

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 CASE NO. NO. 20-CV-24294-KMM-LOUIS

4 RAQUEL CAMPS, in her capacity as the) Pages 1-139
5 personal representative of the)
6 ESTATE OF ALBERTO CAMPS,)

7 EDUARDO CAPPELLO, in his individual) Miami, Florida
8 capacity, and in his capacity as the)
9 personal representative of the ESTATE)
10 OF EDUARDO CAPPELLO,)

June 27, 2022
1:45 P.M.

11 ALICIA KRUEGER, in her individual
12 capacity, and in her capacity as the
13 personal representative of the ESTATE
14 OF RUBEN BONET,

15 and, MARCELA SANTUCHO, in her
16 individual capacity, and in her
17 capacity as the personal
18 representative of the ESTATE OF ANA
19 MARIA VILLARREAL DE SANTUCHO,

20 Plaintiffs,

21 vs.

22 ROBERTO GUILLERMO BRAVO,

23 Defendant.

24 TRANSCRIPT OF JURY TRIALPROCEEDINGS
25 BEFORE THE HONORABLE LAUREN FLEISCHER LOUIS
U.S. MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: AJAY S. KRISHNAN, ESQ.
FRANCO MUZZIO, ESQ.
NEHA SABHARWAL, ESQ.
Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111

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CLARET VARGES, ESQ.
ELZBIETA T. MATTHEWS, ESQ.
Center for Justice & Accountability
One Hallidie Plaza, Suite 750
San Francisco, CA 94102

For the Defendant: NEAL R. SONNETT, ESQ.
Neal R. Sonnett, P.A.
2 South Biscayne Boulevard, Suite 2600
Miami, FL 33131

STEVEN W. DAVIS, ESQ.
ROGER SLADE, ESQ.
Haber Law, P.A.
251 Northwest 23rd Street
Miami, FL 33127

Reported by:
Vernita Allen-Williams
@flsd.uscourts.gov
305.523.5048

VERNITA ALLEN-WILLIAMS
Official Court Reporter
United States District Court
400 North Miami Avenue
Miami, Florida 33128

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01:47PM 1 THE COURT: I see seven of you back. And I know that you
01:47PM 2 thought there were eight; but now there are seven, and we're
01:47PM 3 proceeding on seven. Okay.

01:47PM 4 Are we ready? I wasn't sure if one meant -- you're good?

01:48PM 5 As promised, let me turn first to my attorneys and
01:48PM 6 confirm that counsel for the plaintiff is ready? Counsel for
01:48PM 7 plaintiff is ready?

01:48PM 8 MR. KRISHNAN: Yes, Your Honor.

01:48PM 9 THE COURT: And who is giving the opening statement?

01:48PM 10 MR. KRISHNAN: I am, Your Honor.

01:48PM 11 THE COURT: And counsel for defendant is ready?

01:48PM 12 MR. SONNETT: Yes, Your Honor. A housekeeping matter:
01:48PM 13 I'd like to have the rule invoked.

01:48PM 14 THE COURT: Understood.

01:48PM 15 MR. DAVIS: I know there are expert witnesses in the
01:48PM 16 gallery right now.

01:48PM 17 THE COURT: Experts and party representatives not
01:48PM 18 implicated by the rule, but anyone else. The attorneys are
01:48PM 19 responsible for their own housekeeping, for making sure that the
01:48PM 20 rule is complied with by either side. Okay?

01:48PM 21 MR. KRISHNAN: Thank you.

01:48PM 22 THE COURT: With that, I have instructions to give you as
01:48PM 23 promised. I'm going to try to make sure that you can both see and
01:48PM 24 understand me. I try to use the microphone. But if I'm either
01:48PM 25 going too fast or not speaking clearly enough, please give me a

01:49PM 1 wave with a hand. I can go slower, okay?

01:49PM 2 Members of the jury, now that you've been sworn, I need
01:49PM 3 to explain some basic principles about a civil trial and your duty
01:49PM 4 as jurors. These are preliminary instructions. I'll give you
01:49PM 5 more detailed instructions at the end of the trial.

01:49PM 6 It's your duty to listen to the evidence, decide what
01:49PM 7 happened, and apply the law to the facts. It's my job to provide
01:49PM 8 you with the law that you must apply, and you must follow the law
01:49PM 9 even if you disagree with it. You must decide the case on only
01:49PM 10 the evidence presented in the courtroom.

01:49PM 11 Evidence comes in many forms; it can be testimony about
01:49PM 12 what someone saw, heard, or smelled. It can be an exhibit or a
01:49PM 13 photograph. It can be someone's opinion. Some evidence may prove
01:49PM 14 a fact indirectly. Let's say a witness saw wet grass outside and
01:49PM 15 people walking into the courthouse carrying wet umbrellas. This
01:49PM 16 maybe indirect evidence that it rained even though the witness
01:50PM 17 didn't personally see it rain. Indirect evidence like this is
01:50PM 18 also called circumstantial evidence. Simply a chain of
01:50PM 19 circumstances that likely proves a fact. As far as the law is
01:50PM 20 concerned, it makes no difference whether evidence is direct or
01:50PM 21 indirect. You may choose to believe or disbelieve either kind.
01:50PM 22 Your job is to give each piece of evidence whatever weight you
01:50PM 23 think it deserves.

01:50PM 24 During the trial, you'll hear certain things that are not
01:50PM 25 evidence, and you must not consider them. First, the lawyers'

01:50PM 1 statements and arguments aren't evidence. In their opening
01:50PM 2 statements and closing arguments, the lawyers will discuss the
01:50PM 3 case. Their remarks may help you follow each side's arguments and
01:50PM 4 presentation of the evidence, but their remarks themselves aren't
01:50PM 5 evidence and shouldn't play a role in your deliberations.

01:50PM 6 Second, the lawyers' questions and objections aren't
01:50PM 7 evidence. Only the witness' answers are evidence. Don't decide
01:50PM 8 that something is true just because a lawyer's questions suggests
01:51PM 9 that it is. For example, a lawyer may ask a witness: You saw
01:51PM 10 Mr. Jones hit his sister, didn't you? That question is not
01:51PM 11 evidence of what the witness saw or what Mr. Jones did unless the
01:51PM 12 witness agrees with it.

01:51PM 13 There are rules of evidence that control what the Court
01:51PM 14 can receive into evidence. When a lawyer asks a witness a
01:51PM 15 question or presents an exhibit, the opposing lawyer may object if
01:51PM 16 he or she thinks the rules of evidence don't permit it. If I
01:51PM 17 overrule the objection, then the witness may answer the question
01:51PM 18 or the Court may receive the exhibit. When I sustain an objection
01:51PM 19 to a question, you must ignore the question and not ask what the
01:51PM 20 answer might have been.

01:51PM 21 Sometimes I may disallow evidence, this is also called
01:51PM 22 striking evidence, and order you to disregard or ignore it. That
01:51PM 23 means you must not consider that evidence when you're deciding the
01:51PM 24 case. I may allow some evidence for only a limited purpose. When
01:51PM 25 I instruct you that I have admitted an item of evidence for a

01:51PM 1 limited purpose, you must consider it for only that purpose and no
01:52PM 2 other.

01:52PM 3 To reach a verdict, you may have to decide which
01:52PM 4 testimony to believe and which testimony not to believe. You may
01:52PM 5 believe everything a witness says, part of it, or none of it.
01:52PM 6 When considering the witness's testimony, you may take into
01:52PM 7 account the witness's opportunity and ability to see, hear, and
01:52PM 8 know the things the witness is talking about, the witness's
01:52PM 9 memory, the witness's manner while testifying, any interest the
01:52PM 10 witness has in the outcome of the case, any bias or prejudice the
01:52PM 11 witness may have, and any other evidence that contradicts the
01:52PM 12 witness's testimony, the reasonableness of the witness's testimony
01:52PM 13 in light of all the evidence and any other factors affecting
01:52PM 14 believability. At the end of the trial, I will give you
01:52PM 15 additional guidelines for determining a witness's credibility.

01:52PM 16 This is a civil case. To help you follow the evidence,
01:52PM 17 I'll summarize the parties' positions. The plaintiffs -- Raquel
01:53PM 18 Camps, in her capacity as a personal representative of the estate
01:53PM 19 of Alberto Camps; Eduardo Cappello; Alicia Krueger; and Marcela
01:53PM 20 Santucho -- are claiming that the defendant, Roberto Guillermo
01:53PM 21 Bravo, extrajudicially killed Ruben Bonet, Eduardo Cappello the
01:53PM 22 first, and Ana María Villarreal de Santucho and attempted to
01:53PM 23 extrajudicially kill and torture Alberto Camps by shooting him on
01:53PM 24 or about August 22, 1972.

01:53PM 25 Alternatively to plaintiffs' contending, even if

01:53PM 1 defendant did not personally commit these violations, defendant
01:53PM 2 Bravo is responsible for the extrajudicial killing, attempted
01:53PM 3 extrajudicial killing, and torture of the relatives because he
01:53PM 4 aided and abetted, conspired with, and/or entered into a joint
01:53PM 5 criminal enterprise with the persons or people who killed,
01:53PM 6 attempted to kill, and torture their relatives on that date
01:53PM 7 August 22, 1972.

01:53PM 8 Defendant Bravo denies these claims and asserts that he
01:54PM 9 acted in self-defense. Bravo also asserts a statute of
01:54PM 10 limitations on the basis plaintiffs waited too long before suing
01:54PM 11 him.

01:54PM 12 Plaintiffs -- Raquel Camps, in her capacity as the
01:54PM 13 personal representative of the estate of Alberto Camps; Eduardo
01:54PM 14 Cappello; Alicia Krueger; and Marcela Santucho -- have the burden
01:54PM 15 of proving their case by what the law calls a preponderance of the
01:54PM 16 evidence. That means plaintiffs must prove that in light of all
01:54PM 17 the evidence what they claim is more likely true than not. So if
01:54PM 18 you could put the evidence favoring plaintiffs and the evidence
01:54PM 19 favoring defendant Bravo on opposite sides of balancing scales,
01:54PM 20 plaintiffs need to make sure the scales tip to their favor. If
01:54PM 21 plaintiffs fail to meet this burden, you must find in favor of
01:54PM 22 defendant Bravo.

01:54PM 23 To decide whether any fact has been proved by a
01:54PM 24 preponderance of the evidence, you may, unless I instruct you
01:54PM 25 otherwise, consider the testimony of all witnesses regardless of

01:54PM 1 who called them, and all exhibits that the Court allowed,
01:55PM 2 regardless of who produced them. After considering all the
01:55PM 3 evidence, if you decide a claim or a fact is more likely true than
01:55PM 4 not, then the claim or fact has been proved by a preponderance of
01:55PM 5 the evidence.

01:55PM 6 On certain issues called affirmative defenses, defendant
01:55PM 7 Bravo has the burden of proving the elements of a defense by a
01:55PM 8 preponderance of the evidence. I'll instruct you on the facts
01:55PM 9 defendant Bravo must prove for any affirmative defense after
01:55PM 10 considering all of the evidence. If you decide that defendant
01:55PM 11 Bravo has successfully proven that the required facts are more
01:55PM 12 likely true than not, the affirmative defense is proved.

01:55PM 13 While serving on the jury, you may not talk with anyone
01:55PM 14 about -- I'm sorry -- with anyone about anything related to the
01:55PM 15 case. You may tell people that you're a juror and give them
01:55PM 16 information about when you must be in court, but you must not
01:55PM 17 discuss anything else about the case itself with anyone. You
01:55PM 18 shouldn't even talk about the case with each other until you begin
01:56PM 19 your deliberations. You want to make sure that you have heard
01:56PM 20 everything, all the evidence, the lawyers' closing arguments, and
01:56PM 21 my instructions on the law before you begin deliberating. You
01:56PM 22 should keep an open mind until the end of trial. Premature
01:56PM 23 discussions may lead to premature decisions.

01:56PM 24 In the age of technology, I want to emphasize that in
01:56PM 25 addition to not talking face-to-face with anyone about the case,

01:56PM 1 you must not communicate with anyone about the case by any other
01:56PM 2 means. This means e-mails, text messages, phone calls, and the
01:56PM 3 Internet, including social networking websites and apps, such as
01:56PM 4 Facebook, Instagram, Snapchat, YouTube, and Twitter. You may not
01:56PM 5 use any similar technology of social media even if I did not
01:56PM 6 specifically mention it here.

01:56PM 7 You must not provide any information about the case to
01:56PM 8 anyone by any means whatsoever, and that includes posting
01:56PM 9 information about the case, or what you are doing in the case, on
01:56PM 10 any device or Internet site including blogs, chat rooms, social
01:57PM 11 websites, or any other means.

01:57PM 12 You also shouldn't Google or search online or offline for
01:57PM 13 any information about the case, the parties, or the law. Don't
01:57PM 14 read or listen to news about this case, visit any places related
01:57PM 15 to this case, or research any fact, issue, or law related to the
01:57PM 16 case.

01:57PM 17 The law forbids jurors to talk with anyone else about the
01:57PM 18 case and forbids anyone else to talk to the jurors about it. It's
01:57PM 19 very important to understand why these rules exist and why they're
01:57PM 20 so important. You must base your decision only on the testimony
01:57PM 21 and other evidence presented in the courtroom. It's not fair to
01:57PM 22 the parties if you base your decision in any way on information
01:57PM 23 you acquire outside the courtrooms, for example, law -- the law
01:57PM 24 often uses words and phrases in special ways, so it's important
01:57PM 25 that any definition you hear come only from me and not from any

01:57PM 1 other source. Only you jurors can decide the verdict in this
01:58PM 2 case. The law sees only you as fair, and only you have promised
01:58PM 3 to be fair. No one else is so qualified.

01:58PM 4 If you wish, you may take notes to help you remember what
01:58PM 5 the witnesses said. If you do take notes, please don't share them
01:58PM 6 with anyone until you go to the jury room to decide the case.

01:58PM 7 Don't let note-taking distract you from carefully listening to and
01:58PM 8 observing the witnesses. When you leave the courtroom, you should
01:58PM 9 leave your notes hidden from view in the jury room. Whether or
01:58PM 10 not you take notes, you should rely on your own memory of the
01:58PM 11 testimony. Your notes are only there to help your memory.
01:58PM 12 They're not entitled to greater weight than your memory or
01:58PM 13 impression about the testimony.

01:58PM 14 Let's talk about the trial. First, each side may make an
01:58PM 15 opening statement. But they don't have to. Remember an opening
01:58PM 16 statement isn't evidence, and it's not supposed to be
01:58PM 17 argumentative. It's just an outline of what the party intends to
01:58PM 18 prove.

01:58PM 19 Next, plaintiffs will present their witnesses and ask
01:58PM 20 them questions. After plaintiffs' counsel questions the witness,
01:59PM 21 defense counsel may ask the witness questions. This is called
01:59PM 22 cross-examining the witness. Then defendant's counsel will
01:59PM 23 present his witnesses and plaintiffs' counsel may cross-examine
01:59PM 24 them. You should base your decision on all of the evidence
01:59PM 25 regardless of which party presents it.

01:59PM 1 After all of the evidence is in, the parties' lawyers
01:59PM 2 will present their closing arguments to summarize and interpret
01:59PM 3 the evidence for you, and then I'll give you the instructions on
01:59PM 4 the law, and then you will go to the jury room to deliberate.

01:59PM 5 You may hear or see languages other than English during
01:59PM 6 this trial. You must consider evidence provided through only the
01:59PM 7 official court translator or interpreters. It is important that
01:59PM 8 all jurors consider the same evidence. So even if some of you
01:59PM 9 know Spanish, you must accept the English translation or
01:59PM 10 interpretation that's provided and disregard any different
01:59PM 11 meaning.

01:59PM 12 During this trial, you may submit questions to a witness
02:00PM 13 after the lawyers have finished their own questioning. Here is
02:00PM 14 how the procedure works. After each witness has testified and the
02:00PM 15 lawyers have asked all of their questions, I'll ask if any of you
02:00PM 16 have questions. If you have a question, write it down and give it
02:00PM 17 to court staff. You may submit a question for a witness only to
02:00PM 18 clarify an answer or to help you understand the evidence. Our
02:00PM 19 experience with juror questions indicate that jurors rarely have
02:00PM 20 more than a few questions for any one witness, and there may be no
02:00PM 21 questions at all for some witnesses.

02:00PM 22 If you submit a question, the court staff will give it to
02:00PM 23 me, and I'll share your questions with the lawyers in the case.
02:00PM 24 If the rules of evidence allow your question, one of the lawyers
02:00PM 25 or I will read the question to the witness. I may modify the form

02:00PM 1 or phrasing of the question so that it's allowed under the rules
02:00PM 2 of evidence. Sometimes I may not allow the question to be read to
02:00PM 3 the witness either because the law does not allow it or because
02:00PM 4 another witness is in a better position to answer the question.
02:00PM 5 If I can't allow the witness to answer a question, you must not
02:00PM 6 draw any conclusions from that fact or speculate on what the
02:01PM 7 answer might have been.

02:01PM 8 Here are several important things to keep in mind about
02:01PM 9 your questions for the witnesses. First, you must submit all
02:01PM 10 questions in writing. Please don't ask a question aloud.

02:01PM 11 Second, the Court can't recall a witness to the stand for
02:01PM 12 additional juror questions. If you have a question for a
02:01PM 13 particular witness, you must submit it when I ask.

02:01PM 14 Finally, because you should remain neutral and
02:01PM 15 open-minded throughout the trial, you should phrase your questions
02:01PM 16 in a way that doesn't express an opinion about the case or a
02:01PM 17 witness. You must keep an open mind until you've heard all the
02:01PM 18 evidence, the closing arguments, and my final instructions on the
02:01PM 19 law.

02:01PM 20 At times during the trial, the lawyers will address you.
02:01PM 21 You will soon hear the lawyers' opening statements, and at the
02:01PM 22 trial's conclusion, you'll hear their closing statements --
02:01PM 23 closing arguments. Sometimes the lawyers may choose to make short
02:01PM 24 statements to you either to preview upcoming evidence or to
02:01PM 25 summarize and highlight evidence they just presented. These

02:01PM 1 statements and arguments are the lawyers' view of the evidence or
02:02PM 2 what they anticipate the evidence will be. They are not evidence
02:02PM 3 themselves.

02:02PM 4 The parties to this case are the following four
02:02PM 5 plaintiffs and the defendant: Raquel Camps as the personal
02:02PM 6 representative of the estate of Alberto Camps, Eduardo Cappello
02:02PM 7 the second, Alicia Krueger, formerly Alicia Bonet, and Marcela
02:02PM 8 Santucho, and defendant Roberto Guillermo Bravo.

02:02PM 9 As a part of this lawsuit, the plaintiffs Eduardo
02:02PM 10 Cappello the second, Alicia Krueger, and Marcela Santucho have
02:02PM 11 brought claims against defendant Bravo in their individual
02:02PM 12 capacities that is on behalf of themselves personally for the
02:02PM 13 extrajudicial killings of Eduardo Cappello the first, Ruben Bonet,
02:02PM 14 and Ana María Villarreal de Santucho respectively. In addition,
02:03PM 15 plaintiff Raquel Camps has been appointed the representative of
02:03PM 16 the estate of Alberto Camps.

02:03PM 17 As the representative of this estate, plaintiff Raquel
02:03PM 18 Camps made and filed lawsuits on behalf of Alberto Camps for
02:03PM 19 injuries he suffered during his lifetime.

02:03PM 20 In this case, plaintiff Raquel Camps contends that the
02:03PM 21 estate of Alberto Camps is entitled to damages because defendant
02:03PM 22 Bravo is responsible for the torture and attempted extrajudicial
02:03PM 23 killing of Alberto Camps. Therefore, you should think of the
02:03PM 24 estate of Alberto Camps as the real plaintiff as regards claims
02:03PM 25 brought on behalf of his estate. If you decide in favor of

02:03PM 1 Alberto Camps on one or more of the claims brought by plaintiff
02:03PM 2 Raquel Camps on behalf of his estate, then any damages you find
02:03PM 3 will be awarded to the estate of Alberto Camps, not plaintiff
02:03PM 4 Raquel Camps.

02:03PM 5 Sometimes the parties have agreed that certain facts are
02:03PM 6 true. This agreement is called a stipulation. You must treat
02:04PM 7 these facts as proved for this case. The parties have stipulated
02:04PM 8 to the following facts: First, on October 15, 2012, an Argentine
02:04PM 9 court convicted Luis Emilio Sosa and Emilio Jorge Del Real of
02:04PM 10 homicide committed with malice for the killings of Carlos
02:04PM 11 Heriberto Astudillo, Ruben Pedro Bonet, Eduardo Adolfo Capello,
12 Mario Emilio Delfino, Alberto Carlos Del Rey, Alfredo Elías Kohon,
13 Clarisa Rosa Lea Place, Susana Lesgart, José Ricardo Mena, Miguel
14 Angel Polti, Mariano Pujadas, María Angélica Sabelli, Ana María
15 Villarreal de Santucho, Humberto Segundo Suárez, Humberto Adrián
16 Toschi, and Jorge Alejandro Ulla; and attempted homicide committed
17 with malice for the attempted killings of Maria Antonia Berger,
18 Alberto Miguel Camps, Ricardo René Haidar.

02:05PM 19 Second, Messrs. Sosa and Del Real received sentences of
02:05PM 20 life imprisonment for those convictions.

02:05PM 21 Third, from August 15, 1972, to August 22, 1972, 19
02:05PM 22 prisoners were held captive at the Almirante Zar Naval Base in
02:05PM 23 Trelew, Argentina.

02:05PM 24 Fourth, prior to August 15, 1972, these prisoners were
02:06PM 25 held in Rawson Prison. After having escaped from that prison,

02:06PM 1 they surrendered to the Argentine military subject to certain
02:06PM 2 conditions including that they be examined by a physician who
02:06PM 3 could confirm that they were in good health. Following their
02:06PM 4 surrender and the physician's examination, the prisoners were
02:06PM 5 transferred to Almirante Zar Naval Base in Trelew, Argentina.

02:06PM 6 A deposition is a witness's sworn testimony that is taken
02:06PM 7 before trial. During a deposition, the witness is under oath and
02:06PM 8 swears to tell the truth, and the lawyers for each party may ask
02:06PM 9 questions. A court reporter is present and records the questions
02:06PM 10 and answers. When a person is unavailable to testify at trial,
02:06PM 11 the deposition of that person may be used at the trial. The
02:06PM 12 depositions of the following witnesses will be presented to you by
02:06PM 13 video: Julio Ulla, which was taken May 14, 2021; Miguel Marileo,
02:07PM 14 June 15th of 2021; Carlos Marandino was taken on August 26, 2021;
02:07PM 15 Carlos Celi on February 14th of 2022; Alicia Krueger, March 28,
02:07PM 16 2022; and Marcela Santucho, April 4th, 2022.

