

**In the Matter Of:**

Kahn, Mahim vs Hologram USA, Inc., et al

**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

*October 28, 2019*

*Job Number: 583972*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT

DEPARTMENT 74 HON. MICHELLE W. COURT, JUDGE

MAHIM KHAN, )  
 )  
 PLAINTIFFS, )  
 )  
 V. ) CASE NO. BC654017  
 )  
 HOLOGRAM USA, INC.; ALKI DAVID )  
 PRODUCTIONS, INC.; FILMON TV, )  
 INC.; ALKIVIADES ("ALKI") DAVID, )  
 AN INDIVIDUAL; AND DOES 1 )  
 THROUGH 25, )  
 )  
 DEFENDANTS. )  
 \_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
MONDAY, OCTOBER 28, 2019

APPEARANCES:

FOR PLAINTIFF:  
ALLRED, MAROKO & GOLDBERG  
BY: NATHAN GOLDBERG, ESQ.  
BY: DOLORES Y. LEAL, ESQ.  
6300 WILSHIRE BLVD., SUITE 1500  
LOS ANGELES, CALIFORNIA 90048

FOR DEFENDANTS:

VENABLE LLP  
BY: AMIR KALTGRAD, ESQ.  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CALIFORNIA 90067

REPORTED BY: SANDRA GUERRA, CSR NO. 10977  
OFFICIAL REPORTER PRO TEMPORE

1 CASE NO: BC654017  
2 CASE NAME: KHAN V. HOLOGRAM  
3 PASADENA, CALIFORNIA MONDAY, OCTOBER 28, 2019  
4 DEPARTMENT 74 HON. MICHELLE WILLIAMS COURT, JUDGE  
5 REPORTER: SANDRA GUERRA, CSR NO. 10977  
6 TIME: MORNING SESSION  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8

9 (THE FOLLOWING PROCEEDINGS WERE  
10 HELD IN OPEN COURT.)  
11

12 THE COURT: GOOD MORNING, EVERYONE.  
13 WE ARE ON THE RECORD IN KAHN V. HOLOGRAM USA,  
14 INC. CASE NUMBER BC654017.

15 STATE YOUR APPEARANCES, PLEASE.

16 MR. GOLDBERG: GOOD MORNING, YOUR HONOR.  
17 NATHAN GOLDBERG ON BEHALF OF THE PLAINTIFF.

18 MS. LEAL: GOOD MORNING, YOUR HONOR, DOLORES  
19 LEAL ON BEHALF OF THE PLAINTIFF KAHN.

20 THE COURT: GOOD MORNING.

21 MR. KALTGRAD: GOOD MORNING, YOUR HONOR, AMIR  
22 KALTGRAD ON BEHALF OF DEFENDANTS. AND MR. DAVID IS HERE  
23 AS WELL.

24 THE COURT: GOOD MORNING, MR. DAVID.

25 MR. DAVID: I'M REPRESENTING MYSELF HERE.

26 THE COURT: OH, YOU'RE REPRESENTING YOURSELF  
27 NOW?

28 MR. KALTGRAD: YES, YOUR HONOR. MR. DAVID HAS

1 NOW SIGNED A SUBSTITUTION OF ATTORNEY. IT HASN'T BEEN  
2 FILED YET, BUT HE INTENDS TO REPRESENT HIMSELF. HE'LL  
3 BE FILING THAT THIS AFTERNOON.

4 THE COURT: VERY WELL. THANK YOU VERY MUCH.  
5 GO AHEAD AND HAVE A SEAT, EVERYONE.

6 MR. KALTGRAD: YOUR HONOR, IF I MIGHT JUST  
7 PRELIMINARILY --

8 THE COURT: I THINK YOU'RE ABOUT TO SAY THE  
9 SAME THING I AM, SO I'LL LET YOU GO AHEAD.

10 MR. KALTGRAD: SURE. I RECEIVED AN EMAIL ABOUT  
11 3:30 IN THE MORNING FROM MS. GAROFALO. SHE WAS  
12 EVACUATED DUE TO THE GETTY FIRE FROM HER RESIDENCE. SHE  
13 HASN'T BEEN HOME SINCE. SHE'S OBVIOUSLY THE TRIAL  
14 COUNSEL IN THIS CASE, SO I DON'T KNOW HOW THE COURT  
15 WANTS TO PROCEED. I THINK DEFENDANT'S PREFERENCE WOULD  
16 BE -- MY UNDERSTANDING FROM HER IS SHE DOESN'T THINK  
17 SHE'LL BE BACK IN HER HOUSE FOR A COUPLE OF DAYS. SHE  
18 LIVES RIGHT UP ON THE STREET WHERE THERE ARE SOME HOUSES  
19 THAT BURNED UP THERE.

20 THE COURT: I'M SORRY TO HEAR THAT.

21 MR. KALTGRAD: I DON'T THINK SHE KNOWS WHETHER  
22 HER HOUSE IS -- WHAT HER CONDITION IS IN AT THIS TIME,  
23 BUT SHE'S OUT OF THE HOUSE RIGHT NOW, SO I THINK  
24 DEFENDANT'S PREFERENCE WOULD BE TO MAYBE JUST KICK  
25 THINGS FOR AT LEAST A FEW DAYS, IF NOT TO NEXT MONDAY.  
26 I DON'T KNOW IF THE COURT IS AVAILABLE, BUT THAT'S THE  
27 POSITION WE'RE IN RIGHT NOW.

28 THE COURT: WELL, I WAS PLANNING ON BEING

1 ENGAGED IN THIS TRIAL FOR THE NEXT COUPLE OF WEEKS, SO  
2 LET ME ASK YOU THIS: ARE YOU PREPARED TO ARGUE THE  
3 MOTIONS IN LIMINE AND TALK ABOUT JURY INSTRUCTIONS, OR  
4 WAS MS. GAROFALO PLANNING ON DOING THAT?

5 MR. KALTGRAD: WELL, I KNOW SHE WANTED TO BE  
6 HERE FOR THE MOTIONS IN LIMINE. I'M CERTAINLY FAMILIAR  
7 ENOUGH WITH THE JURY INSTRUCTIONS AND THE VERDICT FORM  
8 AND CAN DEAL WITH THOSE ISSUES.

9 IF THE COURT WANTS TO MOVE FORWARD WITH THE  
10 MOTIONS IN LIMINE, I'M FAMILIAR ENOUGH WITH THEM. I  
11 KNOW SHE WAS PLANNING TO ARGUE THOSE MOTIONS, BUT I'LL  
12 LEAVE IT TO THE COURT'S DISCRETION ON THAT.

13 THE COURT: OKAY.

14 MR. KALTGRAD: I KNOW THEY'RE SOMEWHAT --  
15 THEY'RE FAIRLY IMPORTANT TO THE EXTENT THAT THERE'S A  
16 LOT BEING ASKED TO BE EXCLUDED IN THIS CASE. SO IT'S  
17 GOING TO MAKE A SIGNIFICANT DIFFERENCE ON TIME ESTIMATES  
18 AND THINGS LIKE THAT.

19 THE COURT: OKAY. MS. LEAL AND MR. GOLDBERG?

20 MR. GOLDBERG: YOUR HONOR, WITH REGARD TO  
21 MRS. GAROFALO'S SITUATION, OBVIOUSLY, WE'RE SYMPATHETIC.  
22 IN FACT, WE HAD A LITTLE ISSUE LAST NIGHT AS WELL, BUT I  
23 WOULD HOPE THAT SHE COULD MAYBE BE HERE THIS AFTERNOON.  
24 UNLESS SHE'S ONE OF THE HOUSES THAT BURNED DOWN. I  
25 MEAN, I'M ASSUME THAT SHE CAN GET WHAT SHE NEEDS AND  
26 COME TO COURT. IF NOT THIS AFTERNOON, HOPEFULLY BY  
27 TOMORROW MORNING. I MEAN, WE HAVE -- OUR CLIENT FLEW IN  
28 TO BE HERE. WE HAVE WITNESSES SCHEDULED, WE'D VERY MUCH

1 LIKE TO GO FORWARD.

2 MS. LEAL: IF I MAY ADD, YOUR HONOR.

3 MR. KALTGRAD, I THINK, IS BEING A BIT -- WHAT'S THE  
4 WORD?

5 MR. GOLDBERG: MODEST.

6 MS. LEAL: MODEST, BECAUSE HE'S THE ONE WHO'S  
7 WRITTEN ALL THE MOTIONS IN LIMINE. HE'S THE ONE WHO  
8 WROTE THE OPPOSITION SO I THINK HE -- AND WE ALSO WORKED  
9 ON THE JURY INSTRUCTIONS TOGETHER, SO I THINK HE'S VERY  
10 CAPABLE OF ADDRESSING THE MOTIONS IN LIMINE.

11 THE COURT: AND MR. DAVID, I NOTICED THAT YOU  
12 WERE WHISPERING TO COUNSEL. DID YOU WANT --

13 MR. DAVID: I DO, YOUR HONOR, THANK YOU.

14 YEAH, I -- I DON'T -- I MEAN I TRUST HIS  
15 ABILITIES. I HAVE NO PROBLEM IN MOVING FORWARD WITHOUT  
16 MS. GAROFALO UNTIL SHE JOINS US BACK AGAIN WHEN SHE'S  
17 READY.

18 THE COURT: OKAY. WELL I'M INCLINED TO GO  
19 AHEAD AND GO FORWARD WITH THE MOTIONS IN LIMINE AND THE  
20 JURY INSTRUCTIONS. THE THINGS THAT WE CAN GET DONE NOW.  
21 WE OBVIOUSLY WILL NOT COMMENCE JURY SELECTION AND THE  
22 TRIAL WITHOUT HER.

23 I THINK IT'S PROBABLY A LITTLE OPTIMISTIC TO  
24 EXPECT HER TO BE ABLE TO BE HERE THIS AFTERNOON,  
25 ESPECIALLY BECAUSE I KNOW THAT AT LEAST AS OF A COUPLE  
26 OF HOURS AGO THAT FIRE WAS NOT UNDER CONTROL, SO I'M  
27 SURE SHE'S NOT ABLE TO GET BACK TO HER RESIDENCE RIGHT  
28 NOW.

1 SO UNLESS THERE'S ANY OBJECTION, WHY DON'T WE  
2 GO AHEAD AND SEE WHAT WE CAN GET DONE WITHOUT HER SO  
3 THAT WAY WHEN SHE'S ABLE TO REJOIN US, WE'VE BEEN ABLE  
4 TO MAKE SOME HEADWAY.

5 IS EVERYONE AMENABLE TO THAT?

6 MR. DAVID: SURE.

7 THE COURT: ONE MINUTE. LET ME GET MY  
8 COMPUTER.

9 FROM THE OUTSET, I PREFER TO WORK  
10 ELECTRONICALLY, SO MOST OF THE TIME I'M TAKING NOTES ON  
11 THE COMPUTER. I DON'T WANT YOU TO THINK THAT I'M NOT  
12 PAYING ATTENTION TO WHAT'S GOING ON BECAUSE I'M LOOKING  
13 AT THE SCREEN. I'M WORKING ON THIS CASE AND I'M USUALLY  
14 TAKING NOTES, SO NO, YOU DON'T NEED TO WORRY THAT I'M  
15 CHECKING MY EMAIL OR ANYTHING LIKE THAT.

16 ALL RIGHT, SO LET'S START WITH PLAINTIFF'S  
17 MOTIONS IN LIMINE.

18 PLAINTIFF'S MOTIONS IN LIMINE NO. 1 TO PRECLUDE  
19 MR. DAVID FROM TESTIFYING IN THE DEFENSE CASE.

20 THE TENTATIVE IS TO GRANT THAT MOTION BECAUSE  
21 THERE IS EVIDENCE OF A WILFUL REFUSAL TO RESPOND TO  
22 DISCOVERY. THE MOTION TO COMPEL WAS GRANTED, MONETARY  
23 SANCTIONS WERE AWARDED. MR. DAVID DID NOT COMPLY. HE  
24 IS A PARTY AFFILIATED WITNESS.

25 WOULD YOU LIKE TO BE HEARD?

26 MR. KALTGRAD: YES, YOUR HONOR.

27 THE COURT: I'M GOING TO ASK MR. KALTGRAD FIRST  
28 AND THEN I'LL ASK YOU AS WELL.

1 MR. KALTGRAD: THANK YOU, YOUR HONOR.

2 FIRST OF ALL JUST TO CLARIFY THE COURT'S  
3 TENTATIVE RULING, IF PLAINTIFF WISHES TO CALL MR. DAVID  
4 IN THEIR CASE, IS THE COURT EXCLUDING CROSS-EXAMINATION  
5 OF MR. DAVID?

6 THE COURT: NO. IF MR. DAVID IS CALLED IN THE  
7 PLAINTIFF'S CASE IN CHIEF, THE PARTIES CAN CROSS-EXAMINE  
8 WITHIN THE SCOPE OF THE DIRECT EXAMINATION.

9 MR. KALTGRAD: UNDERSTOOD. AND I'M ASSUMING  
10 THAT WOULD BE AN ADVERSE EXAMINATION, SORT OF A REVERSE  
11 CROSS?

12 THE COURT: YES, IT WOULD BE REVERSE.

13 MR. KALTGRAD: UNDERSTOOD, YOUR HONOR.

14 AND THEN AS FAR AS THE COURT'S RULING, I MEAN,  
15 WE MADE OUR ARGUMENTS IN THE OPPOSITION PAPERS. THERE  
16 ARE OBVIOUSLY OTHER DEFENDANTS IN THE CASE BESIDE  
17 MR. DAVID WHO HAVE AN INTEREST IN CALLING MR. DAVID IN  
18 THE DEFENSE CASE.

19 THEY WERE NOT -- THOSE DEFENDANTS WERE NOT  
20 DEPOSED IN THIS MATTER. THERE WERE NO PMK DEPOSITIONS  
21 NOTICED. MR. DAVID'S, YOU KNOW, DEPOSITION WAS WHAT IT  
22 WAS, BUT THOSE DEFENDANTS ALSO HAVE AN INTEREST IN  
23 CALLING MR. DAVID, AND I THINK THEY WOULD BE PREJUDICED  
24 BY NOT BEING ABLE TO DO SO. IT'S SORT OF A FINE LINE  
25 BECAUSE MR. DAVID IS THE CEO OF HIS COMPANY. BUT THOSE  
26 COMPANIES WERE SEPARATELY NAMED AND THEY WERE NOT  
27 SEPARATELY DEPOSED, AND THEY HAVE AN INTEREST IN HAVING  
28 HIM TESTIFY.

1 THE COURT: OKAY. AND I'LL HEAR FROM MR. DAVID  
2 NEXT AND THEN I'M GOING TO ALLOW YOU TO RESPOND TO WHAT  
3 THEY BOTH ARGUED.

4 MR. DAVID: SO YOUR HONOR, I'M NOT ENTIRELY  
5 SURE I UNDERSTAND THE CONCEPT OF THE -- WHAT'S BEING  
6 DISCUSSED.

7 THE COURT: OKAY, SO THE PLAINTIFF HAS ASKED ME  
8 TO NOT ALLOW YOU TO TESTIFY IN YOUR CASE OR IN THE  
9 CORPORATE ENTITY CASES. THAT DOESN'T MEAN THAT THEY  
10 CAN'T CALL YOU IN THEIR CASE AND IT DOESN'T MEAN THAT  
11 YOU AND THE LAWYERS FOR THE ENTITIES CAN'T CROSS-EXAMINE  
12 YOU WHEN YOU'RE ON THE STAND WHEN THE PLAINTIFF CALLS  
13 YOU, BUT WHAT THEY'VE ASKED ME TO DO IS TO LIMIT YOUR  
14 TESTIMONY TO JUST THAT BECAUSE OF THE FACT THAT I  
15 ORDERED YOU TO COMPLY WITH THE DISCOVERY, INCLUDING  
16 SITTING AT YOUR DEPOSITION, AND YOU DIDN'T DO IT.

17 MR. DAVID: WHERE WOULD YOU LIKE ME TO START?

18 THE COURT: WHEREVER YOU WOULD LIKE.

19 MR. DAVID: WELL, I JUST FLEW TO LONDON FOR A  
20 COUPLE OF DAYS AND I MET WITH A COUPLE OF THE QUEEN'S  
21 COUNSEL, BOTH CRIMINAL AND CIVIL ON FILING CRIMINAL  
22 CHARGES IN A CIVIL CASE OF -- FOR PERVERSION OF JUSTICE,  
23 AND A NUMBER OF THINGS, BOTH THIS FIRM AND LISA BLOOM'S  
24 FIRM. THINGS THAT ARE VERY -- ALSO VERY PUBLIC WITH  
25 OTHER CLIENTS.

26 I MEAN, JUST NOW THEIR OWN CLIENT WENT TO THE  
27 STATE BAR AND COMPLAINED ABOUT -- ABOUT BASICALLY LEGAL  
28 THUGGERY. AND THE CLIENT PUBLICLY STATED THAT SHE'S

1 BEING VICTIMIZED BY THIS COMPANY. THEY ARE DOING THIS  
2 WHOLESAL. LEGAL THUGGERY. PERVERTING JUSTICE, FIXING  
3 CLIENTS WHOLESAL.

4 I DON'T HAVE REALLY MUCH OF A CHANCE WHEN THIS  
5 IS ALLOWED TO CONTINUE.

6 SO FOR THEM TO SUGGEST THAT MY VOICE BE LIMITED  
7 IS OBSCENE.

8 THAT IS MY -- THAT IS MY POSITION.

9 THE COURT: OKAY. THANK YOU VERY MUCH.

10 WHO'S ARGUING ON BEHALF OF THE PLAINTIFF?

11 MS. LEAL: I WILL, YOUR HONOR.

12 IN RESPONSE TO MR. KALTGRAD'S POSITION THAT  
13 THERE ARE DEFENSE ATTORNEYS, I MEAN, THEY SHOULD BE ABLE  
14 TO DEFEND THE CORPORATION BECAUSE THEY HAVE A SEPARATE  
15 INTEREST THAN MR. DAVID, WHILE THAT MAY BE TRUE,  
16 MR. DAVID TESTIFIED, AND THERE IS AN EXCERPT OF HIS  
17 DEPOSITION THAT I TOOK A COUPLE OF YEARS AGO WHERE HE  
18 SAID HE WAS A CEO AND PRESIDENT OF EACH AND EVERY  
19 COMPANY OF THE DEFENDANTS, AND MORE, SO THERE IS --  
20 THEY'RE ONE AND THE SAME, YOUR HONOR.

21 THE COURT: SO I'M GOING TO STOP EVERYONE FOR A  
22 SECOND. I DON'T -- I'M SURE THAT, BECAUSE YOU'VE GONE  
23 THROUGH THESE DEPOSITIONS, YOU'VE HEARD THIS ADMONITION  
24 BEFORE, OUR COURT REPORTER IS TAKING DOWN EVERYTHING  
25 THAT EVERYONE IS SAYING. I WANT TO HEAR FROM EVERYONE,  
26 SO REST ASSURED, I WILL HEAR FROM YOU. BUT IT'S VERY  
27 IMPORTANT THAT ALL OF US, INCLUDING ME, NOT INTERRUPT  
28 ANYONE ELSE BECAUSE THE COURT REPORTER CAN ONLY TAKE

1 DOWN WHAT ONE PERSON IS SAYING.

2 ALL RIGHT. CONTINUE.

3 MS. LEAL: YES. AND ALL OF THE COMPANIES ARE  
4 OWNED 100 PERCENT BY MR. DAVID. SO MR. DAVID AND THE  
5 CORPORATE ENTITY ARE ONE AND THE SAME.

6 THE COURT: MR. DAVID?

7 MR. DAVID: THEY'RE FACTUALLY WRONG. THEY KNOW  
8 THAT TO BE FACTUALLY WRONG. THEY KNOW THAT SHE JUST  
9 MADE -- THE COMPANIES ARE NOT OWNED A HUNDRED PERCENT BY  
10 ME.

11 I AM NOT THE -- BUT I AM THE -- REALLY THE BUCK  
12 STOPS WITH ME WITH THESE COMPANIES, SO WHATEVER  
13 RESPONSIBILITY, WHATEVER BLAH, BLAH, BLAH, I TAKE ON, SO  
14 WHATEVER IT IS THAT THEY WANT TO ACHIEVE, YOU KNOW, LET  
15 THEM DO WHAT WHATEVER IT IS THAT THEY WANT TO DO.

