

1 VAN NUYS, CALIFORNIA; TUESDAY, FEBRUARY 13, 1996

2 9:15 A.M.

3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6

7 (PAGES 50026 THROUGH 50062 WERE HELD

8 IN CAMERA AND SEALED BY ORDER OF THE

9 COURT)

10

11 (A RECESS WAS TAKEN FROM

12 10:15 A.M. UNTIL 10:30 A.M.)

13

14 THE COURT: OKAY. WITHOUT THE JURY, IS THERE

15 SOMETHING COUNSEL WANT TO DISCUSS?

16 MS. ABRAMSON: A COUPLE OF THINGS, YOUR HONOR.

17 FIRST OF ALL, WITH RESPECT TO THE

18 PROCEEDINGS WE HAVE JUST HAD CONCERNING THE WITNESS

19 COHEN, I WANT TO INDICATE FOR THE RECORD THAT I FIND

20 THAT WHOLE PROCEEDING RATHER TROUBLESOME IN THE

21 FOLLOWING WAY.

22 THE PEOPLE BASICALLY ARE BLACKMAILING US BY

23 CLAIMING -- BY CLAIMING THAT IF THIS WITNESS TESTIFIES

24 IN THE WAY THAT THE COURT HAS NOW HEARD, AND IN

25 CONFORMITY WITH HER TESTIMONY AT THE PREVIOUS TRIAL,

26 THEY ARE GOING TO BRING CRAIG CIGNARELLI BACK TO MAKE A

27 STATEMENT OF SOME KIND WITH RESPECT TO WHAT, IF

28 ANYTHING, HE MEANT WHEN HE HAD THIS CONVERSATION WITH

1 THE WITNESS.

2 FIRST OF ALL, I WANT TO POINT OUT TO THE  
3 COURT THAT WE HAVE GOTTEN NO DISCOVERY OF ANY STATEMENT  
4 BY CRAIG CIGNARELLI THAT INDICATES THAT AT ANY POINT IN  
5 TIME AFTER 1988 THAT HE WAS WORKING WITH ERIK MENENDEZ  
6 ON ANY KIND OF SCREENPLAY. SO THIS WOULD BE SOMETHING  
7 ENTIRELY NEW WHICH WE HAVE NEVER BEEN MADE AWARE OF.

8 IN FACT, AS THE COURT KNOWS, WE HAVE  
9 INFORMATION QUITE TO THE CONTRARY. MR. CIGNARELLI  
10 TESTIFIED HE DIDN'T SEE ERIK MENENDEZ FOR SIX MONTHS  
11 UNTIL AFTER MR. MENENDEZ' PARENTS WERE KILLED; CRAIG  
12 CIGNARELLI SAYING ON TAPE ON NOVEMBER 29TH, 1989 --  
13 QUESTIONING ERIK MENENDEZ ABOUT WRITING OF THE  
14 SCREENPLAYS, AND INDICATING CLEARLY THAT HE HAD NOTHING  
15 TO DO WITH IT, AND SUGGESTING INSTEAD ON NOVEMBER 29TH  
16 THAT HE, MR. CIGNARELLI, WANTED TO WRITE A SCREENPLAY  
17 ABOUT THE KILLING OF THE MENENDEZ PARENTS, WHICH IS  
18 ENTIRELY CONSISTENT WITH WHAT MISS COHEN TESTIFIED TO IN  
19 THE LAST TRIAL.

20 NOW, HOWEVER, THE COURT HAS INDICATED, HOW  
21 FIRMLY I AM NOT CERTAIN, THAT IF THE WITNESS WERE TO  
22 TESTIFY, THE PEOPLE WOULD BE ENTITLED TO PUT  
23 MR. CIGNARELLI ON THE STAND TO COMMIT THIS PERJURY, THIS  
24 NEW STATEMENT.

25 MS. NAJERA: YOUR HONOR, I OBJECT TO THAT.

26 MS. ABRAMSON: THIS NEW STATEMENT THAT WE HAVE  
27 YET TO HAVE SEEN OR HEARD ABOUT.  
28 AS A CONSEQUENCE, WE ARE PUT IN A POSITION

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1 WHERE WHAT'S BEING HELD OVER OUR HEAD IS THAT THE PEOPLE  
2 WOULD BE ABLE TO ELICIT INFORMATION THAT THIS COURT HAS  
3 RULED FOR FOUR YEARS IS INADMISSIBLE IN THIS TRIAL,  
4 SIMPLY BY PUTTING ON A WITNESS TO IMPEACH MR. CIGNARELLI  
5 ON A MATTER THAT'S BEEN KNOWN TO THE PEOPLE FOR OVER TWO  
6 YEARS, AND WHICH, IF THEY INDEED HAD A CONTRADICTORY  
7 STATEMENT FROM MR. CIGNARELLI, ONE WOULD HAVE  
8 ANTICIPATED THEY WOULD HAVE GIVEN IT TO US.

9 HOWEVER, SINCE THAT IS THE INDICATION OF  
10 THE COURT, WE ARE NOT PREPARED TO CALL THE WITNESS THIS  
11 MORNING. WE WOULD ASK THE COURT TO GIVE THE MATTER  
12 FURTHER CONSIDERATION. WE HAVE RELEASED THE WITNESS  
13 UNTIL TOMORROW, WHEN WE HAVE OTHER IMPEACHING WITNESSES  
14 OF MR. CIGNARELLI COMING IN, AND I WANT TO MAKE THAT  
15 CLEAR ON THE RECORD.

16 THE SECOND REQUEST IS THE COURT RELEASE OUR  
17 P.M. WITNESSES TODAY, BECAUSE MY PROBLEM IS BECOMING  
18 MUCH WORSE, AND I DON'T FEEL COMPETENT TO PROCEED THIS  
19 AFTERNOON, AND I CAN'T PUT ON THESE WITNESSES, BECAUSE I  
20 CAN'T READ VERY WELL, BECAUSE I CAN'T SEE VERY WELL.

21 THE COURT: AS FAR AS THE WITNESSES THIS

22 AFTERNOON --

23 MS. ABRAMSON: WE CAN RELEASE THEM. WE ONLY HAVE  
24 VERY BRIEF TESTIMONY FOR THIS MORNING. WE SHOULD BE  
25 DONE IN HALF AN HOUR.

26 THE COURT: LET'S SEE HOW WE'RE DOING HERE, HOW  
27 YOU'RE DOING.

28 MS. TOWERY: THE METEOROLOGIST NEEDS SEVERAL

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1 HOURS' NOTICE, YOUR HONOR.

2 THE COURT: YOU CAN EXCUSE HIM. I DON'T KNOW  
3 WHAT HE'S TESTIFYING ABOUT. I WOULD IMAGINE IT'S RATHER  
4 BRIEF TESTIMONY.

5 MS. ABRAMSON: RIGHT.

6 THE COURT: AND IF SO, YOU CAN HAVE HIM COME IN  
7 TOMORROW, NO PROBLEM.

8 MS. ABRAMSON: AND THE ONLY OTHER WITNESS IS ED  
9 FENNO, WHO WILL BE VERY BRIEF THIS AFTERNOON, YOUR  
10 HONOR.

11 THE COURT: AS FAR AS THE FIRST PORTION OF  
12 YOUR -- OF YOUR OFFER, ALL THE COURT DID IN RESPONSE TO  
13 THE DISCUSSIONS THAT WE HAD IS THAT THE PEOPLE INDICATED  
14 THAT THEY WOULD RECALL MR. CIGNARELLI TO REFUTE THE  
15 PROPOSED TESTIMONY OF MRS. COHEN REGARDING A  
16 CONVERSATION THAT ONLY THE TWO OF THEM PARTICIPATED IN.

17 AND THE COURT INDICATED, WHICH IS PRETTY

18 OBVIOUS, THAT IF ONE PERSON TESTIFIES TO THE  
19 CONVERSATION, AND THERE IS ANOTHER PERSON WHO HAS A  
20 DIFFERENT RECOLLECTION OF THE CONVERSATION, AND THE  
21 CONVERSATION RELATES TO AN ISSUE IN DISPUTE, THEN THE  
22 OTHER PARTY IS ENTITLED TO CALL THAT WITNESS.

23 I MADE NO REPRESENTATIONS, NO FINDINGS,  
24 THAT ANYONE IS COMMITTING PERJURY. ALL I AM SAYING IS  
25 THAT CLEARLY BOTH SIDES HAVE A RIGHT TO PUT ON WITNESSES  
26 PERCIPIENT TO THE SAME CONVERSATION, AND IF THEY HAPPEN  
27 TO RECALL IT DIFFERENTLY, THEN THE JURY IS ENTITLED TO  
28 EVALUATE THAT.

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1 MS. ABRAMSON: WELL, FIRST OF ALL, CERTAINLY WHAT  
2 THE COURT IS SAYING IS TRUE.

3 BUT THE PEOPLE ARE SAYING, AND WHAT THE  
4 PEOPLE WERE SAYING, IS THAT IF THEY RECALL  
5 MR. CIGNARELLI, HE WOULD MAKE REFERENCE TO THE FACT THAT  
6 HE AND ERIK AT THAT TIME, OCTOBER 1989, WERE WORKING ON  
7 A PARTICULAR SCREENPLAY TOGETHER.

8 NOW, WE HAVE NEVER RECEIVED DISCOVERY THAT  
9 MR. CIGNARELLI CLAIMS EITHER -- WELL, FIRST OF ALL, WE  
10 HAVE NEVER RECEIVED DISCOVERY OF MR. CIGNARELLI'S  
11 VERSION OF THIS PARTICULAR CONVERSATION. MOREOVER, WE  
12 HAVE NEVER SEEN DISCOVERY THAT MR. CIGNARELLI CLAIMS  
13 THAT IN OCTOBER OF 1989 HE WAS WORKING ON ANYTHING WITH

14 ERIK MENENDEZ.

15 SO WHAT WE ARE ASKING FOR IS DISCOVERY SO  
16 WE CAN EVALUATE WHETHER OR NOT WE CAN CALL THIS WITNESS.

17 THERE ARE CERTAIN MATTERS UPON WHICH THERE  
18 HAS BEEN A LOT OF LITIGATION, A LOT OF DISCUSSION, FOR  
19 THE PAST FOUR YEARS. I WOULD ASSUME THAT IF THE PEOPLE  
20 HAD SUCH A STATEMENT FROM MR. CIGNARELLI THEY WOULD HAVE  
21 TURNED IT OVER. BUT IF THEY'VE ONLY JUST OBTAINED IT,  
22 WE STILL WOULD LIKE IT TURNED OVER SO THAT WE CAN  
23 EVALUATE WHAT, IF ANY, RISKS WE ARE RUNNING IN CALLING  
24 THIS PARTICULAR WITNESS.

25 AND THAT'S BASICALLY WHAT I AM SAYING, YOUR  
26 HONOR. THE RECORD THAT WE ARE RELYING ON IS THE RECORD  
27 THAT'S BEEN GIVEN TO US IN DISCOVERY OF THE RELATIONSHIP  
28 BETWEEN MR. CIGNARELLI AND ERIK MENENDEZ DURING THAT

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1 PERIOD OF TIME, AND MR. CIGNARELLI'S OWN STATEMENTS  
2 ABOUT WHAT HE WAS DOING VIS-A-VIS WRITING SCREENPLAYS.  
3 THAT'S ALL I AM SAYING.

4 SO, IF I AM MAKING A DEMAND FOR DISCOVERY,  
5 IF THE PEOPLE DON'T PROVIDE US WITH DISCOVERY, I WILL  
6 ASSUME THEY DON'T HAVE THE INFORMATION THEY HAVE  
7 THREATENED US WITH AND PROCEED ACCORDINGLY.

8 THE COURT: OKAY. BUT AS YOU INDICATE, YOU DON'T  
9 WANT TO CALL THAT WITNESS TODAY.

10 MS. ABRAMSON: NOT UNTIL WE HAVE DISCOVERY.  
11 THE COURT: SO LET'S PUT IT ON A BACK BURNER SO  
12 THAT WE CAN GET THE JURY IN THE BOX AND HAVE TESTIMONY  
13 AT THIS POINT FROM ANY WITNESSES WHO YOU ARE GOING TO  
14 CALL, WITH THE UNDERSTANDING THAT WE WILL AGAIN ADDRESS  
15 THIS ISSUE ONCE WE HAVE TAKEN SOME TESTIMONY.  
16 ALL RIGHT. LET'S GET THE JURY OUT, PLEASE.  
17 (THE JURY ENTERS THE COURTROOM  
18 AND THE FOLLOWING PROCEEDINGS  
19 WERE HELD:)  
20  
21 THE COURT: OKAY. THE JURY IS IN THE JURY BOX.  
22 GOOD MORNING, LADIES AND GENTLEMEN.  
23 AND WE ARE READY TO PROCEED WITH THE TRIAL.  
24 WE ARE STILL IN WHAT'S CALLED THE SURREBUTTAL STAGE,  
25 WHICH IS THE DEFENSE CALLING WITNESSES TO REBUT THE  
26 TESTIMONY PRESENTED BY THE PROSECUTION IN ITS REBUTTAL  
27 STAGE.  
28 SO THE DEFENSE MAY PROCEED.

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1 MS. ABRAMSON: I DON'T THINK THE PROSECUTION  
2 FORMALLY RESTED REBUTTAL, YOUR HONOR.  
3 THE COURT: OKAY. I BELIEVE THEY INDICATED THAT  
4 THEY HAD; IS THAT CORRECT?  
5 MR. CONN: YES, YOUR HONOR. WE HAVE NO

6 ADDITIONAL WITNESSES AT THIS TIME.

7 THE COURT: OKAY.

8 MS. ABRAMSON: THE DEFENSE WOULD RECALL MARTHA  
9 MENENDEZ CANO.

10

11 S U R R E B U T T A L

12

13 MARTA MENENDEZ CANO,

14 CALLED AS A WITNESS ON BEHALF OF THE DEFENSE, WAS SWORN

15 AND TESTIFIED AS FOLLOWS:

16

17 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE

18 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE

19 THIS COURT WILL BE THE TRUTH, THE WHOLE TRUTH, AND

20 NOTHING BUT THE TRUTH, SO HELP YOU GOD.

21 THE WITNESS: I DO.

22 THE CLERK: PLEASE TAKE THE STAND AND STATE YOUR

23 NAME FOR THE RECORD.

24 THE WITNESS: THANK YOU.

25 MY NAME IS MARTA, M-A-R-T-A, MENENDEZ CANO,

26 C-A-N-O.

27 DIRECT EXAMINATION

28 BY MS. ABRAMSON:

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1 Q. MRS. CANO, WHEN YOU WERE LAST HERE YOU



2 TESTIFIED ABOUT HAVING ASSISTED ERIK MENENDEZ IN

3 OBTAINING A FLORIDA DRIVER'S LICENSE.

4 DO YOU REMEMBER THAT TESTIMONY?

5 A. THAT'S CORRECT.

6 MS. ABRAMSON: YOUR HONOR, I HAVE AN ENVELOPE. I

7 WOULD LIKE TO MARK IT AND ITS CONTENTS -- THE CONTENTS

8 APPEAR TO BE A FLORIDA DRIVER'S LICENSE -- NEXT IN

9 ORDER.

10 THE COURT: 436.

11 MS. ABRAMSON: THANK YOU. THIS HAS ALREADY BEEN

12 SHOWN TO THE PEOPLE.

13 Q. SHOWING YOU THIS ENVELOPE AND ITS CONTENTS,

14 MRS. CANO, DO YOU RECOGNIZE THE DRIVER'S LICENSE THAT IS

15 CONTAINED THEREIN?

16 A. I DO.

17 Q. AND WHAT IS IT?

18 A. THIS IS ERIK MENENDEZ' DRIVER'S LICENSE,

19 WHICH HAS THE LAST NAME MISSPELLED WITH AN "L" INSTEAD

20 OF AN "N".

21 Q. IS THAT THE LICENSE THAT YOU OBTAINED WITH

22 HIM?

23 A. YES, I DID.

24 Q. IN ORDER TO OBTAIN THAT LICENSE, DID YOU

25 SUBMIT A BIRTH CERTIFICATE?

26 A. THAT'S CORRECT.

27 Q. DID YOU BRING WITH YOU TODAY FROM FLORIDA A

28 COPY OF THE BIRTH CERTIFICATE THAT YOU SUBMITTED TO THE

1 DMV IN FLORIDA?

2 A. I DID.

3 MS. ABRAMSON: YOUR HONOR, I WOULD LIKE TO MARK  
4 THIS DOCUMENT 437. I'LL SHOW IT TO THE PEOPLE.

5 Q. DOES THE COPY OF THE BIRTH CERTIFICATE THAT  
6 YOU SUBMITTED CONTAIN THE CORRECT SPELLING FOR ERIK  
7 MENENDEZ' NAME?

8 A. YES, IT DID.

9 Q. AND AT SOME POINT AFTER OBTAINING THE  
10 LICENSE, DID YOU NOTICE THAT THE FLORIDA DMV HAD WRITTEN  
11 HIS NAME WRONG?

12 A. WE NOTICED IT THAT EVENING AT HOME.

13 Q. WE -- YOU DISCUSSED IT WITH ERIK MENENDEZ?

14 A. WE DID. AS A MATTER OF FACT, HE IS THE ONE  
15 WHO NOTICED IT. "FOR HEAVEN'S SAKE, I CAN'T BELIEVE  
16 THIS. THEY HAVE MISSPELLED MY NAME."

17 Q. AND DID YOU OBTAIN THE COPY OF THE BIRTH  
18 CERTIFICATE FROM YOUR SISTER, TERESITA BARALT?

19 A. YES, I DID. TERRY FAXED IT TO ME.

20 Q. NOW, HAVE YOU, SUBSEQUENT TO THE TIME WHEN  
21 THIS LICENSE WAS ORIGINALLY ISSUED FOR ERIK MENENDEZ,  
22 SOUGHT AND OBTAINED A RENEWAL OF THE LICENSE?

23 A. YES.

24 Q. AND DID YOU BRING THE RENEWAL DOCUMENT WITH  
25 YOU AS WELL?

26 A. YES, I DID.

27 Q. AND COULD WE MARK IT -- THERE IS AN  
28 ENVELOPE, YOUR HONOR, WITH CONTENTS. I'D LIKE TO MARK

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1 THE ENVELOPE RATHER THAN THE ACTUAL DOCUMENT 438.

2 THE COURT: 438.

3 MS. ABRAMSON: THANK YOU, YOUR HONOR.

4 Q. NOW, MRS. CANO, WHEN YOU WERE HERE LAST,  
5 YOU TESTIFIED THAT YOU BELIEVED YOU HAD THE LICENSE  
6 ALONG WITH THE BIRTH CERTIFICATE AND THE RENEWAL NOTICE  
7 AND AN AFFIDAVIT IN YOUR POSSESSION BACK IN FLORIDA,  
8 CORRECT?

9 A. THAT'S CORRECT.

10 Q. SUBSEQUENT TO YOUR TESTIFYING, DID YOU GO  
11 BACK HOME AND LOOK FOR THOSE DOCUMENTS?

12 A. YES, I DID.

13 Q. WERE YOU UNABLE TO LOCATE THE LICENSE AT  
14 THAT TIME?

15 A. THAT'S CORRECT. I WAS ALSO UNABLE TO  
16 LOCATE AN AFFIDAVIT COPY.

17 Q. OKAY. NOW, DID YOU THEN HAVE CONTACT WITH  
18 MY OFFICE AND DISCOVER THAT SINCE YOU DIDN'T HAVE THE  
19 LICENSE, WE LOOKED THROUGH ALL OF OUR FILES?

20 A. YES.

21 Q. AND WERE YOU NOTIFIED THEN THAT WE HAD --  
22 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND

23 IRRELEVANT.

24 THE COURT: SUSTAINED AS TO WHAT SHE WAS TOLD.

25 Q. BY MS. ABRAMSON: DID YOU GIVE THAT

26 LICENSE, THE ONE THAT'S IN FRONT OF YOU, TO ME SHORTLY

27 AFTER ERIK MENENDEZ' ARREST?

28 A. I GAVE YOU THE WHOLE WALLET.

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1 Q. AND OTHER PERSONAL POSSESSIONS OF HIS?

2 A. CORRECT.

3 Q. HAD YOU GONE TO HIS APARTMENT IN MARINA DEL

4 REY AND PACKED UP HIS BELONGINGS AFTER HE WAS ARRESTED?

5 A. YES, I DID.

6 Q. AND DID YOU TURN SOME OF THOSE BELONGINGS

7 THAT YOU FELT MIGHT BE IMPORTANT OVER TO ME?

8 A. YES, I DID.

9 Q. NOW, WITH RESPECT TO THE AFFIDAVIT, THAT

10 WAS DRAFTED BY AN ATTORNEY?

11 A. THAT'S CORRECT.

12 Q. AND DID YOU LOOK FOR YOUR COPY OF IT?

13 A. YES, I DID.

14 Q. WERE YOU UNABLE TO FIND IT?

15 A. CORRECT.

16 Q. DID YOU THEN CONTACT THE ATTORNEY?

17 A. YES, I DID.

18 Q. AND DID YOU DETERMINE THAT HE NO LONGER

19 WORKED FOR THE LAW FIRM THAT HAD STORED HIS RECORDS?

20 A. THAT'S CORRECT.

21 Q. AND DID HE INDICATE HE WAS UNABLE TO GET  
22 IT?

23 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

24 IRRELEVANT.

25 THE COURT: SUSTAINED AS TO ANY CONVERSATIONS.

26 Q. BY MS. ABRAMSON: DID YOU MAKE EFFORTS TO  
27 GET COPIES OF THE AFFIDAVIT FROM THE ATTORNEY THAT YOU  
28 DISCOVERED?