02:07PM 17 The deposition testimony that you will see is entitled to
02:07PM 18 the same consideration as live testimony, and you must judge the
02:07PM 19 deposition testimony just as if the witness was testifying in
02:07PM 20 court.

02:07PM 21 At the beginning of trial, I told you that the lawyers
02:07PM 22 might make statements previewing upcoming evidence or summarizing
02:07PM 23 and highlighting evidence that they have already presented before.
02:07PM 24 Right now, plaintiffs' counsel is going to make a short statement.
02:07PM 25 Please remember that the statement you're about to hear, like all

02:07PM 1 statements by the lawyers, is the lawyers' view of the evidence or
02:08PM 2 what he anticipates the evidence will be but isn't evidence
02:08PM 3 itself.

02:08PM 4 During the trial, you may hear answers the defendant gave
02:08PM 5 in response to written questions the other side submitted. The
02:08PM 6 questions are called interrogatories. Before the trial, defendant
02:08PM 7 gave the answers in writing while under oath. You must consider
02:08PM 8 defendant's answers to the interrogatories as though defendant
02:08PM 9 gave the answers on the witness stand.

02:08PM 10 Reports about this trial or about this incident may
02:08PM 11 appear in the media. The reporters may not have heard all of the
02:08PM 12 testimony as you have, may be getting information from people who
02:08PM 13 are not under oath and subject to cross-examination, may emphasize
02:08PM 14 an unimportant point, or may simply be wrong. You must not read,
02:08PM 15 listen to, or watch anything about this trial. It would violate
02:08PM 16 your oath as a juror to decide this case on anything other than
02:08PM 17 the evidence presented at trial and on your own common sense. You
02:08PM 18 must decide this case exclusively on the evidence you receive here
02:09PM 19 in court.

02:09PM 20 Okay. Ladies and gentlemen, that concludes my
02:09PM 21 preliminary instructions to you.

02:09PM 22 Counsel, are you ready?

02:09PM 23 MR. KRISHNAN: Yes, Your Honor. May I just ask, does
02:09PM 24 Your Honor have a preference as to where or which of the two
02:09PM 25 podium I present from?

02:09PM 1 THE COURT: No. You can use the well as you see fit, as
02:09PM 2 long as you have the lapel microphones so that the jurors and the
02:09PM 3 court reporter can hear you.

02:09PM 4 MR. KRISHNAN: Sorry?

02:09PM 5 THE COURT: Handheld or the lapel, but you want to make
02:09PM 6 sure that they hear you.

02:10PM 7 MR. KRISHNAN: I can use this box, Your Honor, just to
02:10PM 8 help me with my essay.

02:10PM 9 Do we have access? No? The video system.

02:10PM 10 THE COURT: Counsel, have you expressed to opposing
02:10PM 11 counsel what video or portion you're going to show?

02:10PM 12 MR. KRISHNAN: I don't intend to show video. These are
02:10PM 13 slides, and they have been exchanged with counsel.

02:10PM 14 THE COURT: Okay.

02:10PM 15 THE CLERK: From which side is the computer? On this
02:10PM 16 side?

02:10PM 17 MR. KRISHNAN: Yes.

02:11PM 18 THE CLERK: Do you have the HDMI plugged in?

02:11PM 19 MS. LIND: We do.

02:11PM 20 THE CLERK: One second, Your Honor.

02:14PM 21 MR. KRISHNAN: May I just ask if all of the -- Your
02:14PM 22 Honor, if all of the juror screens are working.

02:14PM 23 THE CLERK: Yes.

02:14PM 24 JURORS: Yes.

02:14PM 25 MR. KRISHNAN: Okay. Great.

02:14PM 1 THE COURT: Is yours not working?

02:14PM 2 JUROR: No, the feedback. There is a mic when he speaks.

02:15PM 3 THE COURT: Because you have two microphones. You have
02:15PM 4 the one on your lapel and the one -- you have to choose.

02:15PM 5 MR. KRISHNAN: I'm happy to just use that one.

02:15PM 6 THE CLERK: Over there, use the lavalier.

02:15PM 7 MR. KRISHNAN: I'll just use this. I apologize, Your
02:15PM 8 Honor.

02:15PM 9 THE COURT: Oh, that's much better.

02:15PM 10 THE INTERPRETER: You still have to get closer to it
02:15PM 11 because we're using the headphones.

02:15PM 12 MR. KRISHNAN: Yes. May I proceed?

02:15PM 13 THE COURT: Thank you, yes.

02:15PM 14 MR. KRISHNAN: Good afternoon, everyone. Again, my name
02:15PM 15 is Ajay Krishnan. And my team and I represent some of the victims
02:15PM 16 of a tragic injustice that occurred nearly 50 years ago in
02:16PM 17 Argentina. It's called the Trelew Massacre. It occurred at a
02:16PM 18 military base in a city called Trelew back in 1972. The Argentine
02:16PM 19 military was holding 19 unarmed civilian prisoners there. Young
02:16PM 20 men and women mostly in their 20s. Here's what the evidence will
02:16PM 21 show.

02:16PM 22 At about 3:30 A.M. in the dead of night, the defendant,
02:16PM 23 Roberto Bravo, along with a group of fellow officers came to the
02:16PM 24 cellblock area with the intent to harm. They ordered the 19
02:16PM 25 prisoners to come out of their cells and to form two lines in a

02:16PM 1 narrow 4-foot 11-inch wide corridor -- about this wide
02:17PM 2 (indicating) -- that was between the two rows of cells. Bravo
02:17PM 3 then claims that one of the prisoners named Pujadas attacked them,
02:17PM 4 which is almost certainly a lie. But whether it was a lie or not,
02:17PM 5 the soldiers proceeded to shoot all the prisoners with machine
02:17PM 6 guns, even prisoners way in the back who they couldn't possibly
02:17PM 7 have seen.

02:17PM 8 The prisoners were penned into a kill box. Those who did
02:17PM 9 not die from the first round of gunshot fired dove back into their
02:17PM 10 cells for cover. But then Bravo and his fellow officers went in
02:17PM 11 and shot any survivors with handguns. Some survivors were shot at
02:17PM 12 point-blank range. One woman was killed execution style with a
02:17PM 13 single bullet to the back of her neck. Another woman who was
02:17PM 14 pregnant was shot from the breasts down right through the belly.
02:18PM 15 Three prisoners survived that night. The other 16 died from their
02:18PM 16 injuries. This was an evil act.

02:18PM 17 Mr. Bravo was also part of a brutal military regime.
02:18PM 18 That regime covered up the killings saying it was an escape
02:18PM 19 attempt and that Bravo acted in self-defense. As part of that
02:18PM 20 cover-up, the regime sent Bravo here to the United States where
02:18PM 21 he'd be hard to find. And then the military regime did terrible
02:18PM 22 things to silence my clients' families. They killed and
02:18PM 23 disappeared -- my clients' family members, and disappearing means
02:18PM 24 that the military takes members of your family and --

02:18PM 25 MR. DAVIS: Objection, Judge. This is irrelevant to the

02:18PM 1 incident that happened at the prison that they're suing over.

02:18PM 2 MR. KRISHNAN: It's completely relevant to the statute of
02:18PM 3 limitations defense.

02:18PM 4 THE COURT: Overruled.

02:18PM 5 MR. KRISHNAN: Disappearing means that the military takes
02:19PM 6 members of your families, and then you never see them again.

02:19PM 7 Often, the disappeared were tortured in camps and died there. The

02:19PM 8 military also kidnapped kids. Two of my clients were kidnapped as

02:19PM 9 children. It wasn't until 2005 when the Argentine government

02:19PM 10 finally opened a criminal investigation into the Trelew Massacre

02:19PM 11 and provided witness protection to my clients that it finally

02:19PM 12 became safe for my clients to seek justice. In 2012, Argentina

02:19PM 13 convicted Mr. Bravo's fellow soldiers for their participation in

02:19PM 14 the shootings. But Mr. Bravo wasn't convicted because he was here

02:19PM 15 in the United States outside of the reach of the Argentine courts.

02:19PM 16 He is currently fighting efforts by the United States government

02:19PM 17 and the Argentine government to send him back to Argentina to

02:19PM 18 stand trial.

02:20PM 19 My clients are the family members of four of the people

02:20PM 20 shot that night. They are suing under a 1992 law called the

02:20PM 21 Torture Victims Protection Act which allows victims of terrible

02:20PM 22 acts to hold their abusers accountable when those abusers are here

02:20PM 23 in America. My clients are Alicia Krueger, you see her here with

02:20PM 24 her husband, Ruben Bonet, who was killed in the massacre; Marcela

02:20PM 25 Santucho, who is on the next slide, she suffered -- Marcela, my

02:20PM 1 client, suffered a heartbreaking loss of her mother, Ana Maria
02:20PM 2 Santucho, who was killed in the massacre. This is a photo of Ana
02:20PM 3 Maria. Ana Maria was the pregnant woman who I described earlier.

02:20PM 4 Unfortunately for health reasons, Marcela and Alicia
02:20PM 5 couldn't be here for trial, but you will see video of their
02:20PM 6 testimony.

02:20PM 7 My other two clients are here; first, Eduardo Cappello.
02:21PM 8 Eduardo, could you please stand up? Eduardo has the headphones in
02:21PM 9 for translation. Thank you, Eduardo. Eduardo is the last
02:21PM 10 surviving family member of his uncle, also named Eduardo Cappello,
02:21PM 11 the relative after whom he was named, who was killed in the
02:21PM 12 massacre.

02:21PM 13 Raquel Camps, another of my clients, is also here. If
02:21PM 14 you would stand up. Thank you so much, Raquel. Her father,
02:21PM 15 Alberto Camps, was cruelly shot by Mr. Bravo during the massacre.
02:21PM 16 He survived the night but was later killed on the anniversary of
02:21PM 17 the events we will be discussing.

02:21PM 18 Now, I want to clarify something. Even though you may
02:21PM 19 believe that Mr. Bravo's acts were murder, and we certainly do,
02:21PM 20 this is not a criminal case, it is not a murder trial. In
02:21PM 21 criminal cases, the defendant must be proven guilty beyond a
02:22PM 22 reasonable doubt. But put that concept completely out of your
02:22PM 23 mind because it doesn't apply here.

02:22PM 24 Mr. Bravo needs to stand trial for murder in Argentina.
02:22PM 25 This case is a civil case for monetary damages based on injury.

02:22PM 1 So my clients need only prove that their claims are more likely
02:22PM 2 true than not true.

02:22PM 3 Before I go on, I want to thank all of you for your
02:22PM 4 service here today. My clients have waited 50 years to have this
02:22PM 5 day in court, and they only get it because of your willingness to
02:22PM 6 serve as jurors. So thank you for your time and your willingness
02:22PM 7 to listen to this difficult subject matter.

02:22PM 8 And with that, I'll move on to the four key points of
02:22PM 9 evidence that we plan to prove to you during trial, and they are
02:22PM 10 that Mr. Bravo and his fellow soldiers conspired to shoot and kill
02:22PM 11 19 unarmed prisoners.

02:22PM 12 Mr. Bravo's self-defense story is false and part of a
02:23PM 13 conspiracy to cover up the massacre.

02:23PM 14 Military persecution and the inability to find Mr. Bravo
02:23PM 15 have delayed my clients' day in court.

02:23PM 16 And, finally, my clients must be compensated for the
02:23PM 17 terrible suffering that Mr. Bravo caused.

02:23PM 18 Let's go to the first key point of evidence that Mr.
02:23PM 19 Bravo and his fellow soldiers conspired to shoot and kill 19
02:23PM 20 unarmed prisoners.

02:23PM 21 First, I just want to orient everybody to Argentina and
02:23PM 22 to the city of Trelew which is on the next slide. So we see here
02:23PM 23 at the top of the slide is Florida. Down near the bottom, you can
02:23PM 24 see in red, the Almirante Zar Naval Base in Trelew, Argentina.
02:23PM 25 And that is where the killings took place. Trelew is near the

02:23PM 1 Atlantic coast of Argentina.

02:23PM 2 Now, back in 1972 in August, Argentina was under the rule
02:24PM 3 of this military dictator Alejandro Lanusse. During his regime,
02:24PM 4 civil liberties were routinely violated. There was military
02:24PM 5 violence against civilians, there were military tribunals for
02:24PM 6 civilians who the regime labeled as subversives, and they used
02:24PM 7 that label widely. There was no due process. There was detention
02:24PM 8 without charge, and the regime had a practice of moving political
02:24PM 9 prisoners to remote areas.

02:24PM 10 Now, do you think the regime was up front about these
02:24PM 11 policies? No, it was not. You will hear evidence from historical
02:24PM 12 experts that the regime covered up and was not up front about many
02:24PM 13 things, including its civil rights violations.

02:24PM 14 Now, why is this important? Because you may assume that
02:24PM 15 people who are in prison must have done something wrong, and
02:24PM 16 certainly the victims in this case escaped from another prison.
02:25PM 17 But at this time in Argentine history, anyone who opposed the
02:25PM 18 military dictatorship including ordinary middle class people,
02:25PM 19 students, pro democracy activities could end up in prison.

02:25PM 20 In this case, we have little to no evidence about why the
02:25PM 21 Trelew victims were in prison in the first place. There are no
02:25PM 22 charging documents saying what they were specifically charged with
02:25PM 23 doing. There is no evidence of criminal convictions. But even if
02:25PM 24 that evidence existed, it wouldn't matter because this case is
02:25PM 25 about -- is not about what these prisoners might have done before;

02:25PM 1 it is about what happened in the cellblock area that night.

02:25PM 2 Now, on the next slide, we see where our story begins,
02:25PM 3 which is one of those remote prisons where the Lanusse regime
02:26PM 4 moved people that they labeled subversive. It's the Rawson Prison
02:26PM 5 in Chubut. It's not too far away from Trelew.

02:26PM 6 Now, there was a prison break from Rawson involving 25
02:26PM 7 prisoners. 19 of them negotiated their surrender. Those are the
02:26PM 8 19 who would get taken to Trelew and later shot and killed.

02:26PM 9 Now, there are military reports that a prison guard was
02:26PM 10 killed during the escape, but there is practically no evidence in
02:26PM 11 this case about what exactly happened.

02:26PM 12 Mr. Bravo certainly was not there at Rawson during the
02:26PM 13 escape. And, remember, the people who could dispute the
02:26PM 14 military's account were killed by the military in Trelew.

02:26PM 15 So getting back to the 19 who negotiated their surrender,
02:26PM 16 I want to emphasize that negotiation of their surrender because
02:27PM 17 it's important to understand that these prisoners didn't have some
02:27PM 18 death wish. They surrendered. You don't surrender if you're
02:27PM 19 trying to get yourself killed. Also, some of the prisoners had
02:27PM 20 young children, one was pregnant, they had important things to
02:27PM 21 live for. One was a medical student. This is important because
02:27PM 22 the defense is going to tell you that these young men and women
02:27PM 23 decided to run unarmed at soldiers with machine guns pointed at
02:27PM 24 them. It doesn't make sense.

02:27PM 25 Next, we see an aerial view of the Almirante Zar Naval

02:27PM 1 Base in Trelew. This is where the 19 who surrendered were taken.
02:27PM 2 It was even more remote than Rawson, and this is where the
02:27PM 3 killings took place. They took place in what is called the main
02:27PM 4 building which is marked in that yellow box that you see towards
02:27PM 5 the center near the bottom side of that photo.

02:28PM 6 Next, we're going to go to a reconstructed floor plan of
02:28PM 7 the cellblock area as it existed back in 1972. This is where the
02:28PM 8 prisoners were shot. The layout is in Spanish, and you'll hear
02:28PM 9 how a forensics expert named Dr. Rodolfo Pregliasco reconstructed
02:28PM 10 it. You can see 10 cells. Each one is marked celda. Cells 7
02:28PM 11 through 10 are on the right side. That's the east side, and
02:28PM 12 between them is that narrow 4-foot 11-inch wide corridor. Cells 1
02:28PM 13 through 6 are on the left side or the west side. The 19 prisoners
02:28PM 14 were held two or three to a cell, and at least Cell No. 1 was
02:28PM 15 empty.

02:28PM 16 Now, I'd like to draw your attention to the approximate
02:28PM 17 location of that telephone office in the middle right of the
02:28PM 18 photo.

02:28PM 19 You will hear video testimony that this telephone room
02:29PM 20 had to be staffed 24/7 because all calls to and from the base were
02:29PM 21 routed through that office. But critically, it wasn't staffed
02:29PM 22 that night, the night of the massacre, which suggests that the
02:29PM 23 entire massacre was pre planned to avoid having any witnesses.

02:29PM 24 Now, the evidence will show that on the night of the
02:29PM 25 shootings between 3:00 A.M. and 4:00 A.M. in the early morning,

02:29PM 1 the following officers showed up to the cellblock area. We'll see
02:29PM 2 them on the next slide.

02:29PM 3 Now, obviously these are photos from much later than
02:29PM 4 1972. But these are the officers. You have the defendant,
02:29PM 5 Lieutenant Bravo, on the far left and three of his colleagues who
02:29PM 6 have now passed away. Lieutenant Sosa, Lieutenant Del Real -- I'm
02:29PM 7 sorry. Captain Sosa. And then the other two are lieutenants, Del
02:30PM 8 Real and Herrera. Unfortunately, we don't have any pictures of
02:30PM 9 Herrera.

02:30PM 10 Now, one thing I want to emphasize is that there is an
02:30PM 11 important difference in the Argentine military between officers
02:30PM 12 and enlisted men, and enlisted men are also sometimes referred to
02:30PM 13 as conscripts. It's like the difference between commissioned
02:30PM 14 officers and noncommissioned officers or NCOs in our military.
02:30PM 15 Officers have the higher rank, and they oversee enlisted soldiers.
02:30PM 16 These men here were all officers, and the evidence will show that
02:30PM 17 the conspiracy to kill the prisoners was between the officers.

02:30PM 18 Which brings us to the enlisted men who may have been in
02:30PM 19 the cellblock area that night. On the left, we have Corporal
02:30PM 20 Carlos Marandino -- who was, again, a young man back in 1972 -- he
02:31PM 21 was definitely there when the officers arrived, but he denies ever
02:31PM 22 being in the room or in the cellblock area when the shots were
02:31PM 23 fired. He says that officer Bravo told him to leave before the
02:31PM 24 shooting began.

02:31PM 25 On the other hand, Mr. Bravo claims that Mr. Marandino

02:31PM 1 helped shoot the prisoners but was following Mr. Bravo's orders.
02:31PM 2 Either way, there is no evidence that Mr. Marandino had any idea
02:31PM 3 what the four officers had in mind when they showed up at the
02:31PM 4 cellblock that night.

02:31PM 5 As for Corporal Marchan depicted there on the right. We
02:31PM 6 don't have a photo. We know very little about him. He died
02:31PM 7 before any real investigation took place.

02:31PM 8 Next, we will see some of the weapons that the soldiers
02:31PM 9 were holding. The officers in the cellblock area were armed with
02:31PM 10 guns like these. At the top, you see a PAM machine gun. These
02:31PM 11 are automatic weapons with magazines of 25 to 45 bullets. By
02:32PM 12 automatic, I mean pull the trigger and the bullets keep coming out
02:32PM 13 until you release the trigger or the magazine runs out of bullets.
02:32PM 14 So that's the gun on the top. It's actually significantly bigger
02:32PM 15 than the gun that is on the bottom, but the gun on the bottom is
02:32PM 16 just blown up. That is a 45-caliber Colt handgun. The handguns
02:32PM 17 were likely used for close-range execution-style shots.

02:32PM 18 Now, upon arriving at the cellblock area, Lieutenant
02:32PM 19 Bravo ordered Marandino to unlock the cells. The prisoners were
02:32PM 20 then forced to stand in two lines down that narrow 4-foot 11-inch
02:32PM 21 wide corridor, and then the massacre happened. We go to the next
02:32PM 22 slide.

02:32PM 23 Mr. Bravo and his fellow soldiers claimed that the
02:32PM 24 prisoner nearest to them on the right-hand side tried to attack a
02:32PM 25 fellow officer. That's mostly likely a lie because what happened

02:33PM 1 next is that the soldiers opened machine gun fire spraying all of
02:33PM 2 the prisoners in the corridor, at least 18 of whom were unarmed
02:33PM 3 and defenseless. Everyone agrees.

02:33PM 4 The soldiers couldn't even see the prisoners in the back
02:33PM 5 near Cell 6 and 10 who they admit to shooting. As you can see,
02:33PM 6 the prisoners were penned in. Any prisoners who dove back into
02:33PM 7 their cells for cover were followed in by officers and shot at
02:33PM 8 close range with handguns. You don't pursue unarmed prisoners for
02:33PM 9 kill shots and execution-style shootings if just one prisoner
02:33PM 10 attacks.

02:33PM 11 All 19 prisoners were shot. 16 died of their wounds.
02:33PM 12 Only three survived.

02:33PM 13 Now, how do we know that this is what happened? Well,
02:33PM 14 because some survived; one of those was Alberto Camps, Raquel's
02:34PM 15 father, a picture of whom you see here. He gave a statement while
02:34PM 16 he was recovering. He explained, and this is the very next day
02:34PM 17 after the incident, what happened when he was one of the victims
02:34PM 18 who dove back into the cell. So after the initial round of
02:34PM 19 machine gun fire, he dove into his cell, and then here's what he
02:34PM 20 said happened.

02:34PM 21 Quote: Instants later, the above officer Bravo arrived
02:34PM 22 at my cell door welding a 45-caliber pistol in his right hand, and
02:34PM 23 ordered us to stand up, which my mate Delfino and I did. Officer
02:34PM 24 Bravo immediately asked me if I was going to answer all the
02:34PM 25 questions of the interrogations. I said no. Officer Bravo

02:34PM 1 reacted to this by shooting his 45-caliber pistol at point-blank
02:34PM 2 range, wounding me at the level of the stomach.

02:34PM 3 Now, that would have been an excruciating way to kill
02:34PM 4 someone, and he would have died too if enlisted soldiers from
02:35PM 5 elsewhere in the base hadn't heard the shootings and come running
02:35PM 6 in. Once the cellblock was full of witnesses, the officers' plan
02:35PM 7 was interrupted, and so the officers told the enlisted men that
02:35PM 8 the prisoners had attacked them and were trying to escape, and
02:35PM 9 then the officers pretended that they were interested in getting
02:35PM 10 medical care for the prisoners.

02:35PM 11 Now, there is certainly more evidence that you'll hear
02:35PM 12 over the course of this case. But ultimately all of Bravo's
02:35PM 13 co-perpetrators were convicted of this heinous crime in Argentina
02:35PM 14 back in 2012. And here you see from the stipulated facts that the
02:35PM 15 Court read to you earlier on October 15, 2012, an Argentine court
02:35PM 16 convicted Luis Emilio Sosa and Emilio Jorge Del Real of, first,
02:35PM 17 homicide committed with malice for the killings of, and then those
02:36PM 18 are the 16 prisoners who died; and, second, attempted homicide
02:36PM 19 committed with malice for the attempted killings of, and then you
02:36PM 20 have the three prisoners who survived that night, including Mr.
02:36PM 21 Camps.