16 THE COURT: OKAY. DID YOU HAVE ANYTHING ELSE  
17 TO SAY?

18 MR. KALTGRAD: YES, YOUR HONOR. WHETHER THE  
19 DEPOSITION IN A DIFFERENT CASE, MR. DAVID TALKED ABOUT  
20 HIS OWNERSHIP INTEREST TWO YEARS AGO IN A COMPANY,  
21 DOESN'T NECESSARILY MEAN THAT'S STILL THE CASE TODAY.  
22 IT DOESN'T NECESSARILY MEAN THE DEFENDANTS STILL DON'T  
23 HAVE AN INTEREST IN HAVING MR. DAVID TESTIFY. THEY  
24 STILL ARE SEPARATE DEFENDANTS, WHETHER OR NOT HE OWNS  
25 THE COMPANY OR NOT, AND THIS BRINGS UP ANOTHER POINT,  
26 YOUR HONOR. PLAINTIFF MAY WISH TO USE DEPOSITION  
27 TESTIMONY OF MR. DAVID FROM OTHER CASES IN THIS TRIAL,  
28 AND I DON'T KNOW WHAT OUR -- DEPENDING ON WHAT THE

1 COURT'S RULINGS ARE, THERE WILL BE LIMITATIONS FOR  
2 COUNTER DESIGNATING, TRIAL TESTIMONY AND THINGS LIKE  
3 THAT.

4 THE COURT: WE TALKED ABOUT THIS AT THE FINAL  
5 STATUS CONFERENCE.

6 MR. KALTGRAD: AS FAR AS?

7 THE COURT: I ASKED VERY SPECIFICALLY WHETHER  
8 OR NOT ANYONE IS GOING TO -- WAS PLANNING ON USING  
9 DEPOSITION TESTIMONY FOR DIRECT EXAMINATION.

10 MR. KALTGRAD: WELL, IF THAT'S NOT GOING TO BE  
11 AN ISSUE.

12 MR. GOLDBERG: WE NEVER WERE.

13 MS. LEAL: WE WEREN'T.

14 MR. KALTGRAD: THAT ISSUE IS NOT AN ISSUE, BUT  
15 AGAIN AS FAR AS DEFENSES -- THE DEFENDANTS HAVING  
16 INTEREST IN HAVING MR. DAVID TESTIFY IN THE DEFENSE,  
17 THEY STILL HAVE THAT INTEREST, THEY'RE STILL SEPARATE  
18 COMPANIES AND THEY SHOULDN'T BE PUNISHED.

19 THE COURT: YES MR. GOLDBERG.

20 MR. GOLDBERG: I'M GOING TO LET MS. LEAL HANDLE  
21 THIS, BUT THERE WAS ONE POINT THAT I WANTED TO MAKE  
22 CLEAR, AND THAT IS THAT THE LAST TRIAL, THE POSITION  
23 THAT COUNSEL TOOK WAS THAT THESE COMPANIES WERE DEFUNCT  
24 AND NOT OPERATING, SO I DON'T KNOW WHAT THEY'RE -- YOU  
25 KNOW WHAT THE SEPARATE INTEREST THEY HAVE.

26 AND AS FAR AS THE DEPOSITIONS ARE CONCERNED,  
27 MR. DAVID TOOK THE POSITION THAT HE OWNED THE COMPANIES  
28 IN QUESTION.

1 ONE IS ALKI DAVID PRODUCTIONS, ANOTHER IS  
2 FILMON TV, SO I THINK THAT'S --

3 MR. DAVID: UTTER WASTE OF TIME. THEY JUST  
4 SPENT DAYS DISCUSSING THIS IN ANOTHER COURTROOM. WE  
5 WENT THROUGH IT AD NAUSEAM. YOU HAVE ALL THE  
6 DOCUMENTATION. YOU'RE AN ABSOLUTE MANIPULATIVE --

7 THE COURT: SO ONE OF THE OTHER THINGS THAT WE  
8 NEED TO TALK ABOUT IS TRIAL CONDUCT. AND WHAT I WANT  
9 EVERYONE TO DO, IF YOU ARE GOING TO -- IF YOU'RE MAKING  
10 AN OBJECTION OR ARGUMENT OR ANYTHING, TALK TO ME. DON'T  
11 TALK TO EACH OTHER, OKAY.

12 EVERYONE AGREE? YOU NEED TO SAY IT OUT LOUD.

13 MR. GOLDBERG: YES.

14 MR. DAVID: DID YOU THINK THAT I WAS TALKING TO  
15 HIM?

16 THE COURT: YOU WERE LOOKING AT HIM AND YOU  
17 WERE GESTURING TOWARD HIM, SO I THOUGHT IT WAS A GOOD  
18 TIME TO REMIND EVERYONE, EVERYTHING NEEDS TO BE  
19 ADDRESSED TO ME, NOT TO THEM.

20 MR. DAVID: I HAVE AN AWFUL LOT OF ANGER AND  
21 HURT AND A LOT OF -- A LOT OF -- A LOT OF EMOTION  
22 TRAPPED OVER MANY YEARS AND THIS FORUM IS GIVING ME THE  
23 ABILITY TO GET INTO THE FACES OF THESE FAKE ACCUSERS AND  
24 GETTING TO THE FACES OF THESE FAKE LAWYERS.

25 THE COURT: WE'RE NOT GOING TO DO THAT.

26 MR. DAVID: I KNOW, YOUR HONOR. I KNOW.

27 THE COURT: THIS IS NOT A FORUM FOR YOU TO GET  
28 IN ANYBODY'S FACE.

1 MR. DAVID: BUT IT IS. BECAUSE THEY CHOOSE TO  
2 LIE ABOUT ME, THEY CHOOSE TO FALSIFY FACTS AND FIX FACTS  
3 AND I THOUGHT THAT A COURT IS AN OPPORTUNITY FOR TRUTH  
4 TO COME OUT. BUT AS I'VE LEARNED, IT'S -- YOU DON'T  
5 REALLY FIND TRUTH IN THESE, SO I'M DOING MY VERY BEST TO  
6 GET MY TRUTH AS FAR ACROSS AS POSSIBLE, SO AS MY --  
7 THAT'S MY -- SO WHATEVER THE JURY DECIDES, ULTIMATELY  
8 WE'LL DO OUR BEST TO FOLLOW YOUR RULES.

9 THE COURT: AND THE COURT HAS AN INTEREST IN  
10 GETTING THE TRUTH OUT AS WELL, AND SO I'M GOING TO DO MY  
11 VERY BEST TO MAKE SURE THAT EVERYONE IS ON AN EVEN  
12 PLAYING FIELD SO THAT EVERYONE IS ABLE TO PRESENT THEIR  
13 CASE TO THE JURY AND SO THE JURY WILL HAVE WHAT IT NEEDS  
14 TO MAKE A DECISION, OKAY? YES?

15 MR. KALTGRAD: I JUST WANT TO CORRECT SOMETHING  
16 MR. GOLDBERG SAID. IN THE LAST TRIAL, MR. DAVID AND  
17 SEVERAL COMPANIES THAT HAD BEEN SUED IN SEVERAL  
18 DIFFERENT MATTERS, MULTIPLE CASES, SOME OF THOSE  
19 COMPANIES ARE OPERATING, SOME OF THOSE ARE NOT. JUST  
20 SAYING THAT ALL THESE -- TAKING THE POSITION THAT ALL  
21 THE COMPANIES ARE DEFUNCT IS NOT TRUE.

22 THE COURT: I DON'T THINK THAT'S WHAT -- THAT'S  
23 DEFINITELY NOT WHAT I HEARD.

24 MR. GOLDBERG: HE'S CORRECT, THERE WAS ONE  
25 COMPANY, AS I UNDERSTAND IT, IT'S NOT DEFUNCT, FILMON,  
26 SO HE'S RIGHT.

27 THE COURT: UNLESS THERE'S ANYTHING ELSE ON  
28 THAT MOTION THAT I NEED TO HEAR.

1 MS. LEAL: NO, YOUR HONOR.

2 THE COURT: THE TENTATIVE IS THE RULING AND THE  
3 MOTION IS GRANTED.

4 AND THE SECOND -- PLAINTIFF'S SECOND MOTION IN  
5 LIMINE IS TO PRECLUDE THIRD-PARTY WITNESSES AND  
6 DOCUMENTS THAT ARE NOT DISCLOSED -- THAT WERE NOT  
7 DISCLOSED IN DISCOVERY.

8 AND MY TENTATIVE IS TO GRANT THAT, BUT ONLY TO  
9 THE EXTENT THAT THAT EVIDENCE WAS REQUESTED AND NOT  
10 PRODUCED.

11 I DO THINK THAT BASED ON MY REVIEW OF THE  
12 PROCEEDINGS IN THE RECORD, I DON'T BELIEVE THERE HAS  
13 BEEN A WILFUL REFUSAL TO RESPOND TO DISCOVERY. A  
14 REFUSAL -- A FAILURE TO RESPOND TO DISCOVERY CAN'T BE  
15 WILFUL IF YOU DIDN'T ASK FOR IT.

16 SO YOU'RE GOING TO NEED -- IF YOU WANT ME TO  
17 EXCLUDE SPECIFIC TESTIMONY OR A SPECIFIC EVIDENCE, I'M  
18 GOING TO NEED TO HAVE EVIDENCE THAT YOU ACTUALLY ASKED  
19 FOR IT AND THAT IT WAS WILFULLY WITHHELD. THAT'S THE  
20 TENTATIVE.

21 I'LL HEAR FROM THE DEFENDANTS IN RESPONSE.

22 MR. KALTGRAD: THAT'S FINE, YOUR HONOR, AS LONG  
23 AS THAT RULING APPLIES ACROSS THE BOARD.

24 THE COURT: IT ABSOLUTELY DOES.

25 AND MR. DAVID, DID YOU WANT TO BE HEARD?

26 MR. DAVID: I DO NOT.

27 THE COURT: ALL RIGHT. SO THE TENTATIVE IS THE  
28 RULING.

1 THE MOTION IS GRANTED TO THE EXTENT THAT  
2 EVIDENCE WAS REQUESTED AND NOT PRODUCED AND WILLFULLY  
3 WITHHELD.

4 AND I BELIEVE THAT IS -- THOSE ARE THE ONLY TWO  
5 MOTIONS IN LIMINE FOR PLAINTIFFS. IS THAT CORRECT?

6 MS. LEAL: THAT'S CORRECT.

7 THE COURT: AND DEFENDANT'S FIRST MOTION IN  
8 LIMINE IS TO EXCLUDE TESTIMONY OR EVIDENCE THAT WAS NOT  
9 DISCLOSED IN DISCOVERY.

10 MY TENTATIVE ON THIS MOTION IS TO DENY THE  
11 MOTION BECAUSE THERE HAS BEEN NO SHOWING OF WILFUL  
12 REFUSAL TO ANSWER DISCOVERY. THERE WERE NO MOTIONS TO  
13 COMPEL THAT WERE BROUGHT, AND SO UNDER THE PREVAILING  
14 STATUTE OF THE CASE LAW, I CAN'T MAKE A FINDING OF A  
15 WILFUL FAILURE TO COMPLY.

16 WOULD YOU LIKE TO BE HEARD.

17 MR. KALTGRAD: YES, YOUR HONOR. FIRST OF ALL,  
18 I THINK FIRST OF ALL, IT'S THE PLAINTIFF'S CASE, IT'S  
19 THE PLAINTIFF'S BURDEN IN SHOWING BOTH ON THE PRODUCTION  
20 AND THE PERSUASION.

21 THERE WAS AN ISSUE WITH THE PROCEDURAL ASPECTS  
22 OF THESE DISCOVERY REQUESTS AND THE RESPONSES, MOSTLY  
23 BECAUSE OF THE TIMING OF PRIOR COUNSEL'S DEATH.

24 MR. DAVID AND HIS COMPANY WERE REPRESENTED BY  
25 MR. ROTHMAN. HE UNEXPECTEDLY DIED MARCH OF 2018.

26 THE DISCOVERY RESPONSES WERE DUE RIGHT AROUND  
27 THAT TIME.

28 MOTIONS TO COMPEL DEADLINE HAD PASSED BY THE

1 TIME THAT MR. DAVID OBTAINED NEW COUNSEL.

2 SO SOME OF THESE REQUESTS WERE NEVER RESPONDED  
3 TO AT ALL, SOME OF THESE REQUESTS WERE ABLE TO BE MADE  
4 MOTIONS TO COMPEL, EVEN THOUGH THE DEADLINE HAD ALREADY  
5 PASSED, BEFORE MR. DAVID WAS ABLE TO OBTAIN NEW COUNSEL  
6 AFTER THE DEATH OF HIS PRIOR COUNSEL.

7 I ALSO THINK WE DID ASK PLAINTIFF'S COUNSEL IF  
8 THEY HAD RESPONDED TO THE DISCOVERY REQUESTS, WE NEVER  
9 GOT A RESPONSE FROM THEM. WE TRIED TO FOLLOW UP WITH  
10 THEM, WE NEVER GOT A RESPONSE. TO THIS DAY I STILL  
11 DON'T KNOW -- I DON'T HAVE AN AFFIRMATIVE ANSWER WHETHER  
12 OR NOT THE DISCOVERY REQUESTS HAD EVER BEEN RESPONDED  
13 TO. EVERY TIME WE ASKED, WE GOT, WELL, THIS HAS BEEN  
14 DONE. BUT THEY DON'T ACTUALLY RESPOND WHETHER THE  
15 DOCUMENTS HAD BEEN PRODUCED OR WHETHER THE WITNESSES HAD  
16 BEEN IDENTIFIED. THERE WERE SPECIFIC QUESTIONS THAT  
17 WERE ASKED AND THAT WERE NOT RESPONDED TO. AND I DON'T  
18 THINK PLAINTIFF SHOULD GET THE BENEFIT OF BEING ABLE TO  
19 PUT ON WITNESSES AT TRIAL AND EVIDENCE AT TRIAL THAT  
20 THEY DIDN'T RESPOND TO DISCOVERY THAT WAS SPECIFICALLY  
21 ASKED FOR. AND I UNDERSTAND THE MOTION TO COMPEL WAS  
22 NOT BROUGHT, BUT AGAIN THERE WERE SOME ISSUES AT THE  
23 TIME OF THE MOTION TO COMPEL BECAUSE OF THE DEATH OF THE  
24 PRIOR COUNSEL.

25 THE COURT: WASN'T A 473 MOTION FILED?

26 MR. KALTGRAD: WELL, YOUR HONOR, I DON'T HAVE  
27 AN ANSWER FOR YOU WHY A 473 MOTION WASN'T FILED. BUT AS  
28 IS PLAINTIFF'S BURDEN, I THINK THEY REALLY SHOULD HAVE

1 GIVEN US THE DOCUMENTS THAT WE ASKED FOR. THEY'RE  
2 TRYING TO PUT ON A CASE NOW, ALL OF A SUDDEN WE'RE BEING  
3 SANDBAGGED WITH A LOT OF DOCUMENTS THAT WERE NEVER  
4 PRODUCED, NEVER EVEN IDENTIFIED. A LOT OF THE SPECIAL  
5 INTERROGATORIES AND FORM INTERROGATORIES JUST ASKED FOR  
6 THE IDENTIFICATION OF THE DOCUMENTS, THEY DIDN'T RESPOND  
7 TO THOSE EITHER. OVER THE WEEKEND I MADE A LIST OF ALL  
8 THE DISCOVERY REQUESTS THAT APPLIED TO CERTAIN EXHIBITS  
9 THAT WE'VE NEVER SEEN BEFORE.

10 PLAINTIFF PUT BATES NUMBERS ON THE EXHIBITS  
11 AFTER THE FINAL STATUS CONFERENCE WAS BROUGHT UP AND WE  
12 DIDN'T UNDERSTAND WHY THERE WERE BATES NUMBERS ON THEM,  
13 BECAUSE THEY'VE NEVER BEEN PRODUCED, AND NOW IT SEEMS  
14 LIKE THEY'VE BEEN PRODUCED SINCE THEY'VE GOT BATES  
15 NUMBERS ON THEM.

16 SO WE'D ASK THAT THIS RULING APPLY ACROSS THE  
17 BOARD AS FAR AS STUFF THAT WAS NOT PRODUCED THAT WAS  
18 ASKED FOR.

19 YOU KNOW, I UNDERSTAND THERE WASN'T A MOTION TO  
20 COMPEL BROUGHT, BUT THE TIMING OF THE MOTION TO COMPEL  
21 WAS WE WERE UNABLE TO DO IT AT THAT TIME.

22 THE COURT: AND MR. DAVID, DID YOU WANT TO  
23 RESPOND?

24 MR. DAVID: REGARDING?

25 THE COURT: REGARDING MY TENTATIVE RULING ON  
26 THE MOTION IN LIMINE.

27 MR. DAVID: WHICH? LOOK, I MEAN, ABOUT THEIR  
28 EVIDENCE? I MEAN, THEY FABRICATE EVIDENCE TRULY

1 WHOLESALE.

2 SO I MEAN, I HOPE AT SOME POINT THAT THIS WILL  
3 RISE TO THE SURFACE, AND MAYBE IT WILL, YOU KNOW, THAT'S  
4 MY HOPE. I DON'T NEED TO BE HERE.

5 AND THESE PEOPLE CAN CHASE ME ALL THEY WANT AND  
6 I DON'T NEED TO BE HERE, BUT I'M HERE FOR A PURPOSE OF  
7 CLEARING MY NAME, AND ALSO TO SEE IF I CAN -- IF I CAN,  
8 YOU KNOW, HURT THESE PEOPLE BACK AS MUCH AS THEY'VE HURT  
9 ME AND MY EMPLOYEES. AND PEOPLE THAT --

10 THE COURT: YOU DO UNDERSTAND THAT THE COURT  
11 SYSTEM IS NOT HERE FOR YOU TO USE TO HURT ANYONE.  
12 THIS --

13 MR. DAVID: WELL, YOUR HONOR, I USE THAT WORD  
14 FIGURATIVELY. FORGIVE ME. I USE THAT WORD  
15 METAPHORICALLY. I MEAN, HURT DOES NOT MEAN PHYSICAL,  
16 BUT IT DOES MEAN -- IT CERTAINLY DOES MEAN A RESPONSE TO  
17 WHAT THEY HAVE DONE TO ME.

18 IN MY RESPONSE AS TO UNMASK THEM, I EXPECT THAT  
19 THEY WILL BE DAMAGED BY THEIR OWN HAND.

20 AND THAT IS -- THAT IS ALL I'M SUGGESTING, YOU  
21 KNOW -- YOU KNOW, I MEAN FORGIVE ME, BUT YOU  
22 AUTOMATICALLY ASSUME THAT I SAY WORDS THAT IN YOUR FACE  
23 MEANS SOMETHING THREATENING. I'M REALLY NOT A  
24 THREATENING PERSON, BUT I'M HERE TO DEFEND MYSELF  
25 VIGOROUSLY.

26 THE COURT: AND YOU HAVE EVERY RIGHT TO DEFEND  
27 YOURSELF, AND ONE OF THE REASONS THAT, BOTH WITH YOUR  
28 COMMENT EARLIER ABOUT BEING IN YOUR FACE AND THEN YOUR

1 COMMENT NOW USING THIS CASE TO HURT SOMEONE, THE REASON  
2 I BRING THIS UP IS BECAUSE I DO WANT TO CLARIFY AND  
3 UNDERSTAND WHAT IT IS YOU'RE SAYING. WHAT I'M HEARING  
4 YOU SAY IS DIFFERENT FROM WHAT THE WORDS ON THEIR FACE  
5 ACTUALLY SAY, SO IT'S IMPORTANT FOR ME TO KNOW WHAT YOU  
6 MEAN WHEN YOU SAY CERTAIN THINGS, BECAUSE WORDS MATTER.

7 MR. DAVID: AND YOU KNOW THERE WILL NO DOUBT --  
8 AND THERE HAVE BEEN MISUNDERSTANDINGS IN MY VERNACULAR,  
9 I'M SORRY.

10 THE COURT: NO NEED TO APOLOGIZE. YOU'RE GOING  
11 TO BE SPENDING A LOT OF TIME WITH ME OVER THE NEXT  
12 COUPLE WEEKS AND YOU'RE GOING TO LEARN THAT I ASK A LOT  
13 OF QUESTIONS. WHENEVER I'M NOT SURE OF SOMETHING, I ASK  
14 QUESTIONS BECAUSE I REALLY DON'T WANT TO ASSUME ANYTHING  
15 ABOUT ANYONE, OKAY?