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1 A. YES. AS A MATTER OF FACT, HE RECALLED --

2 THE COURT: THE ANSWER IS YES. EVERYTHING ELSE  
3 IS STRICKEN.

4 Q. BY MS. ABRAMSON: AFTER SPEAKING WITH  
5 HIM -- DON'T TELL US WHAT SOMEONE ELSE SAID,  
6 MRS. CANO -- BUT AFTER SPEAKING WITH HIM, DID IT REFRESH  
7 YOUR RECOLLECTION THAT HE HAD ACTUALLY ACCOMPANIED YOU  
8 AND ERIK MENENDEZ TO THE DMV TO OBTAIN THE LICENSE  
9 THAT'S BEFORE YOU?

10 MR. CONN: OBJECTION, LEADING.

11 THE COURT: SUSTAINED.

12 Q. BY MS. ABRAMSON: DO YOU REMEMBER WHO  
13 BESIDES YOURSELF AND ERIK MENENDEZ ACTUALLY WENT TO THE  
14 DMV IN FLORIDA TO OBTAIN THAT LICENSE?

15 A. YES, I DO.  
16 Q. AND WHO ELSE WENT?  
17 A. MR. CLEVE HERRING.  
18 Q. CLEVE IS C-L-I-V-E?  
19 A. C-L-E-V-E H-E-R-R-I-N-G.  
20 Q. AND HE IS AN ATTORNEY LICENSED TO PRACTICE  
21 IN THE STATE OF FLORIDA?  
22 A. THAT'S CORRECT.  
23 MS. ABRAMSON: I HAVE NOTHING FURTHER.  
24 THE COURT: CROSS-EXAMINATION.  
25 MR. CONN: YES.  
26  
27 ///  
28

-15461

1 CROSS-EXAMINATION  
2 BY MR. CONN:  
3 Q. YOU WENT WITH ERIK MENENDEZ TO OBTAIN A  
4 DRIVER'S LICENSE; IS THAT CORRECT?  
5 A. YES, I DID.  
6 Q. AND YOU SAID THAT YOU BROUGHT WITH YOU A  
7 COPY OF A BIRTH CERTIFICATE FOR HIM?  
8 A. YES.  
9 Q. AND IS THIS DOCUMENT THAT HAS BEEN MARKED A  
10 COPY OF THE BIRTH CERTIFICATE THAT YOU BROUGHT?

11 A. THAT'S CORRECT. IT'S THE SAME BIRTH

12 CERTIFICATE.

13 Q. YOU OBTAINED THIS FROM YOUR HOME?

14 A. I OBTAINED THAT FROM MY HOME, YES.

15 Q. AND DID YOU MAKE THIS COPY, OR IS THIS THE

16 COPY THAT YOU HAD AT HOME?

17 A. NO. THAT'S THE COPY I HAD.

18 Q. OKAY.

19 AND YOU'RE SAYING THAT THIS IS THE DRIVER'S

20 LICENSE OF ERIK MENENDEZ; IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND YOU DON'T HAVE A COPY OF THE AFFIDAVIT

23 THAT YOU SUBMITTED?

24 A. NO. UNFORTUNATELY, I DO NOT. THE LAWYER

25 KEPT IT, AND THE FILE WAS DESTROYED BACK IN 1991.

26 Q. AND YOU DON'T HAVE A COPY OF THE FORMS THAT

27 ERIK MENENDEZ HAD TO FILL OUT IN ORDER TO OBTAIN A

28 DRIVER'S LICENSE?

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1 A. NO. I WENT TO THE MOTOR VEHICLES TO GET

2 IT, AND I WAS NOT ABLE TO GET IT WITHOUT A LETTER FROM

3 HIM.

4 Q. AND WHY DID -- ARE YOU SAYING THAT AN

5 ATTORNEY WENT WITH YOU BY THE NAME OF CLEVE HERRING?

6 A. THAT'S CORRECT.

7 Q. DID YOU ASK FOR AN ATTORNEY TO COME WITH  
8 YOU?

9 A. NO. HE HAD -- HE WAS A PERSONAL FRIEND OF  
10 MINE. I MEAN, WE'VE DONE BUSINESS TOGETHER FOR MANY  
11 YEARS, AND AT THE TIME HE FELT VERY MUCH INTO ASSISTING  
12 ME WITH ANYTHING THAT THE MENENDEZ BOYS WOULD NEED, AND  
13 I TOLD HIM THE SITUATION, THAT ERIK HAD NO LICENSE AND  
14 NO I.D., AND HE OFFERED -- HE SAYS, "WELL, THAT'S  
15 SIMPLE. IF YOU CAN GET A BIRTH CERTIFICATE, I WILL MAKE  
16 AN AFFIDAVIT WHERE YOU WILL HAVE A SWORN STATEMENT  
17 SAYING THIS IS YOUR NEPHEW, AND THAT YOU RECOGNIZE HIM  
18 AS ERIK GALEN MENENDEZ, AND THAT TOGETHER WITH THE BIRTH  
19 CERTIFICATE WILL SUFFICE."

20 "NEVERTHELESS," HE SAID, "I'LL GO WITH YOU  
21 AND MAKE SURE THAT EVERYTHING GOES FINE."

22 Q. AND YOU SAY THAT YOU GAVE TO LESLIE  
23 ABRAMSON THIS DRIVER'S LICENSE A LONG TIME AGO?

24 A. I GAVE LESLIE EVERYTHING THAT I HAD OF ERIK  
25 IN HIS WALLET. HE GAVE ME HIS WALLET AT THE AIRPLANE  
26 WHEN WE WERE ARRIVING IN LOS ANGELES BACK ON MARCH 10TH  
27 OF 1990, AND I GAVE LESLIE EVERYTHING THAT WAS IN THE  
28 WALLET. I WASN'T -- I DIDN'T REMEMBER IF I HAD THE

-15459

1 LICENSE OR NOT, BUT THE LICENSE WAS IN THE WALLET.

2 Q. AND YOU NEVER RECEIVED ANY OF THOSE ITEMS



3 BACK FROM MS. ABRAMSON?

4 A. NO, I HAVE NOT. I THOUGHT I DID. I DON'T

5 KNOW WHY, BUT I DIDN'T. SHE HAD IT IN HER POSSESSION,

6 SO --

7 Q. DID YOU LOOK THROUGH THE WALLET BEFORE YOU

8 GAVE IT TO MS. ABRAMSON?

9 A. NO, I DID NOT.

10 Q. YOU DON'T KNOW WHETHER OTHER FORMS OF

11 IDENTIFICATION MIGHT HAVE BEEN CONTAINED INSIDE THAT

12 WALLET?

13 A. NO, I DO NOT.

14 Q. AND YOU DON'T KNOW WHETHER HE HAD DRIVER'S

15 LICENSES FROM OTHER STATES INSIDE THAT WALLET, CORRECT?

16 A. NO, I DO NOT. BUT I DO KNOW THAT HE DIDN'T

17 HAVE HIS LICENSE WHEN WE WENT THROUGH THAT ONE, AND

18 THAT'S WHY HE HAD TO GO THROUGH ALL THE TESTS AND

19 AFFIDAVITS, BECAUSE HE HAD NO I.D.

20 Q. HE TOLD YOU HE HAD NO I.D., CORRECT?

21 A. YES. BUT HE HAD NO REASON TO LIE AT THAT

22 TIME.

23 Q. YOU DIDN'T LOOK THROUGH HIS WALLET AT THAT

24 TIME IN FLORIDA, CORRECT?

25 A. THAT'S CORRECT, OF COURSE NOT. I BELIEVED

26 HIM.

27 Q. AND YOU DIDN'T LOOK THROUGH HIS WALLET HERE

28 IN CALIFORNIA; IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND YOU SEARCHED AT HOME TO OBTAIN THIS  
3 COPY OF THE BIRTH CERTIFICATE?

4 A. I HAVE MANY FILES ON THEM, AND FOR WHATEVER  
5 REASON, AS I SAID TO YOU, I THOUGHT I HAD COPIES OF  
6 EVERYTHING. BUT THAT'S THE ONLY THING I FOUND.

7 Q. WHILE YOU WERE GOING THROUGH YOUR RECORDS,  
8 DID YOU FIND ANY EVIDENCE THAT YOU PAID FOR THE CAR THAT  
9 WENT TO YOUR SON, ANDY CANO?

10 MS. ABRAMSON: YOUR HONOR, I AM GOING TO OBJECT  
11 TO THAT AS OUTSIDE THE SCOPE.

12 THE COURT: IT'S BEYOND THE SCOPE OF THE  
13 EXAMINATION.

14 MR. CONN: I HAVE NO FURTHER QUESTIONS.

15 THE COURT: OKAY. ANYTHING ELSE?

16 MS. ABRAMSON: NO, YOUR HONOR.

17 THE COURT: OKAY. YOU MAY STEP DOWN.

18 NEXT WITNESS, PLEASE.

19 MS. ABRAMSON: NEXT WITNESS IS TERESITA BARALT.

20

21 TERESITA BARALT,  
22 CALLED AS A WITNESS BY THE DEFENSE, WAS SWORN AND  
23 TESTIFIED AS FOLLOWS:

24 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE  
25 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
26 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
27 NOTHING BUT THE TRUTH, SO HELP YOU GOD.

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1 THE CLERK: PLEASE TAKE THE STAND, AND STATE YOUR  
2 NAME FOR THE RECORD.

3 THE WITNESS: TERESITA BARALT, LAST NAME IS  
4 B-A-R-A-L-T.

5 MS. ABRAMSON: THANK YOU.

6

7 DIRECT EXAMINATION

8 BY MS. ABRAMSON:

9 Q. MRS. BARALT, BEFORE -- WELL, STRIKE THAT.

10 HAD YOU EVER VISITED YOUR BROTHER'S HOME ON  
11 ELM DRIVE IN BEVERLY HILLS BEFORE HE WAS KILLED?

12 A. NO.

13 Q. IN FACT, WAS THE VISIT THAT YOU HAVE  
14 DESCRIBED IN YOUR PREVIOUS TESTIMONY THAT TOOK PLACE IN  
15 MAY OF 1989 THE LAST TIME YOU EVER SAW YOUR BROTHER?

16 A. MM-HMM. YES, IT WAS.

17 Q. I TAKE IT YOU SPOKE TO HIM NUMEROUS TIMES  
18 AFTER THAT MAY VISIT, BUT YOU DIDN'T ACTUALLY SEE HIM?

19 A. NO. I SPOKE TO HIM ESPECIALLY IN JULY WHEN  
20 WE WERE TALKING ABOUT THE CONDO, BUT I DON'T THINK HE  
21 CAME BACK, AT LEAST NOT TO THE PRINCETON AREA, UNTIL  
22 AUGUST. AND NEVER -- AND EVEN IN AUGUST HE DIDN'T COME  
23 TO THE PRINCETON AREA, BECAUSE I WAS IN BERMUDA.

24 Q. OKAY. IN AUGUST YOU'RE AWARE THAT YOUR  
25 BROTHER WENT BACK EAST AND STAYED WITH YOUR MOTHER FOR  
26 SOME PERIOD OF TIME?  
27 A. AND HE WAS LOOKING FOR US, AND CARLOS  
28 WAS --

-15456

1 MS. NAJERA: OBJECTION. LEADING.  
2 THE COURT: OVERRULED.  
3 Q. BY MS. ABRAMSON: I AM SORRY. DO YOU WANT  
4 TO FINISH?  
5 A. I WAS IN BERMUDA, LIKE I SAID, AND CARLOS  
6 WORKED IN WILMINGTON, DELAWARE, SO HE COULDN'T LOCATE  
7 EITHER ONE OF US.  
8 Q. SO DURING THE TIME THAT YOU UNDERSTAND YOUR  
9 BROTHER WAS BACK EAST IN AUGUST --  
10 A. MM-HMM.  
11 Q. -- YOU WERE IN BERMUDA?  
12 A. YES. I ARRIVED THE SAME DAY HE ARRIVED IN  
13 NEW YORK, BUT IT TAKES -- ARRIVING J.F.K., IT'S TWO AND  
14 A HALF HOURS. WE DIDN'T GET HOME UNTIL LATE, AND BY  
15 THEN HE WAS LEAVING THE NEXT MORNING FIRST THING, AND I  
16 NEVER EVEN TALKED TO HIM.  
17 Q. NOW, WHEN YOU CAME OUT AFTER YOU RECEIVED  
18 NOTICE THAT HE AND HIS WIFE WERE KILLED, WAS THERE A  
19 PERIOD WHEN YOU WERE NOT ABLE TO GET INTO THE HOME ON

20 ELM DRIVE?

21 A. YES.

22 Q. AND --

23 A. WELL, WE ARRIVED ON MONDAY. MONDAY NIGHT

24 ON THE 8:20 FLIGHT FROM THE EAST COAST.

25 I TALKED TO MARZIE EISENBERG, WHO WAS

26 JOSE'S SECRETARY, ON TUESDAY, AND I TOLD HER THAT I HAD

27 NEVER BEEN TO THE BEVERLY HILLS HOUSE, THAT I WANTED TO

28 SEE IT.

-15455

1 SHE SAID, "WELL, THEY'RE CLEANING IT TODAY.

2 SO YOU CAN'T GO TODAY."

3 SO WEDNESDAY AFTERNOON I WENT THERE WITH

4 CARLOS MENENDEZ, PAT ANDERSEN, JOANNE VANDERMOLLEN AND

5 MYSELF, THE FOUR OF US. THAT WAS WEDNESDAY AFTERNOON.

6 Q. NOW, WHEN YOU GOT TO THE HOUSE ON WEDNESDAY

7 AFTERNOON, THAT'S AUGUST 23RD, WAS ALL THE YELLOW POLICE

8 TAPE GONE?

9 A. I DIDN'T SEE ANY.

10 Q. SO YOU DIDN'T SEE ANY YELLOW POLICE TAPE BY

11 WEDNESDAY, AUGUST 23RD?

12 A. NO.

13 Q. AND WHEN YOU ENTERED THE HOME, YOU KNEW, OF

14 COURSE, IN WHAT ROOM YOUR BROTHER AND SISTER-IN-LAW'S

15 BODIES HAD BEEN FOUND, CORRECT?

16 A. YES.

17 Q. AND WAS IT YOUR UNDERSTANDING BASED ON YOUR  
18 CONVERSATIONS WITH MARZIE EISENBERG THAT THE COUCH AND  
19 THE RUG FROM THAT ROOM HAD BEEN TAKEN AWAY?

20 A. MARZIE NOTIFIED US ABOUT IT. SHE --

21 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO  
22 ANYTHING THAT CALLS FOR HEARSAY.

23 THE COURT: OBJECTION SUSTAINED. THE ANSWER IS  
24 STRICKEN.

25 Q. BY MS. ABRAMSON: WHEN YOU GOT TO THE HOUSE  
26 ON WEDNESDAY, WAS THERE A COUCH IN THE FAMILY ROOM, THE  
27 ROOM THAT HAD THE TELEVISION AND THE BOOKCASES AND THE  
28 BOYS' TROPHIES?

-15454

1 A. IT HAD A COUCH AND A VERY SMALL RUG,  
2 OBVIOUSLY NOTHING THAT -- THE WAY THAT HOUSE WAS  
3 DECORATED, WHICH WAS --

4 MS. NAJERA: I AM GOING TO OBJECT TO ANYTHING  
5 FURTHER AS NONRESPONSIVE.

6 THE COURT: OKAY. AFTER "RUG," EVERYTHING ELSE  
7 IS STRICKEN.

8 MS. ABRAMSON: OKAY.

9 Q. THERE WAS A COUCH IN THE ROOM, CORRECT?

10 A. YES.

11 Q. AND THERE WAS A RUG IN THE ROOM?

12 A. AND THERE WAS A TABLE AND FOUR CHAIRS.

13 Q. AND THERE WAS A TABLE AND FOUR CHAIRS AND A  
14 TELEVISION?

15 A. AND A BAR.

16 Q. AND A BAR.

17 AND THE COUCH THAT WAS IN THAT ROOM ON  
18 WEDNESDAY, AUGUST 23RD, WAS IT CLEAN?

19 A. YES. IT WAS A WHITE COUCH.

20 Q. WAS IT NEW?

21 A. NO, IT'S BEEN USED. I MEAN, IT WAS NOT  
22 BOUGHT FOR THERE. IT MUST HAVE BEEN --

23 MS. NAJERA: I AM GOING TO OBJECT TO ANYTHING  
24 THAT CALLS FOR HEARSAY.

25 THE COURT: OBJECTION SUSTAINED. THE ANSWER IS  
26 STRICKEN.

27 MS. ABRAMSON: ALL RIGHT.

28 Q. IT WAS YOUR UNDERSTANDING THAT THAT WAS NOT

-15453

1 THE COUCH UPON WHICH THEY HAD BEEN FOUND?

2 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

3 THE COURT: SUSTAINED.

4 Q. MS. ABRAMSON: THERE WAS NO BLOOD OR DAMAGE  
5 TO THE COUCH THAT WAS IN THE ROOM, RIGHT?

6 A. NO. IT WAS WHITE.

7 Q. AND WAS IT JUST A ONE-PIECE COUCH?

8 A. MM-HMM.

9 Q. IT WAS NOT A SECTIONAL?

10 MS. NAJERA: OBJECTION. LEADING.

11 THE COURT: REPHRASE THE QUESTION, PLEASE.

12 Q. BY MS. ABRAMSON: WAS THE COUCH JUST AN

13 ORDINARY SOFA, OR WAS IT A SECTIONAL WITH PARTS?

14 A. IT WAS AN ORDINARY SOFA.

15 Q. YOU HAVE NEVER SEEN THE CRIME SCENE

16 PHOTOGRAPHS, MRS. BARALT, HAVE YOU?

17 A. NO.

18 Q. AND YOU HAVE NO DESIRE TO SEE THEM, DO YOU?

19 MS. NAJERA: OBJECTION. LEADING.

20 THE COURT: OVERRULED.

21 THE WITNESS: NO.

22 Q. BY MS. ABRAMSON: NOW, DID YOU MAKE

23 NUMEROUS TRIPS TO CALIFORNIA AFTER THAT FIRST TRIP AND

24 BEFORE ERIK MENENDEZ WAS ARRESTED?

25 A. MANY.

26 Q. AND ON ALL OF YOUR TRIPS TO CALIFORNIA,

27 BETWEEN THAT FIRST TRIP AND THE TIME THAT ERIK AND LYLE

28 MENENDEZ WERE ARRESTED, DID YOU SEE THE SAME FURNITURE

-15452

1 IN THAT DEN AS YOU SAW WHEN YOU WENT INTO THE HOUSE ON

2 WEDNESDAY, AUGUST 23RD?

3 A. NO. IT WAS CHANGED.



4 Q. WHEN WAS IT CHANGED?

5 A. WELL, FIRST SOMETIME BEFORE THEY WERE

6 ARRESTED THEY HAD -- THIS IS NOT HEARSAY. THEY HAD

7 SOMEBODY GIVE -- TELLING THEM THAT THEY SHOULD REFURNISH

8 THE HOUSE DIFFERENTLY, AND SO A LOT OF THE FURNITURE

9 THEN WAS RENTED, AND THEY PLACED SOME LEATHER COUCHES IN

10 THERE.

11 AFTER THE KIDS WERE ARRESTED, CARLOS SAID

12 ALL THIS NONSENSE IS OUT. SO ALL THE FURNITURE WENT,

13 AND THE ORIGINAL FURNITURE WAS BROUGHT BACK. NOW ON

14 THAT ROOM, WE PLACED THEN THAT COUCH, A LOVE SEAT AND A

15 CHAIR, ALL PERTAINING TO THE SAME SET.

16 Q. OKAY. SO YOU PUT THE COUCH -- LET ME SEE

17 IF I UNDERSTAND THIS.

18 WHEN YOU CAME BACK ON WEDNESDAY, AUGUST

19 23RD, THERE WAS A WHITE COUCH THERE?

20 A. IT WAS COUCH IN THERE, MM-HMM.

21 Q. A PLAIN, SOFA COUCH?

22 A. YES. THE ROOM WAS NOT EMPTY, LET ME PUT IT

23 THAT WAY.

24 Q. NOW, IT WAS SOME MONTHS LATER THAT IN ORDER

25 TO RENT THE HOUSE OR SELL THE HOUSE IT WAS REFURNISHED?

26 A. CERTAIN ROOMS.

27 Q. DO YOU REMEMBER HOW MANY MONTHS LATER IT

28 WAS THAT THAT WAS DONE -- THAT THE FURNITURE WAS RENTED?

1 A. OH --

2 MS. NAJERA: I'M GOING TO OBJECT. CALLS FOR  
3 HEARSAY.

4 THE COURT: OVERRULED.

5 IF YOU KNOW.

6 Q. BY MS. ABRAMSON: AS ONE OF THE  
7 CO-EXECUTORS, YOU HAD TO PAY FOR THIS RENT?

8 A. NOVEMBER. YEAH, SOMEWHERE IN THERE.

9 Q. SO SOMEWHERE AROUND NOVEMBER?

10 A. BUT I AM NOT SURE OF THE DATE. IT COULD  
11 HAVE BEEN OCTOBER, NOVEMBER, DECEMBER. SOMETIME BEFORE  
12 THAT AND MARCH. IT COULD EVEN HAVE BEEN JANUARY, BUT I  
13 DON'T REMEMBER. I CAN LOOK IN THE FILES IN THE HOUSE, I  
14 MEAN, ON THE ESTATE FILES.