02:36PM 22 Now, the only reason why Mr. Bravo didn't stand trial for
02:36PM 23 this crime in Argentina is that he was here in Miami. But
02:36PM 24 importantly, the country of Argentina has understood that the
02:36PM 25 military committed an awful massacre at Trelew and has taken

02:36PM 1 responsibility for it. Argentina has passed what are considered
02:36PM 2 reparations law which pay survivors' benefits to the families of
02:36PM 3 victims who were killed or detained by the military during its
02:36PM 4 many atrocities, and all of my clients' families have received
02:36PM 5 those benefits in acknowledgment of the Trelew Massacre.

02:36PM 6 Argentina has accepted responsibility that this act was committed
02:37PM 7 by its military, but Mr. Bravo still claims that he did nothing
02:37PM 8 wrong.

02:37PM 9 Now, one question you might have is why. Why would Bravo
02:37PM 10 and his men kill these prisoners in cold blood? Well, the
02:37PM 11 conspirators have never said why. But there's one obvious motive
02:37PM 12 and that -- and that's that this was revenge for the escape from
02:37PM 13 Rawson which many saw as an embarrassing episode for the Argentine
02:37PM 14 military.

02:37PM 15 I will now go on to my second key point of evidence that
02:37PM 16 Mr. Bravo's self-defense story is false and part of the conspiracy
02:37PM 17 to cover up the massacre.

02:37PM 18 Now, if we could go to the next slide. This is Mr.
02:37PM 19 Bravo's story about he had to kill all the prisoners out of
02:37PM 20 self-defense.

02:37PM 21 Now, he has to explain how 19 unarmed prisoners housed in
02:37PM 22 seven to eight different rooms were all shot in the hallway and
02:37PM 23 with the cell doors open and not a single soldier was hurt.
02:38PM 24 Here's what he says. First, he says that he and other officers
02:38PM 25 came to the cellblock area at 3:30 A.M. in the dead of night based

02:38PM 1 on the report of an unknown corporal who he cannot identify.

02:38PM 2 Then, contrary to protocol, the officers ordered all of
02:38PM 3 the prisoners out of the cells and into the hallway.

02:38PM 4 Then again contrary to protocol, Captain Sosa walked
02:38PM 5 between the lines of prisoners with his holstered gun.

02:38PM 6 Then, Mr. Bravo claims that a prisoner named Pujadas
02:38PM 7 attacked Sosa, the captain, took Sosa's gun, and shot at all --
02:38PM 8 shot at the soldiers; and at the same time, he says, at the same
02:38PM 9 time, all the prisoners moved forward.

02:38PM 10 Now, it's important to Mr. Bravo's story that all of the
02:39PM 11 prisoners moved at the same time because he uses it to justify
02:39PM 12 what comes next.

02:39PM 13 He then says he and his soldiers shot all the prisoners
02:39PM 14 from a distance before the prisoners could advance more than two
02:39PM 15 feet, and then there was no more shooting.

02:39PM 16 Now, I'm not going to point out every single problem with
02:39PM 17 this story, but I want to discuss a few points.

02:39PM 18 First, not even Bravo can explain why they let all of the
02:39PM 19 supposedly dangerous prisoners out of their cells at the same
02:39PM 20 time. It was an absurd things to do. So Bravo blames that on his
02:39PM 21 superior officer Captain Sosa who is now dead, but the evidence
02:39PM 22 will show that it was actually Mr. Bravo who ordered everyone out
02:39PM 23 of their cells.

02:39PM 24 Second, why would these unarmed prisoners run directly at
02:39PM 25 soldiers with machine guns? Remember, they all had surrendered

02:40PM 1 before, and some of them were parents of young children and a
02:40PM 2 pregnant woman.

02:40PM 3 And, third, the physical evidence contradicts Mr. Bravo's
02:40PM 4 story. It shows at least one victim shot from the back, not the
02:40PM 5 front, execution-style in the neck. It also shows close-range
02:40PM 6 gunshot wounds that are completely inconsistent with Mr. Bravo's
02:40PM 7 story and much more consistent with Alberto Camps' survivor's
02:40PM 8 statement. Overall, the evidence will show several problems with
02:40PM 9 Mr. Bravo's story.

02:40PM 10 Now, after the shootings, the military's cover up began.
02:40PM 11 It had several parts. First, the military developed its purported
02:40PM 12 official story and ordered all soldiers at Trelew to parrot that
02:40PM 13 story when talking about the shootings.

02:40PM 14 Second, the military threatened witnesses who might
02:40PM 15 contradict the official story, and you know they didn't stop
02:40PM 16 there. They also passed a law that made it illegal to tell a
02:41PM 17 contrary version of events from the official story. That law was
02:41PM 18 in effect for a year. What greater sign is there of guilt?

02:41PM 19 Now, third, the military performed a biased investigation
02:41PM 20 that exonerated or purported to exonerate the officers. You will
02:41PM 21 hear Mr. Bravo's lawyers talk about documents called the Auditor
02:41PM 22 General's Report and the Lanusse Decree. These documents simply
02:41PM 23 involve the military investigating itself and finding itself
02:41PM 24 innocent. They are self-serving and biased and were completely
02:41PM 25 rejected by the Argentine courts when they convicted Mr. Bravo's

02:41PM 1 co-perpetrators of murder back in 2012.

02:41PM 2 And the most awful part of the military cover up involved
02:41PM 3 silencing the victims' families and lawyers by killings,
02:41PM 4 disappearance, and kidnapping children. My client Alicia Krueger,
02:42PM 5 who is 77 years old, fled Argentina with her two young children
02:42PM 6 after her lawyer was murdered. My client Marcela Santucho was
02:42PM 7 kidnapped at age 13 along with three siblings, one of whom was
02:42PM 8 still an infant. The military also kidnapped my client Raquel
02:42PM 9 Camps along with her brother when she was a child and the same day
02:42PM 10 killed her father and disappeared her mother. And for my client
02:42PM 11 Eduardo Cappello, the military disappeared his father, his mother,
02:42PM 12 and his 12-year-old brother. He never saw them again. In order
02:42PM 13 to send a clear message, the military committed many of these
02:42PM 14 attacks on the anniversary of the Trelew Massacre or the
02:42PM 15 anniversary of the Rawson Prison escape.

02:42PM 16 We'll next move on to my third key point of evidence
02:42PM 17 which is that military persecution and the inability to find Mr.
02:43PM 18 Bravo have delayed my clients' day in court.

02:43PM 19 Now, one of Mr. Bravo's legal defenses is the statute of
02:43PM 20 limitations. He says that my clients had to sue him within ten
02:43PM 21 years but they took 48 years. The problem with that is that the
02:43PM 22 ten-year statute of limitations period gets paused depending on
02:43PM 23 the circumstances, and my clients had three very good reasons for
02:43PM 24 not bringing their lawsuit until two years ago.

02:43PM 25 First, military persecution. My clients faced

02:43PM 1 significant obstacles to suing based on the horrors that the
02:43PM 2 Argentine military visited on their families and lawyers as part
02:43PM 3 of its cover up. That period of persecution goes from 1972 to at
02:43PM 4 least 2005 when the Argentine government initiated its criminal
02:43PM 5 investigation and started offering witness protection.

02:44PM 6 Second, even Argentine government prosecutors couldn't
02:44PM 7 find Mr. Bravo until 2008. Interpol had to help. My clients were
02:44PM 8 not expected to sue Mr. Bravo if they couldn't find him.

02:44PM 9 And, finally, my clients have been reasonably relying on
02:44PM 10 the criminal justice process in Argentina to hold Mr. Bravo
02:44PM 11 accountable. The law does not expect victims to run to the United
02:44PM 12 States and file a lawsuit when there are legal actions that they
02:44PM 13 can take in their home country, and that's exactly what my clients
02:44PM 14 have been doing.

02:44PM 15 So while my clients were not required to sue in 2020 when
02:44PM 16 they did here in the United States, they decided that they had
02:44PM 17 tried long enough to force Mr. Bravo back to Argentina, so they've
02:44PM 18 come here to the United States to make sure that Mr. Bravo faces
02:44PM 19 at least some level of justice now.

02:45PM 20 Now, Mr. Bravo is also raising another legal defense
02:45PM 21 saying that my clients failed to pursue all of their legal
02:45PM 22 remedies in Argentina before suing in the United States. That's
02:45PM 23 ironic because Mr. Bravo's statute of limitations defense is that
02:45PM 24 my clients spent too much time pursuing legal remedies in
02:45PM 25 Argentina, but he is also now saying that they should go back and

02:45PM 1 do more in Argentina. It doesn't make sense. Mr. Bravo cannot
02:45PM 2 use this tactic to further delay justice.

02:45PM 3 And we're now going to move on to my final key point of
02:45PM 4 evidence. But before I do that, I just want to take a second to
02:45PM 5 introduce you to -- if you don't recall them, it was just very
02:45PM 6 briefly at the beginning, the members of my legal team who you
02:45PM 7 will be hearing from or seeing during the course of this case, and
02:45PM 8 they are my colleagues Claret Vargas, Ela Matthews, Franco Muzzio,
02:46PM 9 and Neha Sabharwal, and Laura Lind.

02:46PM 10 Okay. My last key point of evidence that my clients must
02:46PM 11 be compensated for the terrible suffering that Mr. Bravo caused.
02:46PM 12 On the next slide, you will see Mr. Bravo's victims. Here they
02:46PM 13 are. There's been immense suffering at Mr. Bravo's hands. Being
02:46PM 14 shot in the stomach as you watch others get massacred, losing a
02:46PM 15 mother, losing a husband, losing the uncle who would have been a
02:46PM 16 father figure and protector.

02:46PM 17 It's going to be your job to put a dollar value on these
02:46PM 18 terrible losses. It's a difficult thing to be asked to do. As
02:46PM 19 part of the damages in this case, I'll ask you to consider that
02:46PM 20 Mr. Bravo has lived a safe and profitable life here in the United
02:46PM 21 States while my clients have suffered. His net worth is at least
02:47PM 22 \$5 million. He has made so much money that a few years ago he
02:47PM 23 gave away \$500,000 to each of his three sons, a \$1.5 million gift.

02:47PM 24 Now, while Mr. Bravo enjoyed the last 50 years with his
02:47PM 25 family, my clients' families have been destroyed by him. This

02:47PM 1 case calls out for justice. At the end of it, we will be asking
02:47PM 2 you to provide that justice by returning a verdict that finds Mr.
02:47PM 3 Bravo liable for the massacre at Trelew. Thank you.

02:47PM 4 THE COURT: Mr. Davis, are you going to do the opening
02:47PM 5 now?

02:47PM 6 MR. DAVIS: Yes, Your Honor.

02:48PM 7 THE COURT: I think you can raise the podium.

02:48PM 8 MR. DAVIS: What?

02:48PM 9 THE COURT: You can raise the podium and bring the
02:48PM 10 microphone closer to you. I believe it's on the right-hand side.

02:48PM 11 MR. DAVIS: Technology. (Laughing.)

02:48PM 12 Good afternoon. My name is Steve Davis. I represent
02:48PM 13 Roberto Bravo. He's here. He's going to be -- to face this jury.
02:48PM 14 He is going to testify. He's going to tell you what happened in
02:48PM 15 Trelew in 1972, and we'll start with what this case is about.
02:48PM 16 This case is about him acting to protect himself in a sudden
02:48PM 17 instance. What happened was a tragedy, but it wasn't an
02:48PM 18 execution.

02:48PM 19 Before I get into the details of the case, I'd like to
02:48PM 20 say thank you for being here. You went through a lot of questions
02:48PM 21 this morning, and thank you for serving. The system works because
02:49PM 22 you're here to evaluate these cases, and that's one of the
02:49PM 23 important things.

02:49PM 24 This is the first time this case has ever been in front
02:49PM 25 of an American jury. The first time. And it's the first time

02:49PM 1 that there are advocates that are going to be presenting to an
02:49PM 2 American jury based upon evidence, and so I -- I strongly disagree
02:49PM 3 with my colleague's assessment, but I can tell you, you are the
02:49PM 4 ones who are going to decide the evidence here.

02:49PM 5 Neal Sonnett is my cocounsel. Roger Slade, my partner
02:49PM 6 Chanel Pla, and Ed Smith is here.

02:49PM 7 We also thank you, but we're here to try and get the
02:49PM 8 evidence to you so that you can make a fair evaluation of what
02:49PM 9 really happened. As you were informed, this case is about the
02:20PM 10 Torture Victims Protection Act, TVPA. In order to prevail on the
02:50PM 11 -- under the TVPA, there are two things that the plaintiffs must
02:50PM 12 show.

02:50PM 13 One, they must show that the killing that occurred was
02:50PM 14 intentional, was deliberate, was calculated.

02:50PM 15 The second thing they must show is that this case was
02:50PM 16 brought in a timely manner. They fail on both counts.

02:50PM 17 We will show you that everything Roberto did on that
02:50PM 18 unfortunate night in 1972 was in self-defense. Roberto is going
02:50PM 19 to take the stand. He's going to be right there. You're going to
02:50PM 20 be able to look at him and evaluate him, and he's going to tell
02:50PM 21 you that what happened was a response. It was not a calculated
02:50PM 22 planned event. It was something that happened.

02:50PM 23 The law requires both these factors to be -- actually,
02:50PM 24 that either of these factors have to be shown, and the truth is
02:51PM 25 they can't show either.

02:51PM 1 Let's back up a little bit and talk about the facts that
02:51PM 2 lead up to August 22, 1972. I will start by giving you some
02:51PM 3 background about Roberto to get you oriented. He was born in
02:51PM 4 1942. He's almost 80 years old. He grew up wanting to serve his
02:51PM 5 country. In 1964, he joined the Argentine navy, which the marines
02:51PM 6 are part of the navy. Roberto met and married his wife in
02:51PM 7 Argentina. They've been married for 55 years, and together they
02:51PM 8 have three children and three grandchildren.

02:51PM 9 While in the Argentine navy, Roberto never served in any
02:51PM 10 combat positions. He was eventually transferred in 1972 to the
02:51PM 11 Almirante Zar Naval Base. Show the picture.

02:51PM 12 You saw the picture. This is a slightly different angle
02:52PM 13 I think than what you were shown before, but that's the naval
02:52PM 14 base. It's actually a naval air base. It's not on the water.
02:52PM 15 Roberto's job there was basically to order supplies. At the time,
02:52PM 16 Argentina was not at war with another country. As you heard it,
02:52PM 17 may have been at war with itself. The military government was in
02:52PM 18 power led by General Lanusse. There were groups of people who
02:52PM 19 were opposed to that government and wanted to change. I believe
02:52PM 20 the prisoners involved in this were part of that. And as you've
02:52PM 21 heard, that on August -- the week before, August 15, 1972, that 25
02:52PM 22 prisoners escaped from Rawson Prison.

02:52PM 23 Rawson Prison is a maximum security prison not controlled
02:52PM 24 by the military, controlled by the police. But Rawson Prison was
02:52PM 25 a maximum security prison. These 25 people escaped. They go to

02:53PM 1 the Trelew airport. Six of them are able to fly out on a
02:53PM 2 hijacked commercial airline, and by the way, this is after they
02:53PM 3 killed a guard at the maximum security prison. But the other 19
02:53PM 4 surrendered because they were caught. They had no choice. They
02:53PM 5 were caught.

02:53PM 6 So rather than return the prisoners to Rawson, this
02:53PM 7 decision is made at another level, that the prisoners were taken
02:53PM 8 to the Trelew military base, and that's what happened.

02:53PM 9 Now, can we get the chart of the -- the navy base was not
02:53PM 10 designed to be a prison. This is -- there's actually maybe other
02:53PM 11 little examples of how and we'll show you the schematic by Roberto
02:53PM 12 -- we'll show you where he was, and he's going to show you what
02:53PM 13 happened on that terrible night.

02:53PM 14 But if you look at this, these cells are very -- well, I
02:53PM 15 don't know if it's discussed on the other opening. But the cells
02:54PM 16 are small. They can barely hold one person let alone two.
02:54PM 17 There's no room. There's not room. There's not a bathroom.
02:54PM 18 There is not a bed that stayed in there. The prisoners got
02:54PM 19 mattresses at night. If the prisoners wanted to go to the
02:54PM 20 bathroom, they had to go get out of the prison. This is where
02:54PM 21 these prisoners were put.

02:54PM 22 And one of the prisoners that Roberto was -- one of the
02:54PM 23 guards that Roberto was supervising were told by Roberto once or
02:54PM 24 twice a day what is going on with the prisoners. That was --
02:54PM 25 Roberto's interaction with the prisoners was very minor. He

02:54PM 1 didn't take prisoners to the bathroom. He didn't take the
02:54PM 2 prisoners for their meals. And one of the other things is he
02:54PM 3 didn't handle -- these prisoners, at best, were interrogated on
02:54PM 4 almost a daily basis by the police, trying to find out what
02:54PM 5 happened at the Rawson Prison escape.

02:55PM 6 The guards, really the corporals in guarding the
02:55PM 7 prisoners were really tasked with the daily activities. The space
02:55PM 8 was tight. The holding area was small. Each time the prisoners
02:55PM 9 had to go eat, they had to go -- they had to be escorted to get to
02:55PM 10 the -- to something to eat.

02:55PM 11 Now, you heard a lot about what happened on August 22nd
02:55PM 12 that night at 3:00 A.M. I am going to lay out the events for you.
02:55PM 13 And in this, I want you to evaluate -- think about what Roberto
02:55PM 14 Bravo did. And by the way, the only party in this case is Roberto
02:55PM 15 Bravo. It's not the Argentine military. It's not the country of
02:55PM 16 Argentina. It's just one man who at that time was a second
02:55PM 17 lieutenant in the navy, the marines.

02:55PM 18 So let's talk about what happened. After dinner that
02:55PM 19 night at 10:00 o'clock, Roberto was working at a logistics job
02:55PM 20 making food allocations for the people that were on the base.
02:56PM 21 Around 3:00 A.M., he is summoned by guards that there is a
02:56PM 22 disturbance going on at the cells. So he goes to the cells. He
02:56PM 23 gets to the cells. When he finally gets to the cells, he finds
02:56PM 24 out -- he finds two corporals there, Corporal Marandino and
02:56PM 25 Corporal Marchan.

02:56PM 1 Can you put up the players list?

02:56PM 2 Here they are. I will kind of walk through the people
02:56PM 3 that were present there that night. Roberto Bravo was there. But
02:56PM 4 when he first got to the cells, he saw Corporal Juan Marchan and
02:56PM 5 Corporal Marandino. Within seconds after he gets there, Commander
02:56PM 6 Sosa arrives. Commander Sosa is in charge. Two other officers
02:56PM 7 who were also senior to him, Lieutenant Juan Carlos, Antonio
02:56PM 8 Guerrero, Lieutenant Emilio Jorge Del Real were there. And the
02:57PM 9 Second Lieutenant, Roberto Bravo, he is the junior officer there.

02:57PM 10 Roberto is going to tell you that Sosa ordered the cells
02:57PM 11 be emptied and the prisoners come out. When the prisoners were
02:57PM 12 coming out -- and by the way, we didn't talk about it, but the
02:57PM 13 cells are not the cells that you might imagine looking at TV where
02:57PM 14 there are bars. They are just a door. So if someone wanted to
02:57PM 15 communicate with the prisoners, they needed the prisoners to get
02:57PM 16 out. But regardless no one is defending that decision of why Sosa
02:57PM 17 ordered them out.

02:57PM 18 But Commander Sosa ordered them to come out. Corporal
02:57PM 19 Marandino walks down the hallway opening up all of the doors to
02:57PM 20 let the prisoners out. The prisoners come out. Roberto at this
02:57PM 21 point feels uncomfortable. He picks up the machine gun that
02:57PM 22 Corporal Marchan, who was there, who was not feeling well, left
02:57PM 23 when he was there. You will then hear Commander Sosa decides
02:58PM 24 inexplicably to walk through the prisoners down the hall and back,
02:58PM 25 and there's other testimony that besides Roberto's. But beyond

02:58PM 1 that though, Commander Sosa is addressing the prisoners telling
02:58PM 2 them to not misbehave, to not be communicating with themselves.
02:58PM 3 He's yelling at them, and he's addressing them like a military
02:58PM 4 officer would address soldiers.

02:58PM 5 At the end of the prison line -- and this is where the
02:58PM 6 events go awry -- Mr. Pujadas who was at the end, one of the
02:58PM 7 prisoners, hits Sosa, grabs his gun, gets two shots fired off, and
02:58PM 8 Roberto reacts. Roberto reacts with his machine gun. Del Real
02:58PM 9 also has a machine gun, and he also reacts. They're not side by
02:58PM 10 side, but they're close to each other. And what happened is
02:59PM 11 awful. It's a tragedy.

02:59PM 12 They shoot in the same direction. Sosa went down.
02:59PM 13 They're shooting in the same direction as Sosa. He doesn't get
02:59PM 14 hurt, but it wasn't a planned execution. It was an instinctive
02:59PM 15 action by Roberto in a split second that was -- and the whole
02:59PM 16 event was over in seconds because the machine guns are
02:59PM 17 automatically discharged, and they provided this great tragedy.

02:59PM 18 Now that you were shown the Camps statement -- for sure,
02:59PM 19 Mr. Camps said that, but I can tell you Roberto will testify to
02:59PM 20 you tomorrow or Wednesday, whenever he testifies, that he never
02:59PM 21 used a handgun on anybody. He never did anything -- he had a
02:59PM 22 handgun, and he handed it to another soldier there, but he did not
03:00PM 23 have a handgun. He did not see anyone being shot with a handgun.

03:00PM 24 But what you'll see is that what happened is in the
03:00PM 25 aftermath, Roberto called for help, soldiers came, and that's

03:00PM 1 really what happened. Roberto was -- again, look at the people
03:00PM 2 there. Roberto was in charge of logistics. Herrera was the
03:00PM 3 accountant at the base. They weren't trained in handling
03:00PM 4 prisoners. They were definitely not trained to deal with 19
03:00PM 5 prisoners, not just 19 prisoners who had managed to escape a high
03:00PM 6 security prison killing a guard. As I said before, Roberto is
03:00PM 7 going to testify that he never used a handgun. He never walked
03:00PM 8 over the dead or wounded. He didn't go back into the cells. The
03:00PM 9 claims in this lawsuit to sue Roberto for not only killings and
03:00PM 10 for torture by shooting, but they sue him for joint enterprise,
03:01PM 11 conspiracy, and aiding and abetting the story.