16 MS. LEAL.

17 MS. LEAL: YES, YOUR HONOR.

18 MR. KALTGRAD IS CORRECT, BARRY ROTHMAN, PRIOR  
19 COUNSEL PASSED AWAY IN MARCH OF 2018.

20 DLA PIPER, THEN LATER VENABLE BEGAN  
21 REPRESENTING THE DEFENDANT HERE, MAY 30TH, 2018. WE'RE  
22 NOW IN OCTOBER 2019, NEITHER FIRM EVER SERVED ANY  
23 DISCOVERY ON US.

24 THERE WAS AN ANTI-SLAPP MOTION FILED, AS YOU  
25 MAY REMEMBER.

26 DISCOVERY WAS STAYED.

27 ONCE THE DISCOVERY WAS LIFTED, BOTH SIDES,  
28 MR. ROTHMAN'S OFFICE AND OUR OFFICE SERVED DISCOVERY TO

1 EACH OTHER.

2 MR. ROTHMAN PASSES AWAY.

3 AFTER HE PASSES AWAY, RENEE MOCHKATEL, ANOTHER  
4 ATTORNEY IN OUR FIRM AND GORDON ZUIDERWEG, THE ATTORNEY  
5 AT ROTHMAN'S FIRM, WERE DISCUSSING RESPONDING TO  
6 DISCOVERY. THEY AGREED APRIL -- ON AN APRIL DATE.

7 IT'S ALL IN MY PAPERS.

8 AND THEN THEY LATER -- SHE LATER, MS. RENEE  
9 MOCHKATEL SENT AN EMAIL CONFIRMING THAT THEY WOULD BE  
10 EXCHANGING ON MARCH -- EXCUSE ME ON MAY 29TH, I BELIEVE  
11 IT WAS. AGAIN IT'S IN MY PAPERS.

12 MR. ZUIDERWEG DID NOT RESPOND. SHE WENT --  
13 MS. MOCHKATEL WENT TO A PROBATE HEARING TRYING TO FIND  
14 MR. ZUIDERWEG TO FIGURE OUT WHAT WAS GOING ON WITH THE  
15 DISCOVERY. HE WASN'T THERE.

16 SO GIVEN THAT THE DEFENDANTS DIDN'T PROVIDE ANY  
17 DOCUMENTATION TO US, WE SIMILARLY DIDN'T EXCHANGE ANY  
18 DOCUMENTS.

19 WE DID, HOWEVER, JANUARY -- I'M SORRY,  
20 JUNE 28TH, 2017, RESPONDED TO SOME FORM INTERROGATORIES,  
21 WHICH THEY SHOULD HAVE.

22 THAT PROVIDES A LOT OF INFORMATION BECAUSE THEY  
23 WERE EMPLOYMENT FORM INTERROGATORIES, NOT JUST THE  
24 GENERAL. SO THEY HAVE INFORMATION.

25 DURING THE YEAR AND A HALF OR SO THAT DLA  
26 PIPER, AND NOW VENABLE, HAS BEEN REPRESENTING THE  
27 DEFENDANTS, THEY HAVE NOT SERVED A SINGLE SET OF  
28 DISCOVERY, SO IT'S NOT OUR FAULT THAT THEY DON'T HAVE

1 ANY DOCUMENTS, THAT THEY DON'T KNOW WHO OUR WITNESSES  
2 ARE. THEY SHOULDN'T BE REWARDED FOR NOT ENGAGING IN  
3 DISCOVERY.

4 THE COURT: OKAY. DO YOU WANT TO RESPOND?

5 MR. KALTGRAD: YES, YOUR HONOR. I THINK THEY  
6 JUST SAID IT, THAT PLAINTIFF AT THAT POINT AGREED TO  
7 PRODUCE THE DOCUMENT, SO THERE WAS NO NEED TO BRING A  
8 MOTION TO COMPEL IF THERE WAS AN AGREEMENT TO PRODUCE  
9 THE DOCUMENTS.

10 NOW DEFENDANTS ALSO PRODUCED DOCUMENTS,  
11 APPARENTLY. I WASN'T THERE, BUT THE COURT EXCLUDED  
12 THOSE DOCUMENTS IN THEIR MOTION.

13 SO IF THE PLAINTIFF AGREED TO PRODUCE THE  
14 DOCUMENTS, AND THEY DIDN'T PRODUCE THE DOCUMENTS, THEN  
15 WHY DO WE NEED TO BRING A MOTION TO COMPEL. AND THAT'S  
16 A WILFUL WITHHOLDING OF DOCUMENTS AND THEY SHOULD BE  
17 EXCLUDED.

18 THE COURT: WILFUL UNDER THE CASE LAW? THE  
19 CASE LAW IS PRETTY CLEAR ABOUT WHAT CONSTITUTES A WILFUL  
20 FAILURE TO RESPOND.

21 MR. KALTGRAD: WELL, IT SOUNDS LIKE THERE WAS  
22 AN AGREEMENT HERE AND NO MOTION TO COMPEL WAS NECESSARY  
23 WHEN WE DIDN'T GET TO THAT. NOW WE DON'T HAVE ANY  
24 DOCUMENTS.

25 THE COURT: SO WHEN YOU DON'T GET THE DOCUMENTS  
26 YOU NEED TO FILE A MOTION TO COMPEL.

27 MR. KALTGRAD: WELL, AGAIN, WE WERE NOT WITHIN  
28 THE TIME PERIOD TO FILE A MOTION TO COMPEL.

1 THE COURT: WHICH BRINGS US BACK TO THE OTHER  
2 ISSUE.

3 MS. LEAL?

4 MS. LEAL: YES, YOUR HONOR.

5 MR. ROTHMAN'S OFFICE AND OUR OFFICE, WE WERE  
6 GOING TO BE EXCHANGING DISCOVERY RESPONSES, WHICH  
7 INCLUDED DOCUMENTS.

8 THEY DIDN'T PROVIDE ANY DOCUMENTS TO US.

9 AGAIN, THAT'S THE REASON WE THEN RESERVED THE  
10 DOCUMENTS ONCE DLA PIPER AND VENABLE WERE REPRESENTING  
11 THE DEFENDANTS, BECAUSE WE WANTED DOCUMENTS THAT WE  
12 DIDN'T GET. WE FILED, I DON'T KNOW HOW MANY, FOUR  
13 MOTIONS TO COMPEL DISCOVERY FOR DOCUMENTS, DISCOVERY FOR  
14 SPECIAL INTERROGATORIES, DISCOVERY FOR FORM  
15 INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS.

16 THEY COULD HAVE DONE THAT. THEY DIDN'T.

17 THE COURT: OKAY.

18 MR. KALTGRAD: AND PART OF THE REASON TO  
19 ADDRESS YOUR HONOR'S QUESTION ABOUT WHY A MOTION WASN'T  
20 BROUGHT, MR. ROTHMAN'S OFFICE, WHEN WE TOOK OVER THE  
21 CASE FROM DLA PIPER, HE DIDN'T KEEP ANY ELECTRONIC  
22 RECORDS. WE GOT WHATEVER WE GOT IN A BUNCH OF BOXES AND  
23 THERE WERE MULTIPLE CASES IN THOSE BOXES, AND SOME OF  
24 THESE EMAILS THAT WE'RE SEEING, WE'RE SEEING THESE FOR  
25 THE FIRST TIME IN THOSE PAPERS, BECAUSE WE JUST DIDN'T  
26 GET THOSE WHEN MR. ROTHMAN PASSED AWAY. SO TO BE FRANK,  
27 WE WEREN'T AWARE OF THIS AGREEMENT AT THE TIME THAT IT  
28 WAS MADE. THAT WAS SOMETHING DONE BY PRIOR COUNSEL.

1 BUT THAT'S THE REASON WHY THIS MOTION WASN'T MADE.

2 THE COURT: OKAY. SO THE COURT'S TENTATIVE  
3 WILL BE THE RULING ON THAT MOTION.

4 DEFENDANT'S MOTION IN LIMINE NO. 1 TO EXCLUDE  
5 TESTIMONY OR EVIDENCE NOT DISCLOSED IN DISCOVERY IS  
6 DENIED.

7 THE TENTATIVE ON THE DEFENDANT'S MOTION IN  
8 LIMINE NO. 2 TO EXCLUDE TESTIMONY OF PLAINTIFF MAHIM  
9 KHAN, ALSO THE TENTATIVE IS TO DENY BECAUSE THERE HAS  
10 BEEN NO SHOWING OF A WILFUL REFUSAL TO SIT FOR THE  
11 DEPOSITION AND NO MOTION TO COMPEL WAS FILED.

12 WOULD YOU LIKE TO BE HEARD?

13 MR. KALTGRAD: CAN I JUST ADDRESS ONE THING?

14 THE COURT: SURE.

15 MR. KALTGRAD: ONE SPECIFIC DOCUMENT. NOW  
16 WE'RE IN THE MIDDLE -- WE START THE TRIAL, IT HAS BEGUN.  
17 WE'VE GOT THE EXHIBITS THAT HAVE BEEN PRODUCED, THE  
18 TRIAL EXHIBITS.

19 WE STILL DON'T HAVE CERTAIN DOCUMENTS FROM THE  
20 TRIAL EXHIBITS THAT THEY HAVEN'T PRODUCED. FOR EXAMPLE  
21 ONE OF THE DOCUMENTS PURPORTS TO BE DOCUMENTS FROM  
22 TREATING PHYSICIAN OR AN EXPERT THAT JUST SAYS RESERVED  
23 FOR DOCUMENTS.

24 WE'VE NEVER SEEN THE DOCUMENTS. I DON'T THINK  
25 THOSE SHOULD BE ALLOWED TO BE BROUGHT IN AT THIS POINT.  
26 TRIAL HAS ALREADY BEGUN. THAT'S NOT A DISCOVERY ISSUE,  
27 THAT'S A TRIAL ISSUE.

28 THE COURT: I RECEIVED THE JOINT EXHIBIT LIST.

1 WELL I SAW IT THIS MORNING BUT I'M ASSUMING THAT IT WAS  
2 FILED. IT WAS ON FRIDAY AND IT WAS SIGNED BY BOTH.

3 MR. KALTGRAD: THE EXHIBIT LIST IS FILED, BUT  
4 WHEN WE ACTUALLY EXCHANGED EXHIBITS, WE JUST GOT A  
5 ONE-PAGE PIECE OF PAPER THAT SAYS RESERVED FOR  
6 DOCUMENTS.

7 THE COURT: BUT YOU FIND OUT FROM THE LIST WHAT  
8 THE DESCRIPTION IS.

9 MR. KALTGRAD: BUT WE DON'T HAVE THE DOCUMENTS.

10 THE COURT: ALL RIGHT.

11 SO WE'LL TAKE A DETOUR TO TALK ABOUT THIS.  
12 MR. GOLDBERG.

13 MR. GOLDBERG: I THINK WHAT HE'S REFERRING TO  
14 IS DR. READING IS OUR EXPERT AND IN SPEAKING WITH  
15 DR. READING, HE'S INTENDING, HE'S PREPARING DOCUMENTS TO  
16 FACILITATE HIS TESTIMONY.

17 WE HAVE NOT SEEN THEM YET. HE'S BASICALLY TOLD  
18 US THAT WHEN HE TESTIFIES, HE LIKES TO BE ABLE TO SHOW  
19 THE JURY THINGS THAT RELATE TO THE TESTIMONY IN TERMS OF  
20 GRAPHS AND THINGS LIKE THAT. I ANTICIPATE, HE'S -- I  
21 CONTACTED HIM OVER THE WEEKEND. HE WAS OUT OF TOWN  
22 COMING BACK TODAY.

23 I ASKED HIM WHEN COULD YOU GET THOSE TO US, HE  
24 SAID HOPEFULLY BY TOMORROW AND AS SOON AS I GET THEM  
25 I'LL SHARE THEM WITH COUNSEL. THESE ARE ILLUSTRATIVE  
26 DOCUMENTS. THESE ARE NOT SUBSTANTIVES DOCUMENTS. THESE  
27 ARE DOCUMENTS TO ILLUSTRATE HIS TESTIMONY AS AN EXPERT.

28 THE COURT: SO TO THE EXTENT THERE ARE

1 DOCUMENTS THAT ARE IDENTIFIED IN THE EXHIBIT LIST THAT  
2 HAVEN'T BEEN EXCHANGED, YOU NEED TO EXCHANGE THEM AS  
3 SOON AS POSSIBLE, AND THEN IF THERE'S AN OBJECTION TO  
4 USING ANY OF THOSE DOCUMENTS, LET ME KNOW. NO ONE  
5 SHOULD REFER TO ANY EXHIBITS THAT HAVE NOT BEEN  
6 EXCHANGED AS OF TODAY IN FRONT OF THE JURY WITHOUT  
7 HAVING A CONVERSATION OUTSIDE OF THE PRESENCE OF THIS  
8 JURY BEFORE THEY'RE EVEN REFERRED TO, OKAY?

9 MR. KALTGRAD: UNDERSTOOD.

10 THE COURT: OKAY.

11 MR. KALTGRAD: DID YOU WANT TO MOVE ON TO  
12 NO. 2?

13 THE COURT: YES.

14 MR. KALTGRAD: AND I THINK THE COURT SAID THAT  
15 THE TENTATIVE WAS TO DENY THE MOTION IN LIMINE.

16 THE COURT: YES, THE TENTATIVE IS TO DENY THAT  
17 MOTION IN LIMINE TO EXCLUDE PLAINTIFF'S TESTIMONY FOR  
18 REASONS THAT ARE SIMILAR TO DENYING THE MOTION IN LIMINE  
19 NO. 1, IS THAT THERE IS NO EVIDENCE OF A WILFUL REFUSAL  
20 ON HER PART TO SIT FOR HER DEPOSITION. AND THERE WAS NO  
21 MOTION TO COMPEL BROUGHT.

22 MR. KALTGRAD: ON THE MOTION TO COMPEL ISSUE,  
23 YOUR HONOR, THE PLAINTIFF -- PLAINTIFF'S POSITION WAS  
24 SHE DIDN'T WANT TO BE DEPOSED UNTIL AFTER MR. DAVID'S  
25 DEPOSITION WAS TAKEN. THERE WAS ISSUES WITH MR. DAVID  
26 SITTING FOR HIS DEPOSITION, THE TRIAL WAS SCHEDULED, AND  
27 HE EVENTUALLY CAME FOR HIS DEPOSITION AND YOUR HONOR  
28 KNOWS WHAT HAPPENED WITH THAT. AT THAT POINT THERE

1 WASN'T TIME TO BRING A MOTION TO COMPEL TO HAVE  
2 PLAINTIFF'S DEPOSITION AT THAT POINT. IT ENDED UP BEING  
3 TOWARDS THE END OF TRIAL, SHE STILL WOULDN'T SIT FOR  
4 DEPOSITION. SHE WAS NOTICED FOR DEPOSITION. SHE HAS  
5 NOT APPEARED FOR DEPOSITION, AND HENCE SE SHOULDN'T BE  
6 ABLE TO TESTIFY, ESPECIALLY GIVEN THE FACT THAT  
7 MR. DAVID IS PRECLUDED.

8 THE COURT: MR. DAVID.

9 MR. DAVID: SO WHEN YOU'RE INNOCENT AND YOU'VE  
10 BEEN ATTACKED, AND FOR MULTIPLE -- FOR MOTHER AND  
11 DAUGHTER AND TWO FIRMS GOING AT IT, AND YOUR LAWYER DIES  
12 AND I'M SPENDING MONEY, AND AS I TOLD YOU, ONLY TO CLEAR  
13 MY NAME, BECAUSE I COULD JUST SAY, YOU KNOW WHAT, JUST  
14 WALK OUT OF HERE AND YOU OR NOBODY CAN DO ANYTHING TO  
15 ME. NOTHING. NOT A LITTLE THING. BUT I DON'T NEED TO  
16 BE HERE, YOUR HONOR, BUT I'M HERE JUST FOR PRINCIPLE AND  
17 MY NAME. NOTHING ELSE.

18 I WILL SUE AND FIGHT THESE PEOPLE FOREVER.

19 AND I WILL -- THEIR CLIENT, WHO'S A LIAR IS NOW  
20 HOOKED INTO THEIR CONTRACT AND CAN'T GET OUT OF THAT  
21 CONTRACT. SO -- AND SHE'S JUST A LYING, MANIPULATIVE,  
22 USELESS PERSON THAT --

23 THE COURT: RIGHT NOW, MR. DAVID --

24 MR. DAVID: JUST TO FINISH --

25 THE COURT: NO, NO.

26 MR. DAVID: YOU HAVE TO UNDERSTAND.

27 THE COURT: I DO UNDERSTAND, BUT I'M GOING TO  
28 TELL YOU RIGHT NOW, I'M NOT GOING TO TOLERATE ANYONE

1 CALLING ANYONE --

2 MR. DAVID: YOU'RE RIGHT. YOU'RE ABSOLUTELY  
3 RIGHT.

4 THE COURT: NOT AT ALL.

5 MR. DAVID: I MEAN IT'S GOING TO BE VERY  
6 DIFFICULT CONSIDERING THE FACT THAT I, AS AN INNOCENT  
7 INDIVIDUAL HAVE TO DEAL WITH LIE UPON LIE, MANUFACTURED  
8 WHOLESALE BY THESE PEOPLE AND INITIATED BY THEIR CLIENTS  
9 AND THERE'S A CHAIN OF EVENTS AS TO WHAT HAPPENED AND  
10 HOPEFULLY ALL OF THAT WILL COME OUT.

11 THE COURT: I UNDERSTAND WHY IT'S SO UPSETTING,  
12 THAT'S WHY I WANT YOU TO JUST FOCUS ON ME, BECAUSE I  
13 KNOW WHEN YOU FOCUS ON THEM -- LET ME JUST FINISH --  
14 WHEN YOU FOCUS ON THEM, THAT'S WHEN YOUR VOICE GOES UP  
15 AND YOU START GETTING ANIMATED AND UPSET.

16 MR. DAVID: BUT THAT'S ME, YOUR HONOR. AND IF  
17 YOU WANT ME TO NOT REPRESENT MYSELF THEN TELL ME, BUT  
18 THAT IS ME.

19 THE COURT: I DON'T WANT YOU TO BE UPSET. MY  
20 GOAL HERE --

21 MR. DAVID: I'M DEEPLY UPSET.

22 THE COURT: -- IS TO CREATE AN ENVIRONMENT SO  
23 EVERYONE CAN BE HEARD.

24 MR. DAVID: IN RESPONSE TO YOUR QUESTION, YOUR  
25 HONOR, I'M TELLING YOU THAT EMOTIONALLY I WAS  
26 OVERWHELMED BY, AND AS WELL AS FINANCIALLY OVERWHELMED  
27 BY THEIR -- BY THEIR EFFORTS, BY THEIR CRIMINAL, TRULY  
28 CRIMINAL EFFORTS AND THAT WILL HOPEFULLY RISE UP DURING

1 THESE PROCEEDINGS. IT'S A GREAT PLATFORM TO DO THAT.  
2 AND THAT IS WHY I HAVE DONE MY VERY BEST TO ENGAGE GOOD  
3 COUNSEL TO RESPOND.

4 THE COURT: YOU HAVE EXCELLENT COUNSEL.

5 MR. DAVID: YEAH, I'VE WORKED VERY HARD.

6 THE COURT: I WOULD ACTUALLY CONSIDER -- I  
7 WOULD ENCOURAGE YOU TO CONSIDER REHIRING YOUR COUNSEL  
8 BECAUSE YOU HAVE --

9 MR. DAVID: NO, YOUR HONOR, I LISTENED TO THE  
10 LAST JUDGE THAT SAID THAT TO ME AND DO YOU KNOW WHAT?  
11 IT DIDN'T SERVE ME BECAUSE THESE ARE CONSUMMATE LIARS.

12 THE COURT: AGAIN, I'M GOING TO TELL YOU --  
13 MR. DAVID.

14 MR. DAVID: BUT IT'S THE TRUTH, YOUR HONOR,  
15 IT'S THE TRUTH. YOU WANT TRUTH, IT'S THE TRUTH.

16 THE COURT: I WANT TRUTH BUT I ALSO WANT  
17 EVERYONE TO BE TREATED WITH RESPECT IN THE COURTROOM AND  
18 THAT'S WHAT'S GOING TO HAPPEN. YOU'RE NOT GOING TO SEE  
19 ME GET UPSET OR ANYTHING LIKE THAT, BUT THERE ARE GOING  
20 TO BE CONSEQUENCES IF YOU'RE NOT ABLE TO FOLLOW THE  
21 RULES OF DECORUM.