15 Q. BUT IT WAS, TO THE BEST OF YOUR  
16 RECOLLECTION, A COUPLE OF MONTHS AFTER YOU FIRST CAME  
17 OUT HERE AFTER THE KILLINGS?

18 A. YES.

19 MS. NAJERA: OBJECTION. LEADING AND --

20 THE COURT: SUSTAINED.

21 THE ANSWER STRICKEN.

22 MS. ABRAMSON: OKAY.

23 Q. APPROXIMATELY HOW LONG AFTER YOU FIRST CAME  
24 OUT WAS IT THAT YOU, AS CO-EXECUTOR OF THE ESTATE,  
25 ARRANGED TO HAVE RENTAL FURNITURE IN THE HOME?

26 A. I AM NOT COMPLETELY 100 PERCENT. I --  
27 SOMETHING STRIKES ME THAT IT WAS EITHER OCTOBER OR  
28 NOVEMBER, BUT I AM NOT POSITIVE ON THAT.

1 Q. OKAY. BUT IT CERTAINLY WASN'T WITHIN  
2 DAYS --

3 A. OH, NO. NO, NO, NO, NO.

4 Q. -- OF AUGUST 23RD?

5 A. NOTHING WAS DONE UNTIL AFTER -- IN FACT,  
6 WHEN THAT WAS DONE, I WAS IN CALIFORNIA, AND WHEN I CAME  
7 AFTER THE DEATH, I WAS ONLY HERE -- I WAS HERE ON  
8 WEDNESDAY, AND FRIDAY WAS THE MEMORIAL SERVICES. WE  
9 FLEW THAT NIGHT TO THE EAST COAST.

10 Q. RIGHT.

11 A. BECAUSE THEN WE WERE GOING TO HAVE THE  
12 SERVICES IN PRINCETON.

13 SO IT WAS NOTHING -- IT WAS NOT ON THAT  
14 TRIP, AND I DON'T THINK I CAME BACK UNTIL OCTOBER.

15 Q. OKAY. SO IT WAS DURING A TRIP WHEN YOU  
16 CAME BACK, AND YOU BELIEVE IT'S OCTOBER, THAT THE SWITCH  
17 WAS MADE BETWEEN THE FURNITURE IN THE ROOM FROM AUGUST  
18 23RD?

19 A. YEAH.

20 Q. AND THE LEATHER FURNITURE THAT WAS RENTED,  
21 CORRECT?

22 A. YES.

23 Q. AND THEN SOME MORE MONTHS WENT BY, AND THE  
24 LEATHER FURNITURE THAT WAS RENTED WAS RETURNED?

25 A. OH, YES. THE WHOLE THING. IT WAS AWFUL.

26 Q. THEN THE FURNITURE THAT BELONGED TO THE  
27 FAMILY WAS REPLACED IN THE DEN, RIGHT?  
28 A. EXACTLY.

-15449

1 MS. NAJERA: OBJECTION. LEADING.

2 THE COURT: SUSTAINED.

3 THE ANSWER IS STRICKEN.

4 Q. BY MS. ABRAMSON: AFTER THE RENTAL  
5 FURNITURE WAS RETURNED, WHAT FURNITURE, IF ANY, WAS  
6 PLACED IN THE DEN?

7 A. THE ONE THAT HAD BEEN PLACED IN STORAGE  
8 THAT BELONGED TO THEM.

9 Q. AND WAS THE ONE THAT HAD BEEN PLACED THERE,  
10 THE SOFA THAT BELONGED TO THEM, THE SAME ONE OR A  
11 DIFFERENT ONE FROM WHAT YOU SAW ON AUGUST 23RD?

12 A. WELL, THEY HAD -- I THINK IT WAS THE SAME.  
13 IT -- LET ME CORRECT THAT. IT WAS THE SAME ONE. THE  
14 ONLY THING THAT -- THERE WERE MANY PIECES TO THAT SET,  
15 AND THEN IT WAS COMPLETELY REARRANGED. THERE WERE OTHER  
16 TABLES BROUGHT IN, ADDED PIECES TO IT.

17 Q. OKAY. THERE WERE A NUMBER OF PIECES OF  
18 FURNITURE ALREADY IN THE HOUSE IN OTHER ROOMS THAT WERE  
19 PUT TOGETHER INTO THAT ROOM; IS THAT WHAT YOU'RE SAYING?

20 A. THERE WERE TWO LOVE SEATS, A COUCH AND A  
21 CHAIR, ALL BELONGING TO THE SAME SET.

22 Q. DO YOU KNOW IF THE COUCH UPON WHICH THE --  
23 YOUR BROTHER'S BODY HAD BEEN FOUND WAS EVER RETURNED TO  
24 THE HOME?  
25 A. NO. MARZIE SAID IT HAD TO BE DESTROYED.  
26 MS. ABRAMSON: I HAVE NOTHING FURTHER.  
27 THE COURT: CROSS-EXAMINATION.  
28 MS. NAJERA: THANK YOU, YOUR HONOR.

-15448

1 CROSS-EXAMINATION  
2 BY MS. NAJERA:  
3 Q. NOW, MRS. BARALT, YOU GOT OUT HERE AROUND  
4 MONDAY, AUGUST 21ST OF 1989; IS THAT RIGHT?  
5 A. I DID.  
6 Q. OKAY. AND YOU WERE AWARE OF -- YOU  
7 TESTIFIED WHAT ROOM IT WAS THAT THE SHOOTINGS TOOK  
8 PLACE; IS THAT RIGHT?  
9 A. YES.  
10 Q. NOW, WHICH ROOM OF THE HOUSE WAS IT THAT IT  
11 WAS YOUR UNDERSTANDING THE SHOOTINGS TOOK PLACE IN?  
12 A. THE FAMILY ROOM. YOU WALK IN -- HAVE YOU  
13 EVER BEEN TO THE HOUSE?  
14 Q. WHY DON'T YOU DESCRIBE IT FOR US.  
15 A. YOU WALK IN THE DOUBLE DOORS. IT'S A HUGE  
16 FOYER. STRAIGHT AHEAD THERE'S DOUBLE DOORS, AND THAT'S  
17 THE FAMILY ROOM.

18 IF YOU OPEN THOSE DOUBLE DOORS YOU SEE THE  
19 WALL FULL OF BOOKS. THE T.V. IS ON YOUR LEFT. THE  
20 COUCH WAS ON YOUR RIGHT, AND ON THE FAR RIGHT HAND  
21 CORNER WAS THE TABLE WITH THE FOUR CAPTAIN CHAIRS THAT  
22 USED TO BELONG TO THE DINETTE SET WHEN THEY WERE IN  
23 PRINCETON. THAT'S WHY I RECOGNIZED IT. I WAS WITH  
24 KITTY WHEN THAT WAS BOUGHT. AND THAT WAS INTACT. AND  
25 THEN THE BAR ON THIS SIDE, AND THEN THERE WAS DOORS THAT  
26 LED INTO THE KITCHEN AND THE VIDEO AREA.

27 Q. NOW, YOU LEFT ON -- DID YOU LEAVE ON  
28 FRIDAY, AUGUST 25TH?

-15447

1 A. WE LEFT ON THE 9:45 FLIGHT ON CONTINENTAL  
2 WITH THE BODIES.

3 Q. NOW, WHEN YOU LEFT ON FRIDAY, AUGUST 25TH,  
4 IS IT YOUR TESTIMONY THAT THERE WAS IN THAT FAMILY ROOM  
5 A COUCH AND SOME CHAIRS AND A BAR AND A T.V.; IS THAT  
6 RIGHT?

7 A. ON THAT WEDNESDAY?

8 Q. ON THAT WEDNESDAY.

9 A. WEDNESDAY, OKAY.

10 Q. LET'S GO BACK THEN.

11 A. WHEN I WENT INTO THAT HOUSE. AND I ONLY  
12 WENT ON WEDNESDAY INTO THAT HOUSE, ON WEDNESDAY  
13 AFTERNOON.

14 Q. LET ME SEE IF I HAVE THIS RIGHT.  
15 YOU ARRIVED ON MONDAY, AUGUST 21ST?  
16 A. MONDAY NIGHT, OKAY.  
17 Q. ON WEDNESDAY, AUGUST 23RD, YOUR TESTIMONY  
18 IS THAT AT THAT TIME THERE WAS A COUCH IN THE DEN?  
19 A. MM-HMM. MM-HMM, MM-HMM.  
20 Q. IS THAT RIGHT?  
21 A. THERE WAS A COUCH, YES.  
22 Q. NOW, WERE YOU IN THE HOUSE ON FRIDAY,  
23 AUGUST 25TH?  
24 A. NO.  
25 Q. SO YOU DON'T KNOW WHAT WAS IN THE ROOM  
26 THEN; IS THAT RIGHT?  
27 A. NO. ON FRIDAY THERE WAS THE MEMORIAL  
28 SERVICES. THEY WERE I BELIEVE AT 11:00 O'CLOCK IN THE

-15446

1 MORNING. FROM THEN ON WE WENT TO L.I.V.E.  
2 ENTERTAINMENT, AND FROM THEN ON WE WENT DIRECTLY TO THE  
3 AIRPORT AND BACK TO THE EAST COAST.  
4 Q. SO ON FRIDAY YOU DON'T KNOW WHAT THE  
5 CONDITION OF THE DEN WAS; IS THAT CORRECT?  
6 A. NOBODY WENT ON FRIDAY TO THE HOUSE.  
7 Q. NOW, WHEN WAS THE NEXT TIME YOU CAME BACK  
8 TO CALIFORNIA?  
9 A. I THINK -- AND ON THIS I AM NOT 100

10 PERCENT. IF I TELL YOU I AM 100 PERCENT, I AM. THIS I

11 AM NOT.

12 I THINK IT WAS OCTOBER, BECAUSE ON THAT

13 SEPTEMBER, I SAW DETECTIVE ZOELLER AT MY HOUSE. THE

14 KIDS WERE IN AND OUT, AND I DON'T THINK THAT I CAME

15 BACK. I THINK IN OCTOBER WE STARTED COMING BACK TO

16 REMOVE KITTY'S CLOTHES, AND BECAUSE BY THAT TIME IT WAS

17 ESTABLISHED THAT WE WERE EXECUTORS, SO WE HAVE TO

18 DISMANTLE THAT HOUSE.

19 Q. NOW, WHEN YOU CAME BACK, DO YOU RECALL IF

20 IT WAS THE BEGINNING, MIDDLE OR END OF OCTOBER, YOUR

21 BEST ESTIMATE?

22 A. MY BEST ESTIMATE, IT WOULD BE -- IT WOULD

23 BE IN THE MIDDLE.

24 Q. OKAY. NOW, SO I HAVE THIS STRAIGHT, YOU

25 WENT -- FRIDAY, AUGUST 25TH YOU LEFT, AND YOU WEREN'T IN

26 THE HOUSE, SO THEN YOU DON'T KNOW WHAT THE CONDITION OF

27 THE DEN WAS; IS THAT A TRUE STATEMENT?

28 A. MM-HM.

-15445

1 Q. YOU HAVE TO ANSWER YES --

2 A. ON FRIDAY, YOU MEAN?

3 Q. YES.

4 A. RIGHT.

5 Q. NOW GOING TO THE FOLLOWING WEEK, THAT WOULD



6 BE SUNDAY?

7 A. MISS NAJERA, LET ME SAY SOMETHING.

8 Q. OKAY.

9 A. I MAY HAVE COME IN SEPTEMBER AT SOME POINT.

10 I DON'T RECALL IT. I WOULD HAVE TO GO AND LOOK AT THE

11 TICKETS. WE DID SO MANY -- WE MADE SO MANY TRIPS

12 BECAUSE OF THIS, OKAY.

13 Q. WE'LL TAKE THIS PIECE BY PIECE HERE.

14 THE FOLLOWING WEEK WOULD BE STARTING SUNDAY

15 THE 27TH OF AUGUST AND GOING TO FRIDAY, SEPTEMBER 1ST.

16 THAT WAS THE FOLLOWING WEEK?

17 A. UH-HUH. 27TH OF AUGUST. THE MEMORIAL

18 SERVICE, THE BURIAL WAS THE 28TH.

19 Q. SO YOU WERE IN PRINCETON AT THAT TIME?

20 A. WE WERE IN PRINCETON.

21 Q. SO YOU -- YOUR TESTIMONY WOULD BE THAT YOU

22 REALLY DON'T KNOW WHAT CONDITION THE DEN WAS IN AT THAT

23 TIME?

24 A. NO.

25 Q. OKAY.

26 NOW, GOING TO THAT WEEKEND, SEPTEMBER 1ST

27 AND SEPTEMBER 2ND, TO THE END OF AUGUST, THE BEGINNING

28 OF SEPTEMBER, YOU WERE NOT IN CALIFORNIA; IS THAT RIGHT?

-15444

1 A. NO. WE LEFT ON WHATEVER THAT FRIDAY WAS,

2 25, 26.

3 Q. THE 25TH, OKAY?

4 A. OKAY.

5 Q. SO AS FAR AS YOU KNOW THEN, YOU DON'T KNOW

6 WHAT ANYBODY WAS DOING WITH REGARDS TO THE FURNITURE IN

7 THE DEN, AND YOU WEREN'T INVOLVED IN ANYTHING INVOLVING

8 THE FURNITURE IN THE DEN; IS THAT RIGHT?

9 A. NO. BUT WE WOULD HAVE KNOWN, BECAUSE --

10 Q. I AM SAYING IF SOMEBODY WAS MOVING AROUND

11 FURNITURE, DOING ANYTHING, IS IT FAIR TO SAY YOU

12 WOULD --

13 MS. ABRAMSON: EXCUSE ME. MAY THE WITNESS FINISH

14 HER ANSWER?

15 EXCUSE ME, YOUR HONOR. THE WITNESS WAS

16 INTERRUPTED.

17 THE COURT: THE ANSWER WAS NONRESPONSIVE TO THE

18 QUESTION, SO LET'S GET THE QUESTION AND START OVER

19 AGAIN.

20 MS. NAJERA: OKAY. THANK YOU, YOUR HONOR.

21 Q. WHAT I AM SAYING IS WITH REGARDS TO ANY

22 MOVING AROUND OF FURNITURE OR ANYTHING THAT WAS DONE IN

23 THE HOUSE, YOU WEREN'T INVOLVED IN THAT BECAUSE YOU

24 WEREN'T IN CALIFORNIA; IS THAT RIGHT?

25 MS. ABRAMSON: OBJECTION. ARGUMENTATIVE.

26 THE COURT: WELL, IT'S A COMPOUND QUESTION.

27 Q. BY MS. NAJERA: WITH REGARDS TO -- LET'S

28 TAKE THIS ONE STEP AT A TIME.

1           YOU WERE NOT IN CALIFORNIA AFTER THE 21ST?

2       A.   I WAS NOT.

3       Q.   UNTIL -- YOUR BEST MEMORY IS OCTOBER; IS  
4 THAT RIGHT?

5       A.   YES.

6       Q.   SO WITH REGARDS TO THAT TIME PERIOD AFTER  
7 THE 25TH AND OCTOBER, YOU WEREN'T INVOLVED WITH ANY  
8 MOVING OF FURNITURE IN THAT HOUSE OR ANYTHING INVOLVING  
9 FURNITURE IN THAT HOUSE.

10      A.   NO, BUT THERE WERE GUARDS IN THE HOUSE.

11      Q.   WHAT I AM SAYING IS YOU WEREN'T INVOLVED IN  
12 THAT, AND YOU DON'T KNOW --

13      A.   I WASN'T INVOLVED IN THAT, NO.

14      Q.   AND AS FAR AS YOU KNOW, THEN, YOU DON'T  
15 KNOW IF ANYBODY WAS MOVING FURNITURE IN THAT HOUSE; IS  
16 THAT RIGHT?

17      MS. ABRAMSON: OBJECTION. ARGUMENTATIVE.

18      THE WITNESS: I THINK WE WERE NOTIFIED OF IT.

19      THE COURT: WAIT A MINUTE.

20           OBJECTION SUSTAINED TO THE FORM OF THE  
21 QUESTION.

22           ASK YOUR NEXT QUESTION.

23      Q.   BY MS. NAJERA: I AM NOT TALKING ABOUT  
24 RENTING OR NOT RENTING FURNITURE.

25      A.   I KNOW WHAT YOU'RE TALKING ABOUT.

26      Q.   I'M TALKING ABOUT MOVING FURNITURE. YOU

27 WEREN'T MONITORING THAT ON A DAY-TO-DAY BASIS?

28 A. NO, BUT WE WERE IN CONSTANT TOUCH WITH THE

-15442

1 GUARDS.

2 Q. WERE YOU IN CONTACT WITH THE DEFENDANTS ON

3 A DAY-TO-DAY BASIS AS TO WHERE THEY WERE MOVING

4 FURNITURE IN THE HOUSE?

5 MS. ABRAMSON: OBJECTION.

6 THE COURT: WELL, IT'S A PROPER QUESTION, IF SHE

7 WANTS TO ASK IT THAT WAY.

8 DO YOU UNDERSTAND WHAT THE QUESTION IS?

9 THE WITNESS: YEAH, I THINK I UNDERSTAND THE

10 QUESTION.

11 BUT WHAT I MEAN TO SAY IS THE KIDS WERE IN

12 AND OUT OF THE ESTATE, AND THERE WERE GUARDS IN THERE,

13 AND IF THERE WAS ANY CHANGES, EVEN WHEN THEY WERE THERE,

14 WE WERE TOLD. WE KIND OF PRETTY MUCH KNEW WHAT WAS

15 GOING ON.

16 Q. BY MS. NAJERA: SO IF ERIK MENENDEZ OR LYLE

17 MENENDEZ MOVED A CHAIR FROM ONE ROOM TO THE OTHER,

18 THEY'D CALL AND TELL YOU?

19 A. THE GUARDS WILL -- WOULD, IF I ASK. IF WE

20 ASKED IF THERE'S ANYTHING GOING ON IN THE HOUSE, AND

21 THEY WOULD.

22 Q. SO, IF ERIK OR LYLE MENENDEZ TOOK A TABLE

23 AND MOVED IT INTO THE OTHER ROOM BECAUSE THEY HAD  
24 FRIENDS AND WERE PLAYING CARDS, THEY WOULD CALL YOU IN  
25 NEW JERSEY AND TELL YOU THIS?  
26 A. NO. BUT WE'RE NOT TALKING ABOUT A TABLE,  
27 ARE WE? WE'RE TALKING ABOUT THE WHOLE FURNITURE IN THE  
28 ROOM, AND THAT'S WHERE THE GUARDS WERE SITTING.

-15441

1 Q. LET'S JUST TALK ABOUT FURNITURE FOR A  
2 MOMENT.  
3 IF THEY WERE MOVING AROUND FURNITURE, THE  
4 GUARDS AND THE DEFENDANTS WOULD NOT IMMEDIATELY CALL YOU  
5 AND TELL YOU, "OH, WE'VE MOVED A CHAIR HERE, WE'VE MOVED  
6 A TABLE HERE."  
7 A. NO, BUT --  
8 MS. NAJERA: AND I WOULD OBJECT TO ANYTHING AFTER  
9 "NO" AS NONRESPONSIVE.  
10 MS. ABRAMSON: EXCUSE ME, YOUR HONOR. THE  
11 WITNESS SHOULD BE ABLE TO EXPLAIN THE ANSWER.  
12 THE COURT: DO YOU HAVE ANYTHING FURTHER YOU WANT  
13 TO ADD TO THAT?  
14 THE WITNESS: WHEN WE CAME IN OCTOBER AND  
15 REFURNISHED THE ROOM, THE ROOM WAS EXACTLY AS I SAW IT  
16 BEFORE, UNLESS -- YOU KNOW, I WASN'T THERE, TRUE ENOUGH,  
17 BUT THEN THEY HAD TO REMEMBER TO LEAVE IT IN EXACTLY THE  
18 SAME WAY THAT I SAW IT.

19 THE COURT: ALL RIGHT. YOUR NEXT QUESTION.

20 THE WITNESS: WE REORGANIZED THAT ROOM.

21 Q. BY MS. NAJERA: MRS. BARALT, DID YOU TALK  
22 TO MRS. ABRAMSON ABOUT YOUR TESTIMONY BEFORE YOU  
23 TESTIFIED HERE?