03:01PM 12 The story I told you as to what Roberto does not -- is
03:01PM 13 not an extrajudicial killing. It is a horrible event, but it is
03:01PM 14 not something that someone is liable for under the TVPA.

03:01PM 15 Look at the broader picture. Roberto was the most junior
03:01PM 16 officer present. Commander Sosa was in charge. Commander Sosa
03:01PM 17 ordered the prisoners to be taken and released from their cells
03:01PM 18 and placed in the hallway. Commander Sosa decided to walk through
03:01PM 19 the ranks of the prisoners. A gun was fired. Roberto reacted.
03:01PM 20 That's what happened. And to think of it more broadly is now the
03:01PM 21 allegations about what the Argentine military did.

03:01PM 22 Roberto did not arrest these prisoners. He had nothing
03:01PM 23 to do with their escape from Rawson. He had nothing to do with
03:02PM 24 their recapture. In fact, he was on vacation a thousand miles
03:02PM 25 away when all this was happening. Roberto had nothing to do with

03:02PM 1 the prisoners being assigned to the navy base.

03:02PM 2 In this case, the plaintiffs seek to hold him responsible
03:02PM 3 for the acts of Argentina. Roberto is just a man, a man in this
03:02PM 4 courtroom seeking justice.

03:02PM 5 Plaintiffs also appear to be asking the Court to award
03:02PM 6 damages against Roberto for what happened in the 1970s. And at
03:02PM 7 the time, Roberto in 1972 was a 30-year-old junior officer
03:02PM 8 operating as -- basically ordering supplies. The plaintiffs
03:02PM 9 cannot hold Roberto liable because he acted in self-defense,
03:02PM 10 again, in reaction to Pujadas' actions.

03:02PM 11 Another issue you're going to be asked to decide in this
03:02PM 12 case is the statute of limitations.

03:03PM 13 Put that up. So let's kind of look at -- the statute of
03:03PM 14 limitations is a ten-year statute of limitations. That is one
03:03PM 15 thing that we agreed with. Next slide. The important date's
03:03PM 16 August 22, 1972. That's when the events happened.

03:03PM 17 Continue. 1973, Roberto attends military school in the
03:03PM 18 United States. Testimony will be, and it is undisputed, Mr. Bravo
03:03PM 19 was assigned to come to the United States. He went to military
03:03PM 20 school at Camp Lejeune in North Carolina; Fort Benning, Georgia.
03:03PM 21 He went to school around Washington, D.C., area. In 1978, he
03:03PM 22 retires from the Argentine military even getting a pension. In
03:03PM 23 1980, he becomes a resident of the United States, and he continues
03:03PM 24 to live his life.

03:03PM 25 In 1982, he moves down to Miami, and he is going to tell

03:04PM 1 you when he started in Miami, he started from nothing. He had
03:04PM 2 very little. He took odd jobs working as a busboy, did whatever
03:04PM 3 he could to build his life up, and by 1987, he became a United
03:04PM 4 States citizen. And during that time, he went to school and was
03:04PM 5 able to get an education, and by 1990, he received his bachelor's
03:04PM 6 degree from Saint Thomas University, and he starts opening
03:04PM 7 businesses, and he is successful. And he's going to tell you a
03:04PM 8 little bit about what he did in doing that.

03:04PM 9 But Roberto Bravo throughout all this time everything he
03:04PM 10 did whether he bought a house, had a driver's license, registered
03:04PM 11 to vote, always in his own name, always in Roberto Guillermo Bravo
03:04PM 12 or Roberto G. Bravo. In 1990, a company was formed, RGB. He was
03:04PM 13 easily located by anyone who wanted to find him. He's here in
03:04PM 14 Miami.

03:05PM 15 Starting in 1995, you will see the evidence that the
03:05PM 16 plaintiffs in this case -- they say that they could have started
03:05PM 17 pursuing Roberto. They do. They're sending letters to the
03:05PM 18 Argentine president asking -- demanding justice. But what does
03:05PM 19 that mean for the statute of limitations? It means they could
03:05PM 20 have sued from 1995 on because no matter what was going on in
03:05PM 21 Argentina, the courts of the United States were always open. He
03:05PM 22 could have always been sued here in the United States.

03:05PM 23 So ten years. This case was ultimately filed in
03:05PM 24 October 20th of 2020, and it's our view that the evidence is
03:05PM 25 overwhelming that the statute of limitations had long passed

03:05PM 1 before the time that they filed suit. There was an extradition
03:05PM 2 filed against Roberto in February of 2010, more than ten years
03:05PM 3 before the -- before their case was filed. All of this
03:06PM 4 conclusively shows that he doesn't satisfy the statute of
03:06PM 5 limitations.

03:06PM 6 Now, another thing you were told, and counsel is right, I
03:06PM 7 was going to talk about this. There was one investigation that
03:06PM 8 was conducted in this where Roberto Bravo actually got to
03:06PM 9 participate, and that is -- and you're going to get to see the
03:06PM 10 documents that relate to that, and that's a General Auditor's
03:06PM 11 Report that was prepared in 1972. Roberto was interviewed
03:06PM 12 immediately after the incident. There were all sorts of things
03:06PM 13 that the Argentine military did to express it. And we're going to
03:06PM 14 show you that report. It is a stipulated document in evidence
03:06PM 15 we're going to show you that report as to what it said Roberto
03:06PM 16 did, and there's two things that are confirmed in that report.

03:06PM 17 It says, Roberto never acted deliberately in his actions
03:06PM 18 against any of the victims. And the other thing that it's going
03:07PM 19 to show you is that justice is something that -- you need to
03:07PM 20 consider all of the evidence, all of the sides. This case --
03:07PM 21 Roberto Bravo is fortunate to be in a United States courtroom to
03:07PM 22 be able to express why this is not a case that should be brought
03:07PM 23 against him for two reasons: The fact that it was not an
03:07PM 24 intentional act, it's not an extrajudicial killing, and that the
03:07PM 25 statute of limitations expired require you to find at the close of

03:07PM 1 the evidence that a verdict should be entered in Roberto Bravo's
03:07PM 2 favor. Thank you for your time.

03:07PM 3 THE COURT: Okay. Ladies and gentlemen, I know I told
03:07PM 4 you that I would give you a morning break and an afternoon break,
03:08PM 5 and this is about the time that we would normally take our
03:08PM 6 afternoon break, so I'd like to invite you to go back to the jury
03:08PM 7 room for the first time and check out the amenities, and could you
03:08PM 8 please all be back with us at 3:25 so that we can begin the
03:08PM 9 presentation of evidence.

03:08PM 10 (Jury out at 3:08 P.M.)

03:08PM 11 THE COURT: Mr. Krishnan, would you test whatever
03:08PM 12 technology you need for your first witness now?

03:09PM 13 MR. KRISHNAN: Yes, and I apologize for what happened
03:09PM 14 earlier, Your Honor. Thank you.

03:09PM 15 THE COURT: It always has something. So what cord are
03:09PM 16 you going to need?

03:09PM 17 MR. KRISHNAN: I'm sorry, Your Honor.

03:09PM 18 THE COURT: What tech do you need? I thought you said a
03:09PM 19 video.

03:09PM 20 MR. KRISHNAN: I think it's no different than what we
03:09PM 21 used for opening.

03:09PM 22 THE COURT: So then we're all set, and I'll see you at
03:09PM 23 3:25.

03:09PM 24 MR. KRISHNAN: That sounds good.

03:09PM 25 MR. DAVIS: 3:25?

03:09PM 1 THE COURT: Yes.

03:12PM 2 (Recess until 3:25 P.M.)

03:25PM 3 MR. KRISHNAN: Your Honor, may I just raise one quick
03:25PM 4 issue before the jury arrives?

03:25PM 5 THE COURT: Yes.

03:25PM 6 MR. KRISHNAN: Which is that the next witness will be Dr.
03:25PM 7 Jim Brennan, historian. One of the exhibits that we plan to use
03:25PM 8 was Plaintiffs' Exhibit 114. There was -- it's a picture, and
03:25PM 9 there is a little text on the picture, a little caption. There
03:25PM 10 was a hearsay objection by the defense to the text, and so what we
03:25PM 11 propose to do is -- and we have copies of this. We've redacted
03:25PM 12 the text to resolve the objection, and I think defense has
03:25PM 13 indicated that that resolves their objection. So I just wanted --
03:25PM 14 so we have a copy without the text on it. We are going to hand it
03:25PM 15 up to the Court, a witness binder with all the exhibits that will
03:25PM 16 be used. We can also give you another copy to replace --

03:25PM 17 THE COURT: The redaction. Okay. So then let me read
03:25PM 18 back what I think I need to do. You are moving now to admit
03:26PM 19 Plaintiffs' Exhibit 114 as redacted.

03:26PM 20 And, Mr. Davis, you've indicated no objection thereto.

03:26PM 21 MR. DAVIS: (Nodding.)

03:26PM 22 THE COURT: So admitted. If we can use our time when the
03:26PM 23 jury is out of the room like this to preemptively move exhibits in
03:26PM 24 for which there are no objection, that will help us move things
03:26PM 25 quickly. So I appreciate that. 114 is in evidence with the

03:26PM 1 redaction.

03:26PM 2 (Plaintiff's Exhibit No. 114 received.)

03:26PM 3 MR. KRISHNAN: Thank you, Your Honor.

03:26PM 4 May we approach, Your Honor, with the exhibits?

03:26PM 5 THE COURT: Yes, you may. And defense counsel has a

03:26PM 6 copy?

03:26PM 7 MS. MATTHEWS: I'll give it to him right now.

03:26PM 8 THE COURT: Thank you.

03:26PM 9 (Jury in at 3:26 P.M.)

03:27PM 10 THE COURT: If you left your purse in the jury room, you

03:27PM 11 are the only one who has access to the jury room. You can collect

03:27PM 12 it or you can retrieve it when we break.

03:28PM 13 Still missing one juror?

03:28PM 14 JUROR: Yes. He went to the restroom.

03:28PM 15 THE COURT: Everybody have a seat.

03:28PM 16 Are you ready to call your first witness?

03:29PM 17 MS. MATTHEWS: Professor James Brennan.

03:29PM 18 THE COURT: Okay. Mr. Brennan.

03:29PM 19 MS. MATTHEWS: May I approach, Your Honor? It's just the

03:29PM 20 exhibit.

03:29PM 21 THE COURT: The exhibit that's in evidence. All right.

03:29PM 22 114.

03:29PM 23 MS. MATTHEWS: And one other exhibit that we will be

03:29PM 24 using.

03:29PM 25 THE COURT: It's not in evidence yet.

03:29PM 1 MS. MATTHEWS: Okay.

03:29PM 2 THE COURTROOM DEPUTY: Sir, if you could please raise

03:29PM 3 your right hand.

03:29PM 4 (The witness is sworn.)

03:29PM 5 THE WITNESS: I do.

03:29PM 6 THE COURTROOM DEPUTY: Thank you. Can you please state

03:29PM 7 your name and spell it for the record.

03:29PM 8 THE WITNESS: James Brennan, B-R-E-N-N-A-N.

03:29PM 9 THE COURTROOM DEPUTY: Thank you, sir.

03:29PM 10 JAMES BRENNAN, PLAINTIFFS' WITNESS, SWORN

03:30PM 11 DIRECT EXAMINATION

03:30PM 12 BY MS. MATTHEWS:

03:30PM 13 Q. Good afternoon, Professor Brennan.

03:30PM 14 A. Good afternoon.

03:30PM 15 Q. Could you please state your name for the record?

03:30PM 16 A. James Brennan.

03:30PM 17 Q. And, Professor Brennan, have you prepared a set of slides for

03:30PM 18 us to use today?

03:30PM 19 A. Yes, I have.

03:30PM 20 Q. Are you currently employed?

03:30PM 21 A. Yes, I am.

03:30PM 22 Q. And what do you do?

03:30PM 23 A. I'm a professor of Latin American history at the University of

03:30PM 24 California the Riverside campus.

03:30PM 25 Q. And what do you teach at UC Riverside?

03:30PM 1 A. I teach Latin American history, involving courses of the
03:30PM 2 modern Latin America.

03:30PM 3 Q. How long have you been a history professor at UC Riverside?

03:30PM 4 A. I've been a history professor at UC Riverside 26 years.

03:30PM 5 Q. What did you do before you became a professor at the
03:30PM 6 University of California Riverside?

03:30PM 7 A. I was also a professor of history three years at Georgetown
03:30PM 8 University, in Washington, D.C., and I was a lecturer at Harvard
03:31PM 9 University for two years after receiving my Ph.D.

03:31PM 10 Q. Would you please describe your educational background for the
03:31PM 11 jury?

03:31PM 12 A. Yes. I received my bachelor's degree in history from American
03:31PM 13 University in Washington D.C. and my graduate degree and master
03:31PM 14 and Ph.D. in Latin American history from Harvard.

03:31PM 15 Q. Have you received any academic awards for your work?

03:31PM 16 A. Yes, I have. The ones you will see on the screen here.

03:31PM 17 Q. What's your field of study, Professor Brennan?

03:31PM 18 A. My field of study is modern Latin America with a
03:31PM 19 specialization in modern Argentina.

03:31PM 20 Q. When you say modern, what do you mean by that?

03:31PM 21 A. I mean post-World War II since 1945.

03:31PM 22 Q. What, if any, are your areas of focus within that field?

03:31PM 23 A. I work in economic, social, and political history, which are
03:32PM 24 combined under the rubric of political economy; also work in
03:32PM 25 issues of human rights.

03:32PM 1 Q. How long have you been studying Argentina?

03:32PM 2 A. I've been studying Argentina for 40 years.

03:32PM 3 Q. How many books have you written?

03:32PM 4 A. I've written six books.

03:32PM 5 Q. And how many of those books are on Argentina?

03:32PM 6 A. They are all on Argentina.

03:32PM 7 Q. How many articles or book chapters have you written?

03:32PM 8 A. Several dozen of those. I didn't count them for today.

03:32PM 9 Several dozen.

03:32PM 10 Q. And about how many of those are on Argentina?

03:32PM 11 A. Not all on Argentina, but probably 75 to 80 percent of them

03:32PM 12 are.

03:32PM 13 Q. What are some examples of the places your articles have been

03:32PM 14 published?

03:32PM 15 A. My articles have been published in the major journals in my

03:32PM 16 field, Latin American Perspective, Latin Research Review, Journal

03:32PM 17 of Social History, among others.

03:32PM 18 Q. What was your assignment in this case?

03:33PM 19 A. My assignment in this case was to provide some broad

03:33PM 20 historical context, broad historical background, for the years

03:33PM 21 preceding and following the events in Trelew, also discuss the

03:33PM 22 situation of human rights in Argentina in these years, and provide

03:33PM 23 some background to the obstacles that the families of Trelew may

03:33PM 24 have encountered in seeking legal redress for what had happened.

03:33PM 25 Q. What materials did you review in preparing for your opinions

03:33PM 1 in this case today?

03:33PM 2 A. I consulted the Truth Commission Report that was put together
03:33PM 3 after the fall of the last military dictatorship, government
03:33PM 4 documents, court cases, much of -- much of my testimony relies on
03:33PM 5 my many years of research in Argentina in archival sources, world
03:33PM 6 histories, all kinds of sources. Historians are very eclectic,
03:34PM 7 how we conduct our research.

03:34PM 8 MS. MATTHEWS: At this time, I'd like to offer Professor
03:34PM 9 Brennan as an expert in Argentina since 1945.

03:34PM 10 MR. SONNETT: We have no objection, Your Honor.

03:34PM 11 THE COURT: So recognized.

03:34PM 12 BY MS. MATTHEWS:

03:34PM 13 Q. As part of your testimony today, Professor Brennan, I'd like
03:34PM 14 to talk to you about three periods in Argentina's history. Could
03:34PM 15 you briefly describe the government in Argentina at the time of
03:34PM 16 the 1972 Trelew incident?

03:34PM 17 A. Yes. The government in Argentina under Alejandro Lanusse was
03:34PM 18 the third of three military presidents following a 1966 coup
03:34PM 19 d'etat in Argentina. The military took power once against, long
03:34PM 20 history of military coups in Argentina's modern history. This
03:34PM 21 military government was really one government, but it went
03:34PM 22 through three different stages with three different presidents.
03:35PM 23 The changes had to do with internal conflicts within the military
03:35PM 24 regime and other factors as well. But the president -- there was
03:35PM 25 one president from 1966 to 1970, a second briefly in 1970 to 1971,

03:35PM 1 and Lanusse was the final president in power from 1971 to 1973.

03:35PM 2 Q. Then I'd like to discuss the era in Argentina that followed
03:35PM 3 the killings that took place at Trelew.

03:35PM 4 Can you very briefly tell me about Argentina between 1973
03:35PM 5 and 1983?

03:35PM 6 A. Yes. From 1973 to 1976, we did have a democratically elected
03:35PM 7 government in Argentina. A government that was a Peronist
03:35PM 8 government, as this government was characterized by high levels of
03:35PM 9 conflict of all kinds, state-directed violence, other things as
03:36PM 10 well, that was followed by a military coup in 1976 with the
03:36PM 11 military government in power until 1983, which then brought with
03:36PM 12 it the restoration of democracy that we live with in Argentina to
03:36PM 13 this day.

03:36PM 14 Q. And then we will discuss Argentina since 1983. And can you
03:36PM 15 just very briefly tell me about that period?

03:36PM 16 A. Yes. It's -- again, this is a period -- extended period of
03:36PM 17 democratic governance, a departure from Argentina's previous
03:36PM 18 history in the postwar period, which were punctuated by military
03:36PM 19 coups. We've had democratically elected governments ever since
03:36PM 20 1983, alternating political parties. It is a period that's been
03:36PM 21 fraught with all kinds of complications. The attempt to rebuild
03:36PM 22 democracy after many years of upheaval and violence and problems
03:37PM 23 of all sorts have been a difficult, painstaking one, but it has --
03:37PM 24 progress has been made, and there have been outstanding issues
03:37PM 25 that Argentina has had to grapple with as it rebuilds its

03:37PM 1 democracy.

03:37PM 2 Q. You mentioned the military coup d'etat that occurred in 1966?

03:37PM 3 A. Uh-huh.

03:37PM 4 Q. First, could you explain to the jury what a coup d'etat is?

03:37PM 5 A. A coup d'etat is what -- in Spanish, it's called (Speaking

03:37PM 6 Spanish). If you speak Spanish, it's a violent -- often in

03:37PM 7 Argentina, it wasn't actually violent. Sometimes it was,

03:37PM 8 sometimes it wasn't, but it's a takeover of a

03:37PM 9 democratically-elected civilian government by the military. It

03:37PM 10 can be violent in the takeover; at times it's not. But it's a

03:37PM 11 forcible removal of a democratically elected government by a

03:37PM 12 military regime.

03:37PM 13 Q. You mentioned that one of these occurred in 1966. What

03:38PM 14 motivated the military takeover in 1966?

03:38PM 15 A. Well, there were diverse motivations for that particular coup.

03:38PM 16 There were ongoing economic problems that the military regime

03:38PM 17 proposed a very different economic model from the one that had

03:38PM 18 been in place under the previous civilian democratic government.

03:38PM 19 There were ongoing problems, perceptions by the military of

03:38PM 20 internal problems having to do with stability of the country,

03:38PM 21 threats to national security, the kinds of questions that military

03:38PM 22 is very concerned about. There was also a sense of Argentina

03:38PM 23 being a country in decline and that the military could provide

03:38PM 24 solutions to ongoing problems that democratically-elected civilian

03:38PM 25 governments had been unable to do. So multiple factors, as is

03:38PM 1 always the case in these military coups, compelled that particular
03:39PM 2 coup.

03:39PM 3 Q. When did General Lanusse come to power?

03:39PM 4 A. He came to power in 1971.

03:39PM 5 Q. And do we have a picture of him in your slides?

03:39PM 6 A. Yes, we do.

03:39PM 7 Q. And is there a picture of General Lanusse?

03:39PM 8 A. Lanusse, yes.

03:39PM 9 Q. Was Lanusse elected?

03:39PM 10 A. No, he was not.

03:39PM 11 THE COURT: Counsel, is this in evidence?

03:39PM 12 MS. MATTHEWS: No. It's just a demonstrative.

03:39PM 13 THE COURT: Okay. Is it marked with a number?

03:39PM 14 MS. MATTHEWS: No.

03:39PM 15 THE COURT: Okay. You can't publish things that aren't
03:39PM 16 part of the record.

03:39PM 17 MS. MATTHEWS: Can we just mark it as PDX 1?

03:39PM 18 THE COURT: Okay. Any objection to the display of PDX 1?
03:39PM 19 Mr. Sonnett?

03:39PM 20 MR. SONNETT: We have no objection to it, Your Honor.

03:39PM 21 THE COURT: All right; so marked. Go ahead.

03:40PM 22 BY MS. MATTHEWS:

03:40PM 23 Q. One of the documents in this case uses the word junta. Could
03:40PM 24 you explain to the jury what a junta is?

03:40PM 25 A. A junta is a military government.

03:40PM 1 Q. In a sentence, how would you describe the Lanusse regime from
03:40PM 2 a civil rights perspective?

03:40PM 3 A. I would describe it as with all the military governments in
03:40PM 4 Argentina post-war history, one that infringed on civil liberties,
03:40PM 5 a government that was guilty of many things, press censorship.
03:40PM 6 There were human rights questions that came up as well during
03:40PM 7 these years. So it was an authoritarian regime, very, very
03:41PM 8 oppressive in terms of its dealings with the population in terms
03:41PM 9 of civil liberties, press freedom, et cetera.

03:41PM 10 Q. When you say human rights questions that came up, what human
03:41PM 11 rights questions are you referring to?

03:41PM 12 A. Above all, issues of unlawful detention, there was an
03:41PM 13 antiradical law that's passed as well that gives the government
03:41PM 14 broad powers to arrest and try people in military tribunals.
03:41PM 15 There -- things of that nature.

03:41PM 16 Q. What about the issue of people being detained without charge?
03:41PM 17 Was that something that was happening at that time?

03:41PM 18 A. That is something that was happening, yes.

03:41PM 19 Q. And who was the military detaining without charge at that
03:41PM 20 time?

03:41PM 21 A. I would describe them as average Argentines of all social
03:41PM 22 classes.

03:41PM 23 Q. You mentioned that Lanusse enacted an antiradical law. Who
03:41PM 24 did that apply to?

03:41PM 25 A. That applied to those people that the government perceived as

03:42PM 1 both opponents of the government and threats to things like
03:42PM 2 national security.

03:42PM 3 Q. And the trials that happened in the military tribunals, would
03:42PM 4 you describe those as fair trials?

03:42PM 5 A. I would describe those as not as fair trials. I would
03:42PM 6 describe those as military tribunals where many -- where the due
03:42PM 7 process kind that you're witnessing here doesn't take place.

03:42PM 8 Q. Are you aware of Rawson Prison?

03:42PM 9 A. Yes, I am.

