

WORLD

## 'MSNBC Live' for Sept. 19

Read the transcript to the Wednesday show

Sept. 20, 2007, 10:25 AM PDT

Guest: Jim Moret, Dana Cole, Stan Goldman



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DAN ABRAMS, HOST: Tonight O.J. is on his way back to Florida, free on bail. The prosecutor and defense agreed to a surprisingly low amount, just \$125,000. But then again, where is O.J. really going to run off to incognito now that they've taken his passport? For many, the only issue of interest is that O.J. is not behind bars anymore, and for those viewers, we provide this quick look back at the day that was.

(BEGIN VIDEO CLIP)

JOE BONAVENTURE, JR., NEVADA JUSTICE OF THE PEACE: Mr. Simpson is present, in custody. This is the state of Nevada versus Orenthal James Simpson. Why don't you stand up, please, Mr. Simpson. Mr. Simpson, I have a criminal complaint before me. Have you received a copy of this criminal complaint?

O.J. SIMPSON: Yes.

BONAVENTURE: This charges you with the crimes of conspiracy to commit a crime, a gross misdemeanor offense, conspiracy to commit kidnapping, a felony offense, conspiracy to commit robbery, a felony offense, burglary while in possession of a deadly weapon, a felony offense, two counts of first degree kidnapping with use of a deadly weapon, both felony offenses, two counts of robbery with use of a deadly weapon, both felony offenses, two counts of assault with use of a

deadly weapon, both felony offenses, and coercion with use of a deadly weapon, a felony offense.

Mr. Simpson, do you understand the charges against you?

SIMPSON: Yes, sir.

BONAVENTURE: Do we have counsel present on Mr. Simpson's behalf?

UNIDENTIFIED MALE: Yes, Your Honor. Yale Galanter and Gabriel Grasso on behalf of O.J. Simpson, and only Yale Galanter and Gabriel Grasso on behalf of O.J. Simpson.

BONAVENTURE: Bail is set on this case at \$125,000 total bail cash surety (ph). As a condition, Mr. Simpson, there are certain conditions to posting bond here. You are ordered to surrender your passport to your attorney, Mr. Galanter. Additionally, you are ordered to have no contact whatsoever with any co-defendants named in this case, any potential witnesses named in this case. These witnesses include any named victims in this case or any other potential witnesses. Do you understand that order?

SIMPSON: Yes, sir.

BONAVENTURE: And, Mr. Simpson, by no contact I mean no direct contact, no indirect contact whatsoever. If you see them, you're to avoid contact. If you see them walking down the street, you're to cross the street. You're to have no indirect contact. You're to not use any means to contact these individuals. Don't use e-mail, telephone, mail, passenger pigeon—no whatsoever contact.

Do you understand the no contact order includes having third parties contact any of these individuals on your behalf? Do you understand that?

SIMPSON: Yes, sir.

BONAVENTURE: Obviously, a violation of any of these orders would be a violation of the—your release in this case. I will be made aware by the district attorney of any violations, and we can proceed with you in custody on this case, if you violate this order. Do you understand everything?.

SIMPSON: I do (INAUDIBLE)

UNIDENTIFIED FEMALE: Remain seated. Court's adjourned.

UNIDENTIFIED MALE: O.J.! Two for two, baby! Two for two!

(END VIDEO CLIP)

ABRAMS: And breaking tonight, a new suspect is arrested in connection with the case. Charles Cashmore surrendered to police today. He's scheduled to appear in court tomorrow. Police say he brought in items that are believed to have been taken during the incident.

But the question now -- \$125,000 bail? Does that mean that the authorities may not have that much confidence in their case? That's pretty low, considering what the charges are here. Joining me now, Jim Moret, chief legal correspondent for "Inside Edition"—he had a front row seat at O.J.'s hearing today, and he and I covered the criminal and civil trials together every day—Susan Filan, MSNBC senior legal analyst, former prosecutor, Stan Goldman, who also covered the case, law professor at Loyola law school in Los Angeles, and Dana Cole, a well-known criminal defense attorney here in California.

All right. Stan Goldman, let me start with you. Does the fact that the bail was set at just \$125,000 and that O.J. Simpson is on his way home to Florida tonight tell you that even though the charges are kidnapping and armed robbery and other charges that are considered very serious and might have much higher bail in other cases—does it tell you that maybe the authorities recognize that either this isn't that strong a case or isn't that big a deal? What is it?

STAN GOLDMAN, LOYOLA UNIVERSITY LAW PROFESSOR: Well, it's possible that if this were not O.J. Simpson, maybe this would be a few years in jail, as opposed to life plus 106 years. Of course, there also might be some method to it. I mean, I've heard a couple of people say—and actually, I was one of them—that you don't want to make the public and certainly the jury pool think that you're actually, god forbid, picking on O.J. Simpson. If everybody else is out OR and O.J. Simpson is sitting in there on a million dollars bail, not able to get out, the last thing you want to do is get sympathy for him.

And just one more thing. Maybe they're hoping by getting O.J. out, they'll have more time to put their case together, as opposed to being forced to a quicker trial. The strategy of Robert Shapiro and Johnnie Cochran that was so successful a dozen years ago in the O.J. Simpson murder case was that they forced the prosecution to its proof so quickly...