22 MR. DAVID: SURE.

23 THE COURT: OKAY. DO YOU HAVE ANYTHING ELSE  
24 THAT YOU WANTED TO SAY CONCERNING MY TENTATIVE ON THE  
25 MOTION TO EXCLUDE MS. KHAN FROM TESTIFYING?

26 MR. DAVID: I DO NOT.

27 THE COURT: THANK YOU.

28 MS. LEAL?

1 MS. LEAL: WE'LL STAND ON THE TENTATIVE, YOUR  
2 HONOR.

3 THE COURT: ALL RIGHT. SO THE TENTATIVE WILL  
4 BE THE RULING. THE MOTION IN LIMINE IS DENIED.

5 DEFENDANT'S MOTION TO EXCLUDE EVIDENCE OF THE  
6 DEFENDANT'S PRIOR LITIGATION. MY TENTATIVE ON THAT ONE  
7 IS TO GRANT IT IN PART, BUT IT DOES NOT PRECLUDE  
8 PLAINTIFF FROM INTRODUCING PRIOR TESTIMONY IN PAST  
9 LITIGATION AS APPROPRIATE IF IT'S FOR IMPEACHMENT OR TO  
10 REFRESH RECOLLECTION OR ANYTHING OF THAT NATURE. THEN  
11 THE MOTION -- THE RULING DOES NOT APPLY TO THAT. BUT  
12 WITH RESPECT TO GENERAL REFERENCES TO PRIOR LITIGATION,  
13 THE TENTATIVE IS TO GRANT THAT MOTION.

14 DID YOU WANT TO BE HEARD?

15 MR. KALTGRAD: THE TENTATIVE IS FINE WITH US.

16 THE COURT: MR. DAVIS, DO YOU WANT TO BE HEARD?

17 MR. DAVID: I DO NOT.

18 THE COURT: MS. LEAL?

19 MS. LEAL: WE'LL STAND ON THE TENTATIVE, YOUR  
20 HONOR.

21 THE COURT: SO THE TENTATIVE -- I MEAN, THE  
22 TENTATIVE WILL BE THE RULING AND IT IS GRANTED IN PART  
23 AS PREVIOUSLY STATED.

24 AND FINALLY WE HAVE DEFENDANT'S MOTION IN  
25 LIMINE TO EXCLUDE METOO EVIDENCE.

26 THE TENTATIVE IS TO DENY THAT MOTION WITHOUT  
27 PREJUDICE.

28 PLAINTIFF CAN TESTIFY AS TO THE HARASSMENT OF

1 OTHERS THAT SHE WITNESSED OR HAD PERSONAL KNOWLEDGE OF,  
2 SO WE'RE GOING TO NEED TO BE VERY CAREFUL AND LAY THE  
3 FOUNDATION FIRST BEFORE YOU BRING ANY OTHER WITNESSES  
4 IN.

5 AND I'M GOING TO HEAR, BECAUSE I'M RULING IN  
6 FAVOR OF THE PLAINTIFF ON THAT ONE, I WANT TO HEAR FROM  
7 THE DEFENDANT FIRST.

8 MR. KALTGRAD: YES, YOUR HONOR. WELL, I GUESS  
9 JUST A CLARIFICATION, FIRST OF ALL ON YOUR TENTATIVE.

10 YOU'RE TALKING ABOUT THE PLAINTIFF'S ABILITY TO  
11 TESTIFY ABOUT STUFF THAT SHE HAS WITNESSED OR HAS  
12 PERSONAL KNOWLEDGE OF. I THINK THE MOTION ALSO DEALT  
13 WITH OTHER WITNESSES THAT HAD MADE CLAIMS AGAINST  
14 MR. DAVID.

15 THE COURT: THAT'S WHY I'M DENYING IT WITHOUT  
16 PREJUDICE, BECAUSE THIS IS ONE OF THOSE MOTIONS IN  
17 LIMINE THAT'S GOING TO DEPEND ON -- I'LL HEAR FROM YOU  
18 IN A MINUTE -- IT'S GOING TO DEPEND ON HOW THE EVIDENCE  
19 COMES IN AND THIS IS AN ADMONISHMENT THEY HAVE TO  
20 CAREFULLY LAY A FOUNDATION BECAUSE I'M GOING TO BE  
21 MAKING DETERMINATIONS EVENT BY EVENT, DEPENDING ON WHAT  
22 SHE TESTIFIED TO. I CAN'T -- I DON'T HAVE A CRYSTAL  
23 BALL ABOUT WHAT SHE'S GOING TO SAY.

24 AND IT MAY BE RELEVANT, IT MAY NOT BE RELEVANT,  
25 BUT I'M GOING TO HAVE TO WAIT AND SEE UNTIL I HEAR HER  
26 TESTIMONY.

27 MR. KALTGRAD: YES, YOUR HONOR, IF THE  
28 TESTIMONY IS LIMITED TO THINGS THAT PLAINTIFF HAS

1 PERSONAL KNOWLEDGE OF WHO ACTUALLY WITNESSED, I THINK  
2 THAT'S FAIR GAME.

3 THE COURT: IT DEPENDS ON A LOT OF OTHER  
4 THINGS. IT'S NOT JUST LIMITED TO THOSE TWO THINGS,  
5 BECAUSE THERE ARE A LOT OF DIFFERENT THINGS THAT CAN  
6 HAPPEN IN A WORKPLACE THAT CAN CONTRIBUTE TO THE  
7 CREATION OF A HOSTILE WORK ENVIRONMENT.

8 EVEN IF SHE DIDN'T ACTUALLY WITNESS OR HEAR  
9 ABOUT IT. SO LIKE I SAID, I NEED TO HEAR WHAT SHE SAYS  
10 SO I CAN MAKE A DETERMINATION AS TO WHETHER OR NOT IT'S  
11 RELEVANT AND RELEVANT TO THE WAY THAT WOULD OVERCOME A  
12 352 OBJECTION.

13 MR. KALTGRAD: UNDERSTOOD. IT SEEMS LIKE IT'S  
14 GOING TO BE A FACTUAL DETERMINATION.

15 THE COURT: RIGHT. IT'S ONE OF THOSE THINGS  
16 THAT I UNDERSTAND WHY YOU BROUGHT THE MOTION IN LIMINE,  
17 BUT IT'S VERY DIFFICULT FOR ME TO RULE ON IT BECAUSE  
18 IT'S NOT -- IT'S NOT DISCRETE BECAUSE I DON'T HAVE THE  
19 UNIVERSE OF INFORMATION I NEED UNTIL AFTER I ACTUALLY  
20 HEAR HER TESTIFY.

21 MR. KALTGRAD: UNDERSTOOD, YOUR HONOR. I THINK  
22 THAT'S OKAY TO SORT OF PUT IT OFF UNTIL WE HEAR ABOUT  
23 THE FOUNDATION.

24 THE COURT: AND MR. DAVID, DID YOU WANT TO BE  
25 HEARD?

26 MR. DAVID: WELL, NO YOUR HONOR, I'M OKAY.

27 THE COURT: OKAY.

28 MR. GOLDBERG.

1 MR. GOLDBERG: YOUR HONOR, I THINK THE CASE  
2 LAW, AS I UNDERSTAND IT, ALLOWS FOR METOO WITNESSES TO  
3 TESTIFY AND IT'S NOT -- IT'S NOT ONLY RELATED TO WHAT  
4 THE PLAINTIFF OBSERVED, THERE'S ALL TYPES OF ISSUES.

5 ONE OF THE ISSUES, FOR EXAMPLE, HAS TO DO WITH  
6 NOTICE.

7 WE CONTEND THAT MR. DAVID AND HIS COMPANIES  
8 WERE ON NOTICE THAT EMPLOYEES, WOMEN EMPLOYEES WERE  
9 OFFENDED BY HIS CONDUCT. THAT THE COMPANY IN GENERAL  
10 DID NOT INVESTIGATE CLAIMS THAT WERE BROUGHT TO THEIR  
11 ATTENTION.

12 AND THAT THIS WAS -- THAT IS IMPORTANT IN  
13 ESTABLISHING, PART OF THE EVIDENCE BOTH FOR LIABILITY  
14 AND PUNITIVE DAMAGES.

15 SO I -- I'M NOT SURE EXACTLY -- YOU KNOW, I'M  
16 OKAY GENERALLY WITH THE IDEA THAT THE COURT CAN RESERVE  
17 TO DECIDE WHETHER IT COMES IN AT THE TIME, BUT I SEE --  
18 FOR EXAMPLE, LAUREN REEVES WAS A -- WAS THE PLAINTIFF IN  
19 THE LAST TRIAL WE HAD.

20 SHE WAS ACTUALLY WORKING THEREAFTER THE -- THIS  
21 PLAINTIFF HAD LEFT.

22 AND THE TESTIMONY THAT SHE GIVES OR WOULD BE  
23 GIVING WOULD RELATE TO THE THINGS THAT HAPPENED TO HER  
24 AFTERWARDS.

25 BUT MR. DAVID WAS ALREADY AWARE AT THAT POINT  
26 IN TIME THAT HIS BEHAVIORS WERE BROUGHT INTO QUESTION BY  
27 OTHER EMPLOYEES, YET HE CHOSE TO CONTINUE THOSE  
28 BEHAVIORS. I BELIEVE THAT IS RELEVANT ON THE ISSUE OF

1 PUNITIVE DAMAGES AND I THINK THAT TESTIMONY, FOR  
2 EXAMPLE, SHOULD BE ALLOWED NOTWITHSTANDING THE FACT THAT  
3 SHE WOULD BE TESTIFYING ABOUT EVENTS THAT OCCURRED AFTER  
4 MS. KAHN LEFT THE WORKPLACE.

5 THE COURT: RIGHT. WELL THAT'S WHY MY  
6 TENTATIVE WAS TO DENY THE MOTION WITHOUT PREJUDICE,  
7 BECAUSE I DO HAVE TO -- I HAVE TO HEAR WHAT SHE SAYS AND  
8 I NEED TO HEAR YOUR ARGUMENTS AS WELL SO I CAN MAKE AN  
9 ANALYSIS UNDER EVIDENCE CODE 352 FOR ALL OF THE REASONS  
10 THAT YOU'RE SAYING AS WELL.

11 MR. DAVID.

12 MR. DAVID: YOUR HONOR, BUT YOU ALLOW HIS  
13 SUDDEN DISPARAGING REMARKS TO SLIP ON THROUGH, RIGHT?  
14 IF THE COURT REPORTER WOULD LEAK TO REREAD THAT. I  
15 MEAN, THERE WAS A VERY LOADED BARB IN THAT AND YOU JUST  
16 LET IT GO RIGHT THROUGH THERE. IF I WANT TO BE A LITTLE  
17 BIT MORE LOYALLY AND LIE THROUGH THE SIDE OF MY TEETH, I  
18 WILL DO THAT, IF THAT'S REALLY WHAT THIS COURT WANTS,  
19 WHICH IS RUBBISH REALLY. HONESTLY YOUR HONOR, I MEAN  
20 FOR THAT MAN TO SIT HERE AND SAY FOR YOU TO JUST ACCEPT  
21 IT, HONESTLY YOU WANT TO POLITICIZE, CALL IT METOO, CALL  
22 IT WHATEVER IT IS YOU WANT TO DO AND POLITICIZE THIS,  
23 WHICH IS WHAT THIS IS. IT'S NO LONGER ABOUT, YOU KNOW,  
24 WOMEN'S RIGHTS, IT'S NOT ABOUT EQUALITY. IT'S NOT ABOUT  
25 THE EQUALITY, IT'S NOT ABOUT THAT. IT'S A FULLY CHARGED  
26 POLITICAL MOVEMENT THAT THESE PEOPLE MANIPULATE AND USE  
27 AD NAUSEAM.

28 THE COURT: OKAY.

1           WOULD YOU LIKE TO BE HEARD?

2           MR. KALTGRAD:   JUST BRIEFLY.   JUST AS AN  
3   EXAMPLE OF WHAT MR. GOLDBERG SAID, I THINK THE COURT IS  
4   FINE TO RESERVE THIS FOR FOUNDATIONAL PURPOSES, BUT  
5   WHATEVER LAUREN REEVES HAS TO SAY ABOUT WHAT HAPPENED  
6   AFTER MS. KHAN ALREADY LEFT THE COMPANY HAS NO RELEVANCE  
7   TO THE PLAINTIFF IN THIS CASE.   IT HAS NO RELEVANCE TO  
8   PUNITIVE DAMAGES.   THE CONDUCT IS COMPLETELY DIFFERENT  
9   AND SHE WASN'T EVEN AROUND AT THAT TIME, THERE'S NO  
10   HOSTILE WORK ENVIRONMENT BECAUSE SHE WASN'T THERE.   BUT  
11   I THINK THE COURT HAS MADE ITS RULING.   I THINK IT'S  
12   FINE TO RESERVE IT, AND WE'LL MAKE AN ARGUMENT AT THE  
13   TIME.

14           THE COURT:   MR. GOLDBERG?

15           MR. GOLDBERG:   WELL ACTUALLY, I BELIEVE THE WAY  
16   THE EVIDENCE WILL BE DEVELOPED IS THAT SOME OF THE  
17   THINGS THAT MR. DAVID DID TO MS. KHAN WERE SIMILAR TO  
18   WHAT HAPPENED TO MS. REEVES.

19           MR. DAVID:   EXCUSE ME, I DID NOT DO ANYTHING TO  
20   YOUR CLIENT AS YOU SUGGEST.   FORGIVE ME, YOUR HONOR,  
21   YOU'RE ALLOWING HIM TO DISPARAGE ME.

22           THE COURT:   I'M GOING TO ALLOW YOU TO RESPOND.  
23   I NEED YOU TO SIT DOWN.   I'M GOING TO ALLOW YOU TO  
24   RESPOND.

25           MR. GOLDBERG:   I THINK THIS SHOWS A PATTERN OF  
26   BEHAVIOR.

27           THE COURT:   MR. DAVID.

28           MR. DAVID:   SO HE'S ALLOWED TO MAKE

1 ACCUSATIONS, BUT I'M NOT ALLOWED TO MAKE ACCUSATIONS  
2 THAT THEY'RE LYING, THIEVING, CRIMINALS, WHICH IS WHAT  
3 THEY ARE, BUT THEN YOU'RE GOING TO ACCUSE ME OF THAT,  
4 BUT THEN HE'S ALLOWED TO STAND THERE AND MAKE  
5 DISPARAGING WILD STATEMENTS CREATED BY A CLIENT OF  
6 THEIRS THAT THEY FIX. YOU THINK THAT THAT IS OKAY? I  
7 THINK THAT'S NOT OKAY.

8 THE COURT: FIRST OF ALL, I MAY REMIND YOU THAT  
9 I NEED YOU TO JUST DIRECT YOUR ARGUMENT TO ME AND I KNOW  
10 WHAT YOU'RE SAYING --

11 MR. DAVID: I WAS, YOUR HONOR --

12 THE COURT: BUT YOU WERE POINTING AT HIM.

13 MR. DAVID: BUT THAT IS MY SUBJECT OF MY  
14 DISCUSSION, SO I MUST POINT TO HIM.

15 THE COURT: YOU DON'T NEED TO POINT TO HIM.

16 MR. DAVID: IN EVERY COURT THAT I'VE BEEN TO,  
17 LAWYERS POINT TO EACH OTHER AND THEY GESTICULATE AND  
18 THEY EXPLAIN THEIR SITUATION AND THE USE OF ARMS IS NOT  
19 A THREAT. IF YOU CONSIDER THIS A THREAT THEN MAYBE I  
20 SHOULD COME IN HANDCUFFED.

21 THE COURT: I DON'T CONSIDER IT TO BE A THREAT  
22 BUT I CONSIDER IT DISRESPECTFUL, SO I WANT YOU TO FOCUS  
23 ON ME AND IF YOU WANT TO ARGUE THE FACTS OF THE CASE,  
24 LIKE MR. GOLDBERG DID, THAT'S FINE, I UNDERSTAND THAT.  
25 YOUR VERSION OF WHAT HAPPENED IS VERY DIFFERENT FROM  
26 WHAT MS. KHAN'S VERSION OF WHAT HAPPENED. BUT SHE'S --  
27 HER LAWYERS ARE GOING TO DISAGREE WITH WHAT YOU SAY.

28 MR. DAVID: I DON'T EVEN KNOW -- I REALLY DON'T

1 KNOW WHEN HER ALLEGATION, I JUST LISTENED TO PEOPLE  
2 READING ME EXCERPTS FROM IT, BECAUSE SHE'S A LIAR AND  
3 THEY KNOW IT.

4 THE COURT: PLEASE DON'T CALL HER A LAWYER.

5 MR. DAVID: BUT HE JUST CALLED ME A WHOLE  
6 LITANY OF THINGS AND ACCUSED ME OF A WHOLE LITANY OF  
7 THINGS AND I'M NOT ALLOWED TO SAY THAT SHE'S A LIAR?  
8 SHE'S NOT EVEN HERE.

9 THE COURT: IF YOU CAN TALK ABOUT FACTS OF THE  
10 CASE, THEN THAT'S FINE.

11 MR. DAVID: THAT IS A FACT. IT IS A FACT THAT  
12 HE IS A LIAR. ABSOLUTE FACT. FACT.

13 YOUR HONOR, THAT IS A FACT.

14 THE COURT: THAT'S YOUR OPINION.

15 MR. DAVID: NO, YOUR HONOR, IT IS A FACT. IT'S  
16 NOT A QUESTION OF OPINION, YOUR HONOR. IT IS A FACT.  
17 AND IF SHE WOULD LIKE TO TAKE A LIE DETECTOR, I WILL  
18 TAKE A LIE DETECTOR 100 PERCENT HAPPY. IF YOU'RE  
19 WILLING TO ALLOW THAT IN, LET'S DO IT. LET'S DO IT.  
20 LET'S DO WHATEVER LIE DETECTOR GUY YOU WANT TO CHOOSE,  
21 CHOOSE THEM, WE'LL RIG HER UP AND WE'LL RIG ME UP AND DO  
22 IT.

23 THE COURT: DO NOT GESTURE TO THEM.

24 MR. DAVID: BUT OF COURSE, TOTALLY  
25 UNACCEPTABLE. TRUTH IS NOT ACCEPTABLE IN THIS ROOM.

26 THE COURT: IT IS ABSOLUTELY ACCEPTABLE IN THIS  
27 ROOM AND I'M NOT THE ONE WHO'S GOING TO DECIDE WHAT THE  
28 TRUTH IS.

1 MR. DAVID: GREAT.

2 THE COURT: THE 12 PEOPLE THAT WE SELECT FOR  
3 OUR JURY, THOSE ARE THE PEOPLE WHO ARE GOING TO DECIDE  
4 WHAT THE TRUTH IS.

5 MR. DAVID: ABSOLUTELY. BUT I SHOULD NOT --  
6 ABSOLUTELY NOT BE -- YOU KNOW, ALL THESE TRIALS. IT'S  
7 LIKE THEY CAREFULLY REDACT WHAT -- YOU KNOW WHAT -- YOU  
8 KNOW WHAT THEY THINK IS DAMNING TO THEM. THEY GO TO  
9 SUCH GREAT EFFORTS TO -- TO CREATE TRUTH THAT DOESN'T  
10 EXIST.

11 AND THEY GO -- YOU KNOW, I MEAN IF YOU WANT TO  
12 REDACT ME, YOU HAVE TO REDACT HER EQUALLY, IF YOU'RE  
13 GOING TO DO IT THAT.

14 THE COURT: SO THE TENTATIVE ON THE FOURTH  
15 MOTION IN LIMINE WILL BE THE RULING. AND THAT'S DENIED  
16 WITHOUT PREJUDICE.

17 AND I APPRECIATE THE ARGUMENT FROM THIS MORNING  
18 BECAUSE IT'S GIVEN ME A BIT OF A PREVIEW OF THE KIND OF  
19 ISSUES THAT WE'RE GOING TO BE TALKING ABOUT WHEN I AM  
20 MAKING A DETERMINATION UNDER EVIDENCE CODE 352 AS TO  
21 WHETHER TO LET CERTAIN EVIDENCE IN.