03:42PM 10 MS. MATTHEWS: And I would like to mark the next slide as
03:42PM 11 PXD -- PDX 2.

03:42PM 12 BY MS. MATTHEWS:

03:42PM 13 Q. Is this a picture of Rawson penitentiary prison?

03:42PM 14 A. Yes, it is.

03:42PM 15 Q. What was the significance of Rawson at the time of Trelew in
03:42PM 16 the early 1970s?

03:42PM 17 A. Well, it was a federal penitentiary where prisoners -- local
03:43PM 18 prisoners in particular were often sent to for reasons that have
03:43PM 19 to do, I believe, with the military's calculation that this prison
03:43PM 20 is found in a --

03:43PM 21 MR. SONNETT: Your Honor, we object to what he believes.
03:43PM 22 He can testify as to facts and evidence.

03:43PM 23 THE COURT: In his opinion, which is what he's been
03:43PM 24 recognized as.

03:43PM 25 THE WITNESS: In my opinion. Sorry. In my opinion.

03:43PM 1 BY MS. MATTHEWS:

03:43PM 2 Q. All right.

03:43PM 3 A. Which the military -- a calculation was made, in my opinion,
03:43PM 4 to remove prisoners to prisons like the Rawson Prison, which is
03:43PM 5 far in the south of Argentina, distant from the major population
03:43PM 6 centers, especially Buenos Aires, to move them there, to
03:43PM 7 essentially make them invisible in a way. That is, Argentina was
03:43PM 8 a country that was highly mobilized politically, and there were
03:43PM 9 incidents where prisoners held in major population centers like
03:44PM 10 Buenos Aires, like the penitentiary, would attract protests, trade
03:44PM 11 unions, political groups, student groups. All kinds would go to
03:44PM 12 the prisons and protest. Journalists would as well. So this is a
03:44PM 13 way to kind of limit the accessibility of these sorts of people to
03:44PM 14 these prisoners. That is, you put them in a very distant prison,
03:44PM 15 and that made it that much more difficult for them to travel
03:44PM 16 there.

03:44PM 17 I think there was also a fear that these sorts of groups
03:44PM 18 surrounding federal penitentiaries could lead to a period where
03:44PM 19 there is a lot of urban protests in Argentina. There had been a
03:44PM 20 major one in 1969 in Cordoba, another one in Cordoba in 1971,
03:44PM 21 other cities as well. That, you know, gathering these large
03:44PM 22 groups of people was potentially dangerous for these kinds of
03:44PM 23 urban protests. So it was a calculation to put them in places
03:45PM 24 where that was very -- it was a very sparsely inhabited part of
03:45PM 25 Argentina. Put them in places where that would not happen. So

03:45PM 1 again, it was limited access.

03:45PM 2 This represented a public relations problem for the
03:45PM 3 military, of course, if they had people at -- protesting. It was
03:45PM 4 not good for the regime's image, and it was dangerous they thought
03:45PM 5 politically. So it was a calculated decision to move them to
03:45PM 6 these sorts of places.

03:45PM 7 Q. What is Decree No. 19797?

03:45PM 8 A. This decree of the Lanusse government, which criminalizes any
03:45PM 9 alternative rendering of the events in Trelew; alternative to the
03:45PM 10 official version of events of a failed escape.

03:45PM 11 Q. And did the Lanusse regime take any other steps to restrict,
03:45PM 12 repress, the press or freedom of the press?

03:45PM 13 A. Well, yes. This is a period of widespread press censorship,
03:46PM 14 it -- throughout this period of military rule, which again begins
03:46PM 15 in 1966. And he is sort of the third stage of that different
03:46PM 16 military presidents, but it's the same military regime.

03:46PM 17 Widespread press censorship, there's a shutting down of
03:46PM 18 entire publications, important major newspapers and magazines,
03:46PM 19 Premataplan (phonetic), which is kind of like, you might say, the
03:46PM 20 equivalent of Time Magazine here, a major news magazine was shut
03:46PM 21 down at various moments. There are many examples of press
03:46PM 22 censorship and extreme measures taken against the press by the
03:46PM 23 Lanusse regime. And these also happened under the previous
03:46PM 24 military presidents since 1966.

03:46PM 25 Q. Did the events during the Lanusse regime impact what came

03:46PM 1 later in Argentina?

03:46PM 2 A. Yes, I believe they did in multiple ways. One of them
03:47PM 3 specifically -- I think the events of Trelew which became a public
03:47PM 4 scandal I think set in motion within the military thoughts about
03:47PM 5 how to -- and this was a debate that had already been going on for
03:47PM 6 some time in the military ranks -- how to confront so-called
03:47PM 7 subversives. People who they regarded as enemies of the
03:47PM 8 government and enemies of the state who embraced ideas that the
03:47PM 9 military found not acceptable and their conception of the nation;
03:47PM 10 that the public scandal surrounding the events in Trelew, which
03:47PM 11 became a major public scandal and a serious problem for the
03:47PM 12 Lanusse regime, set in motion a plan that would later bear fruit
03:47PM 13 so to speak in the military dictatorship of 1976 and 1983 which
03:47PM 14 was sort of the culmination of -- each one of these military
03:47PM 15 governments was sort of worse than the predecessor in terms of the
03:48PM 16 abuse of civil rights, human rights, in use of state violence, and
03:48PM 17 that was I think some of the biggest influence of what happened
03:48PM 18 during the Lanusse regime, the events of Trelew in terms of what
03:48PM 19 came later.

03:48PM 20 Q. I now want to move to the next period of time after the
03:48PM 21 Lanusse regime. How would you describe the period from 1973 to
03:48PM 22 1976 from a civil rights perspective?

03:48PM 23 A. Well, it's the period where civil rights are being sort of
03:48PM 24 systematically abused. It's a period -- a period of intense
03:48PM 25 state-directed violence. It's a period of -- in which basic

03:48PM 1 freedoms are lost. It's a low point in Argentina's history in
03:48PM 2 terms of all of these basic rights, and probably what most
03:48PM 3 distinguished I think in terms of the loss of basic rights was the
03:48PM 4 state-directed violence which led to a number of victims during
03:49PM 5 this period.

03:49PM 6 Q. Were there death squads during this time?

03:49PM 7 A. Yes, there were.

03:49PM 8 Q. And who did they target?

03:49PM 9 A. They targeted opponents of the regime, opponents of the regime
03:49PM 10 of the government in power as I said.

03:49PM 11 Q. Was the regime targeting lawyers at this time?

03:49PM 12 A. Targeted lawyers among other people, yes.

03:49PM 13 Q. Can you give me any examples of human rights lawyers who were
03:49PM 14 targeted or lawyers who were targeted?

03:49PM 15 A. Like Rodolfo de Cartihanya (phonetic) represented, I believe,
03:49PM 16 some of the Trelew folks. Solache Ocean, a human rights lawyer who
03:49PM 17 was forced into exile. Ortega, I think, was assassinated in these
03:49PM 18 years.

03:49PM 19 Solache Ocean, another lawyer -- a human rights lawyer who
03:49PM 20 was forced into exile, and many others. Alfredo Curutchet, a
03:49PM 21 human rights lawyer from Cordoba, was also killed in these years.

03:50PM 22 Q. And during this era between 1973 and 1976, if you were trying
03:50PM 23 to seek justice for your family member who -- would that have put
03:50PM 24 you in the category of people who were being targeted by the
03:50PM 25 government?

03:50PM 1 A. It very likely would, yes.

03:50PM 2 Q. Who came to power in 1976 in Argentina?

03:50PM 3 A. In 1976, once again, the military came into power. It was
03:50PM 4 again a junta, a military government. The titular president was
03:50PM 5 the army commander, Jorge Videla.

03:50PM 6 But the idea was this is a shared authority between the
03:50PM 7 three branches of the military: The navy, the air force, and the
03:50PM 8 army. The army, being the largest branch, was Videla was assigned
03:50PM 9 presidency; but the thought was they shared power collectively as
03:50PM 10 the armed forces.

03:50PM 11 Q. Did this military government have a name for itself?

03:51PM 12 A. Yes. It called -- in English translation, the Process of
03:51PM 13 National Reorganization.

03:51PM 14 Q. And did this -- did the Process continue to identify certain
03:51PM 15 individuals as subversives?

03:51PM 16 A. Oh, yes, on a scale never seen before, in fact.

03:51PM 17 Q. And could you tell the jury the Spanish name for the process
03:51PM 18 of national reorganization?

03:51PM 19 A. (Speaking Spanish.)

03:51PM 20 THE COURT: They have been instructed though to rely on
03:51PM 21 the English translation and interpretation in this case.

03:51PM 22 BY MS. MATTHEWS:

03:51PM 23 Q. What is that government commonly known as?

03:51PM 24 A. In Argentina, it's called the Proceso. It's called the
03:51PM 25 process.

03:51PM 1 Q. Thank you. And how did the Proceso deal with those identified
03:52PM 2 as subversives?

03:52PM 3 A. There is a systematic campaign of extermination against them.
03:52PM 4 This is the darkest period in Argentina's modern history in terms
03:52PM 5 of military rule, the period that Argentina has become infamous
03:52PM 6 for. (Speaking Spanish.) So there is a history of abuse of human
03:52PM 7 rights and respect for human dignity and human life on a scale not
03:52PM 8 seen before. As bad as some of the previous governments were,
03:52PM 9 this was a whole different order.

03:52PM 10 Q. During the Proceso, would seeking justice for the death of
03:52PM 11 your family member at the hands of the military put you in the
03:52PM 12 category of people identified as subversive?

03:52PM 13 A. It very well could, yes.

03:52PM 14 Q. You mentioned that this was the period of the disappeared?

03:52PM 15 A. Right.

03:52PM 16 Q. How were people being disappeared?

03:53PM 17 A. Well, the methodology of the disappearance was to abduct
03:53PM 18 people -- the first stage of course was to identify people who
03:53PM 19 should be disappeared, right. So the intelligence service, the
03:53PM 20 military intelligence services working in tandem also with the
03:53PM 21 police worked up lists of subversives, that is, the people that
03:53PM 22 were seen to be, you know, the most dangerous in some ways from
03:53PM 23 the military perspective, and then plans would be set in motion to
03:53PM 24 abduct them illegally, of course. Abductions could happen any
03:53PM 25 time of the day, but they particularly tended to happen at night.

03:53PM 1 Then they were taken -- typically the way the process worked, is
03:53PM 2 they would be taken to detention centers. There were hundreds of
03:53PM 3 detention centers often in police commissaries, but not
03:53PM 4 exclusively there, were people would be interrogated, tortured.

03:53PM 5 And then there would be a determination of who were the
03:53PM 6 individuals to be chosen to be sent to the death camps. There
03:54PM 7 were half a dozen of these death camps. Most of them concentrated
03:54PM 8 in the greater Buenos Aires area. It is the federal capital,
03:54PM 9 surrounding the capital. There was one very large one, the
03:54PM 10 largest in the province, called La Perla, the pearl, these were
03:54PM 11 the individuals after a careful, you know, deliberation, local
03:54PM 12 military commanders, often in contact with the military junta and
03:54PM 13 members of the military command in Buenos Aires, would decide
03:54PM 14 these were the people that would be assigned to the death camps.
03:54PM 15 And literally that meant a death sentence.

03:54PM 16 Now, there were some people, for a variety of reasons, who
03:54PM 17 survived the death camps. But by and large, if you were assigned
03:54PM 18 to the death camp after having passed through the detention
03:54PM 19 centers, right, many people -- more people, in fact, from
03:54PM 20 detention centers were tortured and not sent to death camps. But
03:54PM 21 those who were assigned to death camps were slated for death, and
03:54PM 22 there were small numbers, exceptional numbers of people who do
03:55PM 23 survive for various reasons, but the overwhelming majority of
03:55PM 24 people who ended up in these death camps in fact are killed, and
03:55PM 25 then they're killed in a clandestine fashion.

03:55PM 1 The military is never acknowledging that it's doing this,
03:55PM 2 that it's abducting people, torturing them, and then killing them,
03:55PM 3 then their bodies are disappeared. Their bodies can be
03:55PM 4 disappeared in a variety of ways. They can be buried in mass
03:55PM 5 graves. They can be buried in public cemeteries with no marker to
03:55PM 6 indicate who they are. They could be sedated and thrown from
03:55PM 7 airplanes. There were a number of ways to disappear people.

03:55PM 8 Q. You mentioned that the military was operating -- these were
03:55PM 9 clandestine deaths. Why was the military doing these things
03:56PM 10 clandestinely or secretly?

03:56PM 11 A. I think it had diverse motivations. One was to insulate it
03:56PM 12 from criticisms and potential consequences, both political fallout
03:56PM 13 within the country and also internationally. Didn't want the
03:56PM 14 reputation of a place where the government was perpetrating
03:56PM 15 widespread human rights abuses. That could have consequences in
03:56PM 16 terms of, you know, economic aid from countries, companies maybe
03:56PM 17 wanting to invest in Argentina. It would have been a very bad
03:56PM 18 image to the country. Also to insulate itself from human rights
03:56PM 19 organizations that were becoming more important internationally,
03:56PM 20 Amnesty International and others, that would note, you know, the
03:56PM 21 level of criminality that was taking place and that would have
03:56PM 22 consequences.

03:56PM 23 It perhaps also was -- the idea was to in some ways instill
03:56PM 24 fear in society through the disappearance or the inscrutable
03:57PM 25 mysterious nature of the disappearance where people were

03:57PM 1 disappearing, and family members and friends wondering what
03:57PM 2 happened to someone, never knowing, the person never reappearing.
03:57PM 3 It was a way to instill a sense of overwhelming dread and fear
03:57PM 4 where people would self-censor and exercise a kind of social
03:57PM 5 control. The best kind of dictatorship is one that's
03:57PM 6 internalized, right, where you control yourself, you control
03:57PM 7 everything you say and what you do and who you talk to. I think
03:57PM 8 that was part of the calculation as well. So there was a
03:57PM 9 combination of very pragmatic reasons to do it, and a combination
03:57PM 10 of what you might say were sort of the broader objectives of the
03:57PM 11 dictatorship.

03:57PM 12 Q. What types of people were swept into the system of
03:57PM 13 disappearances?

03:57PM 14 A. Virtually anyone, quite frankly. Trade union leaders,
03:57PM 15 students, intellectuals, lawyers, politicians, you know, a wide
03:58PM 16 arc of people of all occupations, tended to be -- you know, age
03:58PM 17 range tended to be younger people, but there where people -- older
03:58PM 18 people as well, but it tended to be concentrated in people between
03:58PM 19 the ages of 18 and 25. Men and women, a third of the disappeared
03:58PM 20 were women.

03:58PM 21 Q. What about kids?

03:58PM 22 A. Kids -- in terms of kids -- kids versus babies, let's discuss
03:58PM 23 that. Kids by and large -- there are some examples of kids who
03:58PM 24 were disappeared. But the typical story is in the abduction of
03:58PM 25 individuals with children, they would be -- they would not be

03:58PM 1 killed. They would not be disappeared. They would be dumped off
03:58PM 2 in the front yard of the grandparents or something. There are
03:58PM 3 some examples of children who were killed, few in number. But
03:58PM 4 then there was a whole history of black market and babies that
03:58PM 5 took place, that is, women prisoners would be kept in these death
03:58PM 6 camps until they gave birth, sometimes held to term, sometimes
03:59PM 7 Cesarean birth, and the babies then would be sold off into
03:59PM 8 military families and others, the judiciary --

03:59PM 9 MR. SONNETT: Your Honor, we object to this line of
03:59PM 10 questioning on relevance. It has nothing to do with the events at
03:59PM 11 Trelew.

03:59PM 12 THE COURT: Sustained.

03:59PM 13 MS. MATTHEWS: It's relevant to statute of limitations.

03:59PM 14 THE COURT: Well, let me be more clear. Where are you
03:59PM 15 headed, because this line, how broad, Mr. Sonnett? How broad, Mr.
03:59PM 16 Sonnett, is your objection here when you say this line of
03:59PM 17 questioning?

03:59PM 18 MR. SONNETT: The line of questioning that was just
03:59PM 19 discussed, kids versus babies.

03:59PM 20 THE COURT: Agreed. Okay. Sustained.

03:59PM 21 MS. MATTHEWS: What happened to the kids is relevant to
03:59PM 22 the case, Your Honor, to statute of limitations in particular, but
03:59PM 23 I'm willing to move on from this topic.

03:59PM 24 THE COURT: Okay.

04:00PM 25 BY MS. MATTHEWS:

04:00PM 1 Q. Are you aware of any persecution related to the Trelew
04:00PM 2 victims' families, Professor Brennan?

04:00PM 3 A. Yes. I'm not an expert on the events in Trelew. I know
04:00PM 4 roughly what happened. I have read some books about it. But so
04:00PM 5 most of the individuals there, I don't know their personal or
04:00PM 6 political biographies. There are a few who I am familiar with.
04:00PM 7 One in particular, the Pujadas family, much of my research and
04:00PM 8 work has been in the city of Cordoba. This was a family, it's a
04:00PM 9 famous case, this case, of what happens to this particular family
04:00PM 10 in Cordoba. These are the Pariotto Pujadas, who was killed in
04:00PM 11 Trelew.

04:00PM 12 Q. Please tell the jury briefly what happened to the Pujadas
04:00PM 13 family.

04:00PM 14 THE COURT: Hold on. Let me ask you to ask a more
04:01PM 15 focused question.

04:01PM 16 BY MS. MATTHEWS:

04:01PM 17 Q. How was the Pujadas family persecuted?

04:01PM 18 A. The Pujadas family was persecuted through -- by their death.
04:01PM 19 They were murdered, and their bodies thrown in the well. Their
04:01PM 20 daughter also was murdered.

04:01PM 21 MR. SONNETT: Excuse me, Your Honor, can we establish
04:01PM 22 when this took place? If it's after the events at Trelew, then we
04:01PM 23 object on relevance grounds again.

04:01PM 24 THE COURT: Well, there won't be a blanket ruling with
04:01PM 25 respect to relevance because it occurred after Trelew in light of

04:01PM 1 the statute of limitations defense. But nonetheless, let me ask
04:01PM 2 Professor Brennan to proffer a time frame that you're referring to
04:01PM 3 what happened to the Pujadas family because that will --

04:01PM 4 THE WITNESS: The precise year is 1975, I believe. It's
04:01PM 5 during the Peronist government from '73 to '76.

04:01PM 6 THE COURT: Okay. So if the time frame is the basis of
04:01PM 7 your objection, Mr. Sonnett, it's overruled.

04:02PM 8 BY MS. MATTHEWS:

04:02PM 9 Q. Do you know specifically what month in 1975?

04:02PM 10 A. You know, I don't recall the month, no.

04:02PM 11 Q. Do you have any other examples of families of the victims of
04:02PM 12 Trelew that were persecuted?

04:02PM 13 A. I'm somewhat familiar with the story of the Santucho.

04:02PM 14 Santuchos were a prominent family, and I know roughly the story
04:02PM 15 there of the very large family, like ten family members who were
04:02PM 16 killed. Some of them were killed.

04:02PM 17 Again, I know roughly the story there, but not in any great
04:02PM 18 detail. There are so many different stories for that large
04:02PM 19 family, that it's hard to keep track, but they're all very sad and
04:02PM 20 tragic.

04:02PM 21 Q. Do you know what happened to the survivors of the Trelew
04:02PM 22 Massacre?

04:02PM 23 A. The survivors were -- the survivors were eventually killed.

04:02PM 24 Q. How long after the massacre did that happen?

04:02PM 25 A. That happened -- that would have happened during the -- as I

04:03PM 1 remember the junta during the period from '76 to '83.

04:03PM 2 MS. MATTHEWS: And I'd now like to introduce Plaintiff'
04:03PM 3 Exhibit PX 111.

04:03PM 4 THE COURT: Any objection? I think 114 is in evidence.

04:03PM 5 MS. MATTHEWS: Yes. 111 is not yet in evidence.

04:03PM 6 THE COURT: Okay.

04:03PM 7 MS. MATTHEWS: But I would like for the witness to see
04:03PM 8 it. So may I approach to show it to the witness?

04:03PM 9 THE COURT: Of course. Have you shown defense counsel?

04:03PM 10 MS. MATTHEWS: Yes. He has it in his binder, I believe.

04:03PM 11 THE WITNESS: Yes. That's a well-known photo of Alberto
04:03PM 12 Camps.

04:03PM 13 MS. MATTHEWS: Okay. I'll ask you some questions about
04:04PM 14 that.

04:04PM 15 BY MS. MATTHEWS:

04:04PM 16 Q. Do you recognize that photo, Professor Brennan?

04:04PM 17 A. I recognize the photo. It's a photo that's often been seen,
04:04PM 18 yes.

04:04PM 19 Q. And what -- how do you recognize that photo?

04:04PM 20 A. I recognize it from having seen it in various publications.

04:04PM 21 Q. What is it?

04:04PM 22 A. It's a photo of him following the events in Trelew
04:04PM 23 recuperating.

04:04PM 24 Q. I know you said it before, but can you identify the individual
04:04PM 25 in the picture?

04:04PM 1 A. Alberto Camps.

04:04PM 2 Q. Thank you.

04:04PM 3 MS. MATTHEWS: I'd now like to move to admit this photo

04:04PM 4 and publish it to the jury.

04:04PM 5 THE COURT: Any objection to the admission of PX 111?

04:04PM 6 MR. DAVIS: No objection.

04:04PM 7 THE COURT: So admitted. You can publish. I'm sorry. I

04:04PM 8 already heard your defense response. Thank you.

04:04PM 9 (Plaintiffs' Exhibit No. 111 received.)

04:04PM 10 MS. MATTHEWS:

04:04PM 11 Q. I believe you said this before, but it wasn't very clear.

04:05PM 12 When was this picture taken?

04:05PM 13 A. Shortly after the events at Trelew.

04:05PM 14 MS. MATTHEWS: And I'd now like to introduce Plaintiffs'

04:05PM 15 Exhibit 114, which is in evidence, so we can publish that to the

04:05PM 16 jury.

04:05PM 17 Q. Professor Brennan, who is this a picture of?

04:05PM 18 A. This is a picture of Haidar.

04:05PM 19 Q. Sorry. Can you repeat that?

04:05PM 20 A. Haidar is the last name. I'm running a blank. One of the

04:05PM 21 victims of Trelew. Give me a second here. I'm running a blank on

04:05PM 22 the first name. I'm running a blank on the first name.

04:05PM 23 MR. SONNETT: Your Honor, I am confused as far as whether

04:05PM 24 this is part of his expertise, or whether he just saw this

04:05PM 25 photograph.

04:05PM 1 THE WITNESS: No. No. I've seen the photograph.

04:05PM 2 THE COURT: Hold on, Mr. Brennan.]Mr. Brennan, when

04:05PM 3 there is an objection, I want you to hold.