ABRAMS: Yes, I know, but...

GOLDMAN: ... they couldn't put their case together.

ABRAMS: But Jim Moret, this isn't the O.J. Simpson murder case. I'm sorry. This just isn't going to be as complicated. This is a bunch of boneheads going into a hotel room, allegedly with guns, trying to take back O.J.'s stuff. We're not going to be talking about RFLP DNA here.

JIM MORET, "INSIDE EDITION": You're right. In that—in that sense, Dan, it's very simple. But it is complicated because there aren't a lot of real clean players in this. You've got one alleged victim who's now in the hospital, who is in critical condition after having a heart attack. Another one of the alleged victims has been picked up on a parole violation, an unrelated crime.

ABRAMS: Right.

MORET: This is not as simple and straightforward as it could be.

ABRAMS: No.

MORET: But you know, it was also complicated by the fact that there are so many charges now. And even though this is only \$125,000 bail, which is significantly lower, frankly, than I thought it would be, I still think sitting in that courtroom, you really got the severity of what was going on. And when you look at O.J. Simpson, I think he did, too, frankly.

ABRAMS: Jim, was it pretty weird sitting in a courtroom with O.J.

Simpson again?

MORET: It was strange, you know? And I think back about how when you and I covered that '94 case every single day—and I mentioned to you before we went on the air, I felt like Zelig. And I'll tell you why. So many people were glued to their TV sets that in the courtroom—I had a front row seat—I was getting text messages from all over the country, people who were watching that television in anticipation of O.J. Simpson walking in. And Arnelle, O.J. Simpson's daughter, was seated right behind me, and she was getting text messages, as well. And I turned to her and I said, What kind of messages are you getting? And she said, You wouldn't believe this. I got one message telling me to take my scarf off because it clashes with my aunt's jacket.

Now, bringing this back to reality, when her dad walked in, I heard an audible gasp from Arnelle, and I understood why, because Simpson—we saw him over the weekend in that wedding video, and he looked just like—you know, he had that swagger, that O.J. Simpson kind of charm. He walked in, and his arms were shackled to his side. He was wearing that V-neck blue prison-issue shirt and chained around his waist. And he just looked like a broken man. He did not look like the Simpson that you and I saw every day in '94.

ABRAMS: Yes. Dana Cole, \$125,000 -- I mean, does that tell us anything about what the prosecutors think, the fact they agreed to that? Does that tell us anything about what they think about their case?

DANA COLE, FORMER FEDERAL PROSECUTOR: Well, it could mean two things. One, they may have wanted him out of Dodge, out of Las Vegas, because he was causing a heck of a lot of commotion there, and I think it was costing that city or that county a lot of money to deal with all the press and all the commotion. So they just wanted him out of there.

But you're right, it is somewhat low for the overcharging that has occurred in the case, and it's curious and it does perhaps suggest that this is less than what was originally reported or what the prosecutors have originally alleged.

ABRAMS: Now, Susan Filan, before we heard about that today, you and I were talking about whether the prosecutor or defense were going to be able to reach an agreement on bail. They apparently had reached an agreement before they even came into court. Does it tell you anything that \$125,000 low, low bail, O.J. Simpson free tonight--tell you anything about what the prosecutors are thinking?

SUSAN FILAN, MSNBC LEGAL ANALYST: Yes, I was certainly surprised by that, Dan. I expected that, you know, if the prosecutor didn't object to bail, they may in chambers do something where the prosecutor would say, Your Honor, if you're inclined to release him, I wouldn't make any great objection, and Yale would say what he wanted. But to come in with the stipulation to \$125,000 is what surprised me.

I thought the judge would set bail. I thought it would be about \$150,000, \$175,000. The part about bail being set and it being \$125,000 didn't throw me. The part about it being a stipulation did. And what I was saying today on the air, Dan, is, you know, there are robberies and there are robberies, and this is falling more into the classic street stick-up than the unknown stranger going, you know, into somebody's room, the assailant. I think it's kind of toning down.

ABRAMS: Well, we're going to talk in the next block about this whole issue of the victims here, the supposed victims. I mean, one of them was arrested today. The other one testified on O.J.'s behalf in the civil case. But we'll get to that.

But here's—Yale Galanter, the attorney for O.J., held a press conference today, spoke out probably longer outside than he did inside the courtroom. But we boiled it down. Here it is.

(BEGIN VIDEO CLIP)

YALE GALANTER, O.J. SIMPSON'S ATTORNEY: We are thoroughly going to investigate the case. We will thoroughly make sure that all of Mr. Simpson's rights are protected. We're going to examine all of the witness statements both to the police and to the various media outlets. I don't expect a trial or motions to suppress or any real challenge of evidence to be taking place until sometime next year (INAUDIBLE)

QUESTION: What will you plead when the time comes?

GALANTER: Not guilty.

QUESTION: Is O.J. scared that he's going to go to jail for the rest of his life?

GALANTER: I—you know, I think he is—I think he appreciates, truly appreciates the sincerity and the serious nature of these charges.

What we came here to do this morning, we got accomplished. Our goal was to get what is, in my opinion, a fair, reasonable bond, allow Mr. Simpson to go home and be with his family. That is going to be accomplished, and we thank everybody who facilitated that in happening.