22 WE'RE GOING TO TAKE A SHORT MORNING BREAK.

23 SO THAT WE CAN GIVE OUR COURT REPORTER A BIT OF  
24 A RESPITE.

25 WE'LL COME BACK AT FIVE MINUTES AFTER 11:00 AND  
26 GO OVER JURY INSTRUCTIONS. THANK YOU.

27 (COURT IS IN RECESS.)

28

1 (THE FOLLOWING PROCEEDINGS WERE  
2 HELD IN OPEN COURT.)

3  
4 THE COURT: BACK ON THE RECORD IN KAHN V.  
5 HOLOGRAM USA. CASE NUMBER BC654017. LET THE RECORD  
6 REFLECT THAT MR. DAVID AND ALL COUNSEL ARE BACK AT  
7 COUNSEL TABLE.

8 WE WERE HAVING A CONVERSATION ABOUT TRIAL  
9 READINESS. BEFORE WE GET TO THE JURY INSTRUCTIONS, I  
10 WANT TO READ THE TIME LIMIT FOR TRIAL BASED ON THE  
11 WITNESS LIST FOR TRIAL.

12 MR. DAVID: YOUR HONOR, WOULD IT BE ALL RIGHT  
13 IF IN THIS THING IF I COULD HAND THIS OVER TO MY LEARNED  
14 COLLEAGUE TO TAKE CARE OF THE BUSINESS OF THAT IF I HAVE  
15 THE SAME OPINION OF HIM?

16 THE COURT: THAT'S FINE, YES. THANK YOU FOR  
17 ASKING.

18 MR. KALTGRAD: I THINK MR. DAVID IS ASKING IF  
19 HE HAS TO BE HERE FOR --

20 THE COURT: NO, HE DOESN'T NEED TO BE HERE. IF  
21 YOU DON'T WANT TO BE HERE YOU DON'T HAVE TO BE HERE, BUT  
22 YOU CAN'T USE THE FACT THAT THERE WERE ANY DECISIONS  
23 MADE AS --

24 MR. DAVID: I UNDERSTAND. I HAVE COMPLETE  
25 FAITH IN MR. KALTGRAD.

26 MS. LEAL: BEFORE MR. DAVID LEAVES, YOUR HONOR,  
27 WE SERVED A CCP NOTICE 1987 (B) AND (C) FOR HIM TO  
28 APPEAR AND PRODUCE DOCUMENTS -- FINANCIAL DOCUMENTS SO

1 THAT WE CAN CONSIDER THAT AS WELL.

2 AND SO BEFORE HE LEAVES I'D LIKE THE COURT TO  
3 INQUIRE WHETHER OR NOT THAT INFORMATION HAS BEEN  
4 BROUGHT.

5 THE COURT: DID YOU BRING THE DOCUMENTS THAT  
6 THEY REQUESTED?

7 MR. KALTGRAD: YOUR HONOR --

8 THE COURT: YOU DON'T REPRESENT HIM.

9 MR. DAVID: I'M NOT AWARE OF ANYTHING THAT I  
10 HAD TO PRODUCE OR BRING. I HAVE NOT RECEIVED THE  
11 DOCUMENT. I HAVEN'T SEEN -- I MEAN, YOU KNOW WHAT, AND  
12 I HAVEN'T -- AND I DON'T READ ANY OF THIS STUFF.

13 THE COURT: WELL, YOU NEED TO READ IT.

14 MR. DAVID: NO, I DON'T, YOUR HONOR.

15 THE COURT: OKAY. SO ONE OF THE REASONS I  
16 THINK YOU DO IS BECAUSE IF YOU'RE SERVED WITH SOMETHING  
17 THAT REQUIRES YOU TO PRODUCE DOCUMENTS OR TO DO  
18 SOMETHING YOU'RE ASKED AND YOU DON'T DO IT, THAT CAN BE  
19 HELD AGAINST YOU REGARDLESS OF WHETHER OR NOT --

20 MR. DAVID: I DO EVERYTHING THAT THE LAWYERS  
21 TELL ME TO DO. AND I DO IT.

22 THE COURT: BUT YOU'RE REPRESENTING YOURSELF  
23 RIGHT NOW.

24 MR. DAVID: BUT IN THE CASE OF EVIDENCE, WHICH  
25 IS WHAT THEY'RE TALKING ABOUT, I ALWAYS DO WHATEVER I'M  
26 TOLD. I MEAN, THEY -- I'M ASKED FOR INFORMATION, I GIVE  
27 THEM INFORMATION. IF THAT INFORMATION ISN'T GOOD ENOUGH  
28 FOR THEM, I'M SORRY. BUT THEY ARE ABSOLUTELY CRIMINAL

1 THUGS ANYWAY AND TRYING TO MAINTAIN AN ELEMENT OF  
2 DECORUM IS DIFFICULT.

3 THE COURT: AGAIN, I'M NOT GOING TO ALLOW YOU  
4 TO DO THAT.

5 MR. DAVID: YOUR HONOR -- YOUR HONOR, YOU KNOW  
6 IT'S GOING TO BE DIFFICULT. IT'S GOING TO BE DIFFICULT.

7 THE COURT: I UNDERSTAND YOU'RE TELLING ME THIS  
8 IS GOING TO BE DIFFICULT, BUT WHAT I'M TELLING YOU, IF  
9 YOU DON'T DO IT THERE ARE GOING TO BE CONSEQUENCES.

10 MR. DAVID: I UNDERSTAND, YOUR HONOR, AND LET  
11 THE CONSEQUENCES REIN ON.

12 THE COURT: BUT THE CONSEQUENCES WOULD BE AT  
13 SOME POINT THAT YOU'RE NOT ALLOWED TO BE IN THE  
14 COURTROOM.

15 MR. DAVID: THEN THAT WOULD BE ANOTHER TRAVESTY  
16 AND MY ARGUMENT AS TO WHY THIS ISN'T A SAFE JURISDICTION  
17 FOR AN EMPLOYER, LET ALONE SOMEBODY WHO'S BEING ACCUSED  
18 OF SOMETHING THAT HE DIDN'T DO, AND A SERIES OF THINGS  
19 WITH A SERIES OF CRIMINAL -- CRIMINAL LAWYERS WORKING  
20 WITH -- WITH DISHONEST PEOPLE.

21 AND ABSOLUTELY, YOU WANT TO DO THAT, GIVE ME MY  
22 JURISDICTION TO THE U.K. AND THAT WILL JUST GIVE ME EVEN  
23 MORE REASON AS TO WHY I SHOULD BE SUING THIS MAN AND  
24 THIS WOMAN AND THEIR PARTNERS FOR BEING CRIMINALS, AND  
25 THEIR CLIENTS AS JUST BEING IDIOTS.

26 THE COURT: DO NOT ADDRESS THEM DIRECTLY. I  
27 NEED YOU TO FOCUS ON ME.

28 SPEAKING OF THE DOCUMENTS, AT THE FINAL STATUS

1 CONFERENCE I ISSUED A TRIAL CONDUCT ORDER THAT APPLIES  
2 TO ALL THE COUNSEL AND ALL OF THE PARTIES AND ALL THE  
3 WITNESSES IN THE CASE.

4 DID YOU RECEIVE A COPY OF THAT ORDER?

5 MR. DAVID: I GOT ONE THIS MORNING.

6 THE COURT: OKAY.

7 GO AHEAD, YOU WANTED TO SAY SOMETHING.

8 MR. KALTGRAD: YES, YOUR HONOR WHILE MR. DAVID  
9 WAS REPRESENTED, MR. DAVID SERVED AN OBJECTION TO THE  
10 DOCUMENT REQUEST. I JUST WANT TO MAKE THAT CLEAR FOR  
11 THE RECORD.

12 THE COURT: WERE THEY FILED?

13 MR. KALTGRAD: NOT THE 1987 OBJECTIONS WERE NOT  
14 FILED, BUT WE CAN PROVIDE THE COURT WITH A COPY. IF THE  
15 COURT WANTS TO RULE ON THE OBJECTION.

16 THE COURT: MS. LEAL.

17 MS. LEAL: YOUR HONOR, FILING OBJECTIONS IS NOT  
18 SUFFICIENT UNDER THE CODE.

19 UNDER THE CODE THEY HAD TO FILE A MOTION TO  
20 QUASH A LONG TIME AGO. WE SERVED THIS SEPTEMBER 20TH OF  
21 THIS YEAR FOR MR. DAVID INDIVIDUALLY. WE DID NOT  
22 RECEIVE ANY MOTION TO QUASH.

23 ALL WE RECEIVED WERE THE OBJECTIONS ON THE 23RD  
24 OF OCTOBER LAST WEEK. THAT'S NOT SUFFICIENT.

25 THE COURT: YOU NEED TO FILE A MOTION TO QUASH  
26 IF YOU WERE GOING TO FILE ONE, BUT IT'S TOO LATE NOW.

27 SO MR. DAVID, DO YOU HAVE THE REQUEST FOR THE  
28 DOCUMENTS?

1 MR. DAVID: I DON'T KNOW WHAT DOCUMENTS THEY  
2 WANT. YOU KNOW, BUT PUT IT THIS WAY, YOUR HONOR, THEY  
3 DON'T -- I MEAN, THEY CAN ASK ME FOR WHATEVER THEY WANT.  
4 I'VE SAID DO YOU WANT MY TAX RETURNS IN THE UNITED  
5 STATES, HERE THEY ARE. I'VE GIVEN YOU MY TAX RETURNS.  
6 I'VE GIVEN YOU ACCESS TO MY ACCOUNTS FOR ALL OF MY  
7 ASSETS HERE IN THE UNITED STATES, AND GUESS WHAT, YOUR  
8 HONOR, I DON'T HAVE ANY.

9 SO TOO BAD.

10 THE COURT: SO MY UNDERSTANDING -- MS. LEAL,  
11 THE QUESTION IS: DID YOU BRING ANY DOCUMENTS THAT WERE  
12 RESPONSIVE TO THE NOTICE AND I THINK THE ANSWER TO THAT  
13 QUESTION IS NO.

14 MR. DAVID: PROBABLY RIGHT.

15 THE COURT: AND MR. KALTGRAD, DID YOU GIVE HIM  
16 THE 1987 --

17 MR. KALTGRAD: YES, YOUR HONOR IT WAS PROVIDED  
18 BUT ANOTHER POINT IS THAT, YOU KNOW, WE JUST FINISHED  
19 THE TRIAL WITH COUNSEL AND MR. DAVID. THERE WERE -- AND  
20 THERE WAS A 1987 IN THAT CASE AS WELL. THEY WERE  
21 PROVIDED DOCUMENTS IN THAT CASE. SO THEY HAVE  
22 DOCUMENTS.

23 THE COURT: BUT YOU CAN'T HAVE IT BOTH WAYS.  
24 LIKE 20 MINUTES AGO WE WERE TALKING ABOUT PRIOR  
25 TESTIMONY AND DISCOVERY IN THE REEVES CASE AND THE  
26 DEFENDANT'S POSITION WAS THAT CASE IS THAT CASE, THIS  
27 CASE IS THIS CASE. NOW YOU CAN'T SAY THAT THIS COURT  
28 SHOULD LOOK IN THE COURT RECORD -- OR ACTUALLY IT

1 WOULDNT BE IN THE COURT RECORD -- THAT SOMEHOW THE  
2 REQUEST FOR PRODUCTION OF DOCUMENTS ON A COMPLETELY  
3 DIFFERENT CASE THAT IS NOT RELATED OR CONSOLIDATED WITH  
4 THIS ONE SOMEHOW ABSOLVES YOUR CLIENT OR MR. DAVID OF  
5 THE RESPONSIBILITY OF PRODUCING THOSE DOCUMENTS.

6 MR. KALTGRAD: THAT'S NOT WHAT I'M SUGGESTING.  
7 ALL I'M SAYING IS THAT THEY'RE ASKING FOR DOCUMENTS TO  
8 ESTABLISH MR. DAVID'S FINANCIAL CONDITION. THEY HAD  
9 ASKED FOR IT PREVIOUSLY, THEY HAVE IT. I'M NOT SURE  
10 WHAT WE'RE ARGUING ABOUT IF THEY HAVE THE DOCUMENTS THAT  
11 THEY ALREADY REQUESTED, BUT --

12 THE COURT: DID YOU WANT TO RESPOND?

13 MR. GOLDBERG: YES, YOUR HONOR. WE DON'T HAVE  
14 THE DOCUMENTS THAT WE'VE REQUESTED. AND IN THE OTHER  
15 CASE THEY PRODUCED VERY LIMITED DOCUMENTATION.

16 WE ASKED FOR AMONG OTHER THINGS: ALL DOCUMENTS  
17 WHICH EVIDENCE, DISCUSS, DESCRIBE, SUMMARIZE, REFLECT,  
18 CONSTITUTE OR OTHERWISE REFER TO HIS ASSETS FROM  
19 JANUARY 1 OF 2016.

20 AND WE DO THAT FOR EACH YEAR FOLLOWING. IT'S  
21 NOT LIMITED TO THE UNITED STATES.

22 IT'S --

23 THE COURT: I'M GOING TO INTERRUPT YOU.  
24 MR. DAVID JUST POUNDED ON THE TABLE TWO TIMES.

25 MR. DAVID: RIGHT.

26 THE COURT: AND YOU MADE --

27 MR. DAVID: I WAS CLAPPING.

28 THE COURT: WELL, YOU POUNDED ON THE TABLE.

1 MR. DAVID: IT WAS A REACTION TO NONSENSE, IT'S  
2 VERY AGGRAVATING, YOUR HONOR, WHEN THEY USE YOU, THEY  
3 USE ALL THE PEOPLE THAT ARE COMING HERE FOR THEIR  
4 ILL-GOTTEN GAINS, ATTEMPTING THEIR ILL-GOTTEN GAINS AND  
5 YOU KNOW WHAT, I WOULD LOVE THEM SO LOVE THEM TO TRY ON  
6 ANYTHING IN ANY OTHER JURISDICTION THAN THIS MICKEY  
7 MOUSE SITUATION THAT THEY'VE SET UP FOR THEMSELVES.

8 THE COURT: MR. DAVID, AGAIN YOU'RE POINTING.

9 MR. DAVID: I AM, YOUR HONOR, BECAUSE THAT  
10 IS -- THAT IS WHERE THE CRIMINALS STAND, YOUR HONOR.

11 THE COURT: AND I'VE ALREADY ORDERED YOU NOT TO  
12 DO THAT, OKAY.

13 I THINK AND I HOPE AND IF I'M WRONG ABOUT THIS,  
14 YOU WILL CORRECT ME. I'VE ALLOWED YOU TO RESPOND EVERY  
15 SINGLE TIME YOU WANTED TO, I HOPE I'M NOT GIVING YOU THE  
16 IMPRESSION THAT I'M NOT GOING TO HEAR FROM YOU. I  
17 UNDERSTAND YOU'RE GOING TO DISAGREE WITH WHAT HE'S GOING  
18 TO SAY, BUT I WILL ALWAYS COME BACK TO YOU, SO I CAN  
19 HEAR WHAT YOU HAVE TO SAY.

20 MR. DAVID: YOUR HONOR, WHEN A THIEF IS  
21 STANDING IN A ROOM WITH YOU AND THERE'S A WHOLE BUNCH OF  
22 OTHER PEOPLE IN THE ROOM, AND YOU KNOW THAT PERSON IS A  
23 CRIMINAL AND YOU KNOW, YOU KNOW WHAT HE'S DOING IN THIS  
24 ROOM, YOU KNOW, I KNOW, WHAT HE'S DOING, WHAT THEY ARE  
25 DOING, WHAT THEIR CLIENTS ARE ALLOWING THEM TO BE DONE  
26 TO THEM BY THEM.

27 THAT IS WHAT IS HAPPENING.

28 AND THAT YOUR HONOR IS WHAT I AM HERE TO TRY

1 AND UNMASK.

2 THE COURT: AND I UNDERSTAND THAT. I THINK  
3 THAT DEFINITELY I'M UNDERSTANDING WHAT YOU'RE SAYING AND  
4 DEFINITELY PERCEIVING THE LEVEL OF FRUSTRATION AND ANGER  
5 THAT YOU HAVE, NOT ONLY BEING ABOUT HERE AND HAVING THIS  
6 TRIAL, BUT ALSO THE ACCUSATIONS THAT HAVE BEEN MADE AND  
7 MY JOB IS TO MAKE SURE THAT EVERYONE HAS AN OPPORTUNITY  
8 TO PRESENT THEIR CASE, OKAY?

9 I AM GOING TO HEAR MR. GOLDBERG. I INTERRUPTED  
10 MR. GOLDBERG SO THAT I COULD ADDRESS THIS. SO I'M GOING  
11 TO TURN MY ATTENTION BACK TO HIM. THEN I'M GOING TO  
12 TURN MY ATTENTION BACK TO YOU, AND I WILL LET YOU BE  
13 HEARD, BUT UNDER NO CIRCUMSTANCES, SHOULD YOU POUND ON  
14 THE TABLE AND MAKE SOUNDS LIKE YOU DID JUST A FEW  
15 MINUTES AGO. THAT'S COMPLETELY INAPPROPRIATE.

16 MR. DAVID: TO WHAT?

17 THE COURT: TO WHAT?

18 MR. DAVID: INAPPROPRIATE TO WHAT? TO WHAT,  
19 YOUR HONOR. I MEAN, I JUST -- I NEED TO UNDERSTAND YOUR  
20 HONOR -- YOU KNOW IF EXPRESSION WHICH IS NOT  
21 VIOLATING -- WHICH IS NOT -- I MEAN, YOU'RE CURTAILING  
22 MY FREEDOM OF EXPRESSION AT EVERY POINT.

23 THE COURT: WELL, I NEED YOU TO --

24 MR. DAVID: YOU'RE STOPPING ME FROM HAVING A  
25 VOICE, WHICH IS -- WHICH IS FUNNY TO ME THAT, YOU KNOW,  
26 ALL THIS METOO -- METOO NONSENSE AND TO BE SO ABUSED.  
27 SO ABUSED BY THESE PEOPLE, THE NONSENSE THAT THEY -- THE  
28 NONSENSE THAT THEY'RE ALLOWED TO DO.

1 TO WHAT --

2 THE COURT: OKAY.

3 MR. DAVID: -- WHAT IS ORIGINALLY A REAL THING  
4 TO BE BASTARDIZED BY THEIR ACTIVITIES.

5 AND THAT'S A VERY LEGITIMATE WORD. PERFECTLY  
6 LEGITIMATE WORD, YOUR HONOR.

7 THE COURT: I WANT TO HEAR THE SUBSTANCE OF  
8 WHAT YOU HAVE.

9 MR. DAVID: HAVE LOADS OF SUBSTANCE.

10 THE COURT: I WANT TO HEAR THE FACTS. I'M NOT  
11 DONE --

12 MR. DAVID: I CANNOT RESPOND WITH FACTS WITH  
13 OTHER THAN RESPONDING TO THEIR LIES OTHER THAN TO SAY --  
14 TO SAY THAT THE ALLEGATIONS, SO FAR THAT I'VE HEARD ARE  
15 WRONG.

16 THEY'RE LIES. THAT I SEXUALLY -- YOU KNOW THAT  
17 THEY HAVE THIS -- THE LAST ONE -- THE LAST ONE THAT HER  
18 DAUGHTER, GLORIA ALLRED'S DAUGHTER WITH ELIZABETH  
19 TAYLOR, WHO'S JOINED TOGETHER, THEY'RE IN CAHOOTS, THEY  
20 FIRST WENT TO ALLRED'S FIRM -- ALLRED SENT ELIZABETH  
21 TAYLOR OVER WITH LISA BLOOM ALONG WITH THE OTHER ONE AND  
22 THEY DIVVIED UP THE CLIENTS AND -- AND SO THEY HAVE  
23 HEAPS OF INFORMATION. ALL THEY'RE TRYING TO DO IS TO  
24 CREATE THAT I'M A MONSTER. THAT I'M THE THIS TERRIBLE  
25 PERSON, YOU'VE GOT IN, WHERE IS THE -- IS THERE A  
26 POLICEMAN IN HERE STILL, I MEAN THEY -- BY THE WAY, I  
27 WANTED TO SAY THANK YOU BECAUSE I KNOW THAT THAT'S UP TO  
28 YOU, ULTIMATELY. SO THANK YOU FOR THAT, BECAUSE THAT

1 GIVES ME A -- BECAUSE EVERY CASE THEY'VE GOT A COP IN  
2 THERE WITH A GUN AND I'M THIS HORRIBLE THREATENING  
3 PERSON. I'VE NEVER BEEN IN TROUBLE IN MY LIFE WITH THE  
4 POLICE EXCEPT IMPORTING AND THEY'RE GOING TO CHANGE THAT  
5 LAW.