24 A. I HAVEN'T TALKED TO MS. ABRAMSON TODAY AT  
25 ALL, OR LAST NIGHT.

26 Q. NOT TODAY, BUT DID SOMEONE CALL YOU AND  
27 TALK TO YOU ABOUT THE FURNITURE IN THAT ROOM, IN THE  
28 DEN?

-15440

1 A. I WAS ASKED IF I REMEMBER WHAT WAS IN THAT  
2 ROOM, BECAUSE I HAVE A PHOTOGRAPHIC MEMORY, MISS NAJERA,  
3 AND THAT -- UNFORTUNATELY, IT'S MY ADVANTAGE AND  
4 DISADVANTAGE SOMETIMES.

5 Q. WAS IT SUGGESTED TO YOU THAT YOU SHOULD  
6 TESTIFY THAT THERE WAS FURNITURE IN THAT ROOM, AND THAT  
7 FURNITURE NEVER MOVED?

8 A. NO.

9 MS. ABRAMSON: YOUR HONOR, I OBJECT TO THE  
10 IMPLICATION --

11 THE WITNESS: YOU ARE QUESTIONING MY INTEGRITY.  
12 I DON'T LIKE THAT.

13 MS. ABRAMSON: -- AND ASK THAT SHE BE ADMONISHED.

14 THE COURT: OVERRULED.

15 YOUR ANSWER?

16 THE WITNESS: I -- YOUR HONOR, I HAVE A PROBLEM.

17 THE COURT: REPHRASE THE QUESTION.

18 Q. BY MS. NAJERA: WHAT I AM ASKING IS DID  
19 SOMEONE SUGGEST THIS TO YOU?

20 A. NO. NOBODY SUGGESTED ANYTHING. THEY HAVE  
21 LEARNED THAT IN SEVEN YEARS.

22 Q. NOW, WHAT I ASKED YOU AND STARTED ASKING  
23 YOU ABOUT WAS FURNITURE IN THE ROOM, AND YOU STARTED TO  
24 SUGGEST I AM TALKING ABOUT ALL THE FURNITURE IN THIS  
25 ROOM, AND THAT'S NOT THE QUESTION I AM ASKING.

26 MS. ABRAMSON: I AM GOING --

27 THE COURT: WAIT. WAIT. WE HAVE THREE PEOPLE  
28 TALKING AT ONCE, AND BASICALLY --

-15439

1 MS. ABRAMSON: I WOULD LIKE TO OBJECT TO THE FORM  
2 OF THE QUESTION.

3 THE COURT: AND BASICALLY ARGUING AT ONCE. NOW  
4 WE HAVE TWO PEOPLE TALKING AT ONCE.

5 THE WITNESS: I AM JUST EXPLAINING TO YOU.

6 THE COURT: WAIT, WAIT. AT THIS POINT THE RULE  
7 IS I AM GOING TO BE THE ONE TALKING RIGHT NOW. NOBODY  
8 ELSE, JUST FOR A MOMENT.

9 THE WITNESS: OKAY.

10 THE COURT: WE HAVE EVERYBODY ARGUING HERE, AND

11 IT'S NOT HELPFUL TO ANYBODY.

12 SO LET'S JUST START OVER FRESH WITH A FRESH

13 QUESTION, AND THEN TRY TO ANSWER THE QUESTION, AND WE

14 WILL GET YOU OUT OF HERE, OKAY?

15 WHAT IS YOUR NEXT QUESTION?

16 MS. NAJERA: THANK YOU, YOUR HONOR.

17 Q. AS I UNDERSTAND, YOUR TESTIMONY IS THAT AS

18 FAR AS YOU KNOW ON AUGUST 23RD, WEDNESDAY, THERE WAS

19 SOME FURNITURE IN THE DEN; IS THAT CORRECT?

20 A. YES, YES.

21 Q. NOW, AS FAR AS YOU KNOW, WHEN YOU CAME BACK

22 IN OCTOBER OF 1989, THERE WAS FURNITURE IN THE DEN; IS

23 THAT RIGHT?

24 A. YES.

25 Q. AND YOUR TESTIMONY IS ALSO THAT THE

26 FURNITURE IN THE DEN FROM THE TIME OF THE SHOOTINGS TO

27 THE TIME OF THE DEFENDANTS' ARREST CHANGED?

28 A. YES.

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1 Q. I BELIEVE IT WAS TWO TIMES; IS THAT RIGHT?

2 A. IT WAS ADDED, YES.

3 Q. IT WAS TWO TIMES OR THREE TIMES. DID IT

4 CHANGE TWO TIMES OR THREE TIMES?

5 A. I DON'T KNOW WHAT YOU'RE REFERRING TO.

6 Q. IF I MAY, LET ME JUST ASK YOU THE QUESTION.



7 WITH REGARDS TO THE FURNITURE IN THE DEN --

8 A. MM-HMM.

9 Q. FROM THE TIME OF THE SHOOTINGS TO THE TIME  
10 OF THE DEFENDANTS' ARREST, MY UNDERSTANDING FROM YOUR  
11 TESTIMONY IS THAT THAT FURNITURE CHANGED, AND CHANGED  
12 AROUND AT LEAST TWICE; IS THAT RIGHT?

13 A. YES.

14 Q. OKAY.

15 A. THERE WAS FURNITURE ON THE 25TH. THERE WAS  
16 RENTED FURNITURE SOMETIME IN THOSE NEXT FEW MONTHS, AND  
17 AFTER THAT WAS TAKEN OUT IT WAS REFURNISHED. BUT THAT  
18 WASN'T THE ONLY ROOM.

19 Q. OKAY. I AM JUST TALKING ABOUT THAT ONE  
20 ROOM.

21 NOW, WITH REGARDS TO ANYTHING THAT MIGHT  
22 HAVE HAPPEND WITH REGARDS TO MOVING AROUND THAT  
23 FURNITURE OR ANYTHING ELSE LIKE THAT, IS IT FAIR TO SAY  
24 THAT YOU WOULDN'T KNOW WHAT WAS GOING ON WITH THAT  
25 FURNITURE, BECAUSE YOU WEREN'T THERE BETWEEN AUGUST  
26 23RD, WEDNESDAY, AND WHEN YOU CAME BACK IN OCTOBER?

27 IS THAT A FAIR STATEMENT?

28 MS. ABRAMSON: OBJECTION, YOUR HONOR. IT'S

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1 ARGUMENTATIVE AND COMPOUND AND CALLS FOR SPECULATION.

2 THE COURT: WELL, WHEN YOU USE THE WORD "KNOW,"

3 IT IS AMBIGUOUS AS TO HOW ONE KNOWS THINGS.

4 SO PERHAPS YOU CAN REPHRASE THE QUESTION.

5 MS. NAJERA: OKAY.

6 Q. YOU WEREN'T PRESENT DURING THAT TIME --

7 A. I WAS NOT PRESENT.

8 Q. -- TO OBSERVE THE ROOM AND SEE IF THERE

9 WERE ANY CHANGES; IS THAT RIGHT?

10 A. I WAS NOT STANDING GUARD OVER THE ROOM,

11 YES.

12 MS. NAJERA: THANK YOU.

13 I HAVE NOTHING FURTHER.

14 THE COURT: ANYTHING ELSE?

15

16 REDIRECT EXAMINATION

17 BY MS. ABRAMSON:

18 Q. MRS. BARALT, HAVE I TALKED TO YOU AT ALL

19 SINCE YOU WERE LAST HERE?

20 A. NO, BUT YOU LEARN IN SEVEN YEARS --

21 MS. NAJERA: OBJECTION.

22 MS. ABRAMSON: MRS. BARALT, I'VE LEARNED A LOT

23 ABOUT YOU IN SEVEN YEARS --

24 THE COURT: WAIT, COUNSEL. WHAT'S OUTSIDE THE

25 RECORD IS NOT EVIDENCE.

26 Q. BY MS. ABRAMSON: MRS. BARALT, I DID NOT

27 TALK TO YOU AT ALL BEFORE YOU WERE CALLED TO THE WITNESS

28 STAND, DID I?

1 MS. NAJERA: OBJECTION, YOUR HONOR.

2 THE COURT: OVERRULED.

3 THE WITNESS: NO, YOU DID NOT TALK TO ME.

4 Q. BY MS. ABRAMSON: AND DURING THE TIME THAT

5 YOU WERE -- BETWEEN SEPTEMBER -- STRIKE THAT.

6 BETWEEN AUGUST 25TH AND YOUR NEXT RETURN TO

7 CALIFORNIA, YOU AND YOUR HUSBAND WERE ACTING AS

8 CO-EXECUTORS OF BOTH MR. AND MRS. MENENDEZ' ESTATES,

9 CORRECT?

10 A. YES.

11 Q. AND DURING THE PERIOD OF AUGUST 25TH UNTIL

12 SOMETIME IN MID SEPTEMBER, WAS THERE A SECURITY GUARD

13 FIRM HIRED BY L.I.V.E. ENTERTAINMENT THAT WAS STAFFING

14 THE HOUSE?

15 A. BEL-AIR.

16 Q. BEL-AIR PATROL?

17 A. SECURITY -- PATROL, YES.

18 Q. AND THEY WERE IN THE HOUSE, WERE THEY NOT?

19 A. MM-HMM.

20 Q. AND DID YOU HAVE FREQUENT AND CONSTANT

21 CONTACT WITH THEM?

22 A. YES.

23 Q. AND THEY NEVER INDICATED TO YOU, DID THEY,

24 THAT ANYONE HAD MOVED FURNITURE OUT OF THE DEN?

25 MS. NAJERA: THAT CALLS FOR HEARSAY, YOUR HONOR.

26 THE COURT: SUSTAINED.

27 Q. BY MS. ABRAMSON: DO YOU REMEMBER ERIK

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1 WEEK IN WHICH THE MEMORIAL SERVICE WAS HELD?

2 MS. NAJERA: I AM GOING TO OBJECT. OUTSIDE THE

3 SCOPE OF CROSS.

4 THE COURT: OVERRULED. YOU CAN ANSWER THAT

5 QUESTION YES OR NO.

6 THE WITNESS: YES. I REMEMBER THAT.

7 Q. BY MS. ABRAMSON: AND DO YOU REMEMBER HIS

8 TALKING TO YOU ON THE TELEPHONE THE DAY AFTER HE LEFT?

9 MS. NAJERA: OBJECTION. OUTSIDE THE SCOPE OF

10 CROSS.

11 THE COURT: SUSTAINED.

12 Q. BY MS. ABRAMSON: YOUR HONOR, I THINK IT'S

13 IN THE EXACT SAME TIME FRAME.

14 THE COURT: WELL, AS TO WHAT IT IS YOU WANT TO

15 BRING OUT --

16 MS. ABRAMSON: I JUST WANT TO KNOW IF SHE TALKED

17 TO HIM ON THE PHONE.

18 THE COURT: NOT THE CONTENT OF THE CONVERSATION?

19 MS. ABRAMSON: IT WASN'T A CONTENT QUESTION.

20 THE COURT: OVERRULED.

21 THE WITNESS: YES.

22 Q. BY MS. ABRAMSON: AND DO YOU REMEMBER

23 RECEIVING A TELEPHONE NUMBER FROM ERIK MENENDEZ OF A

24 FRIEND'S HOUSE?

25 A. CASEY'S.

26 MS. NAJERA: I AM GOING TO OBJECT AS CALLS FOR  
27 HEARSAY, AND ALSO IRRELEVANT AND OUTSIDE THE SCOPE OF  
28 CROSS.

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1 THE COURT: SUSTAINED.

2 THE ANSWER IS STRICKEN.

3 MS. ABRAMSON: WELL, YOUR HONOR, I THINK I CAN  
4 CONNECT IT UP.

5 THE COURT: OKAY. THEN YOU CAN MAKE YOUR OFFER  
6 OF PROOF.

7 MS. ABRAMSON: I'LL BE HAPPY TO.

8 (THE FOLLOWING PROCEEDINGS WERE HELD  
9 IN CAMERA OUT OF THE PRESENCE OF  
10 THE JURY:)

11

12 THE COURT: OKAY, YES.

13 MS. ABRAMSON: I WANT TO SHOW THAT THIS WITNESS  
14 WAS GIVEN A TELEPHONE NUMBER BY ERIK MENENDEZ ON THE DAY  
15 AFTER HE CAME BACK HERE, WHICH WOULD HAVE BEEN SEPTEMBER  
16 1ST, OF A PLACE WHERE HE COULD BE CONTACTED;

17 THAT DURING THE ENSUING FEW DAYS SHE INDEED  
18 CALLED THAT NUMBER AND CONTACTED HIM THERE, AND BASED ON  
19 THAT, IT WAS HER BELIEF THAT HE WASN'T STAYING AT THE

20 HOUSE ON ELM DRIVE.

21 AND THAT'S WHAT I WANT TO BRING OUT, SINCE  
22 THE PEOPLE HAVE RAISED THE SPECTER THAT MY CLIENT CAME  
23 HOME FROM THE AIRPORT, WENT TO THE HOUSE AND STARTED  
24 REARRANGING THE FURNITURE, AND IT JUST SHOWS HOW  
25 LUDICROUS THAT POSITION IS. HE WASN'T EVEN STAYING IN  
26 THE HOUSE. WHAT POSSIBLE REASON WOULD HE HAVE FOR  
27 REARRANGING THE FURNITURE?

28 MS. NAJERA: WELL, THEREIN WE HAVE A PROBLEM,

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1 BECAUSE I THINK IF COUNSEL WANTS TO GO THIS FAR AFIELD,  
2 WHAT WE ARE TALKING ABOUT, THIS IS THE TIME PERIOD THAT  
3 I FOCUSED IN ON, WAS THE END OF AUGUST, BEGINNING OF  
4 SEPTEMBER, SPECIFICALLY THE 1ST AND 2ND, AND IF THEY'RE  
5 TRYING TO SAY ERIK MENENDEZ WASN'T THERE, WE WILL BRING  
6 IN THE HAYMANS TO SAY YES, HE WAS THERE, AND THEY CAME  
7 IN TO LOOK AT THE COMPUTER AND SAW CRAIG CIGNARELLI  
8 THERE, AND THEY WERE IN THE HOUSE.

9 THE COURT: THERE IS NO EVIDENCE THAT HE DIDN'T  
10 HAVE ACCESS TO THE HOUSE. JUST THE FACT THAT HE WAS  
11 STAYING SOMEWHERE DOESN'T PROVE OR DISPROVE ANYTHING AS  
12 TO WHETHER OR NOT HE HAD ACCESS TO THE HOUSE.

13 SO I DON'T SEE ITS RELEVANCE.

14 MS. ABRAMSON: WHAT WAS THE PURPOSE OF HIS MOVING  
15 FURNITURE AROUND?

16 THE COURT: THAT'S FOR OTHERS TO RESOLVE. BUT IT  
17 DOESN'T HAVE ANYTHING TO DO WITH WHETHER OR NOT HE WAS  
18 LIVING IN THE HOUSE, OR NOT LIVING IN THE HOUSE, OR  
19 WHETHER OR NOT HE WAS STAYING SOMEWHERE ELSE.

20 MS. ABRAMSON: YOUR HONOR, OUTSIDE THE PRESENCE  
21 OF THE JURY I WANT TO CITE THE PROSECUTION FOR  
22 MISCONDUCT. EVERY TIME THESE WITNESSES SAY SOMETHING  
23 THE PROSECUTION DOESN'T LIKE, WE HAVE DONE SOMETHING  
24 IMPROPER OR UNETHICAL.

25 THE FACT OF THE MATTER IS WE DON'T TELL  
26 WITNESSES WHAT TO SAY, AND THE FACT OF THE MATTER IS  
27 WITH THIS WITNESS I CALLED HER TO THE STAND COLD.

28 BUT THIS IS OUTRAGEOUS BEHAVIOR THAT IS

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1 CONSTANTLY REPEATED.

2 THE COURT: THERE HAS NOT BEEN A PATTERN OF THAT  
3 THROUGHOUT THE TRIAL. THIS HAS NOT BEEN BROUGHT UP WITH  
4 OTHER WITNESSES.

5 MS. ABRAMSON: IT'S BEEN BROUGHT UP WITH ENOUGH  
6 OF THEM. IT'S IMPROPER.

7 THE COURT: LET'S PROCEED. I DON'T SEE A NEED TO  
8 ADMONISH ANYBODY AT THIS POINT.

9 (THE FOLLOWING PROCEEDINGS WERE HELD  
10 IN OPEN COURT IN THE PRESENCE OF THE  
11 JURY:)

12

13 THE COURT: OKAY. YOUR NEXT QUESTION.

14 Q. BY MS. ABRAMSON: MRS. BARALT, DO YOU

15 REMEMBER WHAT DAY IT WAS THAT ERIK MENENDEZ LEFT THE

16 EAST COAST AND CAME BACK TO CALIFORNIA FOLLOWING THE

17 FUNERAL IN NEW JERSEY?

18 A. I -- BOY, YOU'RE ASKING --

19 Q. WELL, IF YOU DON'T REMEMBER --

20 A. NO. NO. I MAY NOT REMEMBER THE EXACT --

21 THE PRINCETON BURIAL WAS THE 28TH. ERIK LEFT SOMETIME

22 BETWEEN EITHER THE 29TH, THE 30TH, OR THE 1ST.

23 NO, THERE WAS A 31ST.

24 MS. NAJERA: YOUR HONOR, I WOULD OBJECT TO

25 ANYTHING THAT'S SPECULATION OF THE WITNESS.

26 THE WITNESS: YEAH. I DON'T HAVE THE EXACT DATE.

27 THE COURT: ALL RIGHT. THE OBJECTION IS

28 OVERRULED. SHE'S ANSWERED THE QUESTION. SHE REALLY

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1 DOESN'T KNOW THE EXACT DATE.

2 THE WITNESS: YES.

3 Q. BY MS. ABRAMSON: HE REMAINED IN THE

4 PRINCETON AREA FOR SOME DAYS AFTER THE FUNERAL?

5 A. YEAH, SHORT. I REMEMBER IT WAS SHORT.

6 Q. AND WHEN YOU CAME BACK OUT HERE IN MID

7 OCTOBER, THE FAMILY ROOM WAS SET UP EXACTLY AS YOU HAD



8 SEEN IT ON AUGUST 23RD?

9 MS. NAJERA: I AM GOING TO OBJECT AS LEADING.

10 THE COURT: REPHRASE THE QUESTION.

11 Q. BY MS. ABRAMSON: WHEN YOU CAME BACK IN MID  
12 OCTOBER, WAS THE FAMILY ROOM SET UP EXACTLY AS YOU HAD  
13 SEEN IT ON AUGUST 23RD?

14 A. MAINLY, MISS ABRAMSON, BECAUSE MY MOTHER  
15 WAS BACK, AND SHE HAD ADDED PIECES TO WHAT WAS ALREADY  
16 THERE.

17 Q. YOUR MOTHER WAS STAYING IN THE HOME AT THAT  
18 TIME?

19 A. IN THE BEVERLY HILLS HOME, YES.

20 Q. AND SHE HAD ADDED MORE FURNITURE?

21 A. MM-HMM.

22 Q. YES?

23 A. YES.

24 Q. BUT THE FURNITURE YOU HAD SEEN ON AUGUST  
25 23RD WAS ALSO STILL THERE?

26 A. YES.

27 MS. NAJERA: OBJECTION. LEADING.

28 THE COURT: OVERRULED.

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1 Q. BY MS. ABRAMSON: AND WAS THE LIVING ROOM  
2 OF THE HOME FULLY FURNISHED?

3 A. OH, YES.

4 Q. AND THE DINING ROOM WAS FULLY FURNISHED?

5 A. YES.

6 Q. AND THE WOOD-PANELED STUDY WAS FULLY  
7 FURNISHED?

8 A. WHAT DO YOU MEAN THE WOOD-PANELED STUDY?

9 Q. THE LITTLE STUDY AT THE FRONT OF THE HOUSE  
10 WITH THE WOOD WALLS?

11 A. OH, YES. DEFINITELY.

12 MS. ABRAMSON: I HAVE NOTHING FURTHER.

13 THE COURT: ANYTHING ELSE?

14 MS. NAJERA: I HAVE NOTHING, YOUR HONOR.

15 THE COURT: OKAY, THANK YOU. YOU MAY STEP DOWN.  
16 YOU ARE EXCUSED.

17 THE WITNESS: THANK YOU, YOUR HONOR.

18 THE COURT: OKAY. WE WILL TAKE RECESS UNTIL  
19 11:30.

20 (A RECESS WAS TAKEN FROM

21 11:15 A.M UNTIL 11:30 A.M.)

22

23 (THE FOLLOWING PROCEEDINGS WERE HELD

24 OUT OF THE PRESENCE OF THE JURY:)

25

26 THE COURT: ALL RIGHT. WE HAVE THE LAWYERS HERE  
27 WITHOUT THE DEFENDANTS.

28 COUNSEL, WE'RE IN SESSION NOW.

1 DO YOU HAVE ANYMORE WITNESSES TODAY?

2 MS. ABRAMSON: WELL, WE STILL HAVE MR. FENNO

3 COMING IN THIS AFTERNOON, UNLESS WE CALL HIM OFF, YOUR  
4 HONOR.

5 THE COURT: WHY DON'T YOU HAVE HIM COME IN AND WE  
6 CAN DO THAT. I WANT TO DEAL WITH THE JURY SITUATION  
7 THIS AFTERNOON. THEY ALREADY HAVE A LUNCH HERE. WE'LL  
8 KEEP THEM TOGETHER AND DEAL WITH IT THIS AFTERNOON.