(END VIDEO CLIP)

ABRAMS: Dana Cole just pointing out to me that he's thanking the prosecutor, which tells you something. But I can't watch that without noticing, of course, the guy standing next to him, who's actually going to be on the show later. The prankster who's standing next to Yale Galanter throughout is going to be on the program later.

Jim Moret, though, apart from him, you know, during the trial, the criminal trial, we used to see people selling hats with the names of the lawyers on it, people yelling and screaming, people dressed up in all sorts of costumes outside the courthouse. What was it like out there today?

MORET: Well, on the way over to do this live shot, I pulled up alongside a car, and in that car was a shirt attached to the window. It was O.J. Simpson behind bars, and it said, "Get arrested in Vegas, stay in Vegas." somebody already took the time to make these shirts up. I couldn't even believe it. There was a guy in a chicken shirt I saw. You mentioned this guy, the "Forrest Gump" character. You know, I kept—I kept turning to him, and it was hard to even listen to Yale Galanter

because the guy was making faces all during—look, it brings out the circus, and the circus is back in town. This time, it's in Las Vegas, not in LA.

ABRAMS: Yes. Apparently, there's a guy with a Jim Moret mask there, as well.

All right. Panel...

(LAUGHTER)

ABRAMS: The panel's going to stay with us. Coming up: You may now think of Simpson's cohorts as sort of a bunch of low-lives, but it's not just the defendants. One of the alleged victims was arrested today. Isn't that bad for the case against Simpson, now that one of the alleged victims has been arrested?

And later: The parents of a missing 4-year-old are one step closer to being cleared tonight. Why investigators say they won't question Madeleine McCann's parents again.

(COMMERCIAL BREAK)

(BEGIN AUDIO CLIP)

ALFRED BEARDSLEY, ALLEGED VICTIM: No, what we're going to do is press charges. He's going to prison, man. O.J.'s going to prison. There's no doubt about it.

BRUCE FROMONG, ALLEGED VICTIM: Somebody set me up, and I want to know who. I've already called the press.

BEARDSLEY: Good.

FROMONG: I've already called "Inside Edition." I'm trying to get Lydia's phone number. I told you we shouldn't have brought this (EXPLETIVE DELETED) in. I told you—public place.

BEARDSLEY: Bruce, Bruce, Bruce, do you know how much money you're going to make off this?

FROMONG: I don't give a (EXPLETIVE DELETED)

(END AUDIO CLIP)

ABRAMS: Those are the alleged victims, according to TMZ.com, recorded an hour after O.J. and the team allegedly raided the Las Vegas hotel room. It turns out one of them, Alfred Beardsley, a

sports memorabilia dealer, was arrested in his Vegas hotel room today on a parole violation. The other voice, Bruce Fromong, a man who actually testified on O.J.'s behalf during his civil trial.

So isn't this just bad for the case against O.J. Simpson? Dana Cole, is this bad for him?

COLE: Well, it is. I mean, the irony is O.J. is the only one who doesn't have a criminal record, compared to everybody else in this case.

(LAUGHTER)

ABRAMS: Yes.

COLE: But the case is 10 minutes old, and it seems to be collapsing. You have low bail. You have one witness in critical condition in a hospital. Another has been arrested. The other two have criminal pasts. I mean, it's kind of silly.

ABRAMS: Well, I mean, put aside all the other co-defendants here, all right? A lot of them have criminal records. But the victims in the case, all right—first you've got Thomas Riccio, who allegedly arranged the meeting, set it up. He's got at least four felony convictions, spent a total of eight years in prison. You see the list goes on about all the things that he was apparently accused and convicted of.

And then Alfred Beardsley—he was one of the alleged victims here, all right, sports memorabilia collector. He was arrested by a fugitive task force today, wanted on a California warrant for parole violation, 2005 stalking conviction. In 2004, he was forced to turn over Simpson memorabilia to the Goldman family.

And then there's Bruce Fromong, the other alleged victim. He testified for Simpson's defense—in Simpson's defense, this is the guy who's a victim—in the civil case. He suffered a massive heart attack on Monday. Put aside for a moment, Susan Filan, the medical issues, this is not going to be an easy case, where these are your two complaining, so to speak, victims.

FILAN: No, I agree. I mean, the case has definitely got some problems to it, and it seems to be falling apart a little bit. But that isn't to say that a prostitute can't be raped, a drug dealer can't be robbed. I mean, I think O.J. did something wrong. Is he in a room among angels? No. Are these witnesses without sin themselves? No. But does that mean that something bad didn't happen in that room? No.

ABRAMS: All right. But Stan Goldman, what if—and this is—again, this has been my theory since day one on this case. What if Simpson had asked these guys to hold the memorabilia, or even if

he knew these guys had it, and then this guy Riccio says, They're going to go sell it, they're going to go sell it, we got to go get it from them, and if there had been some sort of implicit agreement to keep it away from the Goldmans, keep it away from the civil judgment, and that O.J. finds out they're going to sell it—does that help him at all?

GOLDMAN: Dan, I would suspect you're going to get a call in a couple days from O.J., wondering if you'll be willing to represent him.

ABRAMS: Yes!

GOLDMAN: Don't you think that—that's exactly the kind of thing that may get argued in this case? Never underestimate the possibility that when a strong case looks really strong at the beginning, it may fall apart.