04:05PM 4 Mr. Sonnett, what is the objection?

04:06PM 5 MR. SONNETT: My objection is that he has not indicated

04:06PM 6 that he has expertise on this photograph. He just indicated that

04:06PM 7 he saw it someplace.

04:06PM 8 THE COURT: I understand the photo is already in evidence

04:06PM 9 without objection from the defense, so there is a pending question

04:06PM 10 about who he is, and Mr. Brennan will either answer or he can't.

04:06PM 11 Overruled.

04:06PM 12 THE WITNESS: The first name is eluding me right now.

04:06PM 13 One of the survivors of the Trelew Massacre. Rene is the name.

04:06PM 14 BY MS. MATTHEWS:

04:06PM 15 Q. And what was the last name; do you remember?

04:06PM 16 A. Haidar. I don't know how they pronounce that, Haidar.

04:06PM 17 Q. Can I refresh your recollection with the stipulation?

04:06PM 18 MS. MATTHEWS: Can I refresh the witness's recollection

04:06PM 19 with the stipulation?

04:06PM 20 THE COURT: If there is a document that will refresh his

04:06PM 21 recollection.

04:06PM 22 THE WITNESS: It is not a usual Spanish name, so the

04:07PM 23 pronunciation is problematic. But it's Rene, I remember now.

04:07PM 24 BY MS. MATTHEWS:

04:07PM 25 Q. The stipulation in this case states that --

04:07PM 1 THE COURT: No, counsel. I'm sorry. If there is a
04:07PM 2 writing that you want to show him that you think will refresh his
04:07PM 3 recollection, you can approach him.

04:07PM 4 MS. MATTHEWS: Can I approach?

04:07PM 5 THE COURT: Please.

04:07PM 6 Show counsel what you're handing him, please.

04:07PM 7 BY MS. MATTHEWS:

04:07PM 8 Q. It's just a copy of the slide from earlier which has the
04:07PM 9 stipulation on it.

04:08PM 10 A. Do you want me to pronounce the name; is that right?

04:08PM 11 Q. Just read it if you could.

04:08PM 12 THE COURT: Mr. Brennan, to yourself. If the writing
04:08PM 13 refreshes your recollection, then you can answer counsel's
04:08PM 14 question, then go ahead. But don't just read from it.

04:08PM 15 THE WITNESS: Hold on a second, here. Oh, right. Well,
04:08PM 16 it's an Arabic name, and I think it's in Spanish in Argentina.
04:08PM 17 They probably pronounce it -- Haidar, Haidar, Rene Haidar.

04:08PM 18 BY MS. MATTHEWS:

04:08PM 19 Q. Who is the individual in the picture, Mr. Brennan?

04:08PM 20 A. The individual is Rene Haidar.

04:08PM 21 Q. Thank you very much.

04:08PM 22 A. I don't know if that's how Rene pronounced it, but.

04:08PM 23 Q. We can take the exhibit down. I believe earlier in your
04:09PM 24 testimony you mentioned that democracy returned to Argentina in
04:09PM 25 1983. Is that correct?

04:09PM 1 A. That's true, yes.

04:09PM 2 Q. What was the government doing after democracy returned in 1983
04:09PM 3 to provide accountability for the Trelew Massacre?

04:09PM 4 A. Well, the Trelew Massacre specifically, I don't know. It put
04:09PM 5 together a truth commission, the National Commission of the
04:09PM 6 Disappeared but.

04:09PM 7 THE COURT: Mr. Brennan, hold on. You've answered
04:09PM 8 counsel's question already.

04:09PM 9 Ask the next question.

04:09PM 10 BY MS. MATTHEWS:

04:09PM 11 Q. Were there any efforts to provide accountability for the
04:09PM 12 military's actions after democracy returned to Argentina in 1983?

04:09PM 13 A. There were multiple efforts to do that. There was a truth
04:10PM 14 commission that was formed to document those who had been abducted
04:10PM 15 and disappeared, a foundational document, 20th century human
04:10PM 16 rights National Commission of the Disappeared, also began a whole
04:10PM 17 process of accountability through the judicial system. It began
04:10PM 18 first with the president elect then, a guy named Raul Alfonsin
04:10PM 19 assigning jurisdiction to the military courts. Once it was clear
04:10PM 20 they were stonewalling those efforts, those were passed to the
04:10PM 21 civil courts. Then this began a public process of trials of the
04:10PM 22 military juntas. The juntas had several different iterations,
04:10PM 23 different members of the -- one military government between '76
04:10PM 24 and '83 but with various shakeups in terms of the composition of
04:10PM 25 the members of the juntas, all were tried for these human rights

04:10PM 1 abuses related to the disappeared.

04:10PM 2 Q. And how did the military react to these accountability
04:11PM 3 processes?

04:11PM 4 A. The military was enraged. Right. They were unrepentant.
04:11PM 5 They thought they had done nothing wrong. They expressed
04:11PM 6 opposition from the beginning. Again, they had attempted to
04:11PM 7 short-circuit the whole process by stonewalling in the military
04:11PM 8 courts. But once they were passed to the civil courts, they were
04:11PM 9 outspoken, their opposition. But they took action in terms of a
04:11PM 10 series of military rebellions, a bombing campaign as well, all of
04:11PM 11 these expressing, you know, opposition to the trials that were
04:11PM 12 taking place. So a seditious military, seditious in the sense of
04:11PM 13 planning and executing attempts to overthrow a democratically
04:11PM 14 elected government through military uprisings. There were several
04:11PM 15 of these.

04:11PM 16 Q. And what effect did these military uprisings have?

04:11PM 17 A. They had multiple effects. But in terms of the human rights
04:12PM 18 issue, they persuaded the president in power who had undertaken
04:12PM 19 the human rights initiative and had a history of being a human
04:12PM 20 rights advocate and lawyer to sort of put the brakes on the
04:12PM 21 process that the trials were held, and these junta members were
04:12PM 22 found guilty and given prison sentences, but then the decision was
04:12PM 23 made, you know, as he's dealing with the twin priorities of both,
04:12PM 24 you know, holding these people accountable for what they had done
04:12PM 25 but also trying to secure democracy. Democracy is very fragile.

04:12PM 1 The decision was made to pass two amnesty laws, one that's
04:12PM 2 established a statute of limitations for future trials and another
04:12PM 3 that was called the Law of Dutiful Obedience that allowed for
04:12PM 4 defense of carrying out of orders.

04:12PM 5 Now, not orders that exceeded reasonable orders, that is
04:12PM 6 orders that were shaded over into the area of criminality; for
04:13PM 7 example, the appropriation of property, or engaged black market of
04:13PM 8 babies, still would be held accountable for that. But it was
04:13PM 9 essentially putting brakes on the whole process of -- through the
04:13PM 10 legal system of holding the military accountable for the crimes
04:13PM 11 had a had taken place during the dictatorship.

04:13PM 12 Q. Did accountability processes resume at any point?

04:13PM 13 A. They had resumed, most importantly, years later during -- the
04:13PM 14 Kirchner governments were in power for a number of years in 2003.
04:13PM 15 That's when the human rights question really comes to the
04:13PM 16 forefront again, the national political life in a much larger
04:13PM 17 scale.

04:13PM 18 The human rights trials in the 1980s were really confined to
04:13PM 19 the military leadership. The human rights trials later on during
04:14PM 20 the Kirchner era went down through the ranks. This had been one
04:14PM 21 of the demands, in fact, of the human rights groups during the
04:14PM 22 Alfonsin years, but he felt, you know, the situation politically
04:14PM 23 was too fragile, so he didn't do that. But that is one of the
04:14PM 24 things that happened with the Kirchners, the Kirchner
04:14PM 25 presidencies, again, in the new century.

04:14PM 1 Also the civilian collaborators with the dictatorship, they
04:14PM 2 were tried as well.

04:14PM 3 Q. And did witnesses in any of these more recent trials of the
04:14PM 4 military report being intimidated?

04:14PM 5 A. Yes. There were complaints. I attended some of these trials
04:14PM 6 personally. One in particular, the largest human rights trial of
04:14PM 7 all, called the La Ped la trial, stretched over almost a four-year
04:14PM 8 period. I attended most of the proceedings of those trials. They
04:14PM 9 tend to take place in the Argentine winter, which is our summer
04:14PM 10 here. As an academic, I have off in the summer; so I could get
04:15PM 11 down there, and I would sit for the proceedings. I did this for
04:15PM 12 years.

04:15PM 13 And I would hear in the court -- particularly outside the
04:15PM 14 court, actually -- complaints about witness intimidation, phone
04:15PM 15 calls, threatening phone calls, things of that nature, you know,
04:15PM 16 certainly there were allegations of that.

04:15PM 17 Q. I believe you mentioned that one of the junta leaders was
04:15PM 18 named Videla. Was Videla ever tried for these crimes?

04:15PM 19 A. Videla was tried multiple times. He as first tried under
04:15PM 20 Alfonsin, during the Alfonsin trials, was in the 1980s. But
04:15PM 21 during the Kirchner years, he was tried multiple times.

04:15PM 22 Q. Were there any examples of witness intimidation during the
04:15PM 23 Videla trials?

04:15PM 24 A. There were similar complaints about verbal threats,
04:15PM 25 threatening phone calls during several Videla trials. Several of

04:15PM 1 those are actually documented.

04:15PM 2 Q. Where in particular was Videla tried?

04:15PM 3 A. He was tried in Cordoba, he was tried in Buenos Aires, also
04:16PM 4 tried in Spain actually. There were Spanish nationals who
04:16PM 5 disappeared in Argentina during this period, and he was tried in
04:16PM 6 Spain as well.

04:16PM 7 Q. Was witness intimidation associated with any one of those
04:16PM 8 trials in particular?

04:16PM 9 A. The one we have documents for is actually the one in Spain.
04:16PM 10 There were some allegations in the court of the trials I attended,
04:16PM 11 the Videla trials, and there were similar complaints actually
04:16PM 12 about threats, phone call threats, and things of that nature.

04:16PM 13 MR. SONNETT: Your Honor, can we establish the dates --

04:16PM 14 MS. MATTHEWS: I'm about to get there.

04:16PM 15 MR. SONNETT: -- so we know how far it was from the 1972
04:16PM 16 Trelew?

04:16PM 17 THE COURT: Mr. Brennan? Excuse me. Mr. Brennan, be
04:16PM 18 patient.

04:16PM 19 I also understood your answer to be describing a
04:16PM 20 proceeding in Spain. I would appreciate clarification not only of
04:16PM 21 the time but of the relevance to this trial if we're talking about
04:17PM 22 Spain now.

04:17PM 23 MS. MATTHEWS: Yes, Your Honor.

04:17PM 24 THE COURT: So let me just very directly:

04:17PM 25 Professor, you had just, I thought, answered that there

04:17PM 1 were documented incidents of threats, and I thought you said it
04:17PM 2 was documented in Spain. Did I misunderstand you?

04:17PM 3 THE WITNESS: By document, that was a misspoke. There
04:17PM 4 were press accounts, I should say, beyond sort of, you know,
04:17PM 5 rumors that I heard in Argentina. I mean, you know, people making
04:17PM 6 these claims in trial and outside of trial.

04:17PM 7 THE COURT: Okay, Mr. Brennan, but stay with me. Are you
04:17PM 8 describing events now that occurred in Spain?

04:17PM 9 THE WITNESS: In Spain.

04:17PM 10 THE COURT: Okay. So we're going to -- Mr. Brennan --

04:17PM 11 THE WITNESS: Yes.

04:17PM 12 THE COURT: -- we're not going to be offering a history
04:17PM 13 of events in Spain. And so I want you to listen to counsel's
04:17PM 14 questions about the history of Argentina.

04:17PM 15 MS. MATTHEWS: Your Honor, it's a trial in Spain related
04:17PM 16 to a dictator of Argentina, and it's relevant because defendant
04:17PM 17 argues that the plaintiffs should have come to the United States.

04:18PM 18 THE COURT: And are the actors at issue part of a
04:18PM 19 relevant Argentinian regime?

04:18PM 20 MS. MATTHEWS: Yes.

04:18PM 21 THE WITNESS: Yes.

04:18PM 22 THE COURT: Okay. So perhaps back it up a question or
04:18PM 23 two, and, Mr. Brennan, if you could give short answers to
04:18PM 24 counsel's questions as she helps you lay had a predicate for this
04:18PM 25 including the time frame.

04:18PM 1 THE WITNESS: Sure.

04:18PM 2 THE COURT: And country and actors.

04:18PM 3 MS. MATTHEWS: Of course.

04:18PM 4 BY MS. MATTHEWS:

04:18PM 5 Q. Can you explain to me briefly who Videla was?

04:18PM 6 A. Jorge Videla was the first president of the military
04:18PM 7 government to take power in 1976. Again, the military took power
04:18PM 8 as a junta. The idea was shared authority, but the army, which is
04:18PM 9 the larger branch, always had the titular president. Again, the
04:18PM 10 idea was that they shared authority, and decisions and all
04:18PM 11 decisions those related to economic policy and others as well.

04:19PM 12 But he was the first president of that junta -- that iteration of
04:19PM 13 the junta was the one that was the longest in power.

04:19PM 14 Q. And Videla, was Videla later tried for his crimes as the
04:19PM 15 leader of the military junta during that era?

04:19PM 16 A. Yes, he was tried several times. I just mentioned he was
04:19PM 17 tried in the Alfonsin trials of the 1980s, and then tried again.
04:19PM 18 During the Kirchner years, multiple trials took place, in which
04:19PM 19 Videla was a defendant, and he was found guilty in all of these
04:19PM 20 trials.

04:19PM 21 Q. And were there claims of witness intimidation even for the
04:19PM 22 trials of Videla that occurred outside of Argentina?

04:19PM 23 A. Yes, there were claims.

04:19PM 24 Q. And when were the trials of Videla during which there were
04:19PM 25 claims of witness intimidation?

04:20PM 1 A. Again, Videla is tried multiple times between -- beginning
04:20PM 2 2005. I think the last trial was actually in Cordoba. It's
04:20PM 3 called the Topanga trial was a federal penitentiary where some
04:20PM 4 prisoners were actually executed under Videla's orders. That
04:20PM 5 concluded -- I attended that as well. That concluded in 2010.
04:20PM 6 Q. Okay. And you mentioned earlier that there was some witness
04:20PM 7 intimidation that occurred during the La Perla trial.

04:20PM 8 A. Accusations of it, yes.

04:20PM 9 Q. When did the La Perla trial take place?

04:20PM 10 A. That was a nearly four-year period, 2012-2016, sentence
04:20PM 11 finally handed down in 2016.

04:20PM 12 Q. And, so what --

04:20PM 13 MS. MATTHEWS: That actually concludes my direct
04:20PM 14 examination.

04:20PM 15 THE COURT: All right. Counsel? Mr. Sonnett?

04:21PM 16 CROSS-EXAMINATION

04:21PM 17 BY MR. SONNETT:

04:21PM 18 Q. Dr. Brennan, you have quite a distinguished career in studying
04:21PM 19 laws and events in Argentina, don't you?

04:22PM 20 A. Law not so much, but the history of Argentina widely
04:22PM 21 understood and its political economic history. Not -- I am not a
04:22PM 22 specialist in legal history, no. You have a legal expert that's
04:22PM 23 going to testify. I'm not a specialist in Argentine legal
04:22PM 24 history, no.

04:22PM 25 Q. You're testifying primarily about the historical?

04:22PM 1 A. -- the broad historical context of Trelew, what preceded and
04:22PM 2 what followed. I am familiar, of course, with the court cases,
04:22PM 3 but I am not a specialist in Argentinian legal history.

04:22PM 4 Q. You're not a specialist in Trelew?

04:22PM 5 A. No, I'm not.

04:22PM 6 Q. You're not a specialist in the trials that took place after
04:22PM 7 Trelew?

04:22PM 8 A. A specialist, no. But I have studied those trials and written
04:22PM 9 about them, but not from a legal perspective, more from a broad
04:22PM 10 social history, political history, even cultural history
04:23PM 11 perspective.

04:23PM 12 Q. When you say you've studied them, you're talking about reading
04:23PM 13 newspapers and journals?

04:23PM 14 A. No. Actually -- well, some reading of newspapers, but more
04:23PM 15 actually observing the trials. I attended the trials, as I
04:23PM 16 mentioned. Oral history, various sources, other kinds of sources,
04:23PM 17 but those in particular.

04:23PM 18 Q. Did you attend any of the trials in 2008, '9, '10 regarding
04:23PM 19 Trelew?

04:23PM 20 A. No, I did not.

04:23PM 21 Q. All right. So your expertise or your knowledge of what took
04:23PM 22 place would only be what you read about them in other journals,
04:23PM 23 correct?

04:23PM 24 A. My knowledge of Trelew is based on what I've read.

04:23PM 25 Q. What you've read?

04:23PM 1 A. I don't claim to be an expert on the events of Trelew.

04:23PM 2 Q. All right. Now, you're appearing here pro bono? That means

04:23PM 3 for free?

04:23PM 4 A. Yes.

04:23PM 5 Q. At the request of the lawyers for the plaintiffs?

04:23PM 6 A. Yes.

04:23PM 7 Q. You flew in from California to testify today?

04:24PM 8 A. I did.

04:24PM 9 Q. Can you explain why you volunteered to testify here without

04:24PM 10 any fee?

04:24PM 11 A. Compensation? Well, I've never been asked to do this before,

04:24PM 12 I should mention, and I saw it as a service, I thought, a service

04:24PM 13 I could provide to the court. You know, my area of expertise is

04:24PM 14 rather narrow and confined to this country and to this sort of one

04:24PM 15 period. So I'm not often asked -- in fact, I've never been asked

04:24PM 16 to do it before, probably never will be asked again. I thought I

04:24PM 17 could perhaps contribute something to come down from my ivory

04:24PM 18 tower for once.

04:24PM 19 Q. Helps the resume too, doesn't it?

04:24PM 20 A. I really don't care. The university doesn't care about this.

04:24PM 21 They won't even know.

04:24PM 22 Q. They want you to publish?

04:24PM 23 A. Yes.

04:24PM 24 Q. Are you going to publish something about this?

04:25PM 25 A. No.

04:25PM 1 Q. You don't think so?

04:25PM 2 A. No. No plans to do that. So, you know, I saw it as a service

04:25PM 3 that perhaps I could contribute something to the judge, to the

04:25PM 4 jury about, again, the broader historical context, not the

04:25PM 5 specifics of Trelew.

04:25PM 6 Q. You haven't drawn conclusions, have you, about the guilt or

04:25PM 7 innocence of my client?

04:25PM 8 A. I have not drawn conclusions.

04:25PM 9 Q. Excuse me?

04:25PM 10 A. I haven't drawn conclusions. I've read things that persuaded

04:25PM 11 me, but that's what this is all about, right? You're drawing the

04:25PM 12 conclusions here.

04:25PM 13 Q. But the conclusions are going to have to be drawn by this

04:25PM 14 jury, not by you?

04:25PM 15 A. Right, right, right, exactly. But you asked about my personal

04:25PM 16 conclusions.

04:25PM 17 Q. You agreed to testify before you'd heard any actual evidence

04:25PM 18 in this case, hadn't you?

04:25PM 19 A. Yes.

04:25PM 20 Q. With regard to this case, you didn't see anybody shoot

04:26PM 21 anybody, correct?

04:26PM 22 A. No.

04:26PM 23 Q. You have no expertise in ballistics or in shots fired or in

04:26PM 24 violent excursions; do you?

04:26PM 25 A. No. No. The technical knowledge of those things, no.

04:26PM 1 Q. Do you ever examine the charts or diagrams regarding shots
04:26PM 2 fired?

04:26PM 3 A. No.

04:26PM 4 Q. In Trelew?

04:26PM 5 A. No, I did not.

04:26PM 6 Q. So you don't know who fired the shots, where the shots were
04:26PM 7 fired from, or what caused the shots to be fired?

04:26PM 8 A. No. I made clear when the lawyers approached me on this that
04:26PM 9 I, you know, my knowledge -- that they knew more about Trelew than
04:26PM 10 I did; that my knowledge about the events were sort of common
04:26PM 11 knowledge based on what I had read. I would not come here to
04:26PM 12 offer specifics about what had happened in Trelew. I would come
04:26PM 13 here to offer sort of the broader historical context, historical
04:27PM 14 background.

04:27PM 15 Q. Likewise, you don't have any real knowledge of who fired
04:27PM 16 shots, why the shots were fired, who started the gunfire?

04:27PM 17 A. No personal knowledge, no.

04:27PM 18 Q. Did you ever go to Trelew to examine the premises there?

04:27PM 19 A. No.

04:27PM 20 Q. Let's talk about remedies for the plaintiffs in this case.
04:27PM 21 You are -- you're not testifying about any remedies or the
04:27PM 22 availability of remedies to these plaintiffs, are you?

04:27PM 23 A. No, no, no.

04:27PM 24 Q. You're not testifying about the American court system?

04:27PM 25 A. No.

04:27PM 1 Q. Correct?

04:27PM 2 A. No, I'm not.

04:27PM 3 Q. That's not within the scope of your testimony or your

04:27PM 4 expertise, is it?

04:27PM 5 A. No, it's not.

04:27PM 6 Q. Are you aware that the United States courts, federal courts

04:28PM 7 generally, have been open since 1972 to the present day, and

04:28PM 8 they've never been closed even during the pandemic?

04:28PM 9 A. I was not aware of that, no.

04:28PM 10 Q. You don't know that the court system was never closed down in

04:28PM 11 the United States?

04:28PM 12 A. No. I have to admit I was not aware of that, no.

04:28PM 13 THE ATTORNEY: Your Honor, objection. This is all beyond

04:28PM 14 the scope of his expertise.

04:28PM 15 MR. SONNETT: I'm sorry, Your Honor.

04:28PM 16 THE COURT: There isn't a pending question. But, Mr.

04:28PM 17 Sonnett, I will ask you to keep your direct within the scope --

04:28PM 18 I'm sorry -- your cross within the scope of the direct.

04:28PM 19 MR. SONNETT: Yes, ma'am.

04:28PM 20 BY MR. SONNETT:

04:28PM 21 Q. The plaintiffs in this case could have filed in Argentina,

04:28PM 22 couldn't they?

04:29PM 23 A. I believe they could have.

04:29PM 24 Q. And, in fact, you are aware of the fact that they -- all of

04:29PM 25 the plaintiffs in this case received money from the government of

04:29PM 1 Argentina?

04:29PM 2 MS. MATTHEWS: Your Honor, this is beyond the scope of
04:29PM 3 his expertise and not within the scope of his direct.

04:29PM 4 THE COURT: Mr. Sonnett, how is this fairly within the
04:29PM 5 scope of his expertise as to what happened --

04:29PM 6 THE WITNESS: There was never moments when --

04:29PM 7 THE COURT: Mr. Brennan? Mr. Brennan?