6 THAT'S THE ONLY TIME I'VE EVER BEEN IN TROUBLE.  
7 ONLY TIME. AND YET THEY MAKE ME OUT AS IF I'M A KILLER,  
8 SOMEBODY TO BE TERRIFIED OF, THAT THEIR WITNESSES HAVE  
9 THESE DOCTORS, THAT ARE SO TRAUMATIZED. I'VE NEVER EVEN  
10 SPOKEN TO THE PEOPLE AFTER THEY WERE LET GO AND I DIDN'T  
11 EVEN LET GO OF THESE PEOPLE AND THEY MAKE FICTITIOUS LIE  
12 UPON LIE.

13 THE COURT: SO THERE'S NO DEPUTY IN THE  
14 COURTROOM RIGHT NOW, OKAY.

15 BUT THIS IS -- IT'S RELATED TO WHAT WE'VE BEEN  
16 TALKING ABOUT, IN THAT I'VE -- I WANT YOU TO HAVE EVERY  
17 OPPORTUNITY TO PRESENT THE FACTS OF THE CASE AND THE  
18 SUBSTANCE OF YOUR DEFENSE, BUT I NEED YOU TO DO THAT IN  
19 A WAY THAT'S RESPECTFUL AND IN A WAY THAT -- THAT  
20 COMPLIES WITH THE LOCAL RULES AND THE CALIFORNIA RULES  
21 OF COURT. I'VE HAD TO ADMONISH YOU SEVERAL TIMES  
22 ALREADY TODAY FOR YOU TO ADHERE TO THOSE PROTOCOLS.

23 IF YOU DON'T DO THAT, THAT'S WHEN I NEED TO ASK  
24 THE DEPUTY TO COME IN, OKAY? SO I REALLY NEED YOU TO  
25 WORK HARD ON LISTENING TO WHAT I'M ASKING YOU TO DO AND  
26 COMPORTING YOUR BEHAVIOR THAT WAY, OTHERWISE WE DO HAVE  
27 TO HAVE THE DEPUTIES COME IN. OTHERWISE I DO HAVE TO  
28 TALK TO YOU ABOUT SANCTIONS. AND I MAY HAVE TO ASK YOU

1 TO LEAVE THE COURTROOM.

2 MR. DAVID: WELL, YOUR HONOR, THAT -- YOU KNOW,  
3 THE WHOLE POINT OF A CIVIL COURT IS TO GIVE PEOPLE THE  
4 CIVIL PLATFORM TO DISCUSS THINGS. IF YOU WANT TO TRY  
5 AND STOP ME FROM TALKING, BECAUSE I'M NOT A LAWYER, AND  
6 I'M NOT ON THE TAKE IN THE WHOLE SYSTEM, THAT HAS NO  
7 REGULATION OTHER THAN ITSELF, WORKING A BROKEN SYSTEM  
8 WITH BROKEN LAWYERS WHO ARE JUST IN IT FOR NO OTHER  
9 REASON THAN WHOLESALE GREED, YOUR HONOR, YOU WANT TO  
10 STOP ME TALKING, YOU WANT TO TAKE AWAY MY RIGHT GO FOR  
11 IT, I'VE DONE NOTHING WRONG OTHER THAN SAY THAT THESE  
12 PEOPLE ARE CRIMINALS THAT THEY RAIDED MY CASTLE, THEY'VE  
13 TRIED TO TAKE SOMETHING FROM ME THAT YOU KNOW, THEY JUST  
14 CONTINUE TO THROW THEIR CLIENTS UNDER THE BUS, THEY KNOW  
15 THAT CHASTITY JONES -- CHASTITY JONES IS NEVER GOING TO  
16 SEE \$11 MILLION. THEY ALREADY HAVE HALF OF IT  
17 THEORETICALLY IN THEIR POCKETS, AND IT'S PATHETIC. IT'S  
18 ABSOLUTELY PATHETIC.

19 THE COURT: WE'RE HERE TO TALK ABOUT THE KAHN  
20 CASE. WE ARE JUST TALKING ABOUT THE PRETRIAL RIGHT NOW,  
21 WE ARE NOT TALKING ABOUT THE SUBSTANCE.

22 AND I'VE LET YOU GO ON A LITTLE BIT TODAY  
23 BECAUSE I'M TRYING TO -- I NEVER MET YOU BEFORE. I  
24 WANTED ALL OF US TO GET A CHANCE TO GET A FEEL FOR HOW  
25 TO INTERACT WITH EACH OTHER, BUT I'VE GOT TO TELL YOU  
26 THIS KIND OF THING WILL NOT HAPPEN WHEN THE JURY IS IN  
27 THE ROOM. AND I'M GOING TO HAVE VERY LITTLE PATIENCE.  
28 LIKE I SAID, YOU'RE NEVER GOING TO SEE ME GET ANGRY, BUT

1 I AM GOING TO TAKE MY RESPONSIBILITY TO CONTROL THE  
2 PROCEEDINGS VERY SERIOUSLY, ESPECIALLY WHEN THE JURY IS  
3 HERE.

4 MR. DAVID: YOUR HONOR, MAYBE THE JURY --  
5 THE COURT: THAT'S WHAT IS GOING TO HAPPEN.

6 MR. DAVID: PERHAPS. AND MAYBE THE JURY WILL  
7 SEE THAT THERE IS ALREADY A SOMEWHAT ONE-SIDED, METOO  
8 THING GOING ON AND IT'S ALL VERY SORT OF LEFTIST AND  
9 BLAH, BLAH, BLAH AND ALL OF THIS NONSENSE THAT GOES ON  
10 IN THESE ROOMS. AND -- AND -- AND THEN THEY'RE GOING TO  
11 SEE THAT I'M BEING RESTRAINED FROM SPEAKING THE TRUTH.

12 THAT I NEVER TOUCHED THIS LADY, THIS LIAR WHICH  
13 IS WHAT SHE IS.

14 THE COURT: I'M GOING TO -- AGAIN I TOLD YOU,  
15 THAT'S NOT APPROPRIATE.

16 MR. DAVID: WHAT, IT'S NOT APPROPRIATE TO SAY  
17 THAT SOMEBODY IS LYING?

18 THE COURT: YEAH.

19 MR. DAVID: THAT'S INAPPROPRIATE -- IN A COURT  
20 OF LAW TO SAY THAT SOMEBODY IS LYING IS INAPPROPRIATE?  
21 THAT IS AMAZING TO ME. THIS IS INCREDIBLE.

22 THE COURT: WHAT WE'RE TALKING ABOUT RIGHT NOW  
23 IS WHETHER OR NOT YOU PRODUCED THE DOCUMENTS THAT YOU  
24 WERE ASKED TO PRODUCE, WHETHER OR NOT MS. KHAN IS GOING  
25 TO TELL THE TRUTH AT SOME POINT IN THE FUTURE. THAT'S  
26 NOT BEFORE THE COURT. IT'S NOT --

27 MR. DAVID: HER TRUTH IS BASED ON THE COMPLAINT  
28 THAT SHE'S GIVEN UNDER PENALTY OF PERJURY, WHICH IS

1 ANOTHER THING THAT I WOULD LOVE IT IF YOU WOULD ACTUALLY  
2 PAY ATTENTION TO THE PERJURY RULE BECAUSE NO OTHER JUDGE  
3 SEEMS TO CARE ABOUT PERJURY.

4 THE COURT: I TAKE THE LAW VERY SERIOUSLY AND  
5 WE'LL JUST SEE WHAT HAPPENS DURING THE TRIAL.

6 MR. GOLDBERG?

7 MR. GOLDBERG: YES, YOUR HONOR, I HAVE A  
8 SUGGESTION.

9 THE COURT: YES.

10 MR. GOLDBERG: THE NOTICE TO APPEAR WAS SENT TO  
11 COUNSEL BECAUSE HE WAS REPRESENTING MR. DAVID. I DON'T  
12 THINK HE'S ACTUALLY HAD AN OPPORTUNITY TO REALLY REVIEW  
13 IT. MY SUGGESTION IS THAT WE GIVE HIM A DAY TO -- TO  
14 LOOK AT IT AND THEN BRING WHATEVER DOCUMENTS.

15 THE COURT: MR. DAVID.

16 MR. DAVID: YES, YOUR HONOR.

17 THE COURT: WE'RE TALKING ABOUT WHETHER OR NOT  
18 YOU'RE GOING TO BE ORDERED TO PRODUCE DOCUMENTS. I  
19 THINK YOU SHOULD STAY FOR THIS.

20 MR. DAVID: WELL, THEY CAN LET ME KNOW.

21 THE COURT: IF YOU DON'T WANT TO, YOU CAN GO.

22 MR. DAVID: IT'S ALL RIGHT, YOUR HONOR, YOU  
23 KNOW WHAT MY POSITION IS.

24 THE COURT: OKAY.

25 MR. KALTGRAD: YOUR HONOR, IF I MAY JUST  
26 BRIEFLY --

27 THE COURT: LET THE RECORD REFLECT THAT  
28 MR. DAVID HAS JUST LEFT THE COURTROOM.

1 MR. GOLDBERG: YOUR HONOR, I OBJECT TO COUNSEL  
2 REPRESENTING MR. DAVID.

3 THE COURT: HE'S NOT REPRESENTING MR. DAVID.

4 MR. GOLDBERG: WELL THEN HE CAN'T SPEAK TO HIM  
5 ON HIS BEHALF.

6 THE COURT: EXACTLY.

7 MR. GOLDBERG: THAT'S MY POINT.

8 THE COURT: MR. GOLDBERG, I INTERRUPTED YOU  
9 BECAUSE MR. DAVID WAS ABOUT TO LEAVE AND THEN HE DID  
10 LEAVE AND I WANTED TO PUT THAT ON THE RECORD.

11 DO YOU HAVE ANYTHING ELSE TO SAY?

12 MR. GOLDBERG: I JUST WANT TO SAY, YOUR HONOR,  
13 THAT THE DOCUMENTS THAT WERE PRODUCED AT THE LAST  
14 PROCEEDING WERE WILLFULLY INADEQUATE. THEY DID NOT  
15 REFLECT ANYTHING ABOUT HIS CURRENT NET WORTH, HIS ASSETS  
16 AT ALL.

17 AND WE NEED TO HAVE THAT INFORMATION BECAUSE  
18 IT'S IMPORTANT FOR PUNITIVE DAMAGES.

19 SO I BELIEVE THAT MR. DAVID SHOULD BE ORDERED  
20 TO PRODUCE THE DOCUMENTS TO THE EXTENT THAT THEY'RE IN  
21 HIS POSSESSION, CUSTODY OR CONTROL. HE MENTIONED THAT  
22 HE'S GOT AN ACCOUNTANT HERE IN THE U.S., I DON'T KNOW  
23 WHO THAT IS. THAT WAS INFORMATION THAT I DIDN'T KNOW.

24 BUT, YOU KNOW, I ASSUME THAT THAT INFORMATION  
25 WOULD BE AVAILABLE. I MEAN, WE KNOW THAT MR. DAVID  
26 RECENTLY PURCHASED A HOME IN THE MALIBU AREA UNDER AN  
27 LLC. WE JUST DON'T HAVE THE INFORMATION, AND I DON'T  
28 WANT TO -- WHAT I DON'T WANT TO HAPPEN IS GETTING TO THE

1 END OF THE TRIAL, ASSUMING THE JURY AWARDS, FINDS, MAKES  
2 FINDINGS THAT ALLOW FOR PUNITIVE DAMAGES AND WE HAVE  
3 LITTLE INFORMATION TO PROVIDE TO THEM.

4 THE COURT: OKAY. AND HE IS ORDERED TO PRODUCE  
5 DOCUMENTS THAT WERE REQUESTED.

6 DO YOU WANT TO PREPARE A PROPOSED ORDER?

7 MR. GOLDBERG: YES, WE'LL PREPARE AN ORDER AND  
8 WE WOULD SERVE IT ON HIM BY SENDING IT TO -- I HAVEN'T  
9 SEEN THE SUBSTITUTION, SO I DON'T KNOW WHAT ADDRESS TO  
10 SERVE HIM AT.

11 MR. KALTGRAD: THE SUBSTITUTION WILL BE FILED  
12 TODAY.

13 MR. GOLDBERG: OKAY, THEN WE'LL HAVE AN ADDRESS  
14 TO SERVE HIM.

15 THE COURT: OKAY.

16 MR. GOLDBERG: THANK YOU, YOUR HONOR.

17 MR. KALTGRAD: THERE WERE ALSO NOTICES -- IF I  
18 MAY ADDRESS -- THERE WERE NOTICES TO STRIKE THE ANSWER  
19 AS WELL. COUNSEL REPRESENTED A MOMENT AGO THAT IT WAS  
20 NOT SUFFICIENT TO FILE OBJECTIONS, THAT A MOTION TO  
21 QUASH WAS NECESSARY. I DON'T THINK THAT'S CORRECT.  
22 UNDER 1987 (C) WHEN A PARTY RECEIVES A 1987 NOTICE, ALL  
23 THEY HAVE TO DO IS SERVE WRITTEN OBJECTIONS AND THEN THE  
24 BURDEN SHIFTS TO THE PARTY REQUESTING THE MOTION TO THE  
25 COURT. SO I DON'T BELIEVE IT'S CORRECT TO SAY A MOTION  
26 TO QUASH WAS NECESSARY IN THIS CASE, AS FAR. AS  
27 MR. DAVID GOES, HE'S REPRESENTING HIMSELF AT THIS POINT,  
28 BUT I JUST WANTED TO CLARIFY THAT.

1 THE COURT: I'M GOING TO ASK THAT YOU MEET AND  
2 CONFER OVER THE 1987 NOTICE AS TO THE ENTITIES, AND  
3 WE'LL TAKE THAT UP AGAIN TOMORROW MORNING.

4 WITH RESPECT TO THE TIME ESTIMATE FOR TRIAL.

5 MR. GOLDBERG: THERE ARE A COUPLE OF WITNESSES  
6 ON THE LIST THAT I KNOW WE'RE NOT GOING TO BE CALLING SO  
7 WE COULD PROBABLY TAKE THEM OFF. IF YOU WANT TO KNOW --

8 THE COURT: IT LOOKS LIKE YOU'VE GOT ABOUT 42  
9 HOURS OF TESTIMONY.

10 DOES THAT SOUND RIGHT TO ALL OF YOU.

11 MS. LEAL: WE FILED THE WRONG SIGNATURE PAGE  
12 YOUR HONOR, BECAUSE THE SIGNATURE -- THERE WAS ANOTHER  
13 SIGNATURE PAGE THAT HAD THE TOTAL HOURS FOR YOU.

14 AND I THINK THE ONE THAT ULTIMATELY WAS FILED  
15 DIDN'T HAVE THE TOTAL TIME.

16 THE COURT: IT DOESN'T. DID I GET CLOSE?

17 MS. LEAL: I THINK YOU DID.

18 MR. GOLDBERG: YOUR HONOR, IF I MAY COMMENT,  
19 ALKI DAVID IS EIGHT HOURS. I DON'T EVEN KNOW IF WE'RE  
20 GOING TO CALL HIM.

21 SO THAT MAY BE CUT DOWN SUBSTANTIALLY.

22 MARY RIZZO, CHASTITY JONES AND ELIZABETH TAYLOR  
23 ARE METOO WITNESSES. WE DON'T HAVE ANY OF THEM UNDER  
24 SUBPOENA RIGHT NOW AND WE DON'T EVEN KNOW IF THE COURT  
25 WOULD EVEN ALLOW THEIR TESTIMONY. THEY MAY GO AWAY.

26 GRANT ZIMMERMAN WE'RE NOT GOING TO CALL, DAVID NUSSBAUM,  
27 WE'RE NOT GOING TO CALL, MARSHA NAZERBAYA, WE CAN'T FIND  
28 HER. {PHONETIC}

1 SO THOSE ARE -- AND I DON'T THINK WE'RE CALLING  
2 MARK RILEY. SO WE CAN TAKE HIM OFF THE LIST AS WELL.

3 SO I THINK THAT WILL ELIMINATE QUITE A LOT OF  
4 THE ESTIMATE.

5 THE COURT: OKAY.

6 AND MR. KALTGRAD, DO YOU WANT TO BE HEARD?

7 MR. KALTGRAD: UNFORTUNATELY, YOUR HONOR, THIS  
8 IS ONE OF THE THINGS THAT MRS. GAROFALO MOSTLY WORKED  
9 ON. I KNOW WE DO HAVE OBJECTIONS TO SEVERAL OF THESE  
10 WITNESSES. WE DON'T KNOW WHAT THEIR RELEVANCE IS, BUT  
11 THAN CAN BE TAKEN UP AT THE TIME.

12 THE COURT: SO IT SOUNDS LIKE IF I GIVE THE  
13 JURY A TEN COURT DAY TIME ESTIMATE, THAT'S GOING TO BE  
14 PLENTY OF TIME.

15 MR. GOLDBERG: I THINK SO.

16 MS. LEAL: YES.

17 MR. KALTGRAD: YOU SAID ABOUT TEN DAYS LAST  
18 TIME.

19 MS. LEAL: I COUNTED THE REEVES CASE HOW MANY  
20 ACTUALLY TRIAL DAYS WE HAD, AND THERE WERE TEN.

21 THE COURT: WERE YOU --

22 MR. KALTGRAD: I WAS INVOLVED IN THE CASE, YES,  
23 YOUR HONOR.

24 ONE OF THE ISSUES THAT I GUESS AFFECTS I THINK  
25 WE'LL BE DEALING WITH THE JURY INSTRUCTIONS THE ISSUE OF  
26 WHETHER PUNITIVE DAMAGES WILL BE BIFURCATED.

27 THE COURT: ALWAYS BIFURCATION. WE'LL MAKE --  
28 WHAT WE'LL DO IS WE'LL ASK THE FOUNDATIONAL QUESTION

1 WHETHER OR NOT THE JURY FINDS THAT ANY OF THE DEFENDANTS  
2 ACTED WITH MALICE, OPPRESSION AND IF THE ANSWER IS YES,  
3 THEN WE GO INTO THE SECOND PHASE.

4 MR. KALTGRAD: IN THAT CASE THERE MAY BE A  
5 SECOND PHASE, BUT I THINK IT WAS TEN DAYS WITH THE  
6 SECOND PHASE.

7 MR. GOLDBERG: THE SECOND PHASE USUALLY IS VERY  
8 SHORT.

9 THE COURT: IT'S USUALLY VERY SHORT.

10 OKAY. SO I'M GOING TO GIVE THE JURY A TEN-DAY  
11 TIME ESTIMATE.

12 ANY -- WE WENT OVER COURT'S SCHEDULING ISSUE.  
13 ARE THERE ANY OTHER NEW DATES THAT WE WILL NOT BE IN  
14 SESSION THAT I NEED TO TELL THE PROSPECTIVE JURORS  
15 ABOUT?

16 MR. KALTGRAD: I THINK MS. GAROFALO MENTIONED  
17 NEXT THURSDAY AND FRIDAY, SHE'LL BE BACK BY THEN. THE  
18 COURT IS AWARE OF THAT.

19 THURSDAY AND FRIDAY.

20 THE COURT: ALSO TO THE -- GOOD POINT. I  
21 TALKED WITH JUDGE JESSNER AND JURY SERVICES, WE DON'T  
22 HAVE ANOTHER COURTROOM SO WE'RE GOING TO NEED TO DO JURY  
23 SELECTION HERE BUT I DID GET APPROVAL TO HAVE 50 JURORS  
24 COME UP AT A TIME, WHICH IS BETTER THAN THE USUAL 30.

25 AND I ALSO TOLD THEM THAT IT'S EXTREMELY  
26 UNLIKELY THAT 50 IS GOING TO BE ENOUGH THAT WAY THEY CAN  
27 BE PREPARED TO SEND US MORE JURORS.