I sat in on the Robert Blake trial. When that case began, they had two witnesses who knew Robert Blake who were going to testify that he had solicited them to kill his wife. I watched those two witnesses testify. By the time they were done being cross-examined and other witnesses testified about them, I didn't believe them and the jury didn't believe them.

In the Rodney King case, which I covered out in Simi Valley, they had videotape of the police beating Rodney King.

ABRAMS: Right. But...

GOLDMAN: But they slowed the videotape down, the defense lawyers, and convinced the jury that the officers were right in doing it.

ABRAMS: OK. But apart from sort of the history of high-profile cases, I mean, the issue here is the fact that you've got, Jim Moret, these guys who are unsavory, who seem like—remember, Beardsley is coming out publicly, saying that he supported O.J. Simpson. Now he's pointing the finger at the other guys. I mean, do you think this case is ever going to even make it to trial?

MORET: Yes, I do. I do. And let me just stand up for Bruce Fromong for a moment because this man did testify in O.J. Simpson's behalf. He has no criminal record that we know of. I spent much of the day with him on Friday. We talked about what happened Thursday. He was really frightened. He considered himself a friend of O.J. Simpson's. He said to me that he bought this memorabilia, and if he had believed or had been informed by O.J. that this stuff was taken from him, he could have struck a deal with him. He said, But O.J. Simpson didn't call me. He didn't say, Hey, Bruce, what's going on here? He stormed into that room, according to Fromong, with guys with weapons drawn, and said, Get up against the wall and shut up.

ABRAMS: Hey, Jim...

MORET: And he was frightened. Yes?

ABRAMS: Who still buys—who still buys O.J. Simpson memorabilia?

Like, put aside the sports stuff. Who buys, like, the criminal case stuff?

MORET: Well, I think that—I talked to a producer of ours who was at the pool with O.J. Simpson on Saturday. This is the day of the wedding, a couple days ago. Guys were coming up to Simpson at the pool, Hey, Juice, how're you doing? O.J., hey, what do you think about the football scores this weekend? Blah, blah, blah. He had a lot of people. They weren't shunning him. They were talking to him. They wanted to be around him.

ABRAMS: OK. You know, I guess—Jim, you got a T-shirt there for us to look at?

MORET: Yes. One of your camera people was nice enough—I told you about this earlier. This is the kind of stuff that we're seeing around here. "Get arrested in Vegas, stay in Vegas." Yes, that's...

ABRAMS: Yes, well, you know...

(CROSSTALK)

ABRAMS: ... real quick, Dana Cole. O.J.'s been making some dumb comments, like, you know, Oh, what happens in Vegas stays in Vegas. I mean, you know, he needed his lawyer to get in there earlier to shut him up.

COLE: Absolutely. And you know, he does a lot of dumb things. But I have a feeling you're going to see a very low-profile O.J. from this point forward.

ABRAMS: Yes, I think so, too. All right. Thanks a lot, Dana Cole.

Good to see you. Jim Moret, Susan Filan, Stan Goldman, appreciate it.

Coming up: The parents of Madeleine McCann speak out as investigators say they may not need to question them again in connection with their daughter's disappearance. That sure makes it sound like they may have been falsely implicated.

But first: Anderson Cooper gets a big exclusive in the O.J. case, if the term “exclusive” means for that day, since the same guy was on our show the night before. What are they doing over there? That’s next in “Beat the Press.”

(COMMERCIAL BREAK)

ABRAMS: Time for tonight’s “Beat the Press, our daily look back at the absurd and sometimes amusing perils of live TV. First up: Fox’s Greta Van Susteren, who I really like, has been covering the O.J. Simpson case from the ground in Las Vegas and interviewing what she thought was one of O.J.’s lawyers.

(BEGIN VIDEO CLIP)

GRETA VAN SUSTEREN, “ON THE RECORD”: One of his other lawyers is a local lawyer, Scott Holper. He’s a lawyer who is here in Vegas...

(END VIDEO CLIP)

ABRAMS: Well, he may be a lawyer in Vegas, but not O.J.’s. according to Simpson’s real attorney.

(BEGIN VIDEO CLIP)

GALANTER: Fox News last night and the CBS “Morning Show” interviewed a lawyer based on bogus paperwork that was filed with the clerk’s office, knowing that he was unauthorized, unretained, and the family had not requested that he do that.

(END VIDEO CLIP)

ABRAMS: Yikes. Hey, even the best of us get snookered sometimes.

Next up: Sometimes it’s ambiguity as to what’s considered an exclusive interview, but this one from CNN isn’t really close.

(BEGIN VIDEO CLIP)

ANDERSON COOPER, “AC 360”: We’ll talk exclusively tonight to O.J.’s former merchandising partner.

(END VIDEO CLIP)

ABRAMS: Wow~! All right! Sounds like a great get. Who is it?

(BEGIN VIDEO CLIP)

ANDERSON: I had an exclusive conversation with Mike Gilbert.

(END VIDEO CLIP)

ABRAMS: Mike Gilbert? You mean O.J.'s former agent, sports agent? You mean the guy we had on the night before, Monday night? That's a CNN exclusive? Isn't their catchphrase "Keeping them honest"? Is that honest? Do they need to issue a correction? We give them a pass.