04:29PM 8 THE WITNESS: Sorry.

04:29PM 9 THE COURT: Give me a second.

04:29PM 10 Mr. Sonnett, how is that fairly within the scope --

04:29PM 11 MR. SONNETT: He was testifying about historical events
04:29PM 12 in Argentina. I want to establish that among historical events in
04:29PM 13 Argentina were the ability of the plaintiffs in this case to file
04:29PM 14 for remuneration in Argentina.

04:29PM 15 THE COURT: And he's answered that question in the
04:29PM 16 affirmative. But to the extent you intend to explore what
04:29PM 17 happened with respect to these plaintiffs and the government of
04:30PM 18 Argentina, that's outside the scope of his direct examination.

04:30PM 19 BY MR. SONNETT:

04:30PM 20 Q. Let me just clarify the testimony that you gave here today
04:30PM 21 that you were hired by plaintiffs' counsel to investigate the
04:30PM 22 facts giving rise to the deaths of prisoners in Trelew in 1972; is
04:30PM 23 that correct?

04:30PM 24 MS. MATTHEWS: Objection, Your Honor, that misstates.

04:30PM 25 THE WITNESS: No.

04:30PM 1 THE COURT: And Mr. Brennan has answered negatively. Mr.
04:30PM 2 Sonnett, I'm not sure what you're reading from.

04:30PM 3 BY MR. SONNETT:

04:30PM 4 Q. You testified that President Lanusse was the final president
04:30PM 5 of three; is that right?

04:30PM 6 A. That's right.

04:30PM 7 Q. He was the president during the time of the Trelew incident,
04:31PM 8 correct?

04:31PM 9 A. Yes, that's right.

04:31PM 10 Q. And there were three as I understand it, three different
04:31PM 11 presidencies during that period of time?

04:31PM 12 A. It was all part of the same military government, but the
04:31PM 13 presidencies, the presidents change as a result of conflicts
04:31PM 14 within the military, responding to events, a series of social
04:31PM 15 protests actually is what triggered the removal of the first
04:31PM 16 president, and then a subsequent social protest which weakened his
04:31PM 17 authority within the military led to the removal of ^ letting the
04:31PM 18 second president. So it's one military government, but three
04:31PM 19 different presidents at different points.

04:31PM 20 Q. I want to place this in context. The shootings at Trelew were
04:31PM 21 in August of 1972?

04:31PM 22 A. Right.

04:31PM 23 Q. Lanusse was president during that period of time?

04:32PM 24 A. Yes.

04:32PM 25 Q. And shortly after that or a couple of years after that,

04:32PM 1 democracy returned?

04:32PM 2 A. A year after that, 1973.

04:32PM 3 Q. A year after that?

04:32PM 4 A. Uh-huh.

04:32PM 5 Q. So wouldn't it be unfair to start talking about what occurred
04:32PM 6 in '75, '76, '77 when democracy had returned and Trelew was in the
04:32PM 7 rearview mirror?

04:32PM 8 A. I think the --

04:32PM 9 THE ATTORNEY: Objection, Your Honor, calls for a legal
04:32PM 10 conclusion.

04:32PM 11 THE COURT: Overruled. Go ahead, Mr. Brennan.

04:32PM 12 THE WITNESS: Okay. The relevance of it is the obstacles
04:32PM 13 that existed because of, you know, the nature of, you know, the
04:32PM 14 endemic violence, state-directed violence that discouraged people
04:32PM 15 from pursuing legal remedies, not just Trelew but all kinds of
04:32PM 16 cases. I think that was the point of talking about '73 to '76 is
04:33PM 17 the period of people were afraid, people were afraid to come
04:33PM 18 forward. The fear factor weighed very greatly. As we talked
04:33PM 19 about, their lawyers disappearing, many victims of the death
04:33PM 20 squads. It's a dangerous time to --

04:33PM 21 BY MR. SONNETT:

04:33PM 22 Q. But at the same time, the Montoneros were engaged in violent
04:33PM 23 activities; weren't they?

04:33PM 24 MS. MATTHEWS: Objection, Your Honor, this is propensity
04:33PM 25 evidence.

04:33PM 1 THE COURT: Mr. Sonnett?

04:33PM 2 MR. SONNETT: What's the objection?

04:33PM 3 THE COURT: Violation of the Court's prior ruling of the

04:33PM 4 motion in limine I think is the objection.

04:33PM 5 MS. MATTHEWS: Yes, Your Honor.

04:33PM 6 THE COURT: Mr. Sonnett, focusing you back to the Court's

04:33PM 7 prior ruling on the motion in limine on this topic, which it has

04:33PM 8 precluded it. Sustained.

04:33PM 9 MR. SONNETT: Thank you, Your Honor.

04:34PM 10 Just to clarify, Your Honor, am I precluded from asking

04:34PM 11 about political violence in Argentina as well as other countries?

04:34PM 12 THE COURT: You are not precluded from covering what has

04:34PM 13 been done in direct examination, which would not include other

04:34PM 14 countries.

04:34PM 15 BY MR. SONNETT:

04:34PM 16 Q. All right. Then let's talk about the general social protests

04:34PM 17 going on in Argentina in 1972. Who is protesting and why, and

04:34PM 18 refer if you will specifically to the Montoneros and the ERP?

04:34PM 19 ^ THE ATTORNEY: Objection, Your Honor.

04:34PM 20 THE COURT: I'll ask you to restate the question, Mr.

04:34PM 21 Sonnett, without reference to the specific groups that you already

04:35PM 22 know the Court's ruling on.

04:35PM 23 BY MR. SONNETT:

04:35PM 24 Q. Discuss for us the social protests, who was protesting and

04:35PM 25 why?

04:35PM 1 A. The year 1972 isn't a particularly relevant year in terms of
04:35PM 2 social -- social protests had been taking place in Argentina over
04:35PM 3 a number of years. The first most significant social protest was
04:35PM 4 actually taking place in 1969, a major urban protest called the
04:35PM 5 Cordobazo. So that's followed by a series of other urban-based
04:35PM 6 protests in cities all over Argentina.

04:35PM 7 Second one in Cordoba in 1971, in Rosario, and other cities
04:35PM 8 in Argentina. So if you're talking specifically about protests,
04:35PM 9 protests, you know, they are largely urban based. They are
04:35PM 10 massive. The bigger ones lead to thousands of arrests, deaths
04:35PM 11 that take place as well. Those are the major protests. 1972
04:36PM 12 isn't a particularly important year for any of these major social
04:36PM 13 protests, but they're -- you know, they're happening in the years
04:36PM 14 preceding 1972.

04:36PM 15 Q. After the shootings at Trelew, there was an effort made to --
04:36PM 16 for lack of a better term -- glorify what had occurred at Trelew.
04:36PM 17 They began calling it the Trelew Massacre?

04:36PM 18 A. That's the standard way to refer to it, actually. Any history
04:36PM 19 of Argentina, it's called that, Trelew Massacre. You can open any
04:36PM 20 history of the period, and it's called that. I'm not sure if
04:36PM 21 that's a glorification, but it's become the standard term to use
04:36PM 22 in historical and social science literature.

04:36PM 23 Q. But it was a term that was not made after an investigation
04:37PM 24 into what had occurred at Trelew, correct? It was folklore?

04:37PM 25 A. Well, it was the assessment of people who -- investigative

04:37PM 1 journalists who actually did investigate -- people like Delante
04:37PM 2 (phonetic) Martinez and others, they came to this conclusion that
04:37PM 3 it was a massacre. And it wasn't an official government
04:37PM 4 investigation that led to that, but --

04:37PM 5 Q. Were there protests that arose after the events at Trelew?
04:37PM 6 A. Protests about Trelew? Oh, yes, there were.

04:37PM 7 Q. Widespread?
04:37PM 8 A. Significant, yes. Widespread; I think it's fair to call them
04:37PM 9 widespread.

04:37PM 10 Q. And was there violence as a result of those protests?
04:37PM 11 A. Not characterized by any particular violence as far as I know.
04:37PM 12 No, certainly not violence on the scale you had seen in previous,
04:37PM 13 you know, urban protests that led up to the Cordobazo where there
04:37PM 14 is violence on a large scale.

04:38PM 15 Q. Now, the disappearances that you discussed on your direct
04:38PM 16 examination, you have no evidence that Mr. Bravo was involved in
04:38PM 17 any of those, correct?
04:38PM 18 A. The disappearances during the dictatorship, no.

04:38PM 19 Q. You talked about death camps. You have no evidence that Mr.
04:38PM 20 Bravo was involved in any of those?
04:38PM 21 A. No, no.

04:38PM 22 Q. You talked about clandestine survivors.
04:38PM 23 You have no evidence that Mr. Bravo was involved in any of
04:38PM 24 those?
04:38PM 25 A. I talked about clandestine detention centers. No, I have no

04:38PM 1 information about that, no, no.

04:38PM 2 Q. And, in fact, based on your research, weren't you aware that

04:38PM 3 Mr. Bravo after he was cleared by an auditor general's report, was

04:38PM 4 sent to the United States for further study?

04:38PM 5 MS. MATTHEWS: Objection, Your Honor. That question
04:39PM 6 violates the Court's prior rulings on this particular order on the
04:39PM 7 General Auditor's Report.

04:39PM 8 THE COURT: Mr. Sonnett, rephrase the question.

04:39PM 9 MR. SONNETT: I'm sorry, Your Honor, but I did not hear.

04:39PM 10 THE COURT: The objection is sustained. Rephrase the
04:39PM 11 question so as to not violate the Court's prior order on the
04:39PM 12 summary judgment ruling.

04:39PM 13 BY MR. SONNETT:

04:39PM 14 Q. Were you aware that Mr. Bravo had been transferred by the
04:39PM 15 Argentine military to the United States where he received further
04:39PM 16 schooling and training?

04:39PM 17 A. I learned of that later -- later -- at a later date, yes.

04:39PM 18 Q. But you are aware of it now?

04:39PM 19 A. I am aware of it now, yes.

04:39PM 20 Q. So you know that with regard to all of the events that you've
04:39PM 21 discussed, the death camps, the disappearances, the clandestine --
04:39PM 22 that Mr. Bravo was not even in Argentina?

04:40PM 23 A. Right. We weren't made -- I don't think that was the point of
04:40PM 24 that line of questioning. I think the point of the line of
04:40PM 25 questioning was the general environment of fear that hindered

04:40PM 1 legal remedies for human rights abuses, not, you know, not trying
04:40PM 2 to link Mr. Bravo to them, no.

04:40PM 3 Q. Now, let's talk about what people knew after the prison break
04:40PM 4 from Rawson Prison. You are aware or learned, and it's part of
04:40PM 5 your expertise that prisoners escaped from the federal
04:40PM 6 penitentiary at Rawson. We've seen the photographs of it?

04:40PM 7 MS. MATTHEWS: Objection.

04:40PM 8 THE WITNESS: Again, I'm not an expert.

04:40PM 9 THE COURT: I'm sorry?

04:40PM 10 MS. MATTHEWS: Objection. Foundation.

04:41PM 11 BY MR. SONNETT

04:41PM 12 Q. Were you aware that --

04:41PM 13 THE COURT: Hold up, Mr. Sonnett. Overruled. Go ahead.
04:41PM 14 The question as you phrased it was fine, but he hasn't answered
04:41PM 15 it. Let me try.

04:41PM 16 Mr. Brennan, the question was: You're aware or learned
04:41PM 17 that as part of your expertise that prisoners escaped from the
04:41PM 18 penitentiary of Rawson, and we've seen the photographs of it.

04:41PM 19 THE WITNESS: I would not claim that it's part of my
04:41PM 20 expertise. Again, as I mentioned several times, I wasn't brought
04:41PM 21 here as an expert of the events of Trelew or the individuals in
04:41PM 22 Trelew. I was brought here as an historian to provide a broader
04:41PM 23 historical context surrounding, you know, what had happened in
04:41PM 24 Trelew but not the specific events themselves. And then the
04:41PM 25 aftermath of Trelew in terms of the things I just talked about.

04:41PM 1 BY MR. SONNETT:

04:41PM 2 Q. You dealt from an expert's point of view with the prison break
04:41PM 3 from Rawson, didn't you?

04:41PM 4 A. No, from an expert point of view, no. I am not an expert on
04:42PM 5 the prison break in Rawson. No. I couldn't give you the precise
04:42PM 6 details of that. I'm roughly familiar with the story, again.

04:42PM 7 Q. But you're aware of the facts concerning Rawson?

04:42PM 8 A. I'm aware of the facts in broad strokes, yes.

04:42PM 9 Q. You would have had to review them in preparation for your
04:42PM 10 testimony today?

04:42PM 11 A. I tried to avoid actually preparing too much for -- on the
04:42PM 12 question of Trelew, since that's not why I was brought here. I
04:42PM 13 was brought, again, for the broad historical context. I didn't
04:42PM 14 want to bone up on Trelew and pretend to be an expert on something
04:42PM 15 I'm not. Something I've never researched, something I've never
04:42PM 16 written about. I have read a little bit about, but that's --
04:42PM 17 again, that's not why my presence was requested here.

04:42PM 18 Q. Okay. To what extent did you learn that when the prison break
04:42PM 19 at Rawson Federal Penitentiary took place that a prison guard was
04:42PM 20 violently shot and killed as part of the prison break?

04:42PM 21 MS. MATTHEWS: Objection. Foundation.

04:43PM 22 THE COURT: Did you learn? Let's start there. Mr.
04:43PM 23 Sonnett, do you want to lay a foundation for your questions?

04:43PM 24 Mr. Sonnett, the objection is sustained. Do you want to
04:43PM 25 lay a foundation for the question?

04:43PM 1 MR. SONNETT: Thank you, Your Honor.

04:43PM 2 I'll withdraw the question for now.

04:43PM 3 (Brief pause to confer with cocounsel.)

04:44PM 4 BY MR. SONNETT:

04:44PM 5 Q. I don't know if I asked the question or not, but did you
04:44PM 6 attend any of the 2010, 2012 or 2008, 2010, 2012 trials in
04:44PM 7 Argentina?

04:44PM 8 A. I attended those trials in Cordova. These were the Videla
04:44PM 9 trials that I attended. The trials that I mentioned called the
04:44PM 10 Opana (phonetic) in which Videla was tried with the local military
04:44PM 11 commander.

04:44PM 12 But this was in Corpag. This was not the Trelew trial; this
04:44PM 13 was a different trial. I attended human rights trials in those
04:44PM 14 years.

04:44PM 15 Q. All right. You're talking about a totally different set of
04:44PM 16 trials?

04:44PM 17 A. I didn't -- I did not attend the Trelew trials.

04:44PM 18 Q. You did not attend the Trelew trials?

04:44PM 19 A. No, no.

04:44PM 20 Q. And the Trelew trials after the current government took over
04:45PM 21 and the laws were changed, were -- to put on trial the other
04:45PM 22 soldiers that had been involved in the Trelew shooting?

04:45PM 23 MS. MATTHEWS: Objection. Your Honor, this is not within
04:45PM 24 the scope of his direct or his expertise.

04:45PM 25 THE COURT: Overruled. If you know the answer, you can

04:45PM 1 answer it.

04:45PM 2 THE WITNESS: I don't.

04:45PM 3 MR. SONNETT: I have no further questions, Your Honor.

04:45PM 4 THE COURT: Okay. Redirect?

04:45PM 5 MS. MATTHEWS: I don't have anything.

04:45PM 6 THE COURT: All right. Professor Brennan, thank for
04:45PM 7 coming so far to testify here today. You are excused. Watch your
04:45PM 8 step as you come down.

04:45PM 9 And you are welcome to stay with us in this trial; and
04:45PM 10 you are also free to go.

04:45PM 11 (Witness excused.)

04:45PM 12 THE COURT: Okay. Counsel, with that, it is a quarter to
04:45PM 13 5:00. Do you have a witness that you would want to start and
04:45PM 14 finish, or shall we call it a night?

04:45PM 15 MR. KRISHNAN: Your Honor, I actually -- can I just
04:45PM 16 consult for one second? I actually believe it might make sense to
04:46PM 17 start an examination and have it carry over to tomorrow.

04:46PM 18 THE COURT: Okay. Of course.

04:46PM 19 (Brief pause to confer with counsel regarding
04:46PM 20 scheduling.)

04:46PM 21 MR. KRISHNAN: Your Honor, we'll be calling plaintiff
04:46PM 22 Eduardo Cappello.

04:46PM 23 THE COURT: Okay. Mr. Cappello, come on forward.

04:47PM 24 THE INTERPRETER: Your Honor, just a moment to get
04:47PM 25 settled here. Thank you.

04:47PM 1 THE COURTROOM DEPUTY: Sir, please raise your right hand.
04:47PM 2 (The witness is sworn.)
04:47PM 3 THE WITNESS: Yes, I do.
04:47PM 4 THE COURTROOM DEPUTY: Thank you. Please be seated.
04:47PM 5 State your name. Can you spell your last name for the record?
04:48PM 6 THE WITNESS: My name is Eduardo Rodolfo Cappello,
04:48PM 7 C-A-P-P-E-L-L-O.
04:48PM 8 EDUARDO CAPPELLO, PLAINTIFF, SWORN
04:48PM 9 DIRECT EXAMINATION
04:48PM 10 BY MS. VARGAS:
04:48PM 11 Q. Good afternoon, Mr. Cappello.
04:48PM 12 A. Good afternoon.
04:48PM 13 Q. When were you born?
04:48PM 14 A. I was born May the 4th, 1975.
04:48PM 15 Q. And where were you born?
04:48PM 16 A. In Argentina.
04:48PM 17 Q. What's your occupation?
04:48PM 18 A. I am an employee of a government agency, and I work in the
04:49PM 19 area of human resources.
04:49PM 20 Q. Mr. Cappello, what is your relationship to this case?
04:49PM 21 A. Well, I am one of the plaintiffs. My uncle Eduardo Rodolfo
04:49PM 22 Cappello was my brother's -- forgive me -- my father's brother,
04:49PM 23 and I am the only survivor of that family.
04:49PM 24 Q. Who were your uncle Eduardo's parents?
04:49PM 25 A. My uncle's parents were my grandparents. Jorge ^ Cappello

04:50PM 1 and ^ La Sole.

04:50PM 2 Q. And can you just quickly spell La Sole?

04:50PM 3 A. L-a separate word S-o-l-e.

04:50PM 4 Q. Are your grandparents still alive?

04:50PM 5 A. No, they do not. My grandfather passed away in 1991. My

04:50PM 6 grandmother passed away in 2016.

04:50PM 7 Q. Mr. Cappello, did you ever meet your uncle Eduardo?

04:50PM 8 A. No, I did not. I was born several years after he died.

04:50PM 9 Q. Did your family ever speak about your uncle Eduardo in your

04:51PM 10 presence?

04:51PM 11 A. Yes, quite frequently. These were conversations that we held,

04:51PM 12 I would say on an everyday basis.

04:51PM 13 Q. And what was your uncle Eduardo like?

04:51PM 14 MR. DAVIS: Objection, Your Honor. Calls for hearsay.

04:51PM 15 THE COURT: Sustained.

04:51PM 16 BY MS. VARGAS:

04:51PM 17 Q. Can you tell me what you know about Eduardo's reputation in

04:51PM 18 your family?

04:51PM 19 MR. DAVIS: Same objection, Judge.

04:51PM 20 MS. VARGAS: Your Honor, I am asking about the reputation

04:51PM 21 in his family for the character of his uncle Eduardo.

04:51PM 22 THE COURT: And in what way is that at issue in this

04:51PM 23 trial?

04:51PM 24 MS. VARGAS: Mr. Eduardo Cappello was one of the victims

04:51PM 25 in this case.

04:51PM 1 THE COURT: Can you proffer that his character is
04:52PM 2 relevant?

04:52PM 3 MS. VARGAS: Yes. Well, it is direct -- this is directly
04:52PM 4 in response to --

04:52PM 5 This goes directly to the impact on the family. His
04:52PM 6 character had much to do with the impact and the relationships he
04:52PM 7 had within the family. He was an important figure in the family,
04:52PM 8 and I will ask Mr. Cappello to proffer information about what his
04:52PM 9 absence meant.

04:52PM 10 THE COURT: Mr. Davis?

04:52PM 11 MR. DAVIS: I'm still trying to understand, Your Honor.
04:52PM 12 He said he was the sole heir as I understand. Maybe I
04:52PM 13 misunderstood. So it would only be on him, so I don't know what
04:52PM 14 this has to do with any of the issues in this case.

04:52PM 15 THE COURT: The objection is sustained.

04:52PM 16 BY MS. VARGAS:

04:52PM 17 Q. Mr. Cappello, you said your father was Eduardo's brother. Did
04:52PM 18 Eduardo have other siblings?

04:53PM 19 A. No, it was just the two of them.

04:53PM 20 Q. Is your father still alive?

04:53PM 21 A. No. My father, mother, and brother back in May of 1977 were
04:53PM 22 disappeared.

04:53PM 23 Q. When you say your parents and brother --

04:53PM 24 MR. DAVIS: Move to strike. What does that have to do
04:53PM 25 with any of the issues in this case?

04:53PM 1 MS. VARGAS: This, Your Honor, goes directly to the fear
04:53PM 2 that was instilled in the families in order to prevent them from
04:53PM 3 seeking justice in Argentina or anywhere, and it goes directly to
04:53PM 4 the statute of limitations defense.

04:53PM 5 MR. DAVIS: Your Honor, again, the witness would have
04:53PM 6 been two years old in 1977.

04:54PM 7 THE COURT: I do understand that. This is going to end
04:54PM 8 up taking argument. I have a feeling. Let me make sure that I
04:54PM 9 understand two things first. I'm going to instruct the witness to
04:54PM 10 answer the question that is asked so that we don't get sort of
04:54PM 11 unsolicited responses that surprise counsel, and, second of all,
04:54PM 12 to the extent that there is -- I'm going to not strike the
04:54PM 13 testimony on the basis that it referenced that which another
04:54PM 14 witness has already testified extensively about.

04:54PM 15 But, Mr. Cappello, please listen to your attorney's
04:54PM 16 questions and answer those questions.

04:54PM 17 THE WITNESS: Okay.

04:54PM 18 BY MS. VARGAS:

04:54PM 19 Q. Mr. Cappello, what happened to your father?

04:54PM 20 A. My father was detained in May of 1977 and disappeared.

04:55PM 21 Q. Did anybody else in your family suffer any similar fate?

04:55PM 22 A. Yes, along with my father and my mother and my 12-year-old
04:55PM 23 brother, all disappeared.

04:55PM 24 MR. DAVIS: Objection. Relevance. This has nothing to
04:55PM 25 do with the -- the person he's talking about was injured was not,

04:55PM 1 but this is a totally separate incident. So talking about what
04:55PM 2 happened in 1977 and the effect on the family has nothing to do
04:55PM 3 with the issues in this case.