9 MS. ABRAMSON: HE WILL BE HERE AT 1:30.

10 THE COURT: AND THEN WE CAN DEAL WITH THAT  
11 DISCOVERY ISSUE THAT YOU HAVE, AS WELL AS IF YOU WANT TO  
12 BE EXCUSED, IF YOU'RE NOT FEELING WELL. THE OTHER  
13 LAWYERS, IF THEY'RE WILLING TO DO THAT, WE CAN DISCUSS  
14 THE EXHIBITS AND RESOLVE THAT.

15 MS. ABRAMSON: I WOULD ASK TO BE EXCUSED FROM THE  
16 EXHIBIT THING SO I CAN GET SOME DROPS, OR I WON'T BE  
17 ABLE TO READ TONIGHT, AND IT'LL MESS UP MY PREPARATION  
18 FOR DR. VICARY TOMORROW.

19 THE COURT: WE CAN DO THOSE THINGS.

20 MS. ABRAMSON: THANK YOU, JUDGE. I APPRECIATE  
21 IT.

22 THE COURT: IF YOU WANT TO DEAL WITH THE  
23 DISCOVERY ISSUE NOW, WE CAN DO THAT.

24 LET'S GET THE JURY EXCUSED UNTIL AFTER  
25 LUNCH. WE CAN DO THAT

26 (BRIEF PAUSE IN PROCEEDINGS)

27

28 THE COURT: OKAY. THE DEFENDANTS ARE BOTH IN

1 COURT, AND WHILE WE'RE WAITING FOR THE JURORS TO LEAVE  
2 FOR THE LUNCH BREAK, WE'LL DEAL WITH THE DISCOVERY  
3 ISSUES.

4 (THE JURY EXITS THE COURTROOM  
5 AND THE FOLLOWING PROCEEDINGS  
6 WERE HELD:)

7

8 THE COURT: OKAY. ON THIS -- WE CAN LET THE  
9 PUBLIC IN.

10 OKAY. WE HAVE THE DEFENDANTS BACK.

11 SO LET'S PICK UP ON THE DISCUSSION  
12 REGARDING CRAIG CIGNARELLI AND THE DEFENSE REQUEST FOR  
13 DISCOVERY.

14 PEOPLE'S RESPONSE?

15 MS. NAJERA: YES, YOUR HONOR.

16 WITH REGARDS TO MR. CIGNARELLI, MY  
17 UNDERSTANDING IS THAT THE PEOPLE DO NOT HAVE TO GIVE  
18 DISCOVERY OF POTENTIAL CROSS-EXAMINATION, AND UNTIL THIS  
19 WITNESS TAKES THE STAND AND WE HAVE AN OPPORTUNITY TO  
20 CROSS-EXAMINE HER, WE WON'T KNOW WHETHER OR NOT WE HAVE  
21 DISCOVERY OF CRAIG CIGNARELLI THAT WE NEED TO TURN OVER.

22 SO I THINK COUNSEL BASICALLY WANTS US TO  
23 IMAGINE A CASE SCENARIO SUCH AS THIS, AND THEN BASICALLY  
24 ANTICIPATE WHETHER OR NOT HER WITNESS WILL COMMIT  
25 PERJURY BY SAYING WHETHER OR NOT -- ACTUALLY, STRIKE

26 THAT. WHETHER OR NOT HER WITNESS IS GOING TO SAY WHAT  
27 CRAIG CIGNARELLI WOULD SAY, AND THEN ANTICIPATE THAT SHE  
28 WOULD SAY SOMETHING DIFFERENT, AND THEN GIVE THEM

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1 DISCOVERY ON THAT.

2       AND I THINK THAT THAT'S NOT THE WAY WE DO  
3 THE RULES OF DISCOVERY. I THINK WE HAVE TO WAIT FOR  
4 THIS WITNESS TO TAKE THE STAND, HEAR WHAT SHE SAYS. IF  
5 SHE SAYS SOMETHING CONTRARY TO WHAT MR. CIGNARELLI SAYS,  
6 AND WE WANT TO CALL MR. CIGNARELLI IN SURREBUTTAL, THEN  
7 WE GIVE THEM DISCOVERY.

8       THE COURT: YOU'RE SAYING YOU HAVEN'T MADE A  
9 DETERMINATION YET AS TO WHETHER YOU INTEND TO CALL  
10 MR. CIGNARELLI?

11       MS. NAJERA: ABSOLUTELY NOT, UNTIL WE HEAR  
12 MS. COHEN.

13       MS. ABRAMSON: EXCUSE ME, YOUR HONOR. WE DID A  
14 HEARING WITH MS. COHEN, AND THE PEOPLE SAID THEY WOULD  
15 CALL MR. CIGNARELLI TO REFUTE THAT, AND I WOULD LIKE TO  
16 HAVE TO KNOW WHAT STATEMENT THEY HAVE OF MR. CIGNARELLI  
17 TO REFUTE IT. THEY ALREADY KNOW WHAT THE WITNESS IS  
18 GOING TO SAY, SINCE WE HAD THE HEARING.

19       MS. NAJERA: WELL --

20       THE COURT: OKAY. MY QUESTION AGAIN IS: IS THE  
21 PROSECUTION INTENDING TO CALL MR. CIGNARELLI?

22 MS. NAJERA: I THINK THERE IS A STRONG  
23 POSSIBILITY OF THAT, YOUR HONOR. BUT UNTIL SHE TAKES  
24 THE STAND AND WE CROSS-EXAMINE HER, I CAN'T SAY FOR  
25 SURE, AND I DON'T THINK IT WOULD BE APPROPRIATE FOR ME  
26 TO SAY FOR SURE.

27 THE COURT: OKAY. WHAT IS THE AUTHORITY FOR THE  
28 DEFENSE REQUEST FOR THIS DISCOVERY BEFORE THE

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1 SURREBUTTAL HAS RESTED?

2 MS. ABRAMSON: WELL, THE SAME AUTHORITY THAT THE  
3 COURT ORDERED US LAST WEEK TO TURN OVER OUR REBUTTAL.

4 THE COURT: THAT WAS AFTER THE PROSECUTION HAD  
5 RESTED.

6 MS. ABRAMSON: WELL, BECAUSE WE'VE ALREADY HAD --

7 THE COURT: YOU HAD RESISTED DOING IT BEFORE  
8 THEN.

9 MS. ABRAMSON: AND YOU ORDERED IT.

10 THE COURT: NO. AFTER THE PEOPLE HAD RESTED,  
11 THAT'S WHEN I ORDERED IT.

12 MS. ABRAMSON: YOUR HONOR, I THINK WE ARE  
13 ENTITLED TO KNOW WHAT MR. CIGNARELLI IS GOING TO MAKE  
14 UP, IF HE'S CALLED TO RE-REBUT THIS WITNESS, BECAUSE THE  
15 THREAT OF THAT WAS BROUGHT TO THIS COURT ON A 402 BASIS.  
16 THEY SOUGHT A RULING FROM THIS COURT.

17 THOSE AREN'T JUST THE STEPS OF TRYING TO

18 MAKE UP YOUR MIND IF YOU'RE GOING TO CALL A WITNESS.  
19 THEY HAVE SOUGHT A RULING. THEY HAVE MADE CERTAIN  
20 REPRESENTATIONS ON THE RECORD AS TO WHAT MR. CIGNARELLI  
21 WOULD SAY.

22 NOW I WANT TO KNOW IF THEY'RE BLUFFING, IF  
23 THEY'RE MAKING IT UP, OR IF -- AND I SHOULD THINK THE  
24 COURT WOULD WANT TO KNOW IF THESE ARE ACTUALLY BASED ON  
25 FACTS BASED ON A CONVERSATION WITH MR. CIGNARELLI, OR IF  
26 THEY ARE BLUFFING AND BULLYING AND MISREPRESENTING TO  
27 THIS COURT, SINCE THEY WENT SO FAR AS TO OBJECT TO A  
28 WITNESS, AND WENT SO FAR AS TO CLAIM WHAT THEY WOULD DO

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1 IN RETALIATION, AND MADE CERTAIN REPRESENTATIONS.

2 I THINK WE ARE ENTITLED TO KNOW IF THOSE  
3 REPRESENTATIONS ARE TRUE OR MANUFACTURED FOR THE PURPOSE  
4 OF KEEPING US FROM CALLING A WITNESS.

5 THE COURT: THE ONLY BASIS FOR THE DEFENSE  
6 KNOWING THIS WOULD BE IF THE PROSECUTION HAS MADE A  
7 DECISION TO CALL THE WITNESS IN REBUTTAL TO WHAT IT IS  
8 THAT THE DEFENSE IS PRESENTING HERE, AND NOT ON THESE  
9 OTHER ARGUMENTS THAT YOU PUT FORWARD.

10 MS. ABRAMSON: WELL, THE PROSECUTION --

11 THE COURT: THAT'S REALLY THE ONLY ISSUE. AND IN  
12 THE HEARING THIS MORNING IT WAS BROUGHT TO THE COURT'S  
13 ATTENTION THAT THE PEOPLE HAD CROSS-EXAMINED THIS

14 WITNESS ALONG THESE LINES IN 1993, SO IT WAS CLEAR THAT  
15 THE PEOPLE HAD SOME POSITION THAT THIS IS OR WAS THE  
16 NATURE OF THE CONVERSATION THAT ACTUALLY OCCURRED  
17 BETWEEN THE WITNESS AND CIGNARELLI. THEY ASKED THOSE  
18 QUESTIONS IN '93.

19 SO IT'S NOT SOMETHING THAT HAS JUST  
20 MATERIALIZED, BUT THEY QUESTIONED HER ALONG THOSE LINES.

21 MS. ABRAMSON: WELL THEN, WE SHOULD HAVE GOTTEN  
22 DISCOVERY OF MR. CIGNARELLI'S STATEMENT BACK IN '93,  
23 SINCE HE IS A WITNESS THAT THEY DID IN FACT CALL IN  
24 THEIR CASE, AND THEREFORE, THEY'VE BEEN CONCEALING THIS  
25 STATEMENT ALL THIS TIME.

26 AND MOREOVER, YOUR HONOR, THEY MADE A  
27 MOTION, OFT REPEATED, TO TRY AND BRING THE SCREENPLAY  
28 EVIDENCE IN FROM MR. CIGNARELLI, AND ONE WOULD THINK IF

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1 THEY HAD THIS INFORMATION ABOUT HIS WORKING WITH ERIK  
2 MENENDEZ ON A SCREENPLAY IN OCTOBER OF '89, IT WOULD  
3 HAVE BEEN INCLUDED IN THE MANY, MANY POLICE REPORTS,  
4 INTERVIEWS, OR COUNSEL INTERVIEWS THAT HAVE BEEN  
5 CONDUCTED WITH MR. CIGNARELLI.

6 THE ABSENCE OF SUCH INFORMATION TELLS ME  
7 THAT THE PEOPLE ARE MISREPRESENTING TO THE COURT --  
8 EITHER MISREPRESENTING TO THE COURT INFORMATION THEY  
9 HAVE, OR INTEND TO SUGGEST TO MR. CIGNARELLI WHAT TO



10 SAY, WHICH I BELIEVE IS MORE LIKELY THAN IN FACT THEY  
11 ACTUALLY HAVE SUCH A STATEMENT FROM HIM, SINCE SUCH A  
12 STATEMENT WOULD BE CONTRARY TO WHAT HE HIMSELF SAYS IN  
13 THE STATEMENT OF OCTOBER 29.

14 THE FACT IS THIS ISN'T A GAME, AND BEYOND  
15 THAT, IT ENCOMPASSES ONE OTHER COMPONENT.

16 THE COURT: OKAY.

17 MS. ABRAMSON: THAT IF HE'S WORKING WITH MY  
18 CLIENT, THAT IS AN AREA HAVING TO DO WITH STATEMENTS  
19 THAT MAY OR MAY NOT HAVE BEEN MADE BY MY CLIENT, AND THE  
20 PEOPLE ALWAYS HAVE AN OBLIGATION TO TURN THAT OVER AT  
21 ANY STAGE OF THE PROCEEDINGS AND DURING PRETRIAL.

22 THE COURT: THAT IS TRUE. IF THERE IS ANY  
23 STATEMENT OF MR. CIGNARELLI THAT HAS NOT YET BEEN TURNED  
24 OVER THAT RELATES TO CONVERSATIONS WITH THE DEFENDANT,  
25 THEN THEY ARE SUBJECT TO DISCLOSURE, AND SHOULD HAVE  
26 ALREADY BEEN TURNED OVER TO THE DEFENSE.

27 SO ARE THERE, IN THE MATERIALS THAT YOU  
28 HAVE BEEN REFERRING TO, MS. NAJERA, ANY SUCH MATERIALS

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1 THAT RELATE TO STATEMENTS MADE BY ERIK MENENDEZ?

2 MS. NAJERA: NO, YOUR HONOR.

3 THE COURT: OKAY. WHAT I WILL ORDER THEN IS  
4 SINCE THERE IS THIS ALLEGATION THAT THE PROSECUTION IS  
5 NOT ACTING IN GOOD FAITH AND IS DOING THIS IN SOME

6 FASHION JUST TO FORESTALL THE DEFENSE FROM CALLING THIS  
7 WITNESS, IS ORDER THAT THE PROSECUTION PROVIDE TO THE  
8 COURT ANY CONVERSATION THAT SUPPORTS THEIR POSITION THAT  
9 THEY WOULD CALL MR. CIGNARELLI.

10 AND IN THAT FASHION THEN THE PROSECUTION  
11 DOES NOT HAVE TO DISCLOSE TO THE WITNESS WHO HAS YET TO  
12 TESTIFY FULLY ON THIS SUBJECT, THE WITNESS BEING  
13 MRS. COHEN, WHAT IT IS THEY WOULD BE WILLING TO IMPEACH  
14 THE WITNESS, AND THEN WE'LL PROCEED FURTHER AFTER THAT  
15 HAS BEEN PRESENTED TO THE COURT.

16 ALL RIGHT. WE'LL BE IN RECESS ON THIS  
17 SUBJECT UNTIL 1:30.

18 AND THERE IS AN ADDITIONAL WITNESS COMING  
19 IN THIS AFTERNOON, MR. FENNO.

20 MS. NAJERA: YOUR HONOR, WITH REGARDS TO  
21 MR. FENNO.

22 BEFORE WE BREAK, I HAD ASKED COUNSEL ABOUT  
23 DISCOVERY OF MR. FENNO, AND THEY REFERRED ME TO  
24 MR. FENNO'S TESTIMONY, WHICH I THEN READ, AND STATED  
25 THAT MR. FENNO WOULD BE TESTIFYING TO CONVERSATIONS WITH  
26 JAMIE PISARCIK, POSSIBLY WHERE HIS ROOM WAS AND  
27 SOMETHING ABOUT THE CHRISTMAS PARTY.

28 HOWEVER, THEY NEVER TOLD ME WHAT EXACTLY

2 GOING TO SAY ABOUT THE CHRISTMAS PARTY, AND WHAT HE'S

3 GOING TO SAY ABOUT WHERE HIS ROOM WAS.

4 NOW, HIS PRIOR TESTIMONY DOES ENCOMPASS

5 WHERE HIS ROOM WAS, BUT IT DOESN'T ENCOMPASS THE OTHER

6 TWO SUBJECTS, AND I DON'T KNOW WHAT HE'S GOING TO

7 TESTIFY TO.

8 MS. ABRAMSON: WHATEVER WE TOLD HER HAS TO DO

9 WITH CONVERSATIONS WITH MS. PISARCIK, IT'S CONTAINED IN

10 HIS TESTIMONY ABOUT WHERE HE LEFT CALIFORNIA.

11 THE COURT: YOU DON'T HAVE TO BE SPECIFIC, BUT

12 WHAT YOU'RE SAYING IS EVERYTHING HE WILL SAY IS

13 CONTAINED IN HIS TESTIMONY IN THE FIRST TRIAL?

14 MS. ABRAMSON: THAT'S CORRECT.

15 MS. NAJERA: THEN, YOUR HONOR, THERE IS NOTHING I

16 CAN SEE IN THAT TESTIMONY THAT IS REBUTTAL. THAT'S THE

17 PROBLEM. I WENT THROUGH MISS PISARCIK'S TESTIMONY VERY

18 CAREFULLY, AND I CAN CITE THE COURT TO WHERE SHE

19 REFERRED TO MISS PISARCIK.

20 AND I READ MR. FENNO'S TESTIMONY, AND THERE

21 IS NOTHING THAT IS REBUTTAL THERE.

22 MS. ABRAMSON: IT'S IN HIS PRIOR STATEMENTS.

23 THE COURT: NOW YOU'RE GOING TO HIS PRIOR

24 STATEMENTS.

25 MS. NAJERA: THIS IS WHAT THEY TOLD ME WAS

26 DISCOVERY OF HIM.

27 THE COURT: SINCE THERE IS A DISPUTE ABOUT

28 WHETHER THIS WOULD PROPERLY BE REBUTTAL --

1 MS. ABRAMSON: TAKE A LOOK AT 19,951. CHRISTMAS  
2 PARTY. IT TOOK PLACE AFTER HE LEFT.

3 MS. NAJERA: THAT DOES NOT REBUT MS. PISARCIK.

4 MS. ABRAMSON: AND MS. PISARCIK SAID SHE THOUGHT  
5 SHE TALKED TO MR. FENNO THE DAY THAT SHE WALKED OVER  
6 UNBIDDEN TO ERIK MENENDEZ' ROOM, AND WE WANT TO SHOW HE  
7 IS LONG GONE.

8 MS. NAJERA: YOUR HONOR, THEREIN LIES THE REASON  
9 I WANT TO BRING THIS TO THE COURT'S ATTENTION. THAT'S  
10 EXACTLY WHAT I THOUGHT COUNSEL WAS DOING.

11 I WENT THROUGH MISS PISARCIK'S TESTIMONY  
12 VERY CAREFULLY. SHE SAID SHE MAY OR MAY NOT HAVE HAD A  
13 CONVERSATION WITH MR. FENNO, AND THAT WAS NOT TIED INTO  
14 THE CHRISTMAS PARTY OR ANYTHING LIKE THAT.

15 NOW THEY WANT TO SOMEHOW MAKE A LEAP THAT  
16 SINCE MR. FENNO WAS NOT AT THE CHRISTMAS PARTY IT  
17 IMPEACHES MS. PISARCIK, AND IT DOESN'T.

18 THE COURT: IT RELATES TO THE SAME SUBJECT  
19 MATTER, AND CERTAINLY THE DEFENSE CAN PUT ON EVIDENCE  
20 THAT MR. FENNO WASN'T THERE, AND IT CERTAINLY RELATES TO  
21 PISARCIK'S TESTIMONY THAT HE WAS THERE.

22 SO HE MIGHT HAVE BEEN THERE OR HE MIGHT NOT  
23 HAVE BEEN THERE. IF HE SAYS HE WASN'T THERE, THAT  
24 CERTAINLY ELIMINATES HER TESTIMONY THAT HE MIGHT HAVE  
25 BEEN THERE. THEY CAN CERTAINLY PUT THAT ON WITH RESPECT  
26 TO REBUTTAL.

27 MS. NAJERA: OKAY.

28 THE COURT: WHAT ELSE IS IT YOU'RE OBJECTING TO?

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1 MS. ABRAMSON: WITH RESPECT TO MR. FENNO, THE  
2 FACT THAT HE WAS NOT AWARE THAT LYLE MENENDEZ WORE A  
3 HAIRPIECE, AND ERIK MENENDEZ NEVER MENTIONED IT TO HIM.

4 THE FACT THAT HE DOES NOT BELIEVE THAT ERIK  
5 OR LYLE MENENDEZ HAD KEYS TO THE HOUSE, HE USED A COMMON  
6 KEY FROM THE HALLWAY.

7 THE FACT THAT HE OVERHEARD MR. MENENDEZ  
8 THREATENING TO KILL CRAIG CIGNARELLI, AND ERIK MENENDEZ  
9 TOLD HIM THAT THE REASON WHY HIS FATHER WAS ANGRY AT  
10 CRAIG WAS BECAUSE CRAIG WAS RESPONSIBLE FOR THE  
11 CALABASAS BURGLARIES, GOT ERIK INVOLVED IN THEM. THAT'S  
12 WHY.

13 AND THIS IS TO IMPEACH -- THAT IS TO SHOW A  
14 PRIOR CONSISTENT STATEMENT BY ERIK MENENDEZ AND TO  
15 IMPEACH CRAIG CIGNARELLI.

16 THE COURT: AND WHAT IS THE PEOPLE'S RESPONSE?

17 MS. NAJERA: YOUR HONOR, WITH REGARDS TO WHETHER  
18 OR NOT HE WAS AWARE THAT LYLE MENENDEZ WORE A HAIRPIECE  
19 AND THAT ERIK HAD NEVER TOLD HIM THAT, THAT DOES NOT  
20 IMPEACH ANYTHING ANYONE HAS SAID IN THIS TRIAL. THAT  
21 JUST DOESN'T.