28 MR. KALTGRAD: I HAVE AN UPDATE FOR THE COURT

1 JUST AS FAR AS THE TIMING SITUATION I SPOKE TO HER AT  
2 THE BREAK.

3 THE COURT: HOW IS SHE?

4 MR. KALTGRAD: SHE'S OKAY. SHE'S OUT. MY  
5 UNDERSTANDING IS SHE'S BEING TOLD THAT THEY MAY BE OUT  
6 FOR TWO TO FOUR DAYS UNABLE TO GET BACK TO THE  
7 RESIDENCE.

8 HOPEFULLY IT WILL BE SHORTER THAN THAT, BUT  
9 THAT'S WHAT SHE -- I JUST WANTED TO BRING THAT TO THE  
10 COURT'S ATTENTION.

11 THE COURT: AND WERE YOU AWARE OF THIS?

12 MR. GOLDBERG: I JUST -- WE -- COUNSEL TOLD US  
13 THAT AT THE BREAK.

14 THE COURT: SO LET'S SEE, TODAY IS THE 28TH.  
15 SO IT DOESN'T SOUND LIKE THERE'S ANY WAY SHE'S  
16 GOING TO BE BACK TOMORROW.

17 MR. KALTGRAD: I DON'T THINK SO, YOUR HONOR.  
18 SHE CAN'T EVEN GET BACK TO HER HOUSE AT THIS POINT. AND  
19 SHE LIVES RIGHT OFF THE TIGER TAIL, WHICH IS BURNING.

20 THE COURT: IS THERE ANY -- DID SHE TELL YOU IF  
21 THERE'S ANY UPDATE ON THEM GETTING THAT FIRE CONTAINED.  
22 THIS HAS NOTHING TO DO WITH OUR SCHEDULE BUT JUST OUT OF  
23 CURIOSITY.

24 MR. KALTGRAD: I DON'T THINK SHE KNOWS. SHE  
25 DIDN'T GET A SPECIFIC UPDATE. I KNOW SHE DOESN'T KNOW  
26 THE STATUS OF HER HOUSE.

27 THE COURT: ALL RIGHT.

28 SO WE'LL TALK MORE AGAIN TODAY ABOUT WHEN TO

1 HAVE YOU COME BACK. I'M NOT GOING TO HAVE YOU COME BACK  
2 TOMORROW UNLESS THERE'S SOMETHING THAT WE CAN GET DONE  
3 WITHOUT HER.

4 MR. KALTGRAD: I CAN TRY TO GET AN UPDATE AT  
5 THE END OF THE DAY, IF THAT WOULD BE HELPFUL.

6 MR. GOLDBERG: SO WE WON'T BE IN SESSION  
7 TOMORROW.

8 THE COURT: NO, BECAUSE I THINK WE'RE GOING TO  
9 BE READY WHEN WE'RE -- I WENT THROUGH YOUR PROPOSED JURY  
10 INSTRUCTIONS AND IT'S VERY STRAIGHT FORWARD, I DON'T  
11 THINK THERE'S A LOT TO TALK ABOUT THERE. I DON'T -- AS  
12 A MATTER OF FACT, I DON'T THINK WE NEED TO HAVE YOU COME  
13 BACK THIS AFTERNOON.

14 AND THEN WE'LL BE READY TO START PICKING THE  
15 JURY.

16 I MEAN, I WANT TO GET AS MUCH THAT WE CAN GET  
17 DONE WHERE WE DON'T NEED HER TO BE HERE, BUT WE  
18 DEFINITELY NEED HER FOR JURY SELECTION.

19 DO YOU WANT TO SAY SOMETHING?

20 MS. LEAL: THAT JUST REMINDS ME, YOU REQUESTED  
21 A FLASH DRIVE AND SO I'VE GIVEN MR. KALTGRAD A LIST OF  
22 THE DOCUMENTS ON THE FLASH AND THIS IS THE INDEX.

23 THE COURT: YOU CAN LEAVE IT THERE. THANK YOU.

24 MR. GOLDBERG: WE HAVE SOME -- WE'LL HAVE TO  
25 DEAL WITH IT. WE HAD SOME WITNESSES SUBPOENAED FOR  
26 THURSDAY, SO I DON'T KNOW IF THAT'S REALISTIC OR NOT.  
27 SO I GUESS WE'LL JUST HAVE TO DEAL WITH THAT.

28 THE COURT: IT DOESN'T SOUND LIKE THAT'S

1 REALISTIC, I THINK WE'LL BE IN SESSION, BUT I DON'T  
2 THINK WE'LL HAVE TIME TO FINISH JURY SELECTION BY THEN.

3 YOU'RE GOING TO CONTINUE THE MEETING AND  
4 CONFERRING TO MAKE SURE THAT THE DOCUMENTS ARE EXCHANGED  
5 SO THAT WAY IF THERE'S OBJECTIONS WE CAN TAKE THOSE UP  
6 OUTSIDE OF THE PRESENCE.

7 MR. KALTGRAD: WE HAVE SIGNIFICANT OBJECTIONS  
8 ON MANY OF THE DOCUMENTS, BESIDES THE DISCOVERY ISSUE ON  
9 RELEVANCE ISSUES AND WE CAN CONFER ON THAT.

10 THE COURT: WE'RE GOING TO DO -- YOU SUBMITTED  
11 YOUR JOINT STATEMENT OF THE CASE.

12 ANYTHING ELSE BEFORE WE GET TO THE JURY  
13 INSTRUCTIONS?

14 MS. LEAL: NO, YOUR HONOR.

15 MR. KALTGRAD: I THINK BOTH SIDES SUBMITTED  
16 VERDICT FORMS.

17 THE COURT: I HAVE THEM. I HAVEN'T HAD A  
18 CHANCE TO REVIEW THEM. THEY'RE BOTH VERY LONG.

19 MS. LEAL: THEY'RE VERY SIMILAR ALSO. I THINK  
20 THE DIFFERENCES RELATE TO TWO ISSUES. ONE ISSUE IS ON  
21 THE CONSTRUCTIVE TERMINATION. WE USED CACI 2510, I  
22 THINK IT IS, UNDER FEHA, THE FAIR EMPLOYMENT AND HOUSING  
23 ACT.

24 AND OPPOSING COUNSEL SEEKS TO USE THE CACI FOR  
25 WRONGFUL TERMINATION VIOLATION OF PUBLIC POLICY CLAIM.  
26 WHICH IS A CLAIM THAT WE WILL DROP BECAUSE THEY'RE THE  
27 SAME.

28 SO WE DON'T THINK THAT THAT PARTICULAR CACI FOR

1 THE WRONGFUL TERM CLAIM IS NECESSARY. AND THEN THE  
2 OTHER ISSUE IS WHETHER OR NOT THE TRIAL IS BIFURCATED.  
3 IF IT'S BIFURCATED, THEN WE'RE FINE WITH -- WITH  
4 BIFURCATION, AND IF THAT'S THE CASE, THEN WE JUST NEED  
5 TO AMEND OUR SPECIAL VERDICT FORM TO COMPORT WITH  
6 DEFENDANTS ON THAT ISSUE.

7 MR. KALTGRAD: ON THE BIFURCATION, THAT'S FINE.  
8 ON THE WRONGFUL TERM CLAIM, IT'S NOT WHAT WE'RE SEEKING  
9 TO USE. I MEAN, THIS IS THE PLAINTIFF'S CASE, SO IT'S  
10 THEIR CAUSE OF ACTION. THE ISSUE THAT WE HAD WAS  
11 PLAINTIFF POINTED TO THE DEFINITION OF CONSTRUCTIVE  
12 DISCHARGE IN THE FEHA INSTRUCTIONS, BUT THAT'S NOT  
13 SUFFICIENT AS A CAUSE OF ACTION. IF YOU LOOK AT THE  
14 DIRECTIONS FOR USE, UNDER THAT JURY INSTRUCTION, IT'S  
15 SUPPOSED TO BE USED WITH ONE OF THE FEHA CLAIMS, IT'S  
16 NOT JUST CONSTRUCTIVE TERMINATION ON ITS OWN. ALL WE  
17 HAVE TO DO IS FIND THAT SHE WAS CONSTRUCTIVELY  
18 TERMINATED. IT HAS TO DO WITH DISCRIMINATION CLAIM,  
19 SOMETHING THAT'S RELATED TO IT. SO IN THE DIRECTIONS  
20 FOR USE, IT SAYS, USE THIS INSTRUCTION WITH ONE OF THESE  
21 OTHER INSTRUCTIONS, WHICH WAS NOT INCLUDED. SO IF  
22 PLAINTIFF WANTS TO DROP THEIR PUBLIC POLICY CLAIM,  
23 THAT'S FINE. IF THEY WANT TO USE THE FEHA CLAIM, THEY  
24 NEED TO DO IT IN A WAY THAT COMPORTS WITH THE CACI, A  
25 SPECIAL VERDICT FORM, I DON'T THINK THERE IS A SPECIAL  
26 VERDICT FORM FOR THE CONSTRUCTIVE TERMINATION FEHA  
27 CLAIM. IT WAS KIND OF MADE UP BY THE PLAINTIFF BASED ON  
28 THE CACI, BUT THE CACI HAS TO RUN WITH AN ACTUAL FEHA

1 CLAIM, NOT JUST TO SAY CONSTRUCTIVE TERMINATION.

2 THE COURT: IT SOUNDS LIKE YOU HAVE SOME  
3 TALKING TO DO. YOU'RE ACTUALLY CLOSER TOGETHER THAN  
4 WHAT IT WOULD APPEAR FROM THE PAPERS THAT I HAVE.

5 SO I'LL -- I AM GOING TO GO AHEAD AND TAKE A  
6 DEEP DIVE INTO BOTH PROPOSED SPECIAL VERDICT FORMS, BUT  
7 I WANT YOU TO CONTINUE MEETING AND CONFERRING AS WELL  
8 AND LET ME KNOW WHERE THERE IS ACTUAL DISAGREEMENT, YOU  
9 NEED ME TO MAKE A CALL.

10 MR. KALTGRAD: AND ON OUR SPECIAL VERDICT FORM,  
11 THE CONSTRUCTIVE TERMINATION WASN'T FILLED IN BECAUSE,  
12 AGAIN, WE USED A PUBLIC POLICY ONE BECAUSE THAT'S THE  
13 ONE THAT HAD A VERDICT FORM, BUT WE NEEDED THEM TO FILL  
14 OUT WHAT WAS THE PUBLIC POLICY IN DROPPING THAT CLAIM,  
15 BUT THAT'S WHY IT'S LIKE THAT.

16 THE COURT: THIS IS ONE REASON WHY I LIKE TO  
17 TALK ABOUT JURY INSTRUCTIONS EARLY IN THE CASE EVEN  
18 BEFORE THE JURY IS IMPANELED BECAUSE THESE ARE THE KINDS  
19 OF THINGS THAT WILL PERCOLATE OVER THE COURSE OF THE  
20 NEXT COUPLE OF DAYS AS WE HAVE THE EVIDENCE COMING IN  
21 AND IT WILL MAKE IT A LOT EASIER WHEN WE DO HAVE TO MAKE  
22 THE FINAL DECISIONS ABOUT THE JURY INSTRUCTIONS.

23 MR. GOLDBERG: MAY I ASK A PROCEDURAL QUESTION,  
24 YOUR HONOR? WITH REGARD TO OBJECTIONS, DO YOU TAKE  
25 SIDEBARS, HOW DO YOU HANDLE THAT?

26 THE COURT: NO SPEAKING OBJECTIONS, SO IF  
27 THERE'S AN OBJECTION, JUST STATE OBJECTION AND WHAT THE  
28 LEGAL BASIS IS.

1           AND THEN I'LL EITHER MAKE A RULING OR I'LL ASK  
2 COUNSEL TO COME AT SIDEBAR, OR IF I MAKE A RULING AND  
3 YOU STILL WANT TO BE HEARD, YOU CAN MAKE A REQUEST TO  
4 COME TO SIDEBAR AND I'LL EITHER GRANT OR DENY THE  
5 REQUEST DEPENDING ON WHAT IT IS.

6           AND DO YOU KNOW -- IS THE COURT REPORTER THAT  
7 WE HAVE TODAY, IS SHE GOING TO BE OUR COURT REPORTER? I  
8 THINK THIS IS PROBABLY GOING TO BE -- I'M GOING TO --  
9 WE'RE GOING TO REPEAT THIS WHEN MR. DAVID REJOINS US,  
10 BECAUSE IT'S PROBABLY GOING TO BE MORE OF AN ISSUE FOR  
11 HIM THAN IT IS FOR ALL OF YOU. NOT BECAUSE OF ANYTHING  
12 THAT HE'S DONE, BUT JUST BECAUSE SELF-REPRESENTED  
13 LITIGANTS GENERALLY DON'T UNDERSTAND WHAT A SPEAKING  
14 OBJECTION IS. SO I'LL GO OVER THIS AGAIN ONCE HE  
15 REJOINS US.

16           BUT I DON'T WANT ANY ARGUMENTS ABOUT ANYTHING  
17 IN FRONT OF THE JURY.

18           MS. LEAL: MR. DAVID DID REPRESENT HIMSELF IN  
19 THE ELIZABETH TAYLOR TRIAL BEFORE JUDGE LIU A FEW MONTHS  
20 AGO, FOR WHATEVER THAT'S WORTH.

21           THE COURT: OKAY. LIKE I SAID AT THE FINAL  
22 STATUS CONFERENCE, I DID TAKE JUDICIAL NOTICE OF ALL OF  
23 THE MINUTE ORDERS IN THAT CASE AS WELL AS THE THE TRIAL  
24 IN JUDGE GREEN.

25           MR. GOLDBERG: JUST FOR THE RECORD, YOUR HONOR,  
26 IF I DON'T RESPOND TO MR. DAVID'S ALLEGATION, I THINK  
27 THE COURT UNDERSTANDS WE DON'T AGREE WITH ANYTHING HE  
28 SAYS, IT'S JUST NO POINT IN FANNING THE FLAMES.

1 THE COURT: I UNDERSTAND AND I APPRECIATE THAT.

2 THERE WERE A COUPLE OF QUESTIONS ABOUT THE JURY  
3 INSTRUCTIONS: NO, I DIDN'T SEE CACI 100 THROUGH 104, OR  
4 106 OR 107 OR 111 AND 112. AND THOSE I USUALLY GIVE  
5 FOR -- AT THE VERY BEGINNING OF THE CASE.

6 MR. KALTGRAD: I'M FINE WITH THAT, YOUR HONOR.  
7 THE REASON WE DID IT LIKE THIS, JUST SO THE COURT  
8 UNDERSTANDS. WE JUST FINISHED THE TRIAL IN FRONT OF  
9 JUDGE GREEN, HE KIND OF HAS HIS OWN WAY OF DOING STUFF.  
10 HE LIKES THE 5000 UP FRONT AND HE DOESN'T DO  
11 INTRODUCTORY INSTRUCTIONS. WE SORT OF MODELED IT THAT  
12 WAY JUST BECAUSE HE DOES IT THAT WAY. IF THE COURT  
13 WANTS THOSE INTRODUCTORY INSTRUCTIONS INCLUDED, WE ARE  
14 FINE WITH THOSE.

15 MS. LEAL: THAT'S FINE.

16 THE COURT: ALL RIGHT, SO I'M GOING TO GO AHEAD  
17 AND GIVE THOSE AT THE BEGINNING.

18 AND THEN LOOKS LIKE YOU ALL AGREED ON CACI 114,  
19 113, 114, 116 AND 117.

20 MS. LEAL: YES.

21 MR. GOLDBERG: YOUR HONOR, ANOTHER ISSUE -- NOT  
22 AN ISSUE, BUT IN THE LAST TRIAL, COUNSEL, I BELIEVE  
23 POINTED OUT THAT BECAUSE THERE ARE MORE THAN ONE PARTY,  
24 THAT THE LAW ALLOWS FOR MORE THAN, I THINK NORMALLY IT  
25 WOULD BE EIGHT.

26 MR. KALTGRAD: I THINK NORMALLY IT'S SIX.

27 MR. GOLDBERG: ULTIMATELY JUDGE GREEN -- WAS IT  
28 12.

1 MR. KALTGRAD: WELL --

2 MR. GOLDBERG: I DON'T REMEMBER EXACTLY.

3 MR. KALTGRAD: I THINK JUDGE GREEN WENT BY WHAT  
4 THE CODE, WHICH WAS WHEN THERE ARE MULTIPLE DEFENDANTS  
5 ON ONE SIDE, IT GOES EIGHT PEREMPTORY CHALLENGES PER  
6 SIDE. AND THEN THERE'S ONE PEREMPTORY PER ALTERNATE,  
7 BECAUSE WE HAVE FOUR ALTERNATES, SO WE HAD 12 TOTAL.

8 MR. GOLDBERG: I JUST WANTED TO KNOW WHAT THE  
9 COURT'S INTENT WOULD BE IN THAT REGARD.

10 THE COURT: I'M GOING TO DO THE SAME THING. I  
11 ALWAYS DO IT PER CODE.

12 MR. GOLDBERG: THE OTHER QUESTION I HAD WAS  
13 JUDGE GREEN HAD AN INTERESTING SYSTEM BECAUSE HE DIDN'T  
14 TELL THE JURORS WHO THE ALTERNATES WOULD BE UNTIL THE  
15 VERY END. WHAT DOES THIS COURT DO?

16 THE COURT: I IMPANEL THE JURY, THE 12. AND  
17 THEN FOUR ALTERNATES. THAT'S WHAT I TO.

18 MR. GOLDBERG: SO THE ALTERNATES KNOW THEY'RE  
19 ALTERNATES FROM THE BEGINNING?

20 THE COURT: THEY'LL KNOW THEY'RE ALTERNATES  
21 FROM THE BEGINNING.

22 I'M CURIOUS AS TO WHY YOU WANT CACI 430, WHICH  
23 IS THE CAUSATION SUBSTANTIAL FACTOR BUT IT'S IN THE  
24 NEGLIGENCE SECTION. IS THERE NOT A SUBSTANTIAL FACTOR  
25 CACI IN THE FEHA SECTION?

26 MS. LEAL: NO, THERE ISN'T. THERE'S A  
27 SUBSTANTIAL MOTIVATING FACTOR BUT THAT DOESN'T APPLY  
28 BECAUSE THAT'S -- THAT CACI WAS ENACTED BECAUSE OF THE

1 HARRIS V. SANTA MONICA CASE AND THAT CASE REQUIRED THE  
2 SPECIFIC ADVERSE EMPLOYMENT ACTION TERMINATION, FAILURE  
3 TO HIRE TO PROMOTE. THERE'S NO SUCH ADVERSE ACTION IN  
4 THIS PARTICULAR CASE OTHER THAN THE SEXUAL HARASSMENT  
5 AND THAT'S WHY THE SUBSTANTIAL MOTIVATING FACTOR UNDER  
6 FEHA CACI IS NOT INCLUDED.

7 SO WE INCLUDED THE 430, SIMPLY BECAUSE WE HAVE  
8 A BATTERY AND WE HAVE A SEXUAL BATTERY CLAIM.

9 THE COURT: OKAY. AND THE DEFENDANTS AGREE TO  
10 THAT?

11 MR. KALTGRAD: WELL, 430 IS FINE. WE AGREE IT  
12 SHOULD BE IN THERE BECAUSE SUBSTANTIAL FACTOR IS USED IN  
13 THE LANGUAGE OF THE CACI. I THINK WHAT COUNSEL WAS  
14 REFERRING TO IS A SEPARATE INSTRUCTION FOR SUBSTANTIAL  
15 MOTIVATING REASON, WHICH IS A SEPARATE CACI THAT ALSO, I  
16 THINK, THAT ONE IS IN THE DISPUTED PILE.

17 MS. LEAL: 2507.

18 MR. KALTGRAD: AND THE REASON THAT WE ASKED TO  
19 INCLUDE THAT IS BECAUSE THAT PHRASE IS USED IN THE  
20 CLAIM, IT'S SORT OF THE DEFINITION CACI. NOW, COUNSEL  
21 IS RIGHT THAT IT'S -- IT'S USUALLY USED IN THE ADVERSE  
22 EMPLOYMENT CONTEXT WHICH IS WHY THE LANGUAGE WHEN I  
23 PROPOSED IT, I MODIFIED IT JUST TO KIND OF SAY CONDUCT  
24 RATHER THAN ADVERSE EMPLOYMENT ACTION, BUT IT'S -- THE  
25 JURY MAY BE CONFUSED BY WHAT DOES IT MEAN TO BE A  
26 SUBSTANTIAL MOTIVATING REASON A, AND SECONDLY HOW DOES  
27 THAT DIFFER FROM THE SUBSTANTIAL FACTOR BECAUSE THERE  
28 ARE TWO SEPARATE STANDARDS THERE.