Finally: Radio talk show host Laura Ingraham, on with Neil Cavuto on Fox, talking about her new book. In it, she criticizes Cavuto and Bill O'Reilly's endless use of scantily clad women as wallpaper on the screen. But it seems Laura had no idea when discussing this very topic that they were rolling the very video she was complaining about.

(BEGIN VIDEO CLIP)

LAURA INGRAHAM, RADIO TALK SHOW HOST: Neil, have you shown any B-roll during this interview?

NEIL CAVUTO, "YOUR WORLD": No. No.

INGRAHAM: Great. We're making progress with you. That's power to the people.

(END VIDEO CLIP)

ABRAMS: Laura, they were mocking you. She makes a good point. They sort of wallpaper all the time with all this sexy video and then talk about the culture war.

We want your help beating the press. If you see anything amusing, absurd or just right or wrong in the press, please go to our Web site, [Abrams.msnbc.com](http://Abrams.msnbc.com). Please leave us a tip in the box. Include the show and the time you saw the item.

Up next: Madeleine McCann's embattled parents are one step closer to clearing their names. Investigators now say they don't have enough evidence to bring them back for questioning. We've got the late developments in the search for the missing 4-year-old.

And later: Dan Rather is now suing CBS, slapping his old employer with a \$70 million lawsuit. Is that really what he needs as his professional swan song, a lawsuit? We'll discuss coming up.

(COMMERCIAL BREAK)

ABRAMS: Coming up, Dan Rather now suing CBS for \$70 million, \$70 million. He already left the network. The question, is the lawsuit really what he needs at this point?

But first, a major blow for Portuguese authorities in the case against the parents of missing little 4-year-old Madeleine McCann. The public prosecutor ruling tonight that Portuguese police have failed to gather any new evidence against the McCanns to justify bringing the couple back to Portugal for more questioning. The prosecutor's office also saying that it will continue to follow all lines of inquiry in the investigation.

The family's spokesperson responded to the news out of Portugal.

(BEGIN VIDEO CLIP)

CLARENCE MITCHELL, MCCANN FAMILY SPOKESPERSON: On the face of it, if they don't have to be re-interviewed and they don't have to go back to Portugal, at least for now, that is obviously encouraging.

(END VIDEO CLIP)

ABRAMS: And tonight, friends of the McCanns going on the attack, calling the case against them deeply flawed, laying out the explanation for why Madeleine's DNA was found in the back of the rental car that they rented 25 days after she went missing. They say, quote, "The girl's belongings were placed in the boot"—meaning the trunk—"of the car for perfectly innocent reasons. These included her flip-flops, which held her sweat, sweat which would have contained her DNA."

Joining us now, Ed Miller from "America's Most Wanted," and former FBI profiler MSNBC analyst Clint Van Zandt.

All right, Ed, does it seem to you like the Portuguese prosecutors are now joining with a Portuguese judge in saying to the Portuguese investigators, "We're not so sure that you guys have been going in the right direction here"?

ED MILLER, REPORTER, "AMERICA'S MOST WANTED": First of all, let's make sure you understand that they are officially still suspects, but they're saying, in this 4,000-page report,

that there simply is not enough evidence, as you said, to re-interview them.

Having said that, we should also say that the McCanns will never be viewed the same. They have been seriously flawed by this, even if they are innocent in the end, no one will ever look at these people the same way again.

And British scientists are now saying that there is some question about the evidence that has been found in the back trunk of that car and whether or not some of this information that has been leaked is true. In other words, you could ask yourself, the Portuguese police, are they sort of dumping this on the Brits now? Are they just trying to get rid of all the negative publicity against Portugal and pass it on to Britain and the scientists there?

ABRAMS: Well, you know, Clint, Ed makes the point that they're still officially suspects, but it seems to me that means something different in Portugal than it does here. When we call someone a suspect here, it means we think they did it. In Portugal—when I say we, I mean the authorities think they did it—in Portugal, there were a lot of different people who could be considered suspects, and all it means—it means what it used to mean in this country, meaning somebody we want to talk to. They may have something we want to know about. We want to learn more about what they may know, et cetera.

CLINT VAN ZANDT, FORMER FBI PROFILER: Yes, in this case it may mean somebody they want to talk to, it may mean the last people that we know that were with this child before she allegedly disappeared, but show us one shred of physical evidence that links them to the disappearance and otherwise, short of being her parents, they fit in with the other ex-number of million, billion people on the planet that the Portuguese could also consider suspects.

ABRAMS: And, Ed, I have to tell you, I think that, as far as the Portuguese investigation goes, this thing is done. I mean, they have talked to both the parents now at length.

MILLER: Right.

ABRAMS: They have gathered any evidence that they're going to have. Absent them finding the body somewhere, it seems to me that the investigation in Portugal of the McCanns as possible suspects is basically done. Do you disagree with me?

MILLER: No, not at all, and we all know that the investigation—everyone agrees on this—was botched from the very beginning. The point that I want to make, if I can, for just a second, that people need to understand that police in a foreign country, whether it be Portugal, Thailand, Mexico, whatever, do not operate the same way as they do in this country. They have their own logic. They have their own way of doing things.