22 AS TO WHETHER OR NOT THEY HAD KEYS TO ENTER

23 THE HOUSE, ONCE AGAIN, THAT DOESN'T -- MY UNDERSTANDING  
24 IS SURREBUTTAL GOES TO WHAT WAS PUT ON IN OUR REBUTTAL  
25 CASE, AND THERE IS NOTHING IN OUR REBUTTAL CASE THAT  
26 TOUCHES ON THESE TWO TOPICS.

27 THE COURT: CERTAINLY THE AWARENESS OR LACK OF  
28 AWARENESS OF THE HAIRPIECE WAS SOMETHING THAT WAS

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1 BROUGHT OUT BY THE PROSECUTION IN THEIR REBUTTAL PHASE  
2 THROUGH PISARCIK.

3 MS. NAJERA: TRUE, YOUR HONOR. BUT SHE  
4 TESTIFIED -- I MEAN, THIS IS APPLES AND ORANGES. WHAT  
5 HE IS GOING TO TESTIFY TO IS THAT HE WAS NOT AWARE THAT  
6 LYLE MENENDEZ WORE A HAIRPIECE, AND THAT ERIK NEVER TOLD  
7 HIM HE DID.

8 WE NEVER PUT IN OUR REBUTTAL CASE THAT ERIK  
9 MENENDEZ TOLD HIM THAT HE WORE A HAIRPIECE. WE PUT IN  
10 OUR REBUTTAL CASE THAT HE SPOKE TO JAMIE PISARCIK ABOUT  
11 IT.

12 THE COURT: IT CAN'T BE QUITE THAT LIMITED. THE  
13 FOCUS OF THIS IS JUST TO PRECISELY WHAT ONE WITNESS SAID  
14 AND NOTHING FURTHER. IT'S CERTAINLY THE SAME SUBJECT.

15 MS. NAJERA: MY UNDERSTANDING OF SURREBUTTAL WAS  
16 IT WAS SUPPOSED TO BE THAT LIMITED, BUT IN ANY EVENT --

17 THE COURT: IT IS LIMITED. I DON'T RECALL  
18 ANYTHING ABOUT KEYS IN THE PEOPLE'S REBUTTAL.

19 MS. NAJERA: THERE WAS NOTHING.

20 THE COURT: SO I DON'T SEE ANYTHING THERE ON

21 REBUTTAL.

22 AND AS FAR AS THE THREAT THAT WAS BROUGHT

23 OUT THROUGH THE TESTIMONY OF MR. CIGNARELLI THAT THERE

24 WAS SUCH A THREAT, IT WASN'T THERE.

25 SO WHAT DOES THIS PROVE?

26 MS. ABRAMSON: WELL, THIS PROVES THAT

27 MR. CIGNARELLI IS LYING WHEN HE CLAIMS THAT HE HAD

28 NOTHING TO DO WITH THE LIST BURGLARY, HE WAS JUST

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1 WATCHING, AND IT'S VERY OBVIOUS, AND IT'S A PRIOR

2 CONSISTENT -- WHICH WAS BROUGHT OUT TO IMPEACH ERIK

3 MENENDEZ, SAYING THAT HE WAS INVOLVED IN IT -- AND THIS

4 IS A PRIOR CONSISTENT STATEMENT OF ERIK MENENDEZ THAT

5 CRAIG CIGNARELLI WAS INVOLVED IN THE BURGLARY, AND IT

6 WAS -- IT'S AS RELIABLE A PRIOR CONSISTENT STATEMENT AS

7 YOU CAN GET, SINCE IT'S BEFORE THE HOMICIDES.

8 THE COURT: ALL RIGHT. BUT WHAT IS IT REBUTTING?

9 MS. ABRAMSON: IT'S REBUTTING CIGNARELLI'S CLAIM

10 THAT HE WAS -- IT'S REBUTTING CRAIG CIGNARELLI'S

11 REBUTTING OF ERIK MENENDEZ' STATEMENT THAT HE, CRAIG

12 CIGNARELLI, WAS A PARTICIPANT IN THE BURGLARIES.

13 THE COURT: THIS IS JUST THE HEARSAY STATEMENT OF

14 ERIK MENENDEZ. IT DOESN'T PROVE OR DISPROVE THAT

15 CIGNARELLI WAS OR WASN'T INVOLVED IN THE BURGLARIES.

16 MS. ABRAMSON: BUT CIGNARELLI WAS PUT ON TO

17 IMPEACH ERIK MENENDEZ, AND THIS IS A PRIOR CONSISTENT

18 STATEMENT WITH WHICH I CAN REHABILITATE ERIK MENENDEZ.

19 THAT'S WHAT IT'S FOR.

20 THE COURT: WHAT IS THE PEOPLE'S RESPONSE TO

21 THAT?

22 MS. NAJERA: YOUR HONOR, I THINK THAT IF THIS

23 WERE A STATEMENT OF CRAIG CIGNARELLI TELLING ED FENNO

24 THAT HE WAS INVOLVED IN THE BURGLARIES, THEN COUNSEL'S

25 ARGUMENT WOULD FALL INTO PLACE, AND THAT WOULD BE

26 ABSOLUTELY APPROPRIATE.

27 BUT WHAT THIS IS IS ERIK MENENDEZ TELLING

28 HIM A HEARSAY STATEMENT THAT CRAIG CIGNARELLI WAS

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1 INVOLVED IN THE BURGLARIES, AND I DON'T THINK THAT YOU

2 CAN CORROBORATE SOMEONE WITH SOMEONE ELSE'S HEARSAY

3 STATEMENT ABOUT WHAT THEY SAID.

4 BASICALLY WHAT HE'S DOING IS CORROBORATING

5 THAT CRAIG CIGNARELLI WAS INVOLVED IN THE BURGLARIES

6 WITH ERIK MENENDEZ' HEARSAY STATEMENT.

7 ERIK MENENDEZ HAS ALREADY STATED THIS. I

8 DON'T THINK THAT BECAUSE HE TOLD MR. FENNO IN THE PAST

9 THAT SOMEHOW THAT MAKES IT LESS HEARSAY. I MEAN, IT IS

10 HEARSAY, AND I DON'T SEE HOW YOU CAN GET AROUND THAT.



11 MS. ABRAMSON: IT'S CALLED AN EXCEPTION TO THE  
12 HEARSAY RULE.

13 MS. NAJERA: IT DOES NOT IMPEACH MR. CIGNARELLI,  
14 IS THE PROBLEM. IT'S NOT MR. CIGNARELLI SAYING "I WAS  
15 INVOLVED IN THE BURGLARIES".

16 MS. ABRAMSON: IT IS AN EXCEPTION TO THE HEARSAY  
17 RULE CALLED PRIOR CONSISTENT STATEMENT. THE PEOPLE  
18 CHOSE TO ELICIT FROM MR. CIGNARELLI THAT HE WAS NOT  
19 INVOLVED IN THE BURGLARIES, AND THEREFORE WE HAVE A  
20 RIGHT TO REHABILITATE ERIK MENENDEZ' TESTIMONY.

21 THE COURT: WELL, IF THEY HAD PUT ON EVIDENCE OF  
22 A PRIOR INCONSISTENT STATEMENT OF ERIK MENENDEZ, THEN  
23 YOU WOULD BE ABLE TO PUT ON A PRIOR CONSISTENT STATEMENT  
24 OF ERIK MENENDEZ.

25 MS. ABRAMSON: I DON'T THINK THAT'S THE ONLY WAY  
26 ONE CAN USE THE PRIOR CONSISTENT STATEMENT. THAT IS A  
27 GENERAL ATTACK ON CREDIBILITY. THAT IS AN ATTACK ON  
28 CREDIBILITY. ONCE CREDIBILITY IS ATTACKED, IF I READ

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1 THE EVIDENCE CODE CORRECTLY, ONE CAN BRING IN PRIOR  
2 CONSISTENT STATEMENTS TO REHABILITATE. IT'S ONLY ONE  
3 METHOD OF REHABILITATING AND ATTACKING A PRIOR  
4 INCONSISTENT STATEMENT. IT IS A TYPE OF ATTACK.

5 I DON'T SEE ANYTHING THAT HELPS NOR KEEPS  
6 US FROM USING A PRIOR CONSISTENT STATEMENT TO

7 REHABILITATE.

8 MS. TOWERY: JUST REFERRING, YOUR HONOR, TO  
9 971(B), WHICH STATES THAT A PRIOR CONSISTENT STATEMENT  
10 OF A WITNESS MAY BE ADMISSIBLE UNDER THE HEARSAY RULE IF  
11 AN EXPRESS OR IMPLIED CHARGE HAS BEEN MADE THAT HIS  
12 TESTIMONY AT THE HEARING IS RECENTLY FABRICATED OR  
13 INFLUENCED BY BIAS OR IMPROPER MOTIVE, AND THE STATEMENT  
14 WAS MADE BEFORE THE BIAS, MOTIVE OR FABRICATION OR OTHER  
15 IMPROPER MOTIVE IS ALLEGED TO HAVE ARISEN.

16 I THINK THAT'S THE EXCEPTION THAT  
17 MS. ABRAMSON IS REFERRING TO.

18 MS. ABRAMSON: RIGHT.

19 MS. NAJERA: AND IT SEEMS LIKE THAT, IF THAT WERE  
20 EVEN AN ARGUMENT THAT WERE APPROPRIATE, WOULD HAVE BEEN  
21 AN ARGUMENT FOR PUTTING IT ON IN THE DEFENSE, AND I  
22 THINK WE'D STILL OBJECT THEN. BUT CLEARLY IT'S NOT  
23 SURREBUTTAL.

24 THE COURT: THAT IS REALLY THE FOCUS HERE, IS  
25 WHETHER THIS AREA HAS BEEN OPENED UP TO REHABILITATION  
26 OF THE CREDIBILITY OF ERIK MENENDEZ ON THIS SUBJECT  
27 THROUGH A PRIOR CONSISTENT STATEMENT.

28 MS. ABRAMSON: WELL, CIGNARELLI WAS CALLED SOLELY

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1 FOR THE PURPOSE OF ATTACKING ERIK MENENDEZ' CREDIBILITY.  
2 HE OBVIOUSLY HAS NO PERCIPIENT INFORMATION ABOUT

3 ANYTHING HAVING TO DO WITH THIS CASE. HE WAS CALLED  
4 SPECIFICALLY FOR THAT PURPOSE.

5 THE COURT: AND AGAIN, FENNO WOULD SAY THAT YOUR  
6 CLIENT TOLD HIM WHAT?

7 MS. ABRAMSON: THAT THE NIGHT -- THE NIGHT OF THE  
8 EPISODE WHERE MR. MENENDEZ THREATENED TO KILL CRAIG  
9 CIGNARELLI, HE WOULD SAY THAT MY CLIENT -- HE TESTIFIED  
10 TO THIS IN THE LAST TRIAL, I WOULD POINT OUT, YOUR  
11 HONOR, AT PAGE 20,037, AND I WILL READ IT TO THE COURT.  
12 IT WAS VERY BRIEF.

13 THE QUESTION WAS:

14 "QUESTION: MR. FENNO, RETURNING  
15 YOUR ATTENTION TO THE NIGHT THAT  
16 MR. MENENDEZ THREATENED TO KILL CRAIG  
17 CIGNARELLI, DID YOU ASK ERIK WHAT THAT WAS  
18 ABOUT, WHY HIS FATHER WANTED TO KILL CRAIG  
19 CIGNARELLI?

20 "ANSWER: YES.

21 "QUESTION: AND WHAT DID ERIK TELL  
22 YOU?

23 "ANSWER: HE TOLD ME THAT CRAIG HAD  
24 BEEN THE PERSON WHO HAD MADE HIM JOIN THE  
25 ROBBERIES THAT WERE GOING ON IN CALABASAS,  
26 AND THAT MR. MENENDEZ DIDN'T WANT HIM  
27 AROUND."

28 THE COURT: OKAY. ALL RIGHT.

1 I WILL REVIEW THAT, AND THE PARTICULAR  
2 TESTIMONY OF YOUR CLIENT THAT YOU'RE REFERRING TO IS HIS  
3 STATEMENT THAT CIGNARELLI WAS INVOLVED IN THAT BURGLARY?

4 MS. ABRAMSON: YES.

5 THE COURT: AND ANYTHING FURTHER FROM THE  
6 PROSECUTION?

7 MS. NAJERA: NO, YOUR HONOR.

8 THE COURT: OKAY. I WILL REVIEW THAT PARTICULAR  
9 PASSAGE. IT DOES BRING IN AN ADDITIONAL FEATURE HERE IN  
10 THAT IT RELATES TO NOT JUST WHAT THE DEFENDANT SAID TO  
11 MR. FENNO, BUT THE DEFENDANT'S RELATING HIS IMPRESSION  
12 OR UNDERSTANDING OF WHAT IT WAS THAT MOTIVATED HIS  
13 FATHER.

14 MS. ABRAMSON: WE CAN LIMIT THAT. THAT'S NOT THE  
15 PART THAT MATTERS TO ME, YOUR HONOR.

16 MS. NAJERA: WELL, I THINK UNDER 352 YOU'VE GOT A  
17 REAL PREJUDICE PROBLEM AS WELL, AS WELL AS ALL THE HOST  
18 OF OTHER PROBLEMS YOU'VE RAISED THAT DEAL WITH  
19 ADMISSIBILITY OF THIS PARTICULAR PASSAGE.

20 THE COURT: OKAY. WE WILL BE IN RECESS UNTIL  
21 1:30.

22 MS. NAJERA: THANK YOU, YOUR HONOR.

23 (AT 12:05 P.M. PROCEEDINGS WERE  
24 ADJOURNED UNTIL 1:30 P.M. OF THE  
25 SAME DAY)

1 VAN NUYS, CALIFORNIA; TUESDAY, FEBRUARY 13, 1996

2 1:50 P.M.

3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6

7 (THE FOLLOWING PROCEEDINGS WERE

8 HELD OUT OF THE PRESENCE OF

9 THE JURY:)

10

11 THE COURT: ALL RIGHT. IN THE TRIAL, THE

12 DEFENDANTS ARE IN COURT WITH THEIR LAWYERS. THE PEOPLE

13 ARE HERE. THE JURY IS NOT.

14 DO WE HAVE MR. FENNO HERE?

15 MS. ABRAMSON: YES.

16 THE COURT: I HAVE REVIEWED HIS TESTIMONY FROM

17 THE FIRST TRIAL, AND CONSIDERED THE ARGUMENTS OF THE

18 LAWYERS. AND AS I UNDERSTAND IT, THE RELATIONSHIP TO

19 THE CONVERSATION WITH THE DEFENDANT, THE PURPOSE IS TO

20 INTRODUCE A PRIOR CONSISTENT STATEMENT; IS THAT THE

21 PURPOSE OF THAT?

22 MS. ABRAMSON: YES.

23 THE COURT: AND AS I RECALL, THERE IS NO DISPUTE

24 IN MR. CIGNARELLI'S TESTIMONY ABOUT THE INCIDENT

25 INVOLVING HIMSELF AND MR. MENENDEZ.

26 MS. ABRAMSON: THAT'S NOT TRUE. HE DENIED THAT

27 HE HAD ANYTHING TO DO WITH THEFT.

28 THE COURT: NO, NO. I AM NOT TALKING ABOUT THAT.

1 I AM TALKING ABOUT THE INCIDENT.

2 MS. ABRAMSON: THAT'S RIGHT.

3 THE COURT: SO THAT REALLY IS NOT SUBJECT TO  
4 REBUTTAL AT THIS POINT.

5 MS. ABRAMSON: I WASN'T GOING TO HAVE HIM  
6 DESCRIBE IT, I WAS ONLY GOING TO HAVE HIM USE IT AS  
7 FRAMEWORK FOR THE CONVERSATION.

8 THE COURT: MY SUGGESTION THEN IS THAT YOU  
9 PINPOINT THE WITNESS TO AN ACTUAL CONVERSATION WITH THE  
10 DEFENDANT ABOUT THE BURGLARIES AND MR. CIGNARELLI,  
11 WITHOUT REFERENCE TO THE INCIDENT OR ANYTHING TO DO WITH  
12 WHAT YOUR CLIENT ATTRIBUTED TO THE MENTAL PROCESS OF  
13 JOSE MENENDEZ. IT WOULD BE HEARSAY.

14 MS. ABRAMSON: HERE'S WHAT I WOULD DO, SEE IF  
15 IT'S SATISFACTORY WITH THE COURT. AND MR. FENNO IS HERE  
16 NOW, SO I HOPE HE'S LISTENING.

17 I WOULD ASK MR. FENNO IF THERE WAS A  
18 PARTICULAR NIGHT WHEN HE WAS STAYING AT THE MENENDEZ  
19 HOME WHEN HE SAW CRAIG CIGNARELLI AT THE HOME. I WOULD  
20 ASK HIM IF HE THEN HAD A CONVERSATION FOLLOWING THAT  
21 WITH ERIK MENENDEZ CONCERNING CRAIG CIGNARELLI. AND  
22 THEN I WOULD ASK HIM TO TELL US WHAT ERIK MENENDEZ SAID  
23 ABOUT CRAIG CIGNARELLI, AND I WOULD EXPECT THE WITNESS  
24 TO SAY WHAT HE TESTIFIED TO IN THE LAST TRIAL, THAT ERIK  
25 MENENDEZ TOLD HIM THAT CRAIG CIGNARELLI HAD GOTTEN HIM,

26 ERIK MENENDEZ, INVOLVED IN THE BURGLARIES OR ROBBERIES.

27 I AM GOING TO HAVE THE WITNESS INDICATE

28 DURING WHAT PERIODS -- FOR THE OTHER PURPOSES OF HIS

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1 BEING RECALLED, I AM GOING TO BE ASKING HIM DURING WHAT

2 TIME PERIODS HE STAYED AT THE MENENDEZ HOME, AND THAT

3 THIS WAS PRIOR TO THE DEATH OF THE MENENDEZ PARENTS.

4 THE COURT: OKAY.

5 BUT MR. FENNO SHOULD UNDERSTAND THAT YOU

6 ARE NOT TO REFER TO OBSERVING THIS INCIDENT INVOLVING

7 MR. MENENDEZ AND MR. CIGNARELLI, SINCE IT'S NOT WITHIN

8 THE SCOPE OF YOUR EXAMINATION. IT'S ALREADY BEEN

9 TESTIFIED ABOUT, AND THERE IS NO DISPUTE ABOUT IT.

10 MS. ABRAMSON: RIGHT.

11 THE COURT: SECONDLY, DO NOT RELATE WHAT IT WAS

12 THAT ERIK MENENDEZ TOLD YOU AS TO WHAT MOTIVATED HIS

13 FATHER IN THAT INCIDENT, BECAUSE THAT WOULD BE JUST HIS

14 CONCLUSION. ALL WE'RE INTERESTED IN IS WHAT THE

15 DEFENDANT SAID TO YOU ABOUT CIGNARELLI'S INVOLVEMENT IN

16 THE BURGLARIES, IF ANYTHING.

17 DO YOU UNDERSTAND THAT?

18 THE WITNESS: YES, SIR.

19 THE COURT: ALL RIGHT.

20 THEN WE'LL PROCEED WITH THE TESTIMONY.

21 MS. NAJERA: YOUR HONOR, COULD THERE BE A

22 LIMITING INSTRUCTION AS TO THAT AREA THAT IT DOESN'T GO  
23 TO THE TRUTH OF THE MATTER ASSERTED?  
24 MS. ABRAMSON: YES, IT DOES.  
25 THE COURT: UNDER GREENE.  
26 MS. NAJERA: THEN WE NEED TO BE HEARD.  
27 MS. ABRAMSON: GREENE, SURE IT DOES.  
28 THE COURT: WHAT IS YOUR AUTHORITY?

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1 MS. NAJERA: A HEARSAY STATEMENT, SO IT SHOULDN'T  
2 GO --  
3 THE COURT: PRIOR INCONSISTENT STATEMENTS.  
4 (THE JURY ENTERS THE COURTROOM  
5 AND THE FOLLOWING PROCEEDINGS  
6 WERE HELD:)  
7  
8 THE COURT: OKAY, WE HAVE THE JURY BACK. WE WILL  
9 NOW RESUME WITH THE NEXT WITNESS, AND THE DEFENSE MAY  
10 CALL THAT WITNESS.  
11 MS. ABRAMSON: YES, YOUR HONOR. WE CALL ED FENNO  
12 BACK.  
13  
14 EDWARD FENNO,  
15 CALLED AS A WITNESS BY THE DEFENSE, WAS SWORN AND  
16 TESTIFIED AS FOLLOWS:  
17 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE



18 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
19 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
20 NOTHING BUT THE TRUTH, SO HELP YOU GOD.

21 THE WITNESS: I DO.

22 THE CLERK: PLEASE BE SEATED AND STATE YOUR NAME  
23 FOR THE RECORD.

24 THE WITNESS: EDWARD FENNO, F LIKE FRANK,  
25 E-N-N-O.

26 THE COURT: OKAY.

27 MS. ABRAMSON: THANK YOU, YOUR HONOR.

28

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1 DIRECT EXAMINATION

2 BY MS. ABRAMSON:

3 Q. MR. FENNO, I WANT TO REFER BACK TO YOUR  
4 PREVIOUS TESTIMONY IN THIS TRIAL.

5 YOU CAME TO LIVE IN CALIFORNIA WITH THE  
6 MENENDEZ FAMILY IN APPROXIMATELY MID OCTOBER OF 1988?

7 A. MID SEPTEMBER I CAME TO CALIFORNIA.

8 Q. OKAY. AND YOU REMAINED IN RESIDENCE WITH  
9 THE MENENDEZ FAMILY WHEN THEY MOVED TO THE BEVERLY HILLS  
10 HOUSE, CORRECT?

