN I SAY MAY BE, IT'S -- IT'S NOT CONCERN TO
10 ME YET, BUT I THINK THAT WE'RE GOING TO HAVE VERIFY IF
11 THERE WAS ANY EVIDENCE SHOWING THAT THEY WERE KNOWN TO,
12 PROVIDED TO DCFS, OR SOME OTHER BASIS THAT WOULD PERMIT
13 THEM TO BE ADMITTED FOR A LIMITED PURPOSE.

14 AND, IN FACT, IS NOTICE -- BECAUSE THE HEARSAY
15 OBJECTION, OTHERWISE WE EXCLUDE THEM.

16 SO WE'LL HAVE TO -- I DON'T CARE WHO LOOKING
17 IT UP, BUT WE HAVE TO GO TO WORK ON THE VERDICT FORM
18 BECAUSE WE STILL HAVE A LONG DAY ON INSTRUCTIONS.

19 MS. SWISS: AND THERE'S ONE OTHER EXHIBIT
20 ISSUE THAT I THINK WE CAN RESOLVE. I MET AND CONFERRED
21 WITH MR. PARIS, AND I BELIEVE EXHIBIT 392 IS THE
22 DECLARATION OF MR. BUDIN THAT WAS ALREADY IN ANOTHER
23 EXHIBIT FROM HIS FILE, EXHIBIT 1077.39 TO .41.

24 SO I BELIEVE PLAINTIFF WILL BE WITHDRAWING
25 THAT.

26 MR. PARIS: THAT'S CORRECT, YOUR HONOR.
27 PLAINTIFF WILL WITHDRAW EXHIBIT 392 ALREADY RECEIVED IN
28 EVIDENCE. IT'S DUPLICATIVE.

1 THE COURT: ALL RIGHT. ALL RIGHT.

2 EXEMPT WITH THE PENDING ISSUES OF THE ENNIS
3 NOTES, AND THE ADDITIONAL EXHIBITS TO BE RECEIVED FOR A
4 LIMITED PURPOSE, WE'RE DONE WITH EXHIBITS?

5 MR. MCMILLAN: I BELIEVE THAT'S CORRECT, YOUR
6 HONOR.

7 THE COURT: WE'RE DONE. I'M NOT COMING BACK
8 TO IT. ALL RIGHT. SO AT THIS TIME, WE WILL --

9 MS. SWISS: YOUR HONOR, WHILE WE WERE
10 MEETING -- WHILE WE WERE DISCUSSING ON THE RECORD,
11 MR. GUTERRES WENT THROUGH MR. PARIS'S LIST OF EXHIBITS
12 TO BE ADMITTED FOR A LIMITED PURPOSE, AND THE DEFENSE
13 ARE IN AGREEMENT.

14 THE COURT: ALL RIGHT. SO THEY WILL BE -- IF
15 THEY WERE PREVIOUSLY RECEIVED, THE ORDER IS MODIFIED
16 THAT THEY'RE RECEIVED FOR A LIMITED PURPOSE.

17 AND WE WILL INCLUDE THEM ON THE UPDATED
18 INSTRUCTION OF -- TO THE JURY OF WHAT'S BEEN RECEIVED
19 FOR A LIMITED PURPOSE. THANKS.

20 YOU KNOW, I'M TRYING TO BE FRUGAL WITH YOUR
21 TIME, MR. PARIS.

22 AND ALL WE HAVE LEFT ARE THE ENNIS NOTES. I
23 DON'T KNOW WE NEED YOU HERE FOR THAT UNLESS YOU'RE THE
24 ONE THAT'S GOING TO HAVE TO DO THE SEARCH.

25 MR. MCMILLAN: HE IS THE ONE WHO'S GOING TO
26 HAVE TO DO THE SEARCH.

27 THE COURT: WE'RE NOT SAYING GOOD-BYE YET, BUT
28 I AM GOING TO SEE -- AND, MR. PRAGER, YOU CAN JOIN US

1 AS WELL, BUT WE'RE GOING TO WORK ON VERDICT FORM
2 NUMBER 1 FIRST WITH MR. MCMILLAN AND MR. GUTERRES AND
3 MS. SWISS.

4 WE'RE NOW OFF THE RECORD.

5
6 (WHEREUPON, AT THE HOUR OF 4:02 P.M.,
7 THE PROCEEDINGS WERE ADJOURNED.)

8

9 ---OOO---

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11 (THE NEXT PAGE NUMBER IS 10201)

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