Let me point out the name John Mark Karr to you. In Thailand, when he admitted to everyone that he killed JonBenet Ramsey, all the reporters all over the country that ran with the story, they're not stupid. It's just that Thailand police said things at the time, like he passed a lie detector test, et cetera, et cetera, et cetera. It later turned out to be false when he got to this country.

So the point is, you're never really sure what police are saying in Portugal, if it really is true, or are they leaking information maybe as a trial balloon to see what sort of reaction they can get out of people?

ABRAMS: That's what's worrying me. Here's Gerry McCann, the father, talking in August about the investigation.

(BEGIN VIDEO CLIP)

KATE MCCANN, MOTHER OF MISSING CHILD: We've got an excellent relationship with the Portuguese police, and we meet frequently, and the flow of information has been great, actually, it's been very reassuring.

(END VIDEO CLIP)

ABRAMS: That's obviously the mother and not the father talking there about this investigation. But, Clint, the fact that they have done a good number of interviews—look, we've had cases, where Susan Smith and some other cases, where someone has gone on television, and it's turned out that they were the one who really did it, but it does seem to me in this case like the parents have done everything right, unlike Scott Peterson, you know, unlike even the parents of JonBenet Ramsey, who many believe had nothing to do with their daughter's disappearance, but how they acted early on in the case, and at least what they were accused of doing early on in the case, and it seems that these parents, on the other hand, have sort of done everything by the book.

VAN ZANDT: I think what these parents have done wrong, Dan, is internationally, by exposing this case to the light of day, by making this child kind of the world's child, they've also exposed the bumbling of the Portuguese police and how badly this case is screwed up. And, you know, I don't want to go so far as to say the cops have targeted them, but they had to find somebody, and by targeting the family, they put this umbrella of suspicion over them. They threatened the mother that, if she didn't confess, they would take the kids away, send her to jail, so they were able to chase the family out of Portugal, hopefully chase the case away, so that, you know, Sleepy Hollow could go back the way it was before this whole thing happened.

ABRAMS: You know, Clint, you just said—I don't want to say it they targeted them, but they targeted them, because, you know, -- anyway, it just tells you—you understand what I'm saying? I mean, Clint, that you were saying you didn't want to say targeting, and then you said targeting. Anyway, not that funny.

Ed Miller, Clint Van Zandt, thanks a lot. Appreciate it.

VAN ZANDT: I don't want to say thanks, but thanks, Dan.

ABRAMS: Up next, Dan Rather now suing CBS for \$70 million. He says he was fired because of pressure from the right wing. But why would he want to sue over this? Is this really the right thing to do to define his legacy? And later...

(BEGIN VIDEO CLIP)

YALE GALANTER, CRIMINAL DEFENSE ATTORNEY: We expect Mr. Simpson to be processed and released.

JAKE BYRD, PRANKSTER: Yes!

(END VIDEO CLIP)

ABRAMS: This prankster was the highlight of the O.J. press conference tonight. Is he the day's big winner or loser? He's with us.

(COMMERCIAL BREAK)

ABRAMS: Former "CBS Evening News" anchor Dan Rather is now suing CBS. I'm not really sure why he wants to do this now. NBC's Ron Allen has the story.

(BEGIN VIDEOTAPE)

DAN RATHER, HOST, "DAN RATHER REPORTS": And to each of you, courage.

RON ALLEN, NBC NEWS CORRESPONDENT (voice-over): From the moment Dan Rather was forced to step down as anchor of the "Evening News," his relationship with CBS apparently just kept getting worse. Rather's \$70 million lawsuit filed today charges CBS with fraud and breach of contract, saying the network seriously damaged his reputation.

HOWARD KURTZ, CNN ANCHOR: It's hard to understand why Dan Rather is doing this, except that he wants vindication.

ALLEN: Rather insists after leaving the anchor chair and moving to "60 Minutes," CBS provided him with few assignments, little staff, and very little airtime. Rather's falling out with the network, where he anchored for more than 20 years, began with a story about President Bush's service in the Air National Guard that appeared on "60 Minutes II." An outside commission appointed by CBS said the reporting was flawed and based on documents that could not be authenticated.

RICHARD THORNBURGH, CBS INDEPENDENT REVIEW PANEL: Most of the sources for this story had a strong anti-President Bush agenda of their own.

ALLEN: Four employees were fired. At the time, Rather said, "We made a mistake in judgment, and for that I am sorry." However, in his lawsuit today, Rather called the commission's report "biased" and claims he was made a scapegoat to pacify the White House.

SCOTT LIBIN, POYNTER INSTITUTE: The question that comes to mind is, why now? What's new about this? What will we learn that we didn't already know?

ALLEN: Today, CBS issuing a statement saying, "These complaints are old news. This lawsuit is without merit." Rather, who is 75, had worked at CBS News 44 years, an illustrious career, from the Kennedy assassination...

RATHER: It appears as though something has happened in the motorcade route.

ALLEN: ... through Vietnam, September 11<sup>th</sup>, and the wars in Iraq. Of late, Rather has appeared as a commentator and been featured on a weekly news program on HDnet, a newly launched cable channel seen by a fraction of the audience that used to watch him on CBS.

Ron Allen, NBC News, New York.