11 A. YES.

12 Q. AND DO YOU REMEMBER THAT THAT WAS ON OR  
13 ABOUT OCTOBER 8TH, 1988?

14 A. IT WAS MID OCTOBER, YES.

15 Q. AND YOU REMAINED IN RESIDENCE AT THE  
16 MENENDEZ HOUSE, DID YOU NOT, UNTIL MID DECEMBER?

17 A. YES.

18 Q. AND IN THE MIDDLE OF DECEMBER, DID YOU GO  
19 BACK EAST TO BOSTON FOR THE HOLIDAYS?

20 A. YES.

21 Q. AND DID YOU REMAIN AWAY FROM THE MENENDEZ  
22 HOME FOR A PERIOD OF TWO TO THREE WEEKS?

23 A. YES.

24 Q. AND WHEN YOU CAME BACK TO THE MENENDEZ  
25 HOME, I TAKE IT THAT WAS IN EARLY JANUARY?

26 A. YES.

27 Q. AND WHEN YOU CAME BACK IN EARLY JANUARY,  
28 DID YOU OBSERVE EXTENSIVE CHRISTMAS DECORATIONS AT THE

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1 MENENDEZ HOME?

2 A. YES.

3 Q. AND DID YOU OBSERVE A LARGE CHRISTMAS TREE  
4 THERE?

5 A. YES.

6 Q. AND WAS YOUR UNDERSTANDING THAT IN YOUR --  
7 WELL, LET ME STRIKE THAT.

8 DURING THE TIME YOU WERE IN THE MENENDEZ  
9 HOME BEFORE YOU WENT BACK EAST FOR CHRISTMAS, WAS THERE

10 A LARGE CHRISTMAS PARTY?

11 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

12 MS. ABRAMSON: HE WAS THERE.

13 THE COURT: WELL, WHY DON'T YOU PHRASE IT THAT  
14 WAY.

15 Q. BY MS. ABRAMSON: WHILE YOU WERE LIVING  
16 THERE -- FIRST OF ALL, DID YOU SEE THE DECORATIONS  
17 BEFORE YOU LEFT FOR YOUR CHRISTMAS VACATION?

18 A. I DON'T THINK SO.

19 Q. AND DID YOU SEE THEM HAVING A LARGE  
20 CHRISTMAS PARTY BEFORE YOU LEFT?

21 A. NO.

22 Q. WHEN YOU CAME BACK, HOWEVER, THE  
23 DECORATIONS WERE THERE?

24 A. YES.

25 Q. NOW, WHEN YOU CAME BACK IN JANUARY, HAD  
26 LYLE MENENDEZ ALREADY LEFT TO RESUME HIS STUDIES AT  
27 PRINCETON UNIVERSITY?

28 A. I REMEMBER HIM BEING IN AND OUT AT THAT

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1 TIME. STUDIES AT PRINCETON DON'T START UNTIL FEBRUARY.

2 Q. SO YOU THINK HE WAS STILL LIVING AT THE  
3 BEVERLY HILLS HOME IN JANUARY OF 1989?

4 A. I THINK HE WAS THERE AT LEAST SOME OF THAT  
5 TIME.

6 Q. NOW, BEFORE YOU LEFT TO GO HOME TO BOSTON  
7 FOR THE HOLIDAYS, DID YOU ASK ERIK MENENDEZ TO ATTEMPT  
8 TO GET PERMISSION FROM HIS PARENTS FOR YOU TO COME BACK  
9 AND STAY WITH THE FAMILY AFTER THE FIRST OF THE YEAR?

10 A. YES.

11 Q. AND WERE YOU TRYING TO ARRANGE TO BE ABLE  
12 TO STAY EVEN AFTER LYLE WENT BACK TO PRINCETON?

13 A. YES.

14 MS. NAJERA: OBJECTION. LEADING.

15 THE COURT: OVERRULED.

16 THE WITNESS: YES.

17 Q. BY MS. ABRAMSON: AND AT THE TIME WHEN YOU  
18 APPROACHED ERIK MENENDEZ TO ASK HIM TO ASK HIS PARENTS  
19 FOR PERMISSION, DID YOU CONSIDER YOURSELF A FRIEND OF  
20 ERIK MENENDEZ'?

21 MS. NAJERA: OBJECTION. IRRELEVANT.

22 THE COURT: OVERRULED. YOU MAY ANSWER THE  
23 QUESTION.

24 THE WITNESS: YES.

25 Q. BY MS. ABRAMSON: AND HAD YOU BEEN  
26 PRACTICING TENNIS WITH ERIK MENENDEZ UP TO THAT POINT?

27 A. YES.

28 Q. AND DID YOU SPEND TIME TALKING TO ERIK

1 MENENDEZ ALONE, JUST THE TWO OF YOU?

2 A. YES.

3 Q. AND DID THAT RELATIONSHIP OF FRIENDS AND

4 SPENDING TIME ALONE CONTINUE WHEN YOU CAME BACK AFTER

5 THE FIRST OF THE YEAR?

6 A. YES.

7 Q. AND HOW LONG DID YOU REMAIN AFTER THE FIRST

8 OF THE YEAR IN RESIDENCE AT THE MENENDEZ HOME IN BEVERLY

9 HILLS?

10 A. I LEFT FOR GOOD ABOUT THE FIRST OF APRIL,

11 BUT I WAS GONE FOR A MONTH TO PLAY TENNIS. I THINK IT

12 WAS -- GOSH, THE MONTH OF FEBRUARY. IT WAS A MONTH.

13 Q. AND IN THAT MONTH OF FEBRUARY, DID YOU GO

14 ABROAD TO PLAY TENNIS ON THE PRO TOUR?

15 A. YES.

16 Q. AND SPECIFICALLY, DID YOU GO TO ISRAEL?

17 A. YES.

18 Q. IS THERE A PRO COMPETITION OR TOURNAMENT IN

19 ISRAEL EVERY FEBRUARY?

20 A. YES.

21 Q. SO YOU WERE BACK AT THE HOUSE FOR PART OF

22 JANUARY, AWAY FOR FEBRUARY, BACK FOR MARCH; IS THAT

23 ABOUT RIGHT?

24 A. RIGHT, YES.

25 Q. AND DURING THE TIME THAT YOU WERE THERE

26 BEFORE MID DECEMBER, YOU HAD PLAYED TENNIS ON A REGULAR

27 BASIS WITH LYLE MENENDEZ, HAD YOU NOT?

28 A. YES.

1 Q. YOU HAD SPOKEN TO HIM ALONE MANY TIMES, HAD  
2 YOU NOT?

3 MS. NAJERA: OBJECTION. LEADING.

4 THE COURT: REPHRASE THE QUESTION.

5 Q. BY MS. ABRAMSON: HAD YOU SPOKEN ALONE TO  
6 LYLE MENENDEZ ON MANY OCCASIONS?

7 MS. NAJERA: OBJECTION. IRRELEVANT.

8 THE COURT: OVERRULED.

9 YOU MAY ANSWER THE QUESTION.

10 THE WITNESS: YES.

11 Q. BY MS. ABRAMSON: HAD YOU GONE OUT SOCIALLY  
12 WITH HIM?

13 MS. NAJERA: OBJECTION. IRRELEVANT.

14 THE COURT: OVERRULED.

15 YOU MAY ANSWER THE QUESTION.

16 THE WITNESS: YES.

17 Q. BY MS. ABRAMSON: DURING THE ENTIRE TIME  
18 THAT YOU LIVED WITH THE MENDEZ FAMILY AND WERE FRIENDS  
19 WITH ERIK AND LYLE MENENDEZ, WERE YOU EVER AWARE THAT  
20 LYLE MENENDEZ WORE A HAIRPIECE?

21 A. NO.

22 Q. DID LYLE MENENDEZ EVER MENTION THAT TO YOU?

23 A. NO.

24 Q. DID ERIK MENENDEZ EVER MENTION IT TO YOU  
25 EITHER BEFORE OR AFTER HIS BROTHER LEFT FOR SCHOOL?

26 A. NO.

27 Q. DID YOU EVER OVERHEAR ERIK MENENDEZ MENTION  
28 IT TO ANYBODY?

-15404

1 A. NO.

2 Q. DID YOU EVER HEAR ANYBODY IN THE HOUSEHOLD  
3 MENTION IT?

4 A. NO.

5 Q. NOW, YOU KNOW WHO JAMIE PISARCIK IS; DO YOU  
6 NOT?

7 A. YES.

8 Q. DID SHE EVER MENTION IT TO YOU?

9 A. NO.

10 Q. NOW, AT SOME POINT WHILE YOU WERE LIVING  
11 WITH THE MENENDEZ FAMILY UP UNTIL APRIL OF 1989, ON SOME  
12 EVENING DURING THAT TIME, DID YOU SEE CRAIG CIGNARELLI  
13 AT THE FAMILY PREMISES?

14 A. YES.

15 Q. AND WAS THAT AT NIGHT?

16 A. YES.

17 Q. AND FOLLOWING YOUR OBSERVATION OF CRAIG  
18 CIGNARELLI AT THE HOME, DID YOU HAVE A CONVERSATION WITH  
19 ERIK MENENDEZ CONCERNING CRAIG CIGNARELLI?

20 A. YES.

21 Q. AND WHAT DID -- STRIKE THAT.

22 DID THE CONVERSATION WITH ERIK MENENDEZ

23 CONCERNING CRAIG CIGNARELLI HAVE TO DO WITH SOME THEFTS?

24 A. YES.

25 Q. BURGLARIES THAT HAD OCCURRED IN THE VALLEY?

26 A. YES.

27 Q. AND WHAT WAS IT THAT ERIK MENENDEZ TOLD YOU

28 IN THAT REGARD ON THAT OCCASION?

-15403

1 A. HE SAID THAT CRAIG WAS THE PERSON THAT GOT

2 HIM INVOLVED IN THE BURGLARIES.

3 MS. ABRAMSON: I HAVE NOTHING FURTHER, YOUR

4 HONOR.

5 THE COURT: CROSS-EXAMINATION.

6 MS. NAJERA: THANK YOU, YOUR HONOR.

7

8 CROSS-EXAMINATION

9 BY MS. NAJERA:

10 Q. MR. FENNO, WHEN YOU HAD YOUR CONVERSATION

11 WITH ERIK MENENDEZ CONCERNING THE BURGLARIES THAT HE WAS

12 INVOLVED IN, DID HE TELL YOU WHETHER OR NOT LYLE

13 MENENDEZ WAS INVOLVED IN THE BURGLARIES?

14 A. NO.

15 Q. DID HE TELL YOU HOW MANY BURGLARIES, HE

16 BEING ERIK MENENDEZ, WAS INVOLVED IN?

17 A. YES.

18 Q. HOW MANY BURGLARIES DID HE SAY HE WAS



19 INVOLVED IN?

20 A. ONE, I THINK.

21 Q. SO HE TOLD YOU HE WAS INVOLVED IN ONLY ONE  
22 BURGLARY?

23 A. I THINK SO.

24 Q. AND DID HE TELL YOU WHO IT WAS HE WAS --  
25 WHO IT WAS HE BURGLARIZED IN THAT ONE BURGLARY?

26 A. NO.

27 Q. DID HE TELL YOU HOW MUCH WAS TAKEN?

28 A. NO.

-15402

1 Q. DID HE TELL YOU HOW MUCH HIS FATHER HAD TO  
2 PAY BACK?

3 MS. ABRAMSON: YOUR HONOR, I AM GOING TO OBJECT.  
4 IT ASSUMES FACTS NOT IN EVIDENCE. AND IT'S OUTSIDE THE  
5 SCOPE.

6 THE COURT: OVERRULED.

7 THE WITNESS: I DON'T RECALL WHETHER HE TOLD ME  
8 THAT.

9 Q. BY MS. NAJERA: DO YOU REMEMBER?

10 MS. ABRAMSON: WELL, I AM GOING TO OBJECT.

11 Q. BY MS. NAJERA: YOUR TESTIMONY IS NOW THAT  
12 YOU DON'T RECALL WHETHER HE TOLD YOU HOW MUCH HIS FATHER  
13 HAD TO PAY BACK?

14 A. I RECALL SOMEBODY TELLING ME. I DON'T

15 REMEMBER WHO.

16 Q. DO YOU REMEMBER TESTIFYING IN THE FIRST  
17 TRIAL THAT HE TOLD YOU THAT HIS FATHER HAD TO PAY BACK  
18 SOMETHING LIKE SIXTY OR \$70,000?

19 MS. ABRAMSON: YOUR HONOR, I AM GOING TO -- I AM  
20 GOING TO OBJECT.

21 MS. NAJERA: I HAVEN'T FINISHED THE QUESTION.

22 MS. ABRAMSON: BECAUSE I KNOW WHAT COUNSEL IS  
23 TRYING TO DO.

24 THE COURT: WHAT WAS YOUR -- THE BASIS FOR YOUR  
25 OBJECTION, THE LEGAL BASIS?

26 MS. ABRAMSON: MY BASIS FOR THE OBJECTION IS IT'S  
27 IMPROPER IMPEACHMENT. THE WITNESS HAS INDICATED HE DID  
28 NOT RECEIVE THE INFORMATION FROM MY CLIENT.

-15401

1 THE COURT: NO, HE DIDN'T SAY THAT. HE DIDN'T  
2 SAY THAT.

3 MS. ABRAMSON: AND I WOULD ASK THE COURT TO TAKE  
4 A LOOK AT PAGE 22,038, LINE 13, AND IT WILL BECOME  
5 PERFECTLY CLEAR THAT THE PEOPLE HAVE NO RIGHT TO ASK  
6 THAT QUESTION.

7 THE COURT: OKAY, THEN YOU CAN APPROACH.

8 MS. ABRAMSON: AND I WILL BE HAPPY TO GIVE IT TO  
9 YOU THIS VERY MOMENT.

10 MS. NAJERA: YOUR HONOR, WE WOULD ASK THAT YOU

11 START AT LINE 11 -- ACTUALLY START AT LINE 7.

12 MS. ABRAMSON: THANK YOU, YOUR HONOR.

13 THE COURT: THANK YOU.

14 MS. NAJERA: LINE 7 TO 14.

15 THE COURT: OKAY. PERHAPS YOU CAN SHOW THIS TO

16 THE WITNESS AND SEE IF IT REFRESHES HIS RECOLLECTION

17 WOULD BE THE PROPER WAY.

18 MS. NAJERA: CERTAINLY, YOUR HONOR.

19 THE COURT: I WILL GIVE THIS BACK TO COUNSEL.

20 Q. BY MS. NAJERA: WHY DON'T YOU READ THIS

21 PASSAGE HERE AND TELL ME IF --

22 A. OKAY.

23 Q. OKAY. AND DOES THAT REFRESH YOUR

24 RECOLLECTION AS TO WHETHER OR NOT THE DEFENDANT, ERIK

25 MENENDEZ, TOLD YOU HOW MUCH HIS FATHER HAD TO PAY BACK?

26 A. THIS STATEMENT ACTUALLY SAYS EXACTLY WHAT I

27 SAID, WHICH IS THAT I HEARD THAT IT WAS A CERTAIN

28 AMOUNT.

-15400

1 Q. AND DID YOU HEAR IT WAS SOMETHING LIKE

2 SIXTY TO \$70,000?

3 MS. ABRAMSON: WELL, I AM GOING TO OBJECT AGAIN,

4 YOUR HONOR, THE SAME OBJECTION. HE DIDN'T HEAR IT FROM

5 MY CLIENT.

6 THE COURT: WE DON'T KNOW THAT THAT'S THE ISSUE.

7 THAT HAS TO BE ADDRESSD BY THE WITNESS.

8 MS. ABRAMSON: AND HE IS TRYING TO TELL US.

9 THE COURT: LET'S GET ONE THING AT A TIME HERE  
10 WITHOUT COUNSEL ARGUING THE CASE.

11 LET'S HAVE A FOUNDATION, IF ONE CAN BE  
12 ESTABLISHED, AS TO WHERE THIS WITNESS LEARNED THIS  
13 INFORMATION. IF HE DIDN'T HEAR IT FROM THE DEFENDANT,  
14 THEN THAT'S THE END OF IT. SO WHY DON'T YOU ESTABLISH A  
15 FOUNDATION.

16 Q. BY MS. NAJERA: LET ME ASK YOU THIS: WERE  
17 YOU ASKED IN THE FIRST TRIAL WHETHER OR NOT THE  
18 DEFENDANT, ERIK MENENDEZ, DID HE TELL YOU HOW MUCH HIS  
19 FATHER HAD TO PAY BACK?

20 MS. ABRAMSON: OBJECTION. IRRELEVANT.

21 Q. BY MS. NAJERA: DO YOU REMEMBER BEING ASKED  
22 THAT QUESTION?

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER THAT QUESTION.

25 THE WITNESS: I DON'T RECALL BEING ASKED THE  
26 QUESTION. I WAS ABLE TO READ THE DOCUMENT YOU SHOWED  
27 ME.

28 Q. BY MS. NAJERA: AND WERE YOU ASKED THAT

-15399

1 QUESTION IN THE FIRST TRIAL?

2 A. FROM THE DOCUMENT.

3 Q. AND DID YOU ANSWER THAT QUESTION IN THE  
4 FIRST TRIAL?

5 A. IF YOU'D LIKE TO READ MY ANSWER, THAT'S  
6 FINE WITH ME. IT'S NOT A DIRECT ANSWER TO THE QUESTION.

7 Q. OKAY. WELL, THAT'S WHAT I AM TRYING TO GET  
8 AT HERE.

9 A. OKAY.

10 Q. FIRST OF ALL, DID YOU ANSWER THAT QUESTION?

11 A. I MADE AN ANSWER TO THE QUESTION.

12 Q. AND HAD YOU IN THAT ANSWER REFERRED TO AN  
13 AMOUNT THAT YOU HAD HEARD THAT MR. MENENDEZ HAD TO PAY  
14 BACK?

15 MS. ABRAMSON: WELL, I AM GOING TO OBJECT, YOUR  
16 HONOR. IT'S IRRELEVANT UNLESS HE'S HEARD IT FROM MY  
17 CLIENT, WHICH IS WHAT I THOUGHT COUNSEL WAS SUPPOSED TO  
18 BE DOING.

19 THE COURT: THAT'S THE ISSUE HERE.

20 SO DO YOU HAVE A RECOLLECTION AS TO WHETHER  
21 YOU HEARD THE DEFENDANT, ERIK MENENDEZ, STATE HOW MUCH  
22 HIS FATHER HAD TO PAY BACK?

23 THE WITNESS: I REMEMBER I HEARD HOW MUCH IT WAS.  
24 I DON'T REMEMBER WHO TOLD ME, AND THAT'S WHAT THAT  
25 REFLECTS.

26 THE COURT: OKAY. SO YOU DON'T RECALL THE  
27 DEFENDANT SAYING THAT?

28 THE WITNESS: I DON'T.

1 Q. BY MS. NAJERA: DO YOU REMEMBER WHAT, IF  
2 ANYTHING, THE DEFENDANT, ERIK MENENDEZ, TOLD YOU ABOUT  
3 WHAT HE DID IN THE BURGLARY THAT HE TOLD YOU ABOUT?

4 A. YES. I REMEMBER HIS CAR WAS INVOLVED. I  
5 DON'T REMEMBER WHAT HE DID, BUT I REMEMBER HIS CAR WAS  
6 INVOLVED.

7 Q. DO YOU REMEMBER HOW HIS CAR WAS INVOLVED?  
8 THE COURT: MR. FENNO, YOU'RE DOING EXACTLY THE  
9 SAME THING AS YOU INDICATE THAT YOU READ IN THE  
10 TRANSCRIPT JUST NOW.

11 THE WITNESS: WHAT'S THAT?

12 THE COURT: ARE YOU SAYING THAT THAT'S WHAT ERIK  
13 MENENDEZ TOLD YOU, OR IS THAT JUST SOMETHING THAT YOU  
14 HEARD FROM SOMEBODY THAT YOU'RE NOW RECITING BACK?

15 THE WITNESS: HONESTLY, I CAN'T REMEMBER WHO TOLD  
16 ME. I JUST -- I CAN'T REMEMBER.

17 MS. ABRAMSON: YOUR HONOR, I WOULD MOVE TO STRIKE  
18 THE PREVIOUS ANSWER THEN.

19 THE COURT: ALL RIGHT. THAT ANSWER IS STRICKEN.

20 Q. BY MS. NAJERA: NOW, WHAT I'M ASKING YOU,  
21 MR. FENNO, IS WHAT DID MR. MENENDEZ -- WHAT DID ERIK  
22 MENENDEZ TELL YOU ABOUT WHAT HE DID IN THIS BURGLARY?