04:55PM 4 THE COURT: It does bear on the statute of limitations
04:55PM 5 defense, and this is the plaintiff, though I will remark that I am
04:56PM 6 having foundational issues with these questions.

04:56PM 7 MS. VARGAS: Your Honor, we can establish that this falls
04:56PM 8 within the exception for family reputation, and I can do that.
04:56PM 9 Federal Rule 80319 for the death of a family member.

04:56PM 10 THE COURT: The reputation is not the current objection.
04:56PM 11 The issue that I'm having is with respect to the testimony -- the
04:56PM 12 foundation of relevance for the family members unrelated -- that
04:56PM 13 aren't either the Trelew victim or the plaintiff -- I'm sorry --
04:56PM 14 the witness here has testified he wasn't aware of.

04:56PM 15 MS. VARGAS: Of course.

04:56PM 16 BY MS. VARGAS:

04:56PM 17 Q. Mr. Cappello, you've heard defendant's attorney in their
04:57PM 18 opening mention that you could have brought a lawsuit very, very
04:57PM 19 much earlier, anytime and not waited until today.

04:57PM 20 Can you respond to that?

04:57PM 21 MR. DAVIS: Objection. She can ask fact questions, but
04:57PM 22 she should not be commenting on argument made.

04:57PM 23 MS. VARGAS:

04:57PM 24 Q. Can you tell me a reason why -- pardon me.

04:57PM 25 THE COURT: Counsel, just slow down.

04:57PM 1 It's a statement by the attorney, which you've already
04:57PM 2 been instructed the attorneys will do from time to time. It's not
04:57PM 3 evidence. It's just their characterization of something else. In
04:57PM 4 this instance, the opening statement is designed just to direct
04:57PM 5 you to answer the question, to comment on whether or not you could
04:57PM 6 have brought the suit sooner, Mr. Cappello.

04:57PM 7 THE INTERPRETER: The question needs to be interpreted.

04:58PM 8 THE WITNESS: Well, it is -- that particular allegation
04:58PM 9 seems incomprehensible to me. It is true that my family at some
04:58PM 10 point in time did attempt to seek justice or make some sort of --
04:58PM 11 make some sort of action to find justice. Back in 1974, my
04:59PM 12 grandparents actually brought some sort of action, legal action so
04:59PM 13 that the military would shed some light on the events.

04:59PM 14 Nonetheless, the case did not move forward, and my
04:59PM 15 grandparents also did not push to make that case go forward.
04:59PM 16 Because my entire family was being persecuted, and in my parents'
04:59PM 17 case in particular, they ended up being tortured and murdered.
05:00PM 18 There was a very strong feeling of fear and terror, which put
05:00PM 19 their lives at risk.

05:00PM 20 On the other hand, we had very little information as to
05:00PM 21 what had taken place at Trelew because the military never provided
05:00PM 22 or offered any kind of information regarding those events. We
05:00PM 23 knew certain surnames such as Sosa or Bravo, but we did not know
05:00PM 24 anything about witnesses or documents. In fact, we were
05:01PM 25 completely unaware of the whereabouts of any of those individuals.

05:01PM 1 We only got to know about that in 2008. Any type of search before
05:01PM 2 that time would have been a failure because any individual efforts
05:01PM 3 that we might have brought, waged would have failed as well. We
05:01PM 4 couldn't do that as a family, and we weren't being given any
05:01PM 5 information.

05:01PM 6 MS. VARGAS:

05:01PM 7 Q. Okay. Hold on.

05:01PM 8 MR. DAVIS: Your Honor, I move to strike. This is way
05:01PM 9 beyond. The question is when could you sue effectively, and he's
05:01PM 10 gone into this narrative answer that would have necessarily had
05:01PM 11 hearsay for things that happened when he was a baby and to all
05:02PM 12 over the place, so I move to strike the testimony.

05:02PM 13 THE COURT: Sustained. I am going to note that it's
05:02PM 14 after 5:00 o'clock and that we have promised to let our jury go at
05:02PM 15 5:00 o'clock. I want to make sure that you understand though what
05:02PM 16 I've just ruled with respect to the last answer that you just
05:02PM 17 heard. I've stricken it, and you're not to consider it when
05:02PM 18 you're deciding the jury verdict, which won't happen for many
05:02PM 19 days, and so we will see you bright and early tomorrow morning.
05:02PM 20 Remember that if we don't have all of you at 8:45, that we cannot
05:02PM 21 start on time at 9:00 o'clock. Some of you are making real
05:02PM 22 distances to get here. We recognize that. We'll have coffee here
05:02PM 23 waiting for you. We'll see you at 8:45. Do not talk about the
05:02PM 24 case even with each other and especially with anybody else. Have
05:02PM 25 a good night.

05:02PM 1 (Jury out at 5:02 P.M.)

05:03PM 2 THE COURT: Okay, then. Have a seat.

05:03PM 3 THE INTERPRETER: May the witness go back?

05:03PM 4 THE COURT: Yes, please. Thank you so much.

05:03PM 5 Remember, though, Mr. Cappello, you are under oath. You
05:03PM 6 will remain under oath until your testimony concludes. You may
05:03PM 7 not talk to anyone about the testimony that you have given so far.
05:03PM 8 Okay? Do you understand?

05:03PM 9 THE WITNESS: Okay.

05:04PM 10 THE COURT: Does he have the headset, though?

05:04PM 11 THE INTERPRETER: He will get one over there.

05:04PM 12 THE COURT: Okay. I fear that we're going to continue to
05:04PM 13 have this problem without more focused questions. There are a
05:04PM 14 number of issues that you asked to be precluded, that you have
05:04PM 15 prevailed on in precluding, and if the questions don't get more
05:04PM 16 focused, I am concerned about where some of these examinations are
05:04PM 17 going to go. I agree with Mr. Davis. As I was listening, I was
05:04PM 18 trying to figure out how the witness was describing the events of
05:04PM 19 1974 when he was born in 1975. So I encourage you to lay a
05:04PM 20 predicate for the foundation, the competence, the relevance, the
05:05PM 21 hearsay issues that are -- that I anticipate will be coming up.

05:05PM 22 MS. VARGAS: Yes, Your Honor.

05:05PM 23 THE COURT: So that answer is stricken. There was no
05:05PM 24 original objection to -- well, the answer was -- I mean, the
05:05PM 25 question was permitted, but the answer is not.

05:05PM 1 MS. VARGAS: Yes, Your Honor.

05:05PM 2 THE COURT: Okay. What, if anything, else?

05:05PM 3 MR. KRISHNAN: Your Honor, could I just potentially --
05:05PM 4 for the purpose of opposing counsel, and also perhaps for the
05:05PM 5 Court, just put a couple of issues out on the table with respect
05:05PM 6 to this witness; because I think that there are going to be, as
05:05PM 7 you pointed out, there's going to be a recurring issue here with
05:05PM 8 exclusion, and I just thought it might make sense to lay out a
05:05PM 9 couple of the issues that we're aware of so Your Honor is aware of
05:05PM 10 them; and so if the parties want to argue them in the morning, we
05:05PM 11 can, but at least so that everyone is thinking about the same
05:05PM 12 issues.

05:05PM 13 THE COURT: I don't mind you raising the issues. I
05:05PM 14 recognize that he is a plaintiff party representative, but he is
05:06PM 15 the witness we are describing as you go through these proffers,
05:06PM 16 and so I am sensitive to whether or not he should be hearing this
05:06PM 17 argument.

05:06PM 18 MR. KRISHNAN: I would be happy to have him excluded from
05:06PM 19 the courtroom while we discuss these.

05:06PM 20 THE COURT: Okay. Why don't you at least identify the
05:06PM 21 issues; and to the extent that we need a more fulsome argument on
05:06PM 22 it, then I think we might need to take it up in the morning.

05:06PM 23 Remember that in the afternoon there are a lot of court
05:06PM 24 staff that are involved. So while I may have no problem staying
05:06PM 25 here as late as needs be, there's limits on what I can tax the

05:06PM 1 court with. So I'm sensitive to making sure that folks get out on
05:06PM 2 time.

05:06PM 3 But why don't you address the issues, and we can figure
05:06PM 4 out whether we can deal with them tonight or at 8:00 A.M.

05:06PM 5 MR. KRISHNAN: Thank you, Your Honor. I was only
05:06PM 6 proposing to put them on the table and that we could assess them
05:06PM 7 in the morning for that very reason.

05:06PM 8 THE COURT: Okay. But, nonetheless, you have no
05:06PM 9 objection to Mr. Cappello standing outside while we have this
05:06PM 10 discussion?

05:06PM 11 MR. KRISHNAN: I do not.

05:06PM 12 THE COURT: Okay.

05:06PM 13 Mr. Cappello, if you don't mind, we're going to take up
05:06PM 14 some legal argument that may affect your testimony.

05:07PM 15 Go ahead, Mr. Krishnan.

05:07PM 16 MR. KRISHNAN: Thank you, Your Honor. I'll just wait
05:07PM 17 till Mr. Cappello has left. I'll be speaking in English.

05:07PM 18 (Eduardo Cappello exited the courtroom.)

05:07PM 19 So one issue is 80319, and 80319 is a hearsay exception
05:07PM 20 that allows for the reputation in a family for certain events;
05:07PM 21 such as births, deaths, adoptions, things of that sort. And
05:07PM 22 that's what customarily allows witnesses to testify to their
05:07PM 23 births, even though they have no personal knowledge about their
05:07PM 24 own births. People talk about their birthdays and other events,
05:07PM 25 how family members died. The predicate for that is conversations

05:07PM 1 within the family that provide the reputation within the family.

05:07PM 2 I'm just putting this out there as an issue, because I
05:07PM 3 think these are the types of predicates that we'll be laying, I
05:07PM 4 think, tomorrow. I just wanted to say that that's certainly an
05:07PM 5 exception that we're going to be relying on.

05:08PM 6 Another issue that I know will come up is the fact that
05:08PM 7 this is the plaintiff in, effectively, a wrongful death case who
05:08PM 8 needs to be able to talk about the loss of the decedent, the pain
05:08PM 9 and suffering associated with it. And this is an instance in
05:08PM 10 which this happens, where the decedent died before the witness was
05:08PM 11 born.

05:08PM 12 Nevertheless, plaintiffs are permitted in that
05:08PM 13 circumstance to testify about their loss and their feeling of
05:08PM 14 loss. And it doesn't come from personal experience with the
05:08PM 15 individual; it comes from the feeling of loss within the family
05:08PM 16 based on conversations, events, things like that. It is a
05:08PM 17 nonhearsay -- it's not coming in for the truth of those events;
05:08PM 18 it's coming in for the purpose of his feeling of loss.

05:08PM 19 THE COURT: A lot of this has to do with presentation. I
05:08PM 20 would repeat my comment that foundation here very much would have
05:08PM 21 helped. The witness wasn't asked how it's impacted him. And I
05:09PM 22 would also --

05:09PM 23 I agree with you on 80319; except the answer went well
05:09PM 24 beyond what 80319 contemplates and, again, without foundation.

05:09PM 25 MR. KRISHNAN: I appreciated that, Your Honor. And then

05:09PM 1 the last point that I just want to raise is that on the issue of
05:09PM 2 statute of limitations -- and it sounds like we may have repeated
05:09PM 3 objections during trial, which I have anticipated and I expect --
05:09PM 4 but our view of it is that when we're talking --

05:09PM 5 The tolling factor for the statute of limitations, those
05:09PM 6 are country conditions and fear of persecution. So that's the
05:09PM 7 name of the factor. That is the factor that is considered. So,
05:09PM 8 for instance, on country conditions, which is less relevant now,
05:09PM 9 the reason why Dr. Brennan was discussing things that he was, is
05:09PM 10 because the country conditions is literally the tolling factor.
05:09PM 11 And then fear of persecution is likewise one.

05:10PM 12 So when a witness like Mr. Cappello testifies about their
05:10PM 13 fear, it's not coming in for the truth; the fear itself is the
05:10PM 14 relevant factor. And so how he learns about things that caused
05:10PM 15 fear to him and to his family, it is, you know, the fear itself is
05:10PM 16 the issue. So it's a state of mind thing. We would have no
05:10PM 17 objection to the jury being instructed that it's not coming in for
05:10PM 18 the truth.

05:10PM 19 But I think he has to be able to testify to things, you
05:10PM 20 know, you can be afraid by -- your family can be in fear and you
05:10PM 21 can be in fear. For instance, and something he will testify to,
05:10PM 22 his grandmother received threatening phone calls. He was not on
05:10PM 23 the phone call. He knows exactly about what happened, and his
05:10PM 24 family was terrified, including him. And so things like that,
05:10PM 25 they ought to come in for the fear.

05:10PM 1 If Your Honor wants to appropriately instruct people as
05:10PM 2 to whether it's coming in for the truth, I think that might be an
05:10PM 3 issue. But I believe that we're entitled to fully lay out the
05:11PM 4 fear, which in this case was of a very high level.

05:11PM 5 THE COURT: Whom from the defense team wants to respond?

05:11PM 6 MR. DAVIS: Well, this is the first I'm hearing about
05:11PM 7 this using the fear in the way it's described.

05:11PM 8 Under 80319, it talks about -- you're talking about
05:11PM 9 family events; like a birth or a marriage or a divorce or a
05:11PM 10 relationship by blood.

05:11PM 11 This is not a situation where he could testify, and it is
05:11PM 12 certainly not enumerated in the statute as to the word fear or
05:11PM 13 anything like that. That is not -- that's not laid -- that
05:11PM 14 predicate is not laid. And I don't think this witness can testify
05:11PM 15 about stuff -- about events that happened before he was born that
05:11PM 16 he heard from another party.

05:11PM 17 How am I to be able to effectively cross-examine that to
05:12PM 18 get the truth of whatever would be? How can it be tested? And,
05:12PM 19 again, 80319 is on like life events; not this amorphous
05:12PM 20 description of fear that I'm hearing from this witness for the
05:12PM 21 first time.

05:12PM 22 THE COURT: I view this as two highly related but
05:12PM 23 distinct issues: one is whether or not the hearsay exception
05:12PM 24 would apply; and it would but not to everything.

05:12PM 25 To reiterate, what was advanced in response to that

05:12PM 1 answer will not come in under 80319; but that doesn't mean that it
05:12PM 2 can't come in at all.

05:12PM 3 The plaintiffs' state of mind is put at issue with the
05:12PM 4 statute of limitations defense; though I, again, return to my
05:12PM 5 point about the foundation of it. I understand he was on the
05:13PM 6 stand for ten minutes, but it remains a bit amorphous. It has
05:13PM 7 been characterized as, essentially, the family's fear. And
05:13PM 8 perhaps it is, again, just a matter of a more focused direct
05:13PM 9 examination, from which then we can determine on a
05:13PM 10 question-and-answer basis whether or not the question or the
05:13PM 11 testimony requires a limiting instruction; that it is being
05:13PM 12 advanced for something other than the truth.

05:13PM 13 But the plaintiff has to be prepared to, again, describe
05:13PM 14 a hearsay exception beyond simply because it goes to the statute
05:13PM 15 of limitations defense. And I think that you understand what I
05:13PM 16 mean by that. Okay.

05:13PM 17 All right. It's not the only time that as I sat here I
05:13PM 18 was concerned that a limiting instruction was necessary to explain
05:13PM 19 to the jury that the testimony that they just heard was not being
05:13PM 20 advanced for the truth, and so I do look to you both to the extent
05:14PM 21 when it comes up that you think a limiting instruction is
05:14PM 22 necessary to tell me so in addition to my own reaction to it. You
05:14PM 23 know the evidence better than I do.

05:14PM 24 Okay. What, if anything, else?

05:14PM 25 MR. KRISHNAN: I don't have anything at this point, Your

05:14PM 1 Honor.

05:14PM 2 I do believe that we're going to be briefing this issue
05:14PM 3 that Mr. Davis raised earlier today, but I think --

05:14PM 4 THE COURT: So I can look for that brief tonight?

05:14PM 5 MR. KRISHNAN: Yes, Your Honor.

05:14PM 6 THE COURT: And, Mr. Davis?

05:14PM 7 MR. DAVIS: We have a brief on it as well that we will be
05:14PM 8 filing not at 11:00 o'clock.

05:14PM 9 But do we have a sense of the order of the witnesses
05:14PM 10 tomorrow?

05:14PM 11 THE COURT: We're going to do two scheduling things in
05:14PM 12 just a moment. But I just want to make sure that the prior orders
05:14PM 13 with respect to the impact of what occurred with respect to --
05:15PM 14 well, let me be clearer.

05:15PM 15 That the prior order precluded, forbid characterization
05:15PM 16 of what previously occurred in that military examination as
05:15PM 17 exoneration. I don't expect to hear that again in front of this
05:15PM 18 jury.

05:15PM 19 MR. SONNETT: That was a slip of the tongue, Your Honor,
05:15PM 20 and I apologize.

05:15PM 21 THE COURT: Okay. In terms of order of the evidence,
05:15PM 22 yes, it would be helpful to hear who is on deck. But let me just
05:15PM 23 reiterate -- it came up only with respect to Plaintiffs'
05:15PM 24 Exhibit 114 -- but to the extent you know that you've got exhibits
05:15PM 25 that are coming in, for example, through Mr. Cappello, I encourage

05:15PM 1 you, please, to tell Mr. Davis' team what those exhibits are;
05:15PM 2 maybe tomorrow morning we move them in without, you know, need for
05:15PM 3 foundation, and then you can just present them; and to do the same
05:15PM 4 with each witness. Okay?

05:15PM 5 You can just tell me before the witness is called:
05:15PM 6 Without objection, plaintiff moves X, Y, and Z. If you tell me
05:16PM 7 it's without objection and Mr. Davis concurs, that's all the
05:16PM 8 discussion it needs. Okay?

05:16PM 9 MR. KRISHNAN: Thank you, Your Honor. Yes.

05:16PM 10 THE COURT: And so on deck is who? Mr. Cappello will
05:16PM 11 finish tomorrow.

05:16PM 12 MR. KRISHNAN: That's right. We are hoping then to play
05:16PM 13 a little bit of deposition testimony. And on this, Your Honor, I
05:16PM 14 think we are going to play a little bit by ear, but at the very
05:16PM 15 least, I think our plan is to play Alicia Krueger -- one of the
05:16PM 16 other plaintiffs -- by deposition. And I believe that we have all
05:16PM 17 of the rulings on that, other than the autopsy issue that I think
05:16PM 18 wasn't decided today.

05:16PM 19 I think it was the Lesgart autopsies.

05:16PM 20 MR. DAVIS: I agree with -- that hasn't been ruled on
05:16PM 21 yet, and I understand what you're going to play.

05:16PM 22 MR. KRISHNAN: So that deposition, I think, will be in
05:16PM 23 the 45-to-50-minute range.

05:16PM 24 We then have another deponent, which is another one of
05:16PM 25 our clients who wasn't able to be here, Marcela Santucho. I

05:17PM 1 believe her deposition testimony is in the 22-minute range. And
05:17PM 2 so what I wanted to do was play that by ear; because after that, I
05:17PM 3 think we would call Mr. Bravo. And so it would either be before
05:17PM 4 or after the Santucho testimony, kind of just depending on time,
05:17PM 5 squeezing things in before lunch or whatever.

05:17PM 6 THE COURT: You're going to use that as filler when you
05:17PM 7 don't have another live witness. So your next live witness will
05:17PM 8 be Mr. Bravo?

05:17PM 9 MR. KRISHNAN: After Mr. Cappello, correct.

05:17PM 10 THE COURT: I think that will probably take us through
05:17PM 11 the end of tomorrow.

05:17PM 12 So after Mr. Bravo, do you know your next live witness?

05:17PM 13 MR. KRISHNAN: I believe it will be Dr. Pregliasco.

05:17PM 14 THE COURT: Okay.

05:17PM 15 MR. KRISHNAN: But, Your Honor, there is deposition
05:17PM 16 testimony that we would anticipate playing after Mr. Bravo and
05:18PM 17 before Dr. Pregliasco, but you asked for our next live witness.

05:18PM 18 THE COURT: I did. And I think you already know why I'm
05:18PM 19 asking.

05:18PM 20 Is Dr. Pregliasco available, like, tomorrow? Wednesday?

05:18PM 21 MR. KRISHNAN: He is.

05:18PM 22 THE COURT: Okay. All right. Mr. Davis, what else do
05:18PM 23 you need to know?

05:18PM 24 MR. DAVIS: Just they're going to call Mr. Bravo in their
05:18PM 25 case, and I was planning to do my examination of Mr. Bravo that I

05:18PM 1 would be doing normally in my case. I'm just letting the Court
05:18PM 2 know that and wanting to know if that's acceptable to the Court,
05:18PM 3 or do you want me to wait until --

05:18PM 4 THE COURT: No. That's my preference.

05:18PM 5 MR. DAVIS: Okay.

05:18PM 6 THE COURT: Do your full examination, so I wouldn't
05:18PM 7 expect to hear an objection that it was beyond the scope. I'm
05:18PM 8 going to let the jury know that we're going to call Mr. Bravo
05:18PM 9 once.

05:18PM 10 MR. KRISHNAN: That's fine, Your Honor. I guess the only
05:18PM 11 thing I'd want to clarify is that: Do defendants then -- or does
05:18PM 12 the defendant then get to again get up and testify?

05:18PM 13 Is there a second shot for the defendant to call him in
05:18PM 14 their case once he's already testified beyond the scope?

05:19PM 15 THE COURT: As though rebuttal? I wouldn't anticipate.
05:19PM 16 I think that the point is the efficiency of having him on and off.

05:19PM 17 Right, Mr. Davis?

05:19PM 18 MR. DAVIS: That is my plan, Your Honor. You never like
05:19PM 19 to make 100 percent commitment, because you never know what's
05:19PM 20 going to come up in a trial.

05:19PM 21 THE COURT: Nor do I rule in the hypothetical.

05:19PM 22 MR. DAVIS: Okay.

05:19PM 23 THE COURT: So we'll have to see how it goes.

05:19PM 24 MR. KRISHNAN: Thank you, Your Honor.

05:19PM 25 THE COURT: Of course. What? Mr. Davis, anything else?

05:19PM 1 MR. DAVIS: Nothing further.

05:19PM 2 THE COURT: All right. Well, then shall we regroup at
05:19PM 3 8:00 so we can take up the autopsy, the Apostille issue? And I
05:19PM 4 think that is all. So we should be able to get it done. Okay.
05:19PM 5 See you at 8:00 o'clock.

05:19PM 6 MR. DAVIS: Thank you, Your Honor.

05:19PM 7 MR. KRISHNAN: Thank you, Your Honor.

05:19PM 8 (Recess at 5:19 P.M.)

9 C E R T I F I C A T E

10 I certify that the foregoing is a correct transcript from
11 the record of proceedings in the above-entitled matter.

12
13 June 28, 2022

/s/ Vernita Allen-Williams

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