(END VIDEOTAPE)

ABRAMS: My take, I admire Dan Rather. I really like him personally, and I think it's horribly unfair that to some his career is now defined by that Bush National Guard story. I think he got smeared based on the mistake. But his legal papers are an effort to litigate journalistic questions. He offers a detailed defense of how he handled the story.

But why bring that to court? Why have his legacy further tarred by a lawsuit? There's no question Rather got hung out to dry by CBS, but that's the business. Those of us on the air get the credit and the blame, and they paid him through his contract.

Joining me now, former CBS News correspondent Bernard Kalb and author of "Coloring the News," as well as a new book coming out about the "New York Times," Bill McGowan.

Thanks to both of you for coming on. Appreciate it.

BERNARD KALB, FORMER CBS NEWS CORRESPONDENT: Thank you. Thank you, Dan.

BILL MCGOWAN, AUTHOR, "COLORING THE NEWS": Hi, Dan.

ABRAMS: Mr. Kalb, what am I getting wrong here?

KALB: You're getting wrong, Dan, the idea that, does he want to go out with this cloud, this swan song you're saying, out of journalism? I think that's precisely why Dan is taking this up. CBS hired Dan 40 years ago because he was aggressive, he was feisty, he was tough, he was relentless. Now, at the end of his career, unquote, so to speak, he does not want to step down with this cloud of, what, an attack on his journalistic integrity. He wants that tidied up. He wants that cleansed.

ABRAMS: But this is not the place to do it, though. In the courtroom is the place to do that?

KALB: Well, how else can you do that? For example, he's not after the money, \$70 million is petty cash to Dan, I would suspect. The point is that he's determined to get this clarified. You said he was hung out to dry. I agree with you about the way CBS dealt with him. I think they caved to pressure. But be that as it may, Dan is determined to see that there's a cleansing of the record. He does not want his reputation, 40 years' worth of hard work in journalism, to be tarnished, to be smeared. So I think Dan will go right down on the mat on this.

ABRAMS: Yes, but, Bill McGowan, I assume you think it's not the right move here?

MCGOWAN: I think it's incredibly inadvisable. I think it just brings attention back to this black mark on an otherwise distinguished and pretty impressive career. I don't know why he's filing this, and citing what he's citing, fraud and political bias, and that he's being scapegoated for White House pressure, there's very little evidence in the filing of that, so it just doesn't seem like it's going to get too far along in the process.

ABRAMS: And, Bernard, I mean, he goes on to talk about sort of the politics of this. I mean, he says, for example, in the lawsuit, “At all times relevant here and CBS’s parent company, Viacom, and its chief executive officer, Sumner Redstone, considered it to be in its corporate interest to curry favor with the Bush administration by diminishing Mr. Rather’s stature and reputation.” I mean, that just doesn’t seem to me to be useful.

KALB: Keep the \$70 million. Just give me an apology. Just clear the record for my benefit, says Dan Rather. I think he’ll go the distance on this sort of a thing. One may argue, as you’re suggesting, for example, that this is hardly worth doing, and we know that winning a libel case in court is very difficult.

ABRAMS: And this isn’t even a libel case.

KALB: Well, however you want to phrase that, the fact is he’s in pursuit of, what, cleaning his record. He wants the besmirching to be undone. And I think, if he takes this to court, if it ever goes to a jury, you know, I’m thinking of the prime minister of Israel suing “Time” magazine for libel or General Westmoreland suing CBS News for the stories about the enemy count during the war, they dissolved in the court. There was an apology. They dropped charges.

MCGOWAN: Speaking of apologies, Rather issued a public apology on behalf of himself in which he used the word “I” at least a half-dozen times. And that’s going to be a stone around his neck in any court action.

ABRAMS: Here’s what Dan Rather said on September 20, 2004.

(BEGIN VIDEO CLIP)

RATHER: I made a mistake. I didn’t dig hard enough, long enough, didn’t ask enough of the right questions. And I trusted a source who changed his story. But there are no excuses. This is not a day for excuses. I made a mistake. We made a mistake. And I’m sorry for it.

(END VIDEO CLIP)

ABRAMS: But, Bernard, it seems we now have come to the time where the

excuses start and the blame, it seems, is being made all about this sort of

not just—forget about the politics of the people who exposed him, et cetera. I think that’s pretty clear. But now he’s sort of saying CBS was caving so much to the right on this and trying to curry favor with the Bush administration. Again, it seems to me he’s now sort of hurling accusations at

them that don't even help—forget about the legal cause—that don't even help his sort of public case.

KALB: I think what he said, as your quoting himself, as he's quoting himself, "I made a mistake." That's virtually a noose around his own neck. But he's taking another look at it. And at the end of his career, he wants that tidied up, as I've said, and he's going to go down, down, down the way, all the way if he possibly can.

How will this play out right now? I think, given the world scene and the O.J. story and so forth, I don't think this has much of a future. I think it will be a big fizz. It will be over in a couple of days. Dan may want to escalate it, but I don't see much of a future with this story at all.

ABRAMS: Bill, final word?

MCGOWAN: I just don't see this helping him salvage his reputation at all. It's just going to go back to that place, which was a dark chapter in his otherwise great career.

ABRAMS: And as I said before, great admiration for Dan Rather. This has nothing to do with that. I just don't know that a courtroom is the place to fight this, but that's what we'll see.

Bernard Kalb and Bill McGowan, thanks a lot. Appreciate it.