1 THE COURT: OKAY.

2 DEFENSE OBJECT TO CACI 2510, WHICH IS FOR  
3 CONSTRUCTIVE DISCHARGE.

4 MR. KALTGRAD: AGAIN THE REASON IT'S IN THE  
5 DISPUTED PILE IS ONLY BECAUSE -- IT CAN'T STAND ALONE AS  
6 AN INSTRUCTION, IT NEEDS TO BE TIED TO ONE OF THE FEHA  
7 CLAIMS.

8 SO LET ME JUST PULL UP MY -- SO FOR EXAMPLE,  
9 I'M LOOKING AT THE DIRECTIONS FOR USE UNDER 2510 OF THE  
10 JUDICIAL COUNSEL CACI. AND THEY SAY GIVE THIS  
11 INSTRUCTION WITH CACI 2401, CACI 2500, CACI 2505, 2540  
12 2560, 2570. SO IT HAS TO BE TIED TO ONE OF THE ACTUAL  
13 DISCRIMINATORY CACI'S, OTHER THAN JUST --

14 THE COURT: IS IT THE DEFENDANT'S POSITION THAT  
15 2521 A, 2522 A, WOULDN'T SATISFY THAT FOR HOSTILE WORK  
16 ENVIRONMENT.

17 MR. KALTGRAD: WELL, IF THAT'S -- I MEAN THESE  
18 ARE SEPARATE CLAIMS, THAT IS NOT ONE OF THE CASES LISTED  
19 ON THE DIRECTIONS FOR USE UNDER 2510 THAT GOES WITH  
20 THAT.

21 THE COURT: TODAY I JUST WANTED TO GET A SENSE  
22 OF WHAT THE ARGUMENTS ARE I'M NOT MAKING ANY RULINGS BUT  
23 THAT HELPS ME.

24 MS. LEAL: AND THAT IS CORRECT. HE READ THE  
25 DIRECTIONS FOR USE CORRECTLY BUT THEY ALL PERTAIN TO  
26 SPECIFIC ADVERSE EMPLOYMENT ACTION DISCRIMINATORY,  
27 EMPLOYMENT ACTIONS AND NONE OF THE CAUSES OF ACTION  
28 ALLEGED BY MS. KHAN ARE DISCRIMINATORY ADVERSE ACTIONS.

1 IT'S A HOSTILE WORK ENVIRONMENT COVERED BY 2521 AND 2522  
2 CACI.

3 MR. KALTGRAD: I THINK DEFENDANT'S POSITION IS  
4 IF YOU WANT TO BRING A CONSTRUCTIVE DISCHARGE CLAIM, IT  
5 HAS TO BE TIED TO ONE OF THOSE. AND IF IT IT'S NOT --  
6 THAT SHOULDN'T BE INCLUDED.

7 THE COURT: AND I DON'T HAVE ANY OTHER  
8 QUESTIONS ABOUT ANY OF THE OTHER ONES.

9 I THINK I UNDERSTAND WHAT THE PARTIES POSITIONS  
10 ARE ON ALL THE REST THAT ARE IN THE DISPUTED PILE.

11 FOR PURPOSES OF TODAY I WANTED TO MAKE SURE WE  
12 HAD THE PRETRIAL INSTRUCTIONS AGREED UPON.

13 MS. LEAL: ONE CACI DISPUTED BY DEFENDANTS WAS  
14 3903C.

15 POST AND PAST AND FUTURE LOSS ECONOMIC AND  
16 NON-ECONOMIC DAMAGES.

17 THE COURT: YES.

18 MS. LEAL: I THINK WE CAN AGREE TO USE 3903P,  
19 AS IN PAUL.

20 AND THAT WOULD BE SUBSTITUTED FOR THIS ONE.

21 MR. KALTGRAD: THAT'S FINE WITH US.

22 THE COURT: OKAY. YOU WANT 3903P?

23 SO YOU'RE WITHDRAWING 3903P?

24 MS. LEAL: CORRECT.

25 THE COURT: HAVE YOU HAD A CHANCE TO MEET AND  
26 CONFER ABOUT THE LENGTH OF OPENING STATEMENTS?

27 MR. GOLDBERG: WE HAVEN'T DISCUSSED IT, YOUR  
28 HONOR.

1 DOES THE COURT HAVE A PREFERENCE HOW LONG  
2 OPENING STATEMENTS SHOULD BE.

3 THE COURT: WHAT I USUALLY DO IS ASK THE  
4 ATTORNEYS WHAT THEY THINK THEY NEED AND DETERMINE  
5 WHETHER OR NOT IT'S SUFFICIENT. FOR A CASE LIKE THIS, I  
6 WOULD THINK THAT YOU COULD PROBABLY DO IT IN 30 TO 45  
7 MINUTES.

8 MR. GOLDBERG: I AGREE WITH THAT.

9 MR. KALTGRAD: 30 TO 45 MINUTES FOR OPENING  
10 STATEMENT?

11 THE COURT: PER SIDE FOR OPENING STATEMENTS.

12 MR. KALTGRAD: BECAUSE WE HAVE MR. DAVID THAT  
13 WILL WANT TO MAKE HIS OPENING STATEMENT. I DON'T KNOW  
14 IF THE COURT IS SPLITTING THAT BETWEEN THE DEFENDANTS OR  
15 30 TO 45 AND 30 TO 45. I JUST DON'T KNOW WHAT -- HE'S  
16 NOT GOING TO TAKE 30 TO 45 MINUTES THOUGH.

17 THE COURT: ALL EVIDENCE TO THE CONTRARY. I  
18 THINK IF HE DOESN'T HAVE A TIME LIMIT HE COULD GO ALL  
19 DAY. HE HAS A LOT TO SAY.

20 MR. GOLDBERG, DO YOU HAVE ANY THOUGHTS ABOUT  
21 THAT?

22 MR. GOLDBERG: WELL, THE ONLY -- I ACTUALLY  
23 DIDN'T THINK ABOUT MR. DAVID GIVING AN OPENING STATEMENT  
24 BUT MY THOUGHT IS, I DON'T THINK HE SHOULD BE PERMITTED  
25 AN OPENING STATEMENT TO JUST GIVE HIS VIEW OF LAWYERS  
26 AND ALL THESE CASES AND ALL THAT. I THINK THERE SHOULD  
27 BE SOME LIMITATIONS TO WHAT HE CAN TALK ABOUT. I HAVE  
28 NO PROBLEMS WITH HIM TALKING ABOUT MAHIM KHAN AND WHAT

1 SHE'S ALLEGING NOT BEING TRUE, IF THAT'S HIS POSITION,  
2 THAT'S HIS POSITION, BUT I JUST THINK HE TENDS TO GET  
3 WRAPPED UP IN SEEING ALL OF THIS AS SOME KIND OF A  
4 CONSPIRACY OR SOMETHING LIKE THAT. AND I THINK WE HAVE  
5 TO -- I THINK I WOULD ASK THE COURT TO GIVE HIM SOME  
6 GUIDELINES AS TO WHAT HE CAN DO DURING OPENING  
7 STATEMENT, BUT I THINK MY OPENING STATEMENT WILL  
8 PROBABLY BE NO MORE THAN 45 MINUTES.

9 MR. KALTGRAD: JUST TO PARTIALLY ADDRESS THAT,  
10 I THINK IT CAME UP LAST TIME WHEN WE WERE IN JUDGE  
11 GREEN'S COURTROOM ABOUT THE IDEA OF THERE BEING A  
12 CONSPIRACY BETWEEN THE PLAINTIFF AND OTHER ACCUSERS MAY  
13 BE A BASIS FOR A DEFENSE -- MR. DAVID'S DEFENSE. HE  
14 DOES BELIEVE THAT THERE ARE -- AND THERE'S SOME EVIDENCE  
15 THAT THERE WAS COMMUNICATION WITH OTHER PEOPLE AND  
16 BRINGING CLAIMS AND THINGS LIKE.

17 THE COURT: IF THAT'S WHAT THE EVIDENCE IS  
18 GOING TO SHOW, HE CAN TALK ABOUT THAT.

19 MR. GOLDBERG: I HAVE NO PROBLEM WITH THAT  
20 EITHER. IT'S JUST THAT I THINK WHAT HE TENDS TO DO IS  
21 PUT OUT BLANKET STATEMENTS ABOUT EVERYTHING AND WHATNOT.  
22 TO THE EXTENT HE BELIEVES THERE'S GOING TO BE EVIDENCE  
23 TO SUPPORT THAT THEORY, THAT'S FINE. HE CAN DO THAT.

24 MR. KALTGRAD: I'M TRYING TO RECALL AND I DON'T  
25 EXACTLY RECALL. IT MAY BE THAT THE LAST TIME HE  
26 REPRESENTED HIMSELF, HE SORT OF WAIVED OPENING. I DON'T  
27 RECALL THOUGH.

28 I WISH I DID.

1 THE COURT: OKAY.

2 SO WHAT WE'RE GOING TO DO IS I'M GOING TO GIVE  
3 EACH SIDE FORTY-FIVE MINUTES FOR AN OPENING STATEMENT.

4 MR. KALTGRAD, I WANT YOU TO MEET AND CONFER AS  
5 TO HOW YOUR 45 MINUTES WILL BE DIVIDED UP. AND TO  
6 MR. GOLDBERG'S POINT, HE IS GOING TO HAVE RULES, BUT THE  
7 RULES ARE THE SAME RULES THAT APPLY TO ALL OF YOU,  
8 THAT -- AND I'LL EXPLAIN -- I DON'T NEED TO EXPLAIN TO  
9 ALL OF YOU, BUT THE PURPOSE OF THE OPENING STATEMENT IS  
10 JUST TO PROVIDE THE JURY WITH THE SUMMARY OF WHAT THE  
11 EVIDENCE WILL SHOW. I'M NOT GOING TO ALLOW ANY  
12 ARGUMENT. I'M ALSO NOT GOING TO ALLOW ANY OTHER  
13 COMMENTS OR BEHAVIOR OR STATEMENTS THAT ARE  
14 DISRESPECTFUL TO EITHER THE COURT, TO ANY COUNSEL AND OF  
15 COURSE TO ANY POTENTIAL WITNESSES IN THE CASE.

16 SO WE'LL TALK ABOUT THAT.

17 BUT THE RULE WILL BE 45 MINUTES PER SIDE,  
18 OKAY?

19 MR. GOLDBERG: YOUR HONOR, THE ISSUE OF WHETHER  
20 WE SHOULD OR SHOULDN'T HAVE A BAILIFF IN THE COURTROOM,  
21 I CAN TELL YOU THAT LAST TIME WE WERE IN COURT, ONCE  
22 OUTSIDE THE PRESENCE OF THE JURY WHEN HE WAS ON THE  
23 WITNESS STAND, HE WANTED TO SUGGEST THAT WE SHOULD GO  
24 OUTSIDE AND SETTLE THIS WHOLE THING MAN TO MAN.

25 ONE OF THE WITNESSES WAS TERRIFIED TO EVEN WALK  
26 OUTSIDE WITHOUT A BAILIFF, SO I'M A LITTLE CONCERNED  
27 ABOUT -- I AM A LITTLE CONCERNED ABOUT WHETHER THERE  
28 WOULD BE SOMEONE HERE WHETHER -- IT DOESN'T HAVE TO BE

1 IN THE COURTROOM BUT JUST CLOSE BY WOULD BE NICE.

2 THE COURT: THE SHERIFF'S DEPARTMENT IS AWARE  
3 THAT THIS TRIAL IS HAPPENING.

4 AND I DON'T KNOW IF YOU SAW BUT WE DID HAVE A  
5 BAILIFF COME AND SIT IN THE COURTROOM FOR ABOUT 20  
6 MINUTES TODAY.

7 I ADVISED COURT SECURITY THAT TODAY WAS GOING  
8 TO BE RULINGS ON MOTIONS IN LIMINE AND JURY INSTRUCTIONS  
9 AND AT THAT POINT I WASN'T SURE WHETHER OR NOT HE WAS  
10 GOING TO BE SELF-REPRESENTED. NOW THAT WE KNOW THAT HE  
11 IS SELF-REPRESENTED, AND BASED ON WHAT I WITNESSED IN  
12 THE COURTROOM THIS MORNING AS WELL AS WHAT THE DEPUTY  
13 NOTICED, WITNESSED THIS MORNING, THEY'RE GOING TO HAVE  
14 SOMEONE ON CALL TO BE HERE. AND UNLESS I TELL THEM  
15 THERE WILL BE SOMEONE HERE, SO YOU DON'T NEED TO WORRY  
16 ABOUT THAT, BUT I DO WANT TO GIVE HIM THE BENEFIT OF THE  
17 DOUBT. I UNDERSTAND WHAT HAPPENED IN THE OTHER CASES,  
18 WHICH IS COMPLETELY UNACCEPTABLE AND I'M NOT GOING TO  
19 TOLERATE IT HERE, BUT I WANT TO GIVE HIM EVERY  
20 OPPORTUNITY TO RISE TO THE OCCASION.

21 AND IT'S REALLY -- AT THIS POINT IT'S UP TO HIM  
22 IF HE WANTS TO CONTINUE TO PARTICIPATE IN THE  
23 PROCEEDINGS. I'M MORE THAT HAPPY TO HAVE HIM DO THAT,  
24 BUT NOT AT THE EXPENSE OF -- OF THE ORDERLY CONDUCT OF  
25 THIS TRIAL.

26 MR. KALTGRAD: THANK YOU, YOUR HONOR.

27 WE DON'T OBJECT TO HAVING A BAILIFF HERE. THE  
28 ISSUE I THINK WAS BROUGHT UP AT THE FINAL STATUS

1 CONFERENCE HAVING A BAILIFF HOVER OVER HIM WOULD BE  
2 PREJUDICIAL, SO THE MOST INCONSPICUOUS WAY TO HAVE HIM  
3 HERE, MANY OF THE JURORS PROBABLY DON'T KNOW WHETHER A  
4 BAILIFF IS STANDARD OR NOT IN A COURTROOM, SO AS LONG AS  
5 THE SUGGESTION IS NOT MADE THAT HE'S HERE FOR MR. DAVID  
6 AND OBVIOUSLY HIS CONDUCT, THEN THAT'S WHATEVER ISSUE  
7 THAT NEEDS TO BE DEALT WITH, BUT I DON'T WANT TO BE  
8 SUGGESTING TO THE JURY FOR PREJUDICIAL REASONS THAT HE  
9 NEEDS TO BE CONTROLLED BY A BAILIFF HERE.

10 THE COURT: AND I HOPE THIS GOES WITHOUT  
11 SAYING, BUT I'M ORDERING THAT NO ONE MAKES REFERENCE TO  
12 THE FACT THAT THIS BAILIFF IS HERE FOR ANYONE IN  
13 PARTICULAR, JUST TO ASSIST THE COURT IN MAINTAINING THE  
14 ORDERLY CONDUCT IN THIS CASE.

15 MR. KALTGRAD: THE OTHER ISSUE IS KIND OF WHERE  
16 THE BAILIFF HANGS OUT. BACK HERE OR -- THERE'S NOT A  
17 WHOLE LOT OF ROOM IN THE COURTROOM.

18 THE COURT: THERE IS NOT A WHOLE LOT OF ROOM IN  
19 THE COURTROOM AND I NEED TO LEAVE IT TO THE DISCRETION  
20 OF THE DEPUTY.

21 I CAN'T GIVE -- ALTHOUGH I CAN GIVE AN  
22 INSTRUCTION TO HIM OR HER TO BE AS AN INCONSPICUOUS AS  
23 POSSIBLE, BUT THE DEPUTY IS GOING TO NEED TO BE IN A  
24 PLACE, IF THEY'RE NEEDED, THEY'RE GOING TO BE ABLE TO  
25 BECOME UNOBSTRUCTED DURING THE ENTIRE COURTROOM.

26 MR. KALTGRAD: DOES THE COURT HAVE A PREFERENCE  
27 WHERE MR. DAVID NEEDS TO BE IN THE TABLE? THERE HAVE  
28 BEEN CERTAIN JUDGES WHO WANTED HIM IN THE MIDDLE.

1 THE COURT: I WOULD PREFER TO HAVE HIM IN THE  
2 MIDDLE BECAUSE IF HE'S GOING TO WALK OUT LIKE HE DID  
3 TODAY, HE CAN WALK STRAIGHT OUT, AND IF THERE ARE ANY  
4 ISSUES, THEN IT'S MUCH EASIER FOR THE SHERIFF'S  
5 DEPARTMENT TO DEAL WITH THAT IF HE'S THERE AS OPPOSED TO  
6 SITTING OVER THERE ON THE SIDE, WHICH IS GOING TO BE  
7 VERY DIFFICULT FOR US TO MANAGE.

8 DOES ANYONE WANT TO BE HEARD ABOUT THAT?

9 MS. LEAL: I WILL.

10 I HAVE SOMETHING VERY SHORT TO SAY.

11 MR. DAVID LAWFULLY, I THINK, SMOKES MARIJUANA  
12 OR SOMETHING AND THE SCENT IS VERY, VERY STRONG. I  
13 DON'T KNOW IF YOU ARE ABLE TO SMELL IT, BUT IF HE IS  
14 SITTING NEXT TO ME, I THINK THAT'S GOING TO BE  
15 PROBLEMATIC FOR ME.

16 I AM VERY, VERY SENSITIVE WHEN IT COMES TO  
17 SMELLS.

18 PERFUME COLOGNE, IT DOESN'T MATTER.

19 THE COURT: I AM AS WELL, AND I HAVE A HEPA  
20 FILTER IN MY CHAMBERS, WHICH IS ON RIGHT NOW BECAUSE OF  
21 THE POLLEN. THAT'S THE LEVEL OF MY SENSITIVITY.

22 MY INTENTION IS TO BRING MY HEPA FILTER TO THIS  
23 COURTROOM TO TRY TO FILTER OUT SOME OF THAT.

24 MS. LEAL: SO I WOULD REQUEST THAT HE SIT AT  
25 THE END OF DEFENSE COUNSEL TABLE.

26 MR. KALTGRAD: I'M NOT GOING TO ADDRESS THE  
27 SMELL ISSUE, BUT JUST BASED ON THE EXPERIENCE OF BEING  
28 IN THE LAST TWO TRIALS OF MR. DAVID, I THINK WHATEVER

1 THE COURT'S PREFERENCE IS, WE'LL WORK WITH THAT, BUT I  
2 THINK THE END OF COUNSEL TABLE HAS WORKED BETTER.

3 BUT AGAIN --

4 THE COURT: OKAY. I NEED TO CONSULT WITH THE  
5 SHERIFF'S DEPARTMENT AND I'LL LET YOU KNOW.

6 MS. LEAL: THANK YOU.

7 THE COURT: SURE.

8 ANYTHING ELSE WE NEED TO TALK ABOUT TODAY?

9 THERE'S NOT MUCH MORE WE CAN DO WITHOUT MS --

10 MR. KALTGRAD: OTHER THAN DECIDING WHEN WE'RE  
11 COMING BACK.

12 THE COURT: RIGHT.

13 MR. KALTGRAD: IF THE COURT WANTS, I CAN TRY TO  
14 MAKE A QUICK PHONE CALL TO SEE IF I CAN GET AN UPDATE.

15 THE COURT: HOW ABOUT IF WE PLAN TO HAVE YOU  
16 COME BACK ON WEDNESDAY AND CHECK IN WITH HER, AND IF  
17 THAT'S NOT GOING TO WORK, CALL MR. GOLDBERG AND  
18 MS. LEAL'S OFFICE TO LET THEM KNOW AND CALL US AND LET  
19 US KNOW, AND WE'LL HAVE YOU COME BACK ON THURSDAY, OR  
20 WHATEVER DATE WILL WORK FOR HER, ALL RIGHT?

21 MR. GOLDBERG: THANK YOU VERY MUCH.

22 THE COURT: ALL RIGHT. THANK YOU ALL VERY  
23 MUCH. THANK YOU FOR YOUR PATIENCE THIS MORNING.

24 MR. KALTGRAD: 10:00?

25 THE COURT: 10:00.

26 WE'LL SEE YOU IN A FEW DAYS.

27

28 (THE PROCEEDINGS WERE CONCLUDED.)



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