23 MS. ABRAMSON: OBJECTION, YOUR HONOR. ASSUMES  
24 FACTS NOT IN EVIDENCE.

25 THE COURT: OVERRULED.

26 YOU MAY ANSWER THE QUESTION.

27 THE WITNESS: I DON'T REMEMBER WHAT HE TOLD ME HE

-15397

1 Q. BY MS. NAJERA: DO YOU REMEMBER WHETHER OR  
2 NOT HE TOLD YOU WHO IT WAS HE BURGLARIZED?

3 A. I DO RECALL THAT HE DID NOT TELL ME.

4 Q. AND DO YOU REMEMBER WHETHER OR NOT HE TOLD  
5 YOU ANYTHING ELSE ABOUT THE BURGLARIES -- THE BURGLARY?

6 A. I HAVE INFORMATION. I JUST DON'T KNOW  
7 WHETHER HE TOLD IT TO ME, SO I DON'T RECALL ANYTHING  
8 MORE FROM HIM.

9 Q. OKAY, AND WHAT I AM ASKING YOU FOR  
10 SPECIFICALLY IS WHAT YOU RECALL THE DEFENDANT TELLING  
11 YOU.

12 A. RIGHT. I DON'T REMEMBER. I DON'T THINK I  
13 REMEMBER ANYTHING ELSE.

14 Q. OKAY.

15 BUT YOU DO RECALL THAT HE TOLD YOU THAT  
16 CRAIG CIGNARELLI WAS INVOLVED?

17 A. YES.

18 Q. AND DID HE TELL YOU ABOUT WHETHER OR NOT  
19 ANYONE ELSE WAS INVOLVED?

20 A. I THINK HE TOLD ME THERE WERE OTHER PEOPLE  
21 INVOLVED, BUT HE DIDN'T SAY ANYBODY IN PARTICULAR.

22 Q. AND DID HE TAKE RESPONSIBILITY FOR ANY PART  
23 OF THE BURGLARY?

24 MS. ABRAMSON: I'M GOING TO OBJECT, YOUR HONOR.

25 IT'S IRRELEVANT.

26 THE COURT: OVERRULED.

27 Q. BY MS. NAJERA: IF YOU REMEMBER WHAT HE

28 SAID.

-15396

1 MS. ABRAMSON: WELL, YOUR HONOR, SINCE THE

2 WITNESS CAN'T REMEMBER, IT'S CALLING FOR A CONCLUSION ON

3 THE PART OF THE WITNESS.

4 THE COURT: ALL RIGHT. THAT'S A DIFFERENT

5 OBJECTION.

6 THE OBJECTION IS SUSTAINED.

7 MS. ABRAMSON: THANK YOU, YOUR HONOR.

8 Q. BY MS. NAJERA: DO YOU REMEMBER WHETHER OR

9 NOT THE DEFENDANT, ERIK MENENDEZ, SAID ANYTHING MORE

10 ABOUT HIS RESPONSIBILITY FOR THE CRIME?

11 A. CAN YOU USE ANOTHER WORD BESIDES

12 "RESPONSIBILITY"? I AM JUST NOT QUITE SURE WHAT YOU

13 MEAN.

14 Q. ANYTHING HE SAID ABOUT THE CRIME OR HIS

15 INVOLVEMENT, HOW'S THAT?

16 A. I DON'T REMEMBER HIM SAYING ANYTHING ELSE.

17 Q. OKAY.

18 NOW, WHEN YOU WERE STAYING -- LET ME SEE IF

19 I HAVE THIS RIGHT.



20 YOU SAID THAT YOU CAME OUT HERE IN THE  
21 MIDDLE OF SEPTEMBER; IS THAT RIGHT?  
22 A. OF '88.  
23 Q. NOW, DID YOU IMMEDIATELY START STAYING WITH  
24 THE MENENDEZ FAMILY, OR DID YOU MOVE IN WITH THEM IN THE  
25 MIDDLE OF OCTOBER?  
26 A. I IMMEDIATELY STARTED STAYING WITH THEM.  
27 Q. SO YOU DIDN'T ORIGINALLY START OUT IN THE  
28 BEVERLY HILLS HOUSE?

-15395

1 A. RIGHT.  
2 Q. SO YOU WERE IN THE CALABASAS HOUSE FIRST?  
3 A. RIGHT.  
4 Q. AND THEN YOU MOVED WITH THEM TO THE BEVERLY  
5 HILLS HOUSE; IS THAT RIGHT?  
6 A. YES.  
7 Q. WHEN YOU WERE STAYING IN THE CALABASAS  
8 HOUSE, WAS LYLE MENENDEZ ALSO STAYING AT THE CALABASAS  
9 HOUSE, OR WAS HE NOT THERE?  
10 A. LYLE WAS IN THE CALABASAS HOUSE.  
11 Q. THEN A MONTH LATER YOU ALL MOVED TO BEVERLY  
12 HILLS; IS THAT RIGHT?  
13 A. YES.  
14 Q. NOW, WHEN YOU MOVED TO THE BEVERLY HILLS  
15 HOUSE, DID LYLE MENENDEZ MOVE INTO THE MAIN HOUSE OR THE

16 GUESTHOUSE?

17 A. AT SOME POINT HE MOVED TO THE GUESTHOUSE.

18 Q. DO YOU KNOW HOW LONG -- WHEN YOU SAY AT  
19 SOME POINT, DO YOU KNOW HOW LONG -- WELL, I DON'T WANT  
20 TO ASSUME A FACT THAT'S NOT HERE.

21 A. YEAH, I THINK -- I THINK HE MOVED INTO THE  
22 GUESTHOUSE RIGHT AWAY, NOW THAT I THINK ABOUT IT.

23 Q. NOW, DID YOU EVER LIVE IN THE GUESTHOUSE,  
24 OR DID YOU JUST LIVE IN THE MAIN HOUSE?

25 A. I JUST LIVED IN THE MAIN HOUSE.

26 Q. SO YOU NEVER LIVED WITH LYLE MENENDEZ IN  
27 THE GUESTHOUSE?

28 A. I SPENT A NIGHT OR TWO THERE. BUT NO, I

-15394

1 DIDN'T LIVE THERE. NO.

2 Q. ON A DAY IN, DAY OUT BASIS?

3 A. RIGHT.

4 Q. YOU DIDN'T, RIGHT?

5 A. I DID NOT.

6 Q. OKAY.

7 NOW, DID YOU KNOW JAMIE PISARCIK?

8 A. YES.

9 Q. AND DID JAMIE PISARCIK VISIT WHILE YOU WERE  
10 STAYING THERE FROM MID SEPTEMBER TO APRIL?

11 A. YES.

12 Q. HOW OFTEN DID SHE VISIT?

13 A. SHE CAME SEVERAL TIMES, BUT SOMETIMES SHE

14 STAYED FOR A LONG PERIOD OF TIME. SO HOW OFTEN, I DON'T

15 KNOW. FOUR OR FIVE TIMES.

16 HOW LONG, IS THAT THE NEXT QUESTION?

17 Q. IF YOU KNOW.

18 A. SHE PROBABLY STAYED A TOTAL OF A

19 MONTH-AND-A-HALF MAYBE.

20 Q. OKAY. NOW, WHEN YOU SAY A

21 MONTH-AND-A-HALF, SHE DIDN'T STAY THERE FOR A

22 MONTH-AND-A-HALF. SHE VISITED, AND IF YOU PUT ALL THAT

23 TIME TOGETHER, IT WOULD BE A MONTH-AND-A-HALF; IS THAT

24 RIGHT?

25 A. RIGHT.

26 MS. ABRAMSON: OBJECTION, YOUR HONOR.

27 ARGUMENTATIVE.

28 THE COURT: OVERRULED.

-15393

1 THE ANSWER WILL STAND.

2 Q. BY MS. NAJERA: AND THAT WOULD BE SPACED

3 OUT OVER THIS FOUR OR FIVE TIMES?

4 A. YES. MOSTLY ONE PARTICULAR TIME SHE STAYED

5 LONGER, OR TWICE. I CAN'T REMEMBER.

6 Q. AND WHEN SHE STAYED, DID SHE -- DID YOU --

7 WELL, I MEAN, DID YOU TALK TO HER AND DID YOU HAVE LIKE

8 A RELATIONSHIP WITH HER IN TERMS OF YOU WERE FRIENDS,

9 OR --

10 A. YES.

11 Q. AND THE WHOLE TIME THAT YOU WERE THERE, DID

12 YOU STAY IN THE SAME ROOM OR DID YOU MOVE AROUND?

13 A. SAME ROOM.

14 Q. OKAY.

15 NOW, WITH REGARDS TO THE BEVERLY HILLS

16 HOUSE, AM I RIGHT IN STATING THAT YOU WERE THERE FROM

17 THE MIDDLE OF OCTOBER -- YOU LIVED THERE FROM THE MIDDLE

18 OF OCTOBER UNTIL APRIL, AND YOU LEFT FOR CERTAIN PERIODS

19 IN THAT TIME PERIOD?

20 A. YES. I THINK IT WAS APRIL 1ST WAS THE LAST

21 DAY.

22 Q. AND YOU LEFT TWICE; IS THAT RIGHT?

23 A. YEAH, I THINK THAT WAS IT, JUST TWICE.

24 Q. AND THE FIRST TIME YOU LEFT WAS A VISIT

25 HOME TO BOSTON; IS THAT RIGHT?

26 A. YES.

27 Q. AND THAT WAS FOR TWO TO THREE WEEKS; IS

28 THAT RIGHT?

-15392

1 A. YES.

2 Q. AND WHEN YOU WERE GONE, WHEN YOU LEFT, THE

3 HOUSE HAD NOT BEEN DECORATED FOR CHRISTMAS; IS THAT

4 RIGHT?

5 A. YES.

6 Q. AND WHEN YOU CAME BACK, THE HOUSE WAS  
7 DECORATED; IS THAT RIGHT?

8 A. YES.

9 Q. AND IS IT FAIR TO SAY YOU DON'T KNOW WHEN  
10 THE DECORATIONS WENT UP?

11 A. SOMETIME WHILE I WAS GONE, BUT THAT'S ALL I  
12 KNOW.

13 Q. OKAY.

14 AND YOU DIDN'T -- WEREN'T THERE FOR ANY  
15 CHRISTMAS PARTY THAT MAY OR MAY NOT HAVE HAPPENED IN  
16 DECEMBER OF '88, RIGHT?

17 MS. ABRAMSON: I AM GOING TO OBJECT TO THE FORM  
18 OF THE QUESTION, YOUR HONOR.

19 THE COURT: COULD YOU REPHRASE THE QUESTION?

20 MS. NAJERA: CERTAINLY.

21 Q. WHAT I AM ASKING IS YOU WEREN'T PRESENT FOR  
22 A CHRISTMAS PARTY AT THE MENENDEZ HOME IN DECEMBER?

23 A. THAT'S CORRECT.

24 Q. AND YOU WEREN'T THERE IN DECEMBER, SO YOU  
25 HAVE NO INDEPENDENT KNOWLEDGE OF THIS IS WHAT I AM  
26 ASKING.

27 A. I WASN'T THERE FOR ANY CHRISTMAS PARTIES  
28 THERE AFTER WHENEVER I WENT HOME FOR CHRISTMAS.

1 Q. AND WHEN DID YOU GO HOME FOR CHRISTMAS?

2 A. GEE. AROUND THE MIDDLE TO LATE DECEMBER.

3 I MEAN --

4 Q. OKAY.

5 AND THE FOUR OR FIVE TIMES THAT YOU SAW

6 JAMIE PISARCIK THERE, GIVE US SOME IDEA WHEN THAT --

7 WHEN THOSE TOOK PLACE, IF YOU RECALL NOW.

8 A. WELL, IT WAS MOSTLY WHILE LYLE WAS THERE,

9 SO IT WOULD HAVE BEEN MOSTLY BEFORE CHRISTMAS. COULD

10 HAVE BEEN JANUARY. IT WOULDN'T HAVE BEEN BY FEBRUARY,

11 OR FROM FEBRUARY ON.

12 Q. OKAY. SO YOU SAY BEFORE CHRISTMAS?

13 A. WELL, IT COULD HAVE BEEN JANUARY, THOUGH.

14 Q. OR JANUARY, OKAY.

15 A. SO --

16 Q. AND WHEN WAS -- I AM SORRY, I DIDN'T MEAN

17 TO INTERRUPT YOU.

18 A. NO, I AM JUST TRYING TO REMEMBER.

19 Q. WAS LYLE MENENDEZ HOME FOR THE CHRISTMAS

20 HOLIDAYS?

21 A. I DON'T KNOW.

22 Q. OKAY. HE HAD -- HAD HE GOTTEN HOME BEFORE

23 YOU LEFT FOR BOSTON?

24 A. I DON'T REMEMBER.

25 Q. SO YOU DON'T KNOW IF HE WAS THERE OR NOT?

26 A. I DON'T REMEMBER.

27 Q. DO YOU KNOW IF JAMIE PISARCIK WAS THERE OR

28 NOT?

1 A. I DON'T REMEMBER.

2 Q. SO SHE COULD HAVE BEEN OR COULDN'T HAVE  
3 BEEN, YOU DON'T REMEMBER?

4 A. THAT'S CORRECT.

5 MS. NAJERA: THANK YOU VERY MUCH. I DON'T THINK  
6 I HAVE ANYTHING MORE.

7 THE COURT: ANYTHING ELSE?

8

9 REDIRECT EXAMINATION

10 BY MS. ABRAMSON:

11 Q. MR. FENNO, LYLE MENENDEZ WAS LIVING IN  
12 CALIFORNIA IN THE WHOLE FALL OF '88, WASN'T HE?

13 HE WASN'T IN SCHOOL AT THAT TIME?

14 A. THAT'S TRUE.

15 Q. SO HE DIDN'T HAVE TO GET HOME FOR  
16 CHRISTMAS, HE WAS LIVING THERE CONTINUOUSLY FOR THE  
17 WHOLE FALL OF '88, RIGHT?

18 A. THAT'S TRUE.

19 Q. IN FACT, YOU KNEW HIM WHEN HE WAS GOING TO  
20 PRINCETON, RIGHT?

21 A. YES.

22 Q. HE WAS ON THE TENNIS TEAM AND YOU WERE ON  
23 THE TENNIS TEAM, RIGHT?

24 A. YES.

25 Q. AND THEN YOU KNEW HE LEFT PRINCETON IN

26 MIDYEAR?

27 A. YES.

28 Q. AND AS FAR AS YOU KNEW, CAME BACK HOME TO

-15389

1 CALIFORNIA?

2 MS. NAJERA: OBJECTION. LEADING.

3 THE COURT: SUSTAINED.

4 Q. BY MS. ABRAMSON: WAS IT YOUR UNDERSTANDING  
5 WHEN LYLE MENENDEZ LEFT PRINCETON IN JANUARY OF 1988  
6 THAT HE WAS GOING TO JOIN HIS FAMILY IN CALIFORNIA?

7 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY AND IS  
8 LEADING.

9 THE COURT: SUSTAINED.

10 Q. BY MS. ABRAMSON: DID YOU HAVE CONTACT WITH  
11 LYLE MENENDEZ WHILE HE WAS LIVING IN CALIFORNIA AFTER HE  
12 LEFT PRINCETON IN JANUARY OF '88?

13 A. THAT'S TOO MUCH OF A QUESTION.

14 Q. OKAY. LET'S TAKE THE FIRST PART.

15 A. OKAY.

16 Q. DID YOU HAVE CONTACT WITH HIM BEFORE YOU  
17 ACTUALLY CAME OUT TO CALIFORNIA?

18 A. YES.

19 Q. DID YOU HAVE -- WAS THE -- ONE OF THE  
20 MATTERS THAT YOU AND HE DISCUSSED IN THESE CONTACTS WAS  
21 THAT YOU WOULD COME TO CALIFORNIA TO HELP HIM TRAIN?



22 MS. NAJERA: OBJECTION. LEADING.  
23 THE COURT: OVERRULED.  
24 THE WITNESS: YES.  
25 Q. BY MS. ABRAMSON: AND WAS IT YOUR  
26 UNDERSTANDING WHEN HE HAD THESE CONTACTS WITH YOU THAT  
27 HE WAS LIVING WITH HIS FAMILY IN CALIFORNIA?  
28 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

-15388

1 THE COURT: SUSTAINED.  
2 Q. BY MS. ABRAMSON: DID YOU CALL HIM?  
3 A. YES.  
4 Q. DID YOU CALL CALIFORNIA TO GET HIM?  
5 A. YES.  
6 MS. ABRAMSON: THANK YOU.  
7 NOTHING FURTHER.  
8 THE COURT: OKAY. ANYTHING ELSE?  
9 MS. NAJERA: NO.  
10 THE COURT: OKAY. THANK YOU. YOU MAY STEP DOWN.  
11 YOU'RE EXCUSED.  
12 OKAY. WE'LL TAKE A RECESS FOR A FEW  
13 MINUTES. I WILL GIVE THE JURY SOME INFORMATION ABOUT  
14 SCHEDULING AND THINGS OF THAT SORT, AND THEN WE WILL  
15 RESUME. SO WE WILL TAKE A RECESS UNTIL ABOUT QUARTER TO  
16 3:00.  
17 SO I'LL ASK THAT COUNSEL REMAIN.

18 (THE JURY ENTERS THE JURY ROOM  
19 AND THE FOLLOWING PROCEEDINGS  
20 WERE HELD:)  
21  
22 THE COURT: OKAY. WE WILL HAVE THE COURTROOM  
23 CLEARED AT THIS POINT.  
24 THE WITNESS: YOUR HONOR, IS THAT IT FOR ME FOR  
25 THE DAY?  
26 THE COURT: YES, YES.  
27  
28 ///

-15387

1 (PAGES 50150 THROUGH 50218  
2 WERE HELD OUT OF THE PRESENCE OF  
3 THE JURY AND SEALED BY ORDER OF  
4 THE COURT.)  
5  
6 (AT 3:50 P.M. PROCEEDINGS WERE  
7 ADJOURNED UNTIL 8:30 A.M. THE  
8 FOLLOWING DAY)

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3

5

6

THE PEOPLE OF THE STATE OF )

7 CALIFORNIA, )

PLAINTIFFS, )

8 )

VS. ) NO. BA 068880

9 )

ERIK GALEN MENENDEZ, AND )

10 JOSEPH LYLE MENENDEZ, )

DEFENDANTS. )

11 \_\_\_\_\_)

12

REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 TUESDAY, FEBRUARY 13, 1996

VOLUME 295

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APPEARANCES:

18 (SEE APPEARANCE PAGE

19

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1 APPEARANCES:

2 FOR THE PEOPLE: GIL GARCETTI  
DISTRICT ATTORNEY  
3 BY: DAVID CONN, DEPUTY  
AND  
4 CAROL NAJERA, DEPUTY  
18000 CRIMINAL COURTS BLDG.  
5 210 WEST TEMPLE STREET  
LOS ANGELES, CA 90012

6  
FOR THE DEFENDANT  
7 JOSEPH LYLE MENENDEZ: WILBUR F. LITTLEFIELD  
PUBLIC DEFENDER  
8 BY: CHARLES GESSLER, DEPUTY  
AND  
9 TERRI TOWERY, DEPUTY  
210 WEST TEMPLE STREET  
10 LOS ANGELES, CA 90012

11 FOR THE DEFENDANT  
ERIK GALEN MENENDEZ: LESLIE ABRAMSON  
12 ATTORNEY AT LAW  
4929 WILSHIRE BOULEVARD  
13 SUITE 940  
LOS ANGELES, CA 90010  
14  
BARRY LEVIN, ESQ.  
15 11661 SAN VICENTE BOULEVARD  
LOS ANGELES, CA 90049

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23 MARY LU MURPHY  
CSR NO. 5178  
24 OFFICIAL REPORTER

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1 INDEX FOR VOLUME 295 \_\_\_\_\_ PAGES 50026 THROUGH 50218 \_\_\_\_\_

2 DAY \_\_\_\_\_ DATE \_\_\_\_\_ SESSION \_\_\_\_\_ PAGE \_\_\_\_\_ VOL. \_\_\_\_\_

3 TUESDAY, FEBRUARY 13, 1996 A.M. 50026 295

TUESDAY, FEBRUARY 13, 1996 P.M. 50123 295

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#### PROCEEDINGS

6 SURREBUTTAL 50069 295

7

8 CHRONOLOGICAL INDEX OF WITNESSES

9 WITNESSES: \_\_\_\_\_ DIRECT \_\_\_\_\_ CROSS \_\_\_\_\_ REDIRECT \_\_\_\_\_ RECROSS VOL.

10 CANO, MARTA 50070A 50075C

11 BARALT, TERESITA

50079A 50088N 50099

12

FENNO, EDWARD 50127A 50133N 50146A

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A = MS. ABRAMSON

25 C = MR. CONN

N = MS. NAJERA  
26 T = MS. TOWERY  
L = MR. LEVIN  
27

28

1 EXHIBITS INDEX

2 EXHIBITS: \_\_\_\_\_ MARKED \_\_\_\_ RECEIVED \_\_\_\_\_ VOL.

3	436 - FLORIDA LICENSE	50070	295
4	437 - BIRTH CERTIFICATE	50071	295
5	438 - ENVELOPE WITH AFFIDAVIT	50072	295

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