KALB: Thank you, Dan.

ABRAMS: Up next, will tonight's big winner or loser of the day be a group of bats, running the show at a college dorm, the girls of Hooters who are showing off their assets in Beijing, or the clown who stole the show at the O.J. Simpson trial? He joins us, the guy on the right, next in "Winners and Losers."

(COMMERCIAL BREAK)

ABRAMS: Time for tonight's "Winners and Losers" for this 19<sup>th</sup> day of September, 2007.

(BEGIN VIDEO CLIP)

ABRAMS (voice-over): Our first winner, the men of Beijing, China, now that Hooters, with its wings, beer, and breasts, is open for business 11 months ahead of the Olympics. Apparently they still think Hooters just means "owl" over there. I'm thinking the customers will soon catch on. Globalization gone wild.

Our first loser, girl gone wild Britney Spears, who can still eat wings and show off her breasts but will have to skip the beer. A judge has ordered Spears to undergo drug and alcohol testing twice a week. Apparently, Britney is not catching on. She was spotted at two Los Angeles clubs last night.

Our second loser, students at Texas Southern University, now being screened for rabies after bats attacked their dorm. Home video caught the students as they tried to swat the bats.

Our second winner, professional bat-swatter Barry Bonds, who didn't bat an eye when designer Mark Ecko bought his 756<sup>th</sup> homerun ball and then threatened to put an asterisk on it based on Bonds' alleged steroid use.

MARC ECKO, BOUGHT BONDS BASEBALL: I wanted the ball to democratize the ball and to give the ball to the people.

ABRAMS: Bonds is taking the high road, saying Ecko he is batty to spend \$750,000 on the ball only to consider getting rid of it.

Our big winner of the day, Mona Lisa or, should we say, Leonardo da Vinci. Researchers say they finally uncovered the secret behind the world-famous painting which has puzzled generations of scholars. They now believe Mona Lisa was actually a self-portrait. I guess he fooled us all.

The big loser of the day, the ultimate fool, Jake Byrd, who puzzled and fooled everyone outside O.J.'s hearing today. Turns out he wasn't just an O.J. fan. He's a professional prankster.

YALE GALANTER, CRIMINAL DEFENSE ATTORNEY: My only focus up to this point in time has been securing Mr. Simpson's release...

JAKE BYRD, PRANKSTER: Nice work, dude. Up high!

GALANTER: Thank you very much.

BYRD: Yes, right here. Come on. Don't leave me hanging.

GALANTER: Thank you, thank you, thank you. And I appreciate that.

BYRD: Thank you, buddy. Nice work.

(END VIDEO CLIP)

ABRAMS: Here now, the man known as Jake Byrd, who's a frequent guest on the "Jimmy Kimmel Show" and a man who apparently simply loves celebrities and our legal system, thanks for coming on the show. Appreciate it.

All right, so what was your plan today going into it? Did you figure "I got to get as good a spot as possible"?

BYRD: I missed the thing. Am I the winner or the loser?

ABRAMS: You were the big loser. But you're a winner.

BYRD: Is that good?

ABRAMS: You know, look, the reality is, you're obviously the winner, because we fell for the bait, and you're on the show, and you're in the end segment. So how did you get so close up there? Did you plan it, did you think, "I've got to get as close as possible"?

BYRD: The thing is, if you want to go up and you want to stand with the legal dream team for O.J. Simpson, you got to look like you belong on the legal dream team of O.J. Simpson, Dan Abrams.

ABRAMS: So you got up bright and early? Did you get a tent and sort of put it on the spot that you knew would be right next to Yale Galanter to make sure you had primetime location?

BYRD: Look, whether or not I woke up with a tent is my own business. But I came down here, Dan Abrams, to let O.J. know that people like me, Jake Byrd, and people like you, Dan Abrams, support O.J. Simpson 1,000 percent. Thank you.

ABRAMS: Now, come on, do you really support O.J. Simpson? I mean, I love the fact that you're wearing the "I love famous people" hat, and O.J. is famous. But I would be concerned.

BYRD: You're famous, and I love you.

ABRAMS: The Jake Byrd brand here for a minute, now, I know that that's an important brand out there, and I want to give you an opportunity not to blow it here, because I don't want you to associate yourself with O.J. Simpson and to thereby ruin the Jake Byrd brand.

BYRD: I appreciate that very much. But let me tell you something, this is not communist Germany, OK? And in America, O.J. Simpson is innocent until he's proven innocent again.

ABRAMS: All right, so any other paraphernalia that you're going to buy before you head out to the next O.J. hearing?

BYRD: I'm a little concerned that you think this whole thing is a joke, Dan Abrams. If this was an O.J. joke, I'd say, "What's O.J.'s favorite soda? Slice." But it's not a joke. OK? Not a joke. Thank you.

ABRAMS: This is serious business. And that's why—no, it's true. You look like you were serious there in the press conference, too, cheering on O.J. And the outfit looks great. Jake, you look great. And we appreciate you taking the time to come on the program today.

BYRD: Can I just tell you something?

ABRAMS: I got to wrap it, Jake.

BYRD: This is an opportunity for white people to jump on the not guilty bandwagon.

ABRAMS: All right, I got to go. See you.

BYRD: Come on, white